

District Judge Tiffany M. Cartwright

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PAOLA AMPARO GUZMAN ALFARO,

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,¹

Respondents.

Case No. 2:25-cv-01706-TMC

RESPONSE TO PETITIONER'S
MOTION FOR EAJA FEES AND COSTS

Noted for Consideration:
December 17, 2025

INTRODUCTION

Respondents oppose Petitioner's motion for an award of \$17,683.21 in attorney's fees and expenses under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. Dkt. No. 20, Motion for EAJA Fees and Costs ("Motion" or "Mot."). The Court should deny the Motion because Respondents' position was substantially justified. Alternatively, if the Court is not prepared to hold that Respondents' position was substantially justified, Respondents respectfully ask the Court to stay the resolution of Petitioner's Motion pending a decision from the Ninth Circuit Court of Appeals in the government's appeal from the Court's order issued on September

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Federal Respondents substitute Acting Field Office Director Laura Hermosillo for Camilla Wamsley.

1 30, 2025, in *Rodriguez Vasquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D.
2 Wash. Sept. 30, 2025).

3 **BACKGROUND**

4 Petitioner Paola Amparo Guzman Alfaro is a member of the Bond Denial Class in
5 *Rodriguez Vasquez v. Bostock*, No. 3:25-cv-05240-TMC. On October 2, 2025, the Court granted
6 Petitioner's petition for writ of habeas corpus, finding that Petitioner was "detained under section
7 1226(a) and not subject to mandatory detention under section 1225(b)(2)." Dkt. 19, at 5-6. The
8 Court ordered that "[w]ithin 7 days of this Order, Respondents must either release Petitioner
9 Paola Amparo Guzman Alfaro from detention or allow Petitioner's release upon payment of the
10 bond amount found in the alternative by the Immigration Judge in his August 4, 2025 order."
11 *Id.*, at 6. The instant motion followed.

12 **ARGUMENT**

13 To qualify for attorneys' fees under EAJA, the plaintiff must demonstrate that he is a
14 prevailing party. 28 U.S.C. § 2412(d)(1)(A). To be a prevailing party, "a party must
15 successfully obtain a judicially sanctioned material alteration of his or her legal relationship with
16 the United States." *Pabla v. U.S. Citizenship & Immig. Servs.*, No. 2:18-cv-1660, 2019 WL
17 1436872, at *2 (W.D. Wash. Apr. 1, 2019) (collecting cases). Respondents do not dispute that
18 Petitioner is the prevailing party in this case.

19 A prevailing party, however, is not entitled to an award of EAJA fees if the government
20 shows that its position in the underlying litigation "was substantially justified." *See* 28 U.S.C. §
21 2412(d)(1)(A). Although EAJA creates a presumption that fees will be awarded to a prevailing
22 party, Congress did not intend fee shifting to be mandatory. *Flores v. Shalala*, 49 F.3d 562, 567
23 (9th Cir. 1995); *Zapon v. United States Dep't of Justice*, 53 F.3d 283, 284 (9th Cir. 1995).
24 Rather, the Supreme Court has interpreted the term "substantially justified" to mean that a

1 prevailing party is not entitled to recover fees if the government’s position is “justified to a
2 degree that could satisfy a reasonable person.” *Pierce v. Underwood*, 487 U.S. 552, 566 (1992).
3 The decision to deny EAJA attorney’s fees is within the discretion of the court. *Lewis v.*
4 *Barnhart*, 281 F.3d 1081, 1083 (9th Cir. 2002).

5 The government has the burden of proving its positions were substantially justified. *See*
6 *Hardisty v. Astrue*, 592 F.3d 1072, 1076 n.2 (9th Cir. 2010). It must demonstrate that its position
7 had a reasonable basis in both law and fact. *Flores*, 49 F.3d at 569-70; *see also Thangaraja v.*
8 *Gonzales*, 428 F.3d 870, 874 (9th Cir. 2005) (noting that “‘substantial justification is equated
9 with reasonableness . . . The government’s position is substantially justified if it has a reasonable
10 basis in law and fact.’” (quoting *Ramon-Sepulveda v. INS*, 863 F.2d 1458, 1459 (9th Cir. 1988)
11 (alteration in original)). The Ninth Circuit has recognized that “[t]o establish substantial
12 justification, the government need *not* establish that it was correct or ‘justified to a high
13 degree’ . . . but only that its position is one that a ‘reasonable person could think it correct.’”
14 *Ibrahim v. U.S. Homeland Security*, 912 F.3d 1147, 1167-68 (9th Cir. 2019) (*en banc*) (emphasis
15 added) (quoting *Pierce*, 487 U.S. at 566 n.2). A court’s finding that an agency decision was
16 unsupported by substantial evidence is, however, “a strong indication” that the position of the
17 United States in the litigation was not substantially justified. *Thangaraja*, 428 F.3d at 874.

18 Here, Respondents were substantially justified in arguing that Petitioner was subject to
19 mandatory detention. As explained more thoroughly in Respondents’ Return (Dkt. 14, at 9-11),
20 the plain language of the Immigration and Nationality Act (“INA”) mandates that Petitioner –
21 who was present in the United States without having been admitted – was correctly considered
22 an “applicant for admission” and therefore subject to detention under 8 U.S.C. § 1225(b).
23 *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018) (“Read most naturally, §§ 1225(b)(1) and (b)(2)
24 thus mandate detention of applicants of admission until certain proceedings have concluded.”).

1 The best reading of the statute is that Congress insured that all noncitizens would be inspected by
2 immigration authorities by treating noncitizens who are present in the United States without
3 having been inspected and admitted as applicants for admission. Noncitizens who are present
4 without having been inspected and admitted have the benefit of full removal proceedings and are
5 not subject to expedited removal. But they are subject to detention during their removal
6 proceedings.

7 Respondents recognize that the Court disagrees with their position, as noted in the
8 Court's Order of September 30, 2025, in *Rodriguez Vasquez v. Bostock*, No. 3:25-cv-05240-
9 TMC, 2025 WL 2782499. But this does not mean Respondents' position lacked a reasonable
10 basis in law or fact, as evidence by the BIA's recent decision adopting their position in *Matter of*
11 *Yajure-Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025). Because their position was substantially
12 justified, Respondents ask the Court to deny the Motion.

13 Alternatively, if the Court is net yet prepared to find Respondents' position was
14 substantially justified, Respondents ask the Court to stay its decision on the EAJA motion until
15 the Ninth Circuit issues a decision in the *Rodriguez Vasquez* appeal. Should the Ninth Circuit
16 ultimately agree with Respondents' legal position and reverse the Court's order of September 30,
17 the Ninth Circuit's decision would conclusively establish that Respondents' position in this case
18 was substantially justified. It would therefore be premature for the Court to find that
19 Respondents' position was not substantially justified.

20 **CONCLUSION**

21 The Court should deny Petitioner's motion for attorney's fees and costs, as Respondents'
22 position was substantially justified.

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1 DATED this 12th day of December, 2025.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD
4 United States Attorney

5 *s/ Michelle R. Lambert*

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15 I certify that this memorandum contains 1,007
16 words, in compliance with the Local Civil Rules.