

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

SUSAN MARIE KILPATRICK,

Plaintiff,

v.

Case No.: 2:22-cv-611-KCD

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

_____ /

ORDER

Having obtained an award of benefits, Susan Marie Kilpatrick's attorney, Carol Avard, seeks attorney's fees under 42 U.S.C. § 406(b). (Doc. 19.) Defendant has no opposition to the request. (Doc. 20.)

Section 406(b) provides that an attorney who obtains a benefits award on remand may petition for a reasonable fee—not to exceed twenty-five percent of the claimant's past-due benefits—for work performed before the court.

Here, Avard requests \$11,647.75, which is 25 percent of past-due benefits. Avard further asserts that the previous EAJA award of \$1,054.01 will be returned to Plaintiff. (Doc. 19 at 3); see *Paltan v. Comm'r of Soc. Sec.*, 519 F. App'x 673, 674 (11th Cir. 2013) (noting that the attorney has the option of either refunding a prior EAJA award to the plaintiff directly or reducing the § 406(b) award by the same amount). For the reasons stated in Kilpatrick's

unopposed motion, the requested fee is both reasonable and appropriate under § 406(b).

Accordingly, the unopposed fee motion (Doc. 19) is **GRANTED**. The clerk will enter judgment for Kilpatrick for \$11,647.75 in attorney's fees under 42 U.S.C. § 406(b).

ORDERED in Fort Myers, Florida on April 2, 2024.



Kyle C. Dudek
United States Magistrate Judge

Copies: All Parties of Record