

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 15-3191(E)

CATHERINE CORNELL,

APPELLANT,

v.

ROBERT L. WILKIE,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

BOBBY S. MOBERLY,

INTERVENOR.

Before DAVIS, *Chief Judge*, and GREENBERG and ALLEN, *Judges*.

ORDER

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

On May 31, 2019, a panel of the Court granted intervenor Bobby S. Moberly's July 6, 2018, application pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412(d), for an award of attorney fees and expenses in the amount of \$13,661.17. On June 20, 2019, the Secretary filed a motion for full-Court Court consideration of the May 31, 2019, panel order. On August 16, 2019, the Court received notice that the intervenor had died on June 20, 2019, along with a copy of the death certificate.

It is well established that a personal representative of the intervenor's estate or "any other appropriate person"¹ may be substituted for the purposes of prosecuting an EAJA matter after a merits decision has issued.² Before proceeding further with this matter, the Court will stay proceedings to determine whether an eligible substitute is available for Mr. Moberly.

Upon consideration of the foregoing, it is

ORDERED that matters in the above captioned case are stayed pending further order of the Court. It is further

ORDERED that within 30 days from the date of this order, intervenor's counsel shall file either a motion to substitute an eligible individual for EAJA purposes or a response indicating that

¹ U.S. VET. APP. R. 43(a)(2).

² See *Phillips v. Shinseki*, 581 F.3d 1358, 1367-68 (Fed. Cir. 2009) (citing *Cohen v. Brown*, 8 Vet.App. 5, 7 (1995)).

no eligible EAJA substitute could be located and describing efforts taken to seek an appropriate substitute. It is further

ORDERED that the Secretary's motion for en banc review is held in abeyance.

DATED: August 26, 2019

PER CURIAM.

Copies to:

Kenneth M. Carpenter, Esq.

Douglas J. Rosinski, Esq.

VA General Counsel (027)