

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

GARLAND RAY ELLENBURG, II,

Plaintiff,

v.

Case No. 20-1168-DDC

**ANDREW SAUL,
Commissioner of Social Security,**

Defendant.

MEMORANDUM AND ORDER

Plaintiff filed a Motion for an Award of Attorney Fees Pursuant to the Equal Access to Justice Act (Doc. 17). Plaintiff seeks attorney's fees under 28 U.S.C. § 2412(d) in the amount of \$4,858.50. Doc. 17 at 1. The court grants the request in part.

After plaintiff filed his request, the parties notified the court that they reached consensus on the fees issue. They propose an award of \$4,600. The court finds that amount reasonable given the parties' agreement, the motion by plaintiff's attorney (Doc. 17), and the underlying case. The court concludes it should award \$4,600 in reimbursement for plaintiff's attorney's fees.

An attorney fee award under the Equal Access to Justice Act is payable to plaintiff as the litigant and is "thus subject to offset where a litigant has outstanding federal debts." *Astrue v. Ratliff*, 560 U.S. 586, 594 (2010). If plaintiff's counsel also receives an award of attorney's fees under 42 U.S.C. § 406(b), she must refund the smaller award to plaintiff. *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS THEREFORE ORDERED THAT plaintiff's Motion for an Award of Attorney Fees Pursuant to the Equal Access to Justice Act is granted in part. Under 28 U.S.C. § 2412, plaintiff is granted attorney's fees in the amount of \$4,600. The check for attorney's fees should be made payable to plaintiff, Garland Ray Ellenburg, II, and mailed to plaintiff's attorney's address.

IT IS SO ORDERED.

Dated this 28th day of April, 2021, at Kansas City, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge