

The Honorable Tiffany M. Cartwright

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

Y.M.M.,

Petitioner,

v.

Laura HERMOSILLO,<sup>1</sup>

Respondents.

Case No. 2:25-cv-02075-TMC

**PETITIONER'S MOTION FOR  
ATTORNEY'S FEES AND COSTS**

Noting Date: February 25, 2026

<sup>1</sup> Laura Hermosillo is automatically substituted for Camilla Wamsley as provided by Federal Rule of Civil Procedure 25(d).

1 **INTRODUCTION**

2 Petitioner Y.M.M. files this motion for attorney’s fees under the Equal Access to Justice  
3 Act (EAJA), 28 U.S.C. § 2412, for time reasonably expended challenging Respondents’  
4 unlawful re-detention of her in August 2025. She is entitled to recover reasonable fees under  
5 EAJA because she is the prevailing party and because Respondents’ position in this matter was  
6 not substantially justified.

7 **STATEMENT OF FACTS**

8 Y.M.M. is a citizen of Venezuela who entered the United States in December 2023 to  
9 seek asylum. Dkt. 1 ¶¶ 22–23. She was apprehended by immigration authorities following her  
10 entry, issued a Notice to Appear in removal proceedings, and released on her own recognizance a  
11 few days later. *Id.* ¶ 24. Y.M.M. was scheduled for a May 2026 hearing in immigration court in  
12 Seattle, Washington, and, in the meantime, filed an application for asylum in April 2025. *Id.*  
13 ¶¶ 26–27.

14 On August 8, 2025, she and a friend were apprehended by Department of Homeland  
15 Security (DHS) officers in Renton, Washington. As they walked towards her friend’s car, “a  
16 group of armed men, their faces covered, approached them and took her friend.” *Id.* ¶ 29.  
17 Y.M.M. understood the men to be immigration officers and showed them her identification and  
18 notice of her May 2026 immigration court hearing. *Id.* One of the officers said it was “okay to let  
19 Y.M.M. go, but another officer disagreed and arrested her,” handcuffing and restraining her  
20 despite her cooperation. *Id.* ¶ 30. She was detained at the Northwest Immigration Customs  
21 Enforcement (ICE) Processing Center (NWIPC) in Tacoma, Washington, and her immigration  
22 case was transferred to the immigration court there. *Id.* ¶¶ 31–32.

23 Y.M.M.’s arrest record provided no basis for her arrest, noting only that she had no  
24 lawful status in the country but was in removal proceedings in immigration court. *Id.* ¶ 33. It

1 states that she had no criminal history and indicates that ICE appeared to be looking for someone  
2 else when they encountered her, yet arrested her simply because she was there, despite knowing  
3 she had been previously released from immigration custody and had pending proceedings. *Id.*

4 ¶ 36. Prior to her arrest, ICE did not assess whether she presented a flight risk or danger to the  
5 community, assess whether any change in her circumstances justified re-detention, notify her in  
6 writing of the reason for her re-detention, or provide a hearing before a neutral decisionmaker to  
7 determine if her re-detention was justified. *Id.* ¶¶ 34–35, 37; Dkt. 14 at 4.

### 8 PROCEDURAL HISTORY

9 Y.M.M. filed the instant petition for a writ of habeas corpus on October 23, 2025, arguing  
10 that her re-detention violated her Fifth Amendment right to procedural due process and seeking  
11 her release from immigration detention. *See generally* Dkt. 1.

12 This Court granted her habeas petition on November 6, 2025. Dkt. 14. The Court noted  
13 that it was “undisputed between the parties that Y.M.M. was not provided any notice or pre-  
14 deprivation opportunity to contest her re-detention.” *Id.* at 4. As the Court remarked,  
15 “Respondents concede[d] that her re-detention requires a change in circumstances but have not  
16 argued that one exists,” and have “provide[d] no legal arguments to maintain Y.M.M.’s detention  
17 absent a hearing or change in circumstances.” *Id.* The Court further observed that the U.S.  
18 Attorney’s Office did not “mak[e] an argument in favor of detention where none exists,” but  
19 explained that this was “small comfort to Y.M.M., who has sat in detention for nearly three  
20 months despite no legal basis for her incarceration” after being “arrested by masked agents who  
21 neither offered nor had any legal basis for her arrest.” *Id.* at 5. The Court held that Y.M.M.’s re-  
22 detention “conclusively . . . violates the laws and the Constitution of the United States” and  
23 issued a writ of habeas corpus ordering her immediate release and forbidding her re-detention

1 “absent urgent circumstances, without pre-deprivation notice and opportunity to be heard in front  
2 of an immigration judge.” *Id.*

3 **ARGUMENT**

4 **I. Y.M.M. is entitled to fees under EAJA.**

5 Under EAJA, a party seeking fees must generally establish two basic requirements: that  
6 they are a prevailing party, and that the position of the United States was not substantially  
7 justified. Y.M.M. satisfies both elements here.

8 A. Y.M.M. is the prevailing party.

9 To qualify for an EAJA award, Petitioner must first establish that she is the prevailing  
10 party. 28 U.S.C. § 2412(d)(1)(B). Prevailing parties must show that they (1) have achieved a  
11 “material alteration of the legal relationship of the parties,” and that (2) the alteration was  
12 “judicially sanctioned.” *Buckhannon Bd. & Care Home, Inc. v. W. Virginia Dep’t of Health &*  
13 *Human Res.*, 532 U.S. 598, 604–05 (2001) (citation omitted).<sup>2</sup> Here, Y.M.M. readily satisfies  
14 those requirements: she obtained a final judgment declaring that re-detention violated her Fifth  
15 Amendment procedural due process rights, ordering Respondents to release her from  
16 immigration detention, and decreeing that any future re-detention comply with due process. Such  
17 final relief satisfies the prevailing party requirement “by granting enduring judicial relief on  
18 the merits.” *Lackey v. Stinnie*, 604 U.S. 192, 203–04 (2025).

19 B. Respondents’ position was not substantially justified.

20 “The EAJA creates a presumption that fees will be awarded to prevailing parties.” *Flores*  
21 *v. Shalala*, 49 F.3d 562, 567 (9th Cir. 1995). Respondents can rebut this presumption by showing  
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23 <sup>2</sup> In addition, to qualify for EAJA fees a person must have a net worth of less than  
24 \$2,000,000. 28 U.S.C. § 2412(d)(2)(B)(i). Y.M.M.—who was detained at the time this case was  
filed—satisfies this requirement. *See* Y.M.M. Decl. ¶ 2.

1 that the government’s conduct “was substantially justified or that special circumstances exist to  
2 make an award unjust.” *Gutierrez v. Barnhart*, 274 F.3d 1255, 1258 (9th Cir. 2001); *see also*,  
3 *e.g.*, *Love v. Reilly*, 924 F.2d 1492, 1495 (9th Cir. 1991) (“The burden of proving the special  
4 circumstances or substantial justification exception to the mandatory award of fees under the  
5 EAJA rests with the government.”). Congress placed the burden of proof on the government to  
6 demonstrate that its position was substantially justified in order for “EAJA to be a deterrent for  
7 unreasonable agency conduct.” *Li v. Keisler*, 505 F.3d 913, 919 (9th Cir. 2007) (order)  
8 (“[R]egardless of the government’s conduct in the federal court proceedings, unreasonable  
9 agency action at any level entitles the litigant to EAJA fees.”); *see also* H.R. Rep. No. 96-1418,  
10 96th Cong., 2d Sess. at 10, 13–14 (1980) (“[T]he strong deterrents to contesting government  
11 action require that the burden of proof rest with the government.”).

12 “‘Substantial justification’ under the EAJA means that the government’s position must  
13 have a reasonable basis in law and fact.” *Corbin v. Apfel*, 149 F.3d 1051, 1052 (9th Cir. 1998).  
14 Here, as this Court found, the immigration officers’ lawless re-detention of Y.M.M.  
15 “conclusively” “violate[d] the laws and the Constitution of the United States.” Dkt. 14 at 5. It has  
16 long been established that “[p]rocedural due process imposes constraints on governmental  
17 decisions which deprive individuals of ‘liberty’ or ‘property’ interests within the meaning of the  
18 Due Process Clause of the Fifth or Fourteenth Amendment.” *E.A. T.-B. v. Wamsley*, 795 F. Supp.  
19 3d 1316, 1320 (W.D. Wash. 2025) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976)). An  
20 individual’s interest in their freedom, moreover, is “the most elemental of liberty interests.”  
21 *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1136 (W.D. Wash. 2025) (citation modified).  
22 And as this Court declared, “[t]he Supreme Court has consistently held that the Constitution  
23 requires some kind of a hearing *before* the State deprives a person of liberty or property.” Dkt.  
24 14 at 4 (citation modified). Here, the immigration authorities’ re-detention of Y.M.M. violated

