

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 16-3808(E)

WILLIE S. JOHNSON,

APPELLANT,

v.

ROBERT L. WILKIE,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before DAVIS, *Chief Judge*.

ORDER

*Note: Pursuant to U.S. Vet. App. R. 30(a),
this action may not be cited as precedent.*

On February 4, 2019, the Court stayed proceedings in this matter pending a decision in *Speigner v. Wilkie*, U.S. Vet. App. No. 16-2811. On February 28, 2019, the Court issued its decision in that case, holding that the hourly rate for a teleworking attorney should be calculated based on the Consumer Price Index for all Urban Consumers (CPI-U) for the location the attorney actually performed the work, not the attorney's office address.¹ Accordingly, the Court will lift the stay of proceedings in this matter.

Because the Secretary has not yet filed his response to Mr. Johnson's EAJA application, the Court will order him to do so within 30 days of the date of this order. The Secretary's response—and Mr. Johnson's reply, if he chooses to file one—should, in light of *Speigner*, include the CPI-U and hourly rate for the location where Mr. Johnson's attorney worked on the case. Once the Secretary has filed his response, the case will proceed in accordance with the Court's Rules of Practice and Procedure.

On consideration of the foregoing, it is

ORDERED that the stay of proceedings is lifted. It is further

ORDERED that, within 30 days of this order, the Secretary file a response to the EAJA application. It is further

¹ See *Speigner v. Wilkie*, ___ Vet.App. ___, No. 16-2811 (Feb. 28, 2019).

ORDERED that the case thereafter proceed in accordance with the Court's Rules.

DATED: March 20, 2019

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert N. Davis".

ROBERT N. DAVIS
Chief Judge

Copies to:

Christine M. Cote Hill, Esq.

VA General Counsel (027)