

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 98-1244

MARY ANN TETEN,

APPELLANT,

v.

ANTHONY J. PRINCIPI,  
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before FARLEY, IVERS, and STEINBERG, *Judges*.

**ORDER**

On May 13, 2002, the Court granted, in part, the appellant's application for attorney fees and expenses pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) (EAJA). Ninety-four days later, on August 15, 2002, the Court received the appellant's supplemental application for EAJA fees and expenses. On August 25, 2002, the Court ordered the appellant to show cause why his supplemental application should not be dismissed as untimely. The appellant filed a response on August 29, 2002. In his response, the appellant requests that the Court grant to him leave to file the untimely supplemental application; he notes that the Secretary does not oppose that request. Rule 39 (b) of this Court's Rules of Practice and Procedure provided at that time:

An appellant or petitioner whose application described in subsection (a) of this rule has been granted in whole or in part may, not later than 30 days after the Court action granting such application, file a supplemental application for attorney fees and other expenses in connection with the submission or defense of such subsection (a) application. See Rule 25.

U.S. VET. APP. R. 39(b) (2002) (as amended by Misc. Order 8-01).

In the instant case, the appellant has failed to provide a timely supplemental application for EAJA fees and expenses as required by Rule 39(b). Upon consideration of the foregoing, it is

ORDERED that to the extent that the appellant has requested leave to file his untimely supplemental application for EAJA fees and expenses, that motion is denied. It is further

ORDERED that the appellant's supplemental application for EAJA fees and expenses is untimely and will not be accepted for filing.

DATED: April 8, 2003

PER CURIAM.