

UNITED STATES COURT OF VETERANS APPEALS

No. 94-1151

OSCAR E. MOORE, APPELLANT,

v.

JESSE BROWN,
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

Before KRAMER, HOLDAWAY, and IVERS, *Judges*.

ORDER

In a single-judge order dated October 4, 1996, the Court dismissed, as jurisdictionally defective, the appellant's application for attorney fees and expenses pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. The appellant, on October 23, 1996, filed a motion for panel review pursuant to Rule 35(b) of the Court's Rules of Practice and Procedure. In addition, despite the specific prohibition contained in Rule 35(g), the appellant requests oral argument.

The appellant's motion argues that his participation in the Veterans Consortium Pro Bono Program should be considered sufficient evidence to demonstrate that the appellant's net worth at the time the appeal was filed did not exceed \$2 million and that he was, therefore, an eligible party for an award of EAJA fees and expenses. *See Bazalo v. Brown*, 9 Vet.App. 304, 309 (1996) (en banc). Nothing in the appellant's EAJA application discloses the eligibility requirements, financial or otherwise, for participation in the Veterans Consortium Pro Bono Program. *Ibid*. Accordingly, the appellant's argument must be rejected.

On consideration of the foregoing, it is

ORDERED that the appellant's motion for panel review is GRANTED. It is further

ORDERED that the appellant's motion for oral argument is DENIED. It is further

ORDERED that the appellant's application for attorney fees and expenses is DISMISSED.

DATED:

PER CURIAM.