

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CATHERINE M USENZA,

Plaintiff,

v.

Case No.: 2:21-cv-845-SPC-KCD

COMMISSIONER OF SOCIAL
SECURITY and UNITED STATES
ATTORNEY'S OFFICE,

Defendants.

_____/

ORDER¹

Before the Court is United States Magistrate Judge Kyle C. Dudek's Report and Recommendation (R&R). ([Doc. 27](#)). Judge Dudek recommends granting in part Plaintiff Catherine Usenza's Petition for EAJA Fees Pursuant to [28 U.S.C. § 2412\(d\)](#). ([Doc. 22](#)). No party objects to the R&R, and the time to do so has expired. So the R&R is ripe for review.

After conducting a careful and complete review of the findings and recommendations, a district judge "may accept, reject, or modify, in whole or in part," a magistrate judge's report and recommendation. [28 U.S.C. §](#)

¹ Disclaimer: Papers hyperlinked to CM/ECF may be subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or their services or products, nor does it have any agreements with them. The Court is not responsible for a hyperlink's functionality, and a failed hyperlink does not affect this Order.

[636\(b\)\(1\)\(C\)](#). In the absence of specific objections, there is no requirement that a district judge review the report and recommendation *de novo*. See [Garvey v. Vaughn](#), 993 F.2d 776, 779 n.9 (11th Cir. 1993). Instead, when parties do not object, a district court need only correct plain error as demanded by the interests of justice. See, e.g., [Symonette v. V.A. Leasing Corp.](#), 648 F. App'x 787, 790 (11th Cir. 2016); [Thomas v. Arn](#), 474 U.S. 140, 150-52 (1985). Plain error exists if (1) “an error occurred”; (2) “the error was plain”; (3) “it affected substantial rights”; and (4) “not correcting the error would seriously affect the fairness of the judicial proceedings.” [Farley v. Nationwide Mut. Ins.](#), 197 F.3d 1322, 1329 (11th Cir. 1999).

After careful consideration and an independent review of the case, the Court finds no plain error. So it accepts and adopts the R&R in full.

Accordingly, it is now

ORDERED:

United States Magistrate Judge Kyle C. Dudek's Report and Recommendation ([Doc. 27](#)) is **ACCEPTED and ADOPTED**, and the findings incorporated herein.

1. Plaintiff Catherine Usenza's Petition for EAJA Fees ([Doc. 22](#)) is


GRANTED in part.

2. The Clerk is **DIRECTED** to amend the judgment to include a total

award to Plaintiff of **\$7,486.00** for attorney's fees, **\$402.00** for

costs, and \$ **22.59** for expenses.² This award may be paid directly to Plaintiff's lawyer if the United States Department of Treasury determines that no federal debt is owed by Plaintiff.

DONE and **ORDERED** in Fort Myers, Florida on October 28, 2022.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record

² As requested by the Commissioner ([Doc. 24 at 9](#)), the judgment should separately delineate \$7,486 for attorneys' fees, \$402 for costs, and \$22.59 for expenses.