

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 03 2016

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

THOMAS WILLIAM O'CONNELL,

Plaintiff - Appellant,

v.

CAROLYN W. COLVIN, Commissioner
of Social Security,

Defendant - Appellee.

No. 14-16150

D.C. No. 2:12-cv-02681-GMS

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
G. Murray Snow, District Judge, Presiding

Submitted February 1, 2016 **

Before: LEAVY, GRABER, and OWENS, Circuit Judges.

Thomas O'Connell appeals the district court's order denying his motion for attorneys fees under the Equal Access to Justice Act ("EAJA") following the district court's decision vacating the agency's denial of his application under Titles

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

II and XVI of the Social Security Act and remanding for further proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion, *Tobeler v. Colvin*, 749 F.3d 830, 832 (9th Cir. 2014), and we vacate and remand.

We are unable to review the district court’s order denying EAJA fees because the district court did not provide an explanation for its decision that the government’s position was substantially justified. *See Meier v. Colvin*, 727 F.3d 867, 869-70 (9th Cir. 2013); *cf. Padgett v. Loventhal*, 706 F.3d 1205, 1208 (9th Cir. 2013) (“Without an adequate explanation by the district court, an appellate court is unable to determine if the district court abused its discretion.”).

Accordingly, we vacate and remand the district court’s order denying EAJA fees.

The parties shall bear their own costs on appeal.

VACATED and REMANDED.