

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

KYLE TAYLOR KIDWELL,

Plaintiff,

v.

Case No. 6:16-cv-2043-Orl-37GJK

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

On March 30, 2018, the Court adjudged Plaintiff the prevailing party in this social security appeal. (Doc. 22.) Thereafter, final judgment was entered in Plaintiff's favor. (Doc. 23.) Plaintiff now seeks an award of attorney fees in the amount of \$8,899.65 under the Equal Access to Justice Act ("**EAJA**"), 28 U.S.C. § 2421(d),¹ and \$400.00 for federal court filing fees under 28 U.S.C. § 1304. (Doc. 24 ("**Motion**").) The Motion is unopposed. (*Id.* at 2.)

In a Report and Recommendation issued July 6, 2018, U.S. Magistrate Judge Gregory J. Kelly recommends that the Court grant the Motion based on his finding that

¹ According to the Motion, Plaintiff has assigned her right to attorney fees to her counsel ("**Assignment**"). (Doc. 24, p. 3.) But unlike similar motions, Plaintiff does not ask the Court to authorize payment of fees directly to her counsel. Rather, Plaintiff represents that, after the Court issues an Order granting EAJA fees, the U.S. Department of the Treasury will determine whether Plaintiff owes a federal debt the Government. (*Id.*) The Commissioner will then exercise its discretion to accept Plaintiff's Assignment and pay fees directly to Plaintiff's counsel. (*Id.*) This representation reflects the position previously taken by the Undersigned in ruling on motions for fees under the EAJA.

counsel's hourly rate and time expended are reasonable. (Doc. 25 ("**R&R**").) On July 11, 2018, the parties filed a joint notice indicating that they did not object to the R&R. (Doc. 26.) As such, the Court has reviewed the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan. 28, 2016); *see also Marcort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). Finding none, the Court concludes that the R&R is due to be adopted and confirmed.

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. U.S. Magistrate Gregory J. Kelly's Report and Recommendation (Doc. 25) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiff's Unopposed Motion for Attorney's Fees Pursuant to the Equal Access to Justice Act and Memorandum in Support (Doc. 24) is **GRANTED**. Plaintiff is awarded **\$8,899.65** in attorney fees under the EAJA and \$400.00 in filing fees under 28 U.S.C. § 1304.

DONE AND ORDERED in Chambers in Orlando, Florida, on July 12, 2018.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record