

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 01-211

PATRICK M. LEWIS,

APPELLANT,

v.

ANTHONY J. PRINCIPI,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

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

ORDER

On January 7, 2003, 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. On February 12, 2003, the Court granted the appellant's motion for an extension of time to file a motion pursuant to Rule 35 of this Court's Rules of Practice and Procedure. On March 5, 2003, the appellant filed a motion for a decision by a panel. On March 13, 2003, he filed a motion for a stay pending the resolution of *Abbey v. Principi*, No. 01-501. Upon consideration of the foregoing, it is

ORDERED that the appellant's motion for a decision by a panel is denied.

DATED: April 24, 2003

PER CURIAM.

STEINBERG, *Judge*, dissenting: For the following reasons, I voted to grant the appellant's March 5, 2003, motion for a panel decision: (1) I believe that the additional evidence (at least five affidavits are new) submitted by the appellant in his motion for a panel decision (Motion at 7-8, Attachments A-E) warrants the panel's consideration and (2) in the pending case of *Abbey v. Principi*, No. 01-501, the Court issued an order directing the appellant there to file a memorandum "that explains why the prevailing market rate in this case should not be \$90 per hour", *Abbey*, 16 Vet.App. 543, 544 (2002) (per curiam order), and I believe that a similar order should be issued in the instant case. Hence, I also vote to grant the appellant's March 13, 2003, motion for a stay pending the resolution of *Abbey*, *supra*.