

**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).

OPINION

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