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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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ASTRUE, COMMISSIONER OF SOCIAL SECURITY *v.* RATLIFF

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 08–1322. Argued February 22, 2010—Decided June 14, 2010

Respondent Ratliff was Ruby Kills Ree's attorney in Ree's successful suit against the United States Social Security Administration for Social Security benefits. The District Court granted Ree's unopposed motion for attorney's fees under the Equal Access to Justice Act (EAJA), which provides, *inter alia,* that "a court shall award to a prevailing party . . . fees and other expenses . . . in any civil action . . . brought by or against the United States." 28 U. S. C. §2412(d)(1)(A). Before paying the fees award, the Government discovered that Ree owed the United States a debt that predated the award. Accordingly, it sought an administrative offset against the award under 31 U. S. C. §3716, which subjects to offset all "funds payable by the United States," §3701(a)(1), to an individual who owes certain delinquent federal debts, see §3701(b), unless, *e.g.,* payment is exempted by statute or regulation. See, *e.g.,* §3716(e)(2). The parties to this case have not established that any such exemption applies to §2412(d) fees awards, which, as of 2005, are covered by the Treasury Department's Offset Program (TOP). After the Government notified Ree that it would apply TOP to offset her fees award against a portion of her debt, Ratliff intervened, challenging the offset on the grounds that §2412(d) fees belong to a litigant's attorney and thus may not be used to satisfy the litigant's federal debts. The District Court held that because §2412(d) directs that fees be awarded to the "prevailing party," not to her attorney, Ratliff lacked standing to challenge the offset. The Eighth Circuit reversed, holding that under its precedent, EAJA attorney's fees are awarded to prevailing parties' attorneys.

Held: A §2412(d)(1)(A) attorney's fees award is payable to the litigant

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and is therefore subject to an offset to satisfy the litigant's preexisting debt to the Government. Pp. 3–11.

(a) Nothing in EAJA contradicts this Court's longstanding view that the term "prevailing party" in attorney's fees statutes is a "term of art" that refers to the prevailing litigant. See, *e.g.*, *Buckhannon Board & Care Home, Inc.* v. *West Virginia Dept. of Health and Human Resources*, 532 U. S. 598, 603. That the term has its usual meaning in subsection (d)(1)(A) is underscored by the fact that subsection (d)(1)(B) and other provisions clearly distinguish the party who receives the fees award (the litigant) from the attorney who performed the work that generated the fees. The Court disagrees with Ratliff's assertion that subsection (d)(1)(A)'s use of the verb "award" nonetheless renders §2412(d) fees payable directly to a prevailing party's attorney. The dictionaries show that, in the litigation context, the transitive verb "award" has the settled meaning of giving or assigning *by* judicial decree. Its plain meaning in subsection (d)(1)(A) is thus that the court shall "give or assign by . . . judicial determination" to the "prevailing party" (here, Ree) attorney's fees in the amount sought and substantiated under, *inter alia*, subsection (d)(1)(B). That the prevailing party's attorney may have a beneficial interest or a contractual right in the fees does not alter this conclusion. Pp. 3–6.

(b) The Court rejects Ratliff's argument that other EAJA provisions, combined with the Social Security Act (SSA) and the Government's practice of paying some EAJA fees awards directly to attorneys in Social Security cases, render §2412(d) at least ambiguous on the question presented here, and that these other provisions resolve the ambiguity in her favor. Even accepting that §2412(d) is ambiguous, the provisions and practices Ratliff identifies do not alter the Court's conclusion. Subsection (d)(1)(B) and other provisions differentiate between attorneys and prevailing parties, and treat attorneys on par with other service providers, in a manner that forecloses the conclusion that attorneys have a right to direct payment of subsection (d)(1)(A) awards. Nor is the necessity of such payments established by the SSA provisions on which Ratliff relies. That SSA fees awards are payable directly to a prevailing claimant's attorney, see 42 U. S. C. §406(b)(1)(A), undermines Ratliff's case by showing that Congress knows how to create a direct fee requirement where it desires to do so. Given the stark contrast between the language of the SSA and EAJA provisions, the Court is reluctant to interpret subsection (d)(1)(A) to contain a direct fee requirement absent clear textual evidence that such a requirement applies. Such evidence is not supplied by a 1985 EAJA amendment requiring that, "where the claimant's attorney receives fees for the same work under both [42 U. S. C.

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§406(b) and 28 U. S. C. §2412(d)], the . . . attorney [must] refun[d] to the claimant the amount of the smaller fee." See note following §2412. Ratliff's argument that this recognition that an attorney will sometimes "receiv[e]" §2412(d) fees suggests that subsection (d)(1)(A) should be construed to incorporate the same direct payments to attorneys that the SSA expressly authorizes gives more weight to "recei[pt]" than the term can bear: The ensuing reference to the attorney's obligation to "refund" the smaller fee to the claimant demonstrates that the award belongs to the claimant in the first place. Moreover, Ratliff's reading is irreconcilable with the textual differences between the two Acts. The fact that the Government, until 2006, frequently paid EAJA fees awards directly to attorneys in SSA cases in which the prevailing party had assigned the attorney her rights in the award does not alter the Court's interpretation of the Act's fees provision. That some such cases involved a prevailing party with outstanding federal debts is unsurprising, given that it was not until 2005 that the TOP was modified to require offsets against attorney's fees awards. And as Ratliff admits, the Government has since discontinued the direct payment practice except in cases where the plaintiff does not owe a federal debt and has assigned her right to fees to the attorney. Finally, the Court's conclusion is buttressed by cases interpreting and applying 42 U. S. C. §1988, which contains language virtually identical to §2412(d)(1)(A)'s. See, *e.g.*, *Evans* v. *Jeff D.*, 475 U. S. 717, 730–732, and n. 19. Pp. 6–11.

540 F. 3d 800, reversed and remanded.

THOMAS, J., delivered the opinion for a unanimous Court. SOTOMAYOR, J., filed a concurring opinion, in which STEVENS and GINSBURG, JJ., joined.