District Judge Ricardo S. Martinez

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

LUIS RAMOS NEVAREZ, Petitioner, v. CAMMILLA WAMSLEY, *et al.*, Respondents.	Case No. 2:25-cv-02064-RSM **FEDERAL RESPONDENTS' RESPONSE TO PETITIONER'S APPLICATION FOR ATTORNEY'S FEES** Noted for Consideration: February 23, 2026

Respondents oppose Petitioner's motion for an award of $4,587.65 in attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, Dkt. 17, because Respondents' position in this case was substantially justified.

LEGAL STANDARD

A party may recover fees and costs under the EAJA only if (1) the party prevailed in the action; (2) the government's position was not "substantially justified"; (3) no special circumstances would make an award unjust; (4) the requested fees and costs are reasonable; and (5) the party filed a timely and supported application. *See* 28 U.S.C. § 2412(b), (d); *United States v. Milner*, 583 F.3d 1174, 1196 (9th Cir. 2009).

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Although the EAJA creates a presumption in favor of awarding fees to prevailing parties, fee shifting is not mandatory. *Flores v. Shalala*, 49 F.3d 562, 567 (9th Cir. 1995). "Attorney's fees are not available if the position of the United States is 'substantially justified,'" *id.*, meaning "justified to a degree that could satisfy a reasonable person." *Pierce v. Underwood*, 487 U.S. 552, 566 (1992). The government bears the burden of demonstrating substantial justification by showing that it had "a reasonable basis both in law and fact." *Flores*, 49 F.3d at 569–70 (quoting *Pierce*, 487 U.S. at 565). "[T]he government need not establish that it was correct or 'justified to a high degree' . . . but only that its position is one that a 'reasonable person could think [is] correct.'" *Ibrahim v. U.S. Homeland Security*, 912 F.3d 1147, 1167–68 (9th Cir. 2019) (*en banc*) (quoting *Pierce*, 487 U.S. at 566 n.2).

ARGUMENT

Respondents' position was substantially justified because it weighed the government's interest in Petitioner's detention against Petitioner's private interest in not being detained, as required by the *Mathews* balancing test that formed the basis of the Petition. *See* Dkt. 2 at 7–8 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). The Court acknowledged the government's asserted interests but found them to be outweighed by Petitioner's private interest in this case. *See* Dkt. 15 at 3–4. This disagreement, however, does not render Respondents' position unjustified. The Ninth Circuit has held "[t]hat the Government lost does not raise a presumption that its position was not substantially justified." *Edwards v. McMahon*, 834 F.2d 796, 802 (9th Cir. 1987) (citation omitted). This principle is particularly applicable where, as here, the governing legal test requires a case-by-case balancing of factors about which reasonable litigants may reach different conclusions.

Nor does Respondents' acknowledgement that other cases within this district have required pre-deprivation hearings for petitioners subject to mandatory detention render their opposition

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unjustified. *See* Dkt. 12 at 6 n.1. Those cases underscore that there is no categorical rule requiring pre-deprivation hearings; rather, courts apply the *Mathews* balancing test to the circumstances of each case. *See, e.g.*, *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1321–24 (W.D. Wash. 2025) (conducting individualized *Mathews* analysis); *see also* Dkt. 15 at 3–4 (same). Here, Respondents set forth Petitioner's specific circumstances, s*ee* Dkt. 12 at 2–3 & Dkt. 13, and were substantially justified in arguing that the *Mathews* factors weighed against the Petitioner under those facts, *see* Dkt. 12, even though the Court ultimately reached a different conclusion.

CONCLUSION

For the foregoing reasons, Petitioner's application for attorney's fees should be denied.

DATED this 17th day of February, 2026.

Respectfully submitted,

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I certify this memorandum contains 548 words, in compliance with the Local Civil Rules.