

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

EVELYN RIVERA RODRIGUEZ,

Plaintiff,

v.

Case No: 6:23-cv-2327-LHP

COMMISSIONER OF SOCIAL
SECURITY,

Defendant

ORDER¹

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION: PLAINTIFF'S SECOND UNOPPOSED MOTION
FOR ATTORNEY FEES UNDER THE EQUAL
ACCESS TO JUSTICE ACT (Doc. No. 19)**

FILED: July 2, 2024

**THEREON it is ORDERED that the motion is GRANTED in part
and DENIED in part.**

¹ The parties have consented to the exercise of jurisdiction by a United States Magistrate Judge in this case. See Doc. Nos. 1, 6.

Plaintiff, through counsel of record, filed a complaint against the Commissioner of Social Security regarding the denial of an application for disability benefits. Doc. No. 1. Pursuant to an unopposed motion to remand, on April 29, 2024, the Court reversed and remanded the case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). Doc. Nos. 13-14. Judgment was entered in favor of Plaintiff and against the Commissioner the following day. Doc. No. 15.

By the present motion, Plaintiff seeks an award of attorney's fees and costs pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). Doc. No. 19. Plaintiff requests a total of \$3,106.67 in attorney's fees under the EAJA, for 12.7 hours of work performed by her counsel in 2023 and 2024. *Id.* at 1, 3, 4; Doc. No. 19-3. Plaintiff also seeks to recover \$405.00 in costs for payment of the filing fee. *Id.* at 1, 4; *see also* Doc. No. 1. Plaintiff further appears to request that the Court authorize payment of the EAJA award directly to her counsel based on an assignment. Doc. No. 19, at 3; Doc. No. 19-5. The Commissioner does not oppose the motion. Doc. No. 19, at 4.

Upon consideration, and absent any objection from the Commissioner, the motion is due to be granted to the extent that it requests an award of \$3,106.67 in attorney's fees under the EAJA, and the recovery of \$405.00 in costs. However, insofar as Plaintiff requests that the Court honor the assignment of the EAJA award directly to her counsel (Doc. No. 19-5), the motion is due to be denied because

Plaintiff has not demonstrated compliance with 31 U.S.C. § 3727(b). *See Crumbley v. Colvin*, No. 5:13-cv-291 (MTT), 2014 WL 6388569, at *4-5 (M.D. Ga. Nov. 14, 2014); *Huntley v. Comm’r of Soc. Sec.*, No. 6:12-cv-613-Orl-37TBS, 2013 WL 5970717, at *5 (M.D. Fla. Nov. 8, 2013).

Accordingly, Plaintiff’s Second Unopposed Motion for Attorney Fees Under the Equal Access to Justice Act (Doc. No. 19) is **GRANTED in part**, to the extent that Plaintiff is awarded a total of \$3,106.67 in attorney’s fees under the EAJA and \$405.00 in costs. The motion is **DENIED** in all other respects.²

DONE and ORDERED in Orlando, Florida on July 3, 2024.



LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties

² The government may exercise its discretion to honor Plaintiff’s assignment of attorney’s fees awarded under the EAJA if the government determines that Plaintiff does not owe a federal debt, but the Court will not order the government to do so.