

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

RODNEY ANDING,

Plaintiff,

v.

ORDER

MICHAEL J. ASTRUE,
Commissioner of Social Security,

03-C-666-S-S

Defendant.

On February 5, 2004 the above entitled matter was remanded to the Commissioner pursuant to a stipulation. On August 13, 2007 plaintiff moved for attorney fees pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. §2412 in the amount of \$12,286.69 and for entry of final judgment. Defendant responded on August 31, 2007.

On September 13, 2007 plaintiff's attorney moved pursuant to 42 U.S.C. § 406(b) for the approval of attorney fees of \$22,319.90. This amount represents 25% of plaintiff's past due benefits totaling \$89,279.60. Defendant responded on October 3, 2007. Plaintiff requested leave to file his reply brief on October 16, 2007 which will be granted.

MEMORANDUM

EQUAL ACCESS TO JUSTICE ACT

Plaintiff requests an award of attorneys' fees under the EAJA of \$12,286.69 for 77.4 hours of attorney time and 3.25 hours of

paralegal and law clerk time. Defendant objects to the reasonableness of the request. The Court has reviewed the requested fees and finds them to be reasonable. The Court will award plaintiff \$12,286.69 in attorneys' fees pursuant to the EAJA and enter judgment accordingly.

APPROVAL OF ATTORNEY FEES UNDER 42 U.S.C. § 406(b)

Plaintiff's attorney moves for approval of attorney fees of \$22,319.90, 25% of plaintiff's past due benefits of \$89,279.60. Defendant argues that this request is unreasonable. The Court has reviewed the request and finds it to be reasonable. Plaintiff has written a letter stating that he believes that attorneys fees in the amount of 25% of his back benefits to which he agreed is "extremely fair." He further states that he was well satisfied with his counsel's representation. The Court will approve attorney's fees under 42 U.S.C. §406(b) in the amount of \$10,032.91 (\$22,319.60 minus the fees awarded under the EAJA of \$12,286.69).

ORDER

IT IS ORDERED that plaintiff is awarded attorneys' fees under the EAJA in the amount of \$12,286.69.

IT IS FURTHER ORDERED that judgment be entered AWARDING plaintiff attorneys' fees in the amount of \$12,286.69.

Anding v. Astrue, 03-C-666-SZ

IT IS FURTHER ORDERED that attorneys' fees of \$10,032.91 are APPROVED under 42 U.S.C. §406(b).

Entered this 19th day of October, 2007.

BY THE COURT:

_____/s/_____
JOHN C. SHABAZ
District Judge