

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Jason Leroy Roberts v. Kilolo Kijakazi, Acting Commissioner of
Social Security

Roberts v. Kijakazi, No. 1:22-cv-00654-DAD-GSA (E.D. Cal. Mar. 6, 2023) · No. 1:22-cv-00654-DAD-GSA ·
Decided March 7, 2023

SUMMARY

This document is a stipulation and order awarding Plaintiff \$5,500 in attorney fees and expenses under the Equal Access to Justice Act, with no costs awarded under 28 U.S.C. § 1920. The order, entered by the United States District Court for the Eastern District of California, provides that payment is subject to potential Treasury offsets and preserves counsel’s ability to seek fees under 42 U.S.C. § 406(b).

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
DECIDED	March 7, 2023
DOCKET	1:22-cv-00654-DAD-GSA
DISPOSITION	other
PROCEDURAL POSTURE	The parties submitted a stipulation for an award of attorney fees and expenses under the Equal Access to Justice Act, which the court approved by order.
PRECEDENTIAL VALUE	unpublished and nonprecedential order
PARTIES	Jason Leroy Roberts v. Kilolo Kijakazi, Acting Commissioner of Social Security

TOPICS

- attorney fees
- costs
- administrative law
- remedies
- civil procedure

PRACTICE AREAS

- Social Security
- administrative law
- attorney fees
- litigation costs

QUESTIONS PRESENTED

1. Whether the court should approve the parties' stipulation awarding Plaintiff \$5,500 in attorney fees and expenses under the Equal Access to Justice Act and \$0 in costs.

HOLDINGS

1. The court approved an award of \$5,500 in attorney fees and expenses under 28 U.S.C. § 2412(d) and \$0 in costs under 28 U.S.C. § 1920, subject to the terms of the parties' stipulation.

KEY QUOTATIONS

“IT IS ORDERED that fees and expenses in the amount of FIVE THOUSAND FIVE HUNDRED DOLLARS AND 00/100 (\$5,500.00) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C. §1920 be awarded subject to the terms of the Stipulation.” (Order at lines 15-20)

FACTUAL BACKGROUND

The parties agreed to resolve Plaintiff's request for attorney fees under the Equal Access to Justice Act. The stipulation provided for \$5,500 in fees and expenses under 28 U.S.C. § 2412(d) and \$0 in costs under 28 U.S.C. § 1920. It further provided that payment would be made to Plaintiff, or directly to counsel if the Treasury Department determined that Plaintiff had no qualifying federal debt.

PROCEDURAL HISTORY

In this Social Security action, the parties stipulated to an EAJA award of \$5,500 in fees and expenses and \$0 in costs. The court approved the stipulation and ordered the award subject to its terms, including potential offset for qualifying federal debt and payment provisions concerning plaintiff and his counsel.

DISPOSITION

other

CASES CITED

- Astrue v. Ratliff, 560 U.S. 586, 598 (2010)

OPINION

(SS) Roberts v. Commissioner of Social Security

PER CURIAM.

1 Jonathan O. Peña, Esq. 2 CA Bar ID No.: 278044 Peña & Bromberg, PLC 3 2440 Tulare St., Ste. 320 4 Fresno, CA 93721 Telephone: 559-439-9700 5 Facsimile: 559-439-9723 6 Email: info@jonathanpena.com Attorney for Plaintiff, Jason Leroy Roberts 7 8

9 UNITED STATES DISTRICT COURT

10 FOR THE EASTERN DISTRICT OF CALIFORNIA

FRESNO DIVISION

11 12 Jason Leroy Roberts, Case No. 1:22-cv-00654-DAD-GSA 13 Plaintiff, STIPULATION FOR
THE AWARD

14 AND PAYMENT OF ATTORNEY

v. FEES AND EXPENSES PURSUANT

15 TO THE EQUAL ACCESS TO

16 Kilolo Kijakazi, Acting JUSTICE ACT; ORDER Commissioner of Social Security, 17 18
Defendant. 19 IT IS HEREBY STIPULATED by and between the parties through their 20
undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded 21 attorney
fees and expenses in the amount of FIVE THOUSAND FIVE HUNDRED 22 DOLLARS AND
00/100 (\$5,500.00) under the Equal Access to Justice Act (EAJA), 28 23 U.S.C. § 2412(d), and
costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C. 24 §1920. This amount represents
compensation for all legal services rendered on behalf of 25 Plaintiff by counsel in connection
with this civil action, in accordance with 28 U.S.C. 26 §§ 1920, 2412(d). 27 1 After the Court
issues an order for EAJA fees to Plaintiff, the government will 2 consider the matter of Plaintiff's
assignment of EAJA fees to counsel. Pursuant to 3 Astrue v. Ratliff, 560 U.S. 586, 598, 130 S.Ct.
2521, 177 L.Ed.2d 91 (2010), the ability 4 to honor the assignment will depend on whether the
fees are subject to any offset 5 allowed under the United States Department of the Treasury's
Offset Program. After 6 the order for EAJA fees is entered, the government will determine whether
they are 7 subject to any offset. 8 Fees shall be made payable to Plaintiff, but if the Department of
the Treasury 9 determines that Plaintiff does not owe a federal debt, then the government shall
cause 10 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to 11
the assignment executed by Plaintiff. Any payments made shall be delivered and 12 made payable
to Plaintiff's counsel, Jonathan O. Peña. 13 This stipulation constitutes a compromise settlement of
Plaintiff's request for 14 EAJA attorney fees, and does not constitute an admission of liability on
the part of 15 Defendant under the EAJA or otherwise. Payment of the agreed amount shall 16
constitute a complete release from, and bar to, any and all claims that Plaintiff and/or 17 Counsel
including Counsel's firm may have relating to EAJA attorney fees in 18 connection with this
action. 19 This award is without prejudice to the rights of Counsel and/or Counsel's firm 20 to
seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the 21 savings clause
provisions of the EAJA. 22 Respectfully submitted, 23 24 Dated: March 6, 2023 /s/ Jonathan O.
Peña

25 J ONATHAN O. PEÑA

26 Attorney for Plaintiff 27 Dated: March 6, 2023 PHILLIP A. TALBERT 1 United States
Attorney

MATHEW W. PILE

2 Associate General Counsel Office of Program Litigation 3 Social Security Administration 4 By:
_*_Sharon Lahey 5 Sharon Lahey 6 Special Assistant U.S. Attorney Attorneys for Defendant 7
(*Permission to use electronic signature 8 obtained via email on March 6, 2023). 9 10

11 ORDER

12 Based upon the parties' Stipulation for the Award and Payment of Equal Access 13 to Justice
Act Fees and Expenses (the "Stipulation"), 14 15 IT IS ORDERED that fees and expenses in the
amount of FIVE THOUSAND 16 FIVE HUNDRED DOLLARS AND 00/100 (\$5,500.00) as
authorized by the Equal 17 Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the
amount of ZERO 18 19 dollars (\$0.00) under 28 U.S.C. §1920 be awarded subject to the terms of
the 20 Stipulation. 21 22 IT IS SO ORDERED. 23 Dated: March 6, 2023 /s/ Gary S. Austin 24
UNITED STATES MAGISTRATE JUDGE
25 26 27