1 the most basic and “fundamental requirement of due process”: “the opportunity to be heard at a  
2 meaningful time and in a meaningful manner.” *E.A. T.-B.*, 795 F. Supp. 3d at 1320 (citation  
3 modified).

4 In fact, the agency not only violated the Constitution, it also violated the Immigration and  
5 Nationality Act—the very law it is entrusted with enforcing—and its implementing regulations.  
6 Dkt. 14 at 3–4 (citing, inter alia, 8 U.S.C. § 1226(b), 8 C.F.R. § 236.1(c)(9), and *Matter of*  
7 *Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981)). These required “a material change in  
8 circumstances as to whether the noncitizen poses a danger to the community or an unreasonable  
9 risk of flight” prior to re-detention. *Id.* at 3 (citation modified). Yet it is undisputed that the  
10 immigration officers who re-detained Y.M.M. did not find there had been such a material change  
11 of circumstances in her case. *Id.* at 4.

12 Because the agency ignored its own regulations as well as established applicable law, its  
13 position was not “substantially justified.” *See Li*, 505 F.3d at 919 (clarifying that where “the  
14 record indicates that the Agency’s prior action was not consistent with clearly established law at  
15 the time the case was before it, then the government’s position would not be substantially  
16 justified”); *Gutierrez*, 274 F.3d at 1259–1260 (agency’s failure to follow its own regulations  
17 “was not substantially justified”).


18 Nor are there special circumstances making an award of fees here “unjust.” To the  
19 contrary, this Court recognized the grave harm that the agency’s unlawful, unjustified conduct  
20 caused Y.M.M., an “asylum seeker who fled political violence for the refuge of the United  
21 States, escaped domestic human trafficking, and pieced together a living through cleaning jobs  
22 only to be arrested by masked agents who neither offered nor had any legal basis for her arrest.”  
23 Dkt. 14 at 5. She was forced to sit “in detention for nearly three months despite no legal basis for  
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1 her incarceration,” and would have likely remained in detention had the instant petition not  
2 “reached [this Court’s] doorstep.” *Id.* An award in her favor is therefore just.

3 **II. Petitioner’s requested fees are reasonable.**

4 Y.M.M. is entitled to fees at the EAJA statutory rate for the work of attorneys Matt  
5 Adams, Glenda M. Aldana, Leila Kang, Aaron Korthuis, Amanda Ng, paralegal Sydney Maltese,  
6 and legal advocate Priscilla Hernandez, as she is the eligible and prevailing party, the  
7 government’s position in this matter was not substantially justified, and special circumstances do  
8 not make this award unjust. Although counsel for Y.M.M. possess specialized, necessary  
9 knowledge of immigration law that would warrant an enhancement of the statutory rate, counsel  
10 seek only fees at the EAJA statutory rate adjusted for inflation. *See* Second Aldana Madrid Decl.  
11 ¶ 6.<sup>3</sup> Petitioner also seeks reimbursement of \$5.00 in filing fees and any other taxable costs under  
12 28 U.S.C. § 1920, and fees for time spent preparing this fee application, *see Comm’r, INS v.*  
13 *Jean*, 496 U.S. 154, 163–65 (1990).

14 **CONCLUSION**

15 Y.M.M. accordingly respectfully requests that this Court grant her requested fees and  
16 costs in the amount of  in addition to fees for any time spent preparing a reply brief if  
17 this motion is opposed by Respondents.

18  
19 DATED this 4th of February, 2026.

20 s/ Matt Adams  
21 Matt Adams, WSBA No. 28287  
matt@nwirp.org

s/ Leila Kang  
Leