

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 19-7214

TIMOTHY DAVIS,

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before GREENBERG, *Judge*.

ORDER

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

On November 10, 2021, the Court issued mandate on the merits of this appeal. On December 7, 2021, the appellant, through counsel, filed a timely application for attorney fees and expenses under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. On December 17, 2021, the appellant's counsel notified the Court that the appellant had died on November 20, 2021.

On January 13, 2022, the Court ordered appellant's counsel to provide a copy of the death certificate and show cause why the Court should not dismiss the EAJA application. Proceedings on this appeal are stayed until further order of the Court. On February 14, 2022, appellant's counsel responded and informed the Court that a motion for substitution update had been filed at the RO and that, because the appellant had died at a VA facility, VA should possess a copy of the appellant's death certificate. No further information has been provided to the Court since this response and the Court will seek a status update. It is

ORDERED that, within 30 days of the date of this order, appellant's counsel shall respond and provide the status of the motion to substitute relevant to this appeal. It is further

ORDERED that, within, 30 days of the date of this order, the Secretary shall file a copy of the appellant's death certificate or inform the Court that the death certificate is not in possession of the document.

DATED: January 5, 2023

BY THE COURT:



WILLIAM S. GREENBERG
Judge

Copies to:

Kenneth H. Dojaquez, Esq.

VA General Counsel (027)