

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JASON NITCH,

Plaintiff,

ORDER

v.

10-cv-512-bbc

MICHAEL ASTRUE,  
Commissioner of Social Security,

Defendant.

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On March 10, 2011, I remanded this case to the Commissioner pursuant to the joint stipulation of the parties. Now before the court is plaintiff's application for an award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412. Plaintiff requests fees in the amount of \$5,662.64: \$5, 526.14 for his attorney's time and \$136.50 for administrative time.

The commissioner makes two objections to the fees requested for administrative time. First, he objects to the fees requested for the 1.9 hours spent preparing and organizing the transcript. The commissioner argues that this time is excessive because the transcript was in electronic form. Plaintiff responds that the transcript was not submitted to him in electronic form. I will allow the fees requested for this time.

Second, the commissioner makes an objection to a typographical error in plaintiff's lawyer's affidavit. Even though on page 4 of the lawyer's affidavit he summarizes the number of hours requested for administrative time as 6.1 hours, the total monetary amount he is seeking, \$136.50, indicates that only 3.9 hours were claimed. I will award plaintiff the fees requested.

Further, in response to the commissioner's objection to the fees being paid directly to plaintiff's lawyer Dana Duncan, Duncan asks the court to adopt the following language used in past stipulations.

The award of attorney's fees will fully satisfy any and all of plaintiff's claims for fees, costs, and expenses under 28 U.S.C. § 2412 that may be payable in this case. It is further agreed that, following any offset of money owed to the United States, pursuant to *Astrue v. Ratliff*, — U.S. ---, 130 S.Ct. 2521, --- L.Ed 2d. --- (2010), the remaining fees, if any, shall be paid to counsel, Dana W. Duncan directly.

The language in the order section of this decision takes the commissioner's concerns into consideration.

#### ORDER

IT IS ORDERED that plaintiff Jason Nitch is awarded attorney fees in the amount of \$5,662.64 . This amount is to be made payable to plaintiff's attorney, Dana Duncan,

contingent upon counsel's production of an assignment of fee agreement executed by plaintiff and any payment of money owed to the United States.

Entered this 29th day of June, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge