


HON. DISTRICT JUDGE MARTINEZ
HON. MAGISTRATE JUDGE TSUCHIDA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MEHRAD GHASEDI,)	No. 25-cv-01984-RSM-BAT
)	
Petitioner,)	
)	
v.)	REPLY TO RESPONDENTS'
)	MEMORANDUM IN OPPOSITION TO
JULIO HERNANDEZ, <i>et al.</i> ,)	PETITION FOR FEES AND EXPENSES
)	PURSUANT TO EAJA
Respondents.)	
)	Noting Date: April 9, 2026

Petitioner replies to Respondents' request to reduce attorney fees and costs. This request should be rejected because Petitioner is the prevailing party in the litigation, and the release and third country removal claims he raised in the lawsuit arose out of the same core facts and rested on the same legal framework. *See Hensley v. Eckerhart*, 461 U.S. 424, 435 (1983) (providing "the fee award should not be reduced simply because the plaintiff failed to prevail on every contention raised in the lawsuit.").

I. AS PREVAILING PARTY, PETITIONER IS ENTITLED TO THE ATTORNEY'S FEES AND COSTS HE REQUESTED.

Under EAJA, a prevailing party is entitled to recover fees for all work reasonably expended on the litigation. The record establishes that Petitioner filed his habeas petition to achieve two main objectives: (1) immediate release because his removal to Iran was not reasonably foreseeable; and (2) prevention of his removal to another country (a third Country) that was not

1 designated as the country of removal in his removal order without first providing him with
2 notice and a hearing to respond. Dkt. 1, p 30-31.

3 On the first objective, this Court ordered Petitioner's release from ICE detention. As for
4 the second objective, Petitioner also achieved significant success even though the Court did not
5 grant him the injunction he requested. To accomplish the second objective, Petitioner
6 requested two types of relief as provided under Prayer for Relief "d" and "e" respectively:
7 injunction against third country removal without due process; and declaration that no third
8 country designation may be made without first reopening removal proceedings. Dkt 1, p 30-31.
9

10 Based on Respondents' official representation that they do not intend to remove Petitioner
11 to a third country, this Court declined to grant injunction. Dkt. 11, p 16-17. Nonetheless, the
12 Court concluded "if DHS seeks to remove [Petitioner] to a third country, it must move to
13 reopen Section 240 removal proceedings, and a hearing must be held before an immigration
14 judge so that the petitioner can apply for relief as to the specific country of removal." Dkt. 11,
15 p 15. Petitioner received the judicial declaration he sought relating to third country removal,
16 besides the ICE's representation that they do not intend to deport him to a third country. *Id.*
17

18 The declaration and ICE representation together provide Petitioner with sufficient legal
19 protection that is as significant as injunction. Contrary to Respondents' contention that
20 Petitioner's effort relating to third country removal was unnecessary and unsuccessful, he
21 largely achieved his objective to prevent his removal to a third country without due process.
22 Dkt. 17, p 5.

23 For EAJA fee purposes, the prevailing party is not required to win all claims in a lawsuit.
24 "A party need not succeed on every claim in order to prevail. Rather, a plaintiff prevails if she
25 has succeeded on any significant issue in litigation which achieved some of the benefit she
26

1 sought in bringing suit”. See *Carbonell v. Immigration & Naturalization Serv.*, 429 F.3d 894,
2 900 fn.5 (9th Cir. 2005) (quotation omitted). Petitioner achieved the objectives of his lawsuit,
3 winning his release from detention and judicial declaration of his due process right for third
4 country removal; his success “was sufficient to confer prevailing party status on him” and it
5 was “irrelevant that [he] did not receive *all* the relief he sought from the district court.” *Id.*
6 The fact that this Court did not grant injunctive relief does not affect Petitioner’s prevailing
7 party status for EAJA fees and costs.

8
9 As for the court fee for pro hac vice admission, Respondents’ request for exclusion is
10 inconsistent with the EAJA. Under EAJA, a court shall award to a prevailing party “fees and
11 other expenses.” 28 U.S.C. § 2412 (d). The “other expenses” include reasonable out-of-
12 pocket litigation costs normally billed to a client. Respondents arrested Petitioner in Eugene,
13 Oregon and transported him hundreds of miles away from his home district for detention in
14 Tacoma, Washington. Dkt. 1, p 1. Due to location of his confinement, the suit had to be
15 brought before this Court, instead of his home district in Oregon. This made it necessary for
16 counsel to appear before this Court to represent him and seek his release. The fee paid to this
17 Court is directly related to litigating this case and necessary to maintain the litigation. It is not
18 an ordinary expense for doing business in the attorney’s law practice.

19
20 Petitioner succeeded in achieving his objectives to gain release from detention and legal
21 protection against third country removal. He qualified as a prevailing party in the habeas
22 litigation and should be compensated fully for the attorney’s fees and costs.

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24 **II. UNDER *HENSLEY*, REDUCTION IN ATTORNEY’S FEES IS NOT**
25 **WARRANTED FOR THE THIRD COUNTRY REMOVAL CLAIM.**
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1 To determine reasonable attorney fees involving multiple claims in a lawsuit, the Supreme
2 Court applies the two-step framework: (1) whether successful claims were related to
3 unsuccessful claims; and (2) whether the petitioner “achieved a level of success that makes the
4 hours reasonably expended a satisfactory basis for making a fee award.” *Hensley v. Eckehard*,
5 461 U.S. 424, 434 (1983). Under this framework, the release and third country removal
6 claims are two sides of the same coin, and the fees requested are justified by the excellent
7 results of the litigation.
8

9 **A. The Third-Country Removal Claim Is Closely Related to the Release Claim.**

10 Under *Hensley*, two claims are related if they are based on a “common core of facts” or
11 related legal theories. *Id.* at 434. The release and third country removal claims are intrinsically
12 intertwined and related to the core fact of unlawful detention. They were both brought under
13 the due process framework.
14

15 The two claims are related factually because they rest on the same core facts. Petitioner’s
16 re-detention in July 2025 led to the habeas filing with this Court. Before this Court, he sought
17 his release on the grounds that his detention was unlawful. He also requested judicial
18 intervention to prevent him from being deported to a third country without due process. Due to
19 widely reported news of numerous instances of noncitizens being rounded up, put on airplanes,
20 and deported to third countries in blatant violations of due process and even court orders,
21 Petitioner faced real risks of being deported to a third country. Dkt. 1, p 12-22. The only
22 option available to prevent ICE from sneaking him onto an airplane and deporting him to a
23 third country was seeking judicial intervention to protect his right. His claims for release and
24 against third country removal could factually trace back to the core fact of continued detention.
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1 The two claims are also related legally under the due process framework. For the release
2 claim, Petitioner requested release from extended detention that violated due process. Dkt. 1, p
3 6-8. Likewise, his third country removal claim rested on the due process requirements for
4 notice and hearing if Respondents removed him to a third country. Dkt. 11, p 14-15. This
5 Court's legal conclusions confirm the common legal theory on both claims. With respect to
6 the release claim, this Court concluded that Respondents' prolonged detention violated due
7 process because his removal was not reasonably foreseeable. Dkt. 11, p 6-8. Regarding the
8 third country removal claim, this Court disagreed with Respondents that Petitioner did not have
9 due process rights to notice and an opportunity to respond and declared that he had such rights.
10 *Id.* at 14-15. Both claims were based on substantially the same legal framework, constitutional
11 due process relating to detention and removal.
12

13 Because the claims share a common factual and legal foundation, they are not "distinct"
14 under *Hensley*. They are indeed related claims.
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16 **B. Petitioner Achieved Excellent Results, Warranting Full Compensation.**

17 For related claims, the Court then evaluates whether Petitioner achieved a level of success
18 that justifies the hours expended in a given case. Under *Hensley*, where a plaintiff obtains
19 "excellent results," counsel should recover "a fully compensatory fee," even if some arguments
20 were unsuccessful. *Hensley* at 435.
21

22 Petitioner achieved excellent results in the litigation. On the release claim, this Court
23 ordered his release. The core objective of the litigation—ending unlawful detention—was fully
24 realized.
25

26 On the third country removal claim, Petitioner won the declaration side but lost on the
injunction side. The loss does not diminish his overall success on the claim. His objective for

1 bringing the claim was to prevent third country removal without due process while he was
2 detained in ICE custody. As this Court correctly pointed out, Petitioner “does not contest
3 Respondents’ authority to remove him to a third country.” Dkt. 11, p 14. He only requested
4 that he be provided with notice and opportunity to be heard in Section 240 removal
5 proceedings in which a third country would be designated and he could apply for fear-based
6 relief. Dkt. 1, p 31. This Court’s conclusion that he had due process rights relating to third
7 country removal and ICE representation that they do not intend to deport him to a third country
8 provided him with important legal benefits. Accordingly, Petitioner largely achieved his
9 objective on the third country removal claim.
10

11 Petitioner achieved success on both objectives of the litigation. Because the work was
12 reasonable, necessary, and inseparable for both claims, this Court should award full EAJA fees
13 and reject Respondents’ request for reduction.
14

15 **III. RESPONDENTS’ POSITION LACKS FACTUAL SUPPORT AND**
16 **MISAPPLIES LAW.**

17 Respondents improperly treat the third-country removal claim as a discrete, unsuccessful
18 claim requiring exclusion. They argued that the third country removal claim was “based on
19 nothing more than unfounded fear that he might be removed to a third country” and “was
20 unrelated to the claim on which he prevailed, i.e., the lawfulness of his detention.” Dkt. 17,, p
21 4-5. This argument ignores the record and contradicts prevailing case law.

22 Petitioner’s fear for removal to a third country was caused by widely reported actual
23 instances of noncitizens being snatched away, transferred all over the country, and ultimately
24 sent to maximum security prisons in El Salvador. Dkt. 1, p 12-21. His fear was reasonably
25 justified. He brought the claim to prevent the real risk of being deported to a third country in
26

1 violation of his due process rights. His third country removal claim was necessary and
2 reasonable.

3 Additionally, the Petition involved a complex set of constitutional, statutory and regulatory
4 issues, requiring considerable hours spent for extensive legal research and analysis and this is
5 **not** “a relatively simple and straightforward Petition.” Dkt. 17, fn 6.; Dkt. 16; Dkt. 9 (court
6 order finding the pleadings raise complex issues). The record does not lend support to
7 Respondents’ reduction request.

8 Respondents’ reduction request is not consistent with the prevailing case law. The Supreme
9 Court held “[w]here a lawsuit consists of related claims, a plaintiff who has won substantial
10 relief should not have his attorney’s fee reduced simply because the district court did not adopt
11 each contention raised.” *Hensley* at 440. “Where a plaintiff has obtained excellent results, his
12 attorney should recover a fully compensatory fee.” *Id.* at 435. Because Petitioner achieved
13 “excellent results” in the litigation, the fees he requested should not be reduced.

14 Respondents’ position is also inconsistent with the 9th circuit precedent. *See Cabornell v.*
15 *I.N.S.*, 429 F.3d 894 (9th Cir. 2005). In that case, the court provided that “[i]t is also irrelevant
16 that Carbonell did not receive *all* the relief he sought from the district court.” *Id.* fn. 5.
17 Though the district court order did not address all of the petitioner’s claims, he succeeded in
18 receiving a stay of deportation, which “was the primary purpose of his petition before the
19 court.” *Id.* “His success in achieving that objective was sufficient to confer prevailing party
20 status on him.” *Id.* Likewise, Petitioner, who achieved his objectives for release and
21 prevention of removal to a third country without due process, qualified as the prevailing party
22 that is entitled to the full amount of his attorney’s fees and costs.
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1 For the foregoing reasons, Petitioner respectfully requests this Court to grant his motion
2 for attorney's fees and costs in the full amount he requested.
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5 Dated this 6th day of April 2026
6

7 */s/ Benjamin Wang*

8 */s/ Kelly Vomacka*
9 *(Local Counsel)*

10 Attorneys for Petitioner

11 I certify this document contains 2080 words in compliance with the Local Civil Rules.
12

13 */s/ Benjamin Wang*
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