

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

JAMES KIRBY,

Plaintiff,

v.

Case No. 8:23-CV-1188-AEP

MARTIN O'MALLEY,
Commissioner of Social Security,

Defendant.

_____ /

ORDER

This cause comes before the Court on Plaintiff's Unopposed Motion for Attorney's Fees (Doc. 29). By the Motion, Plaintiff seeks attorney's fees in the amount of \$3,241.21 pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). On July 24, 2024, this Court entered an Order reversing and remanding the case to the Commissioner for further administrative proceedings (Doc. 246). Thereafter, the Clerk entered judgment in favor of Plaintiff (Doc. 27).

As the prevailing party, Plaintiff now requests an award of attorney's fees. *See* 28 U.S.C. § 2412(d)(1)(A); *cf. Shalala v. Schaefer*, 509 U.S. 292, 300–02 (1993) (concluding that a party who wins a sentence-four remand order under 42 U.S.C. § 405(g) is a prevailing party), *superseded by rule on other grounds*, Fed. R. Civ. P. 58(c)(2)(B). After issuance of an order awarding EAJA fees, the United States Department of the Treasury will determine whether Plaintiff owes a debt to the

government. If Plaintiff has no discernable federal debt, the government will accept Plaintiff's assignment of EAJA fees and pay the fees directly to Plaintiff's counsel.

The Commissioner does not oppose the requested relief (Doc. 29, ¶ 6). Additionally, Plaintiff's attorney filed an affidavit in support of the motion (Doc. 29 at 5-6). Therefore, for the reasons set out in Plaintiff's motion and supported by the affidavit, it is hereby

ORDERED:

1. Plaintiff's Unopposed Motion for Attorney's Fees (Doc. 29) is GRANTED.

2. Plaintiff is awarded fees in the amount of \$3,241.21. Unless the Department of Treasury determines that Plaintiff owes a federal debt, the government must pay the fees to Plaintiff's counsel in accordance with Plaintiff's assignment of fees (Doc. 29-1).

DONE AND ORDERED in Tampa, Florida, on this 20th day of August 2024.



ANTHONY E. PORCELLI
United States Magistrate Judge

cc: Counsel of Record