

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 20-7820(E)

MARCOS GREENIDGE,

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before GREENBERG, TOTH, and JAQUITH, *Judges*.

ORDER

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

After Mr. Greenidge's matter was remanded from the Federal Circuit, this Court submitted this case to a panel for decision. Shortly after, the appellant filed a motion for clarification of the issue to be considered by the panel; and then, the Court scheduled oral argument for November 30, 2023. The parties should anticipate questions on the issue described below.

In dismissing Mr. Greenidge's application for attorney fees under the Equal Access to Justice Act (EAJA) for lack of jurisdiction, this Court relied on *Burkhardt v. Gober*, 232 F.3d 1363 (Fed. Cir. 2001). He appealed to the Federal Circuit, which remanded and directed this Court to reassess whether it has jurisdiction over his EAJA application and, in doing so, the import of *Halpern v. Principi*, 313 F.3d 1365 (Fed. Cir. 2002). Thus, the parties should review *Burkhardt* and *Halpern* and be prepared to discuss if and how those cases can be reconciled and the import they have on the Court's jurisdiction over Mr. Greenidge's EAJA application.

The appellant has noted that the order submitting this case to panel used docket number 20-7820, which is the docket number relating to the merits of the veteran's underlying appeal. As the appellant notes, this is an EAJA matter, and the correct docket number is 20-7820(E).

Upon consideration of the foregoing, it is

ORDERED that the appellant's motion for clarification is granted and that the parties be prepared to discuss the issue described above at the November 30, 2023, oral argument. It is further

ORDERED that the Court's September 12, 2023, order submitting this case to panel is hereby amended to reflect that the docket number is "20-7820(E)" as opposed to "20-7820."

DATED: October 19, 2023

PER CURIAM.

Copies to:

Michael S. Just, Esq.

VA General Counsel (027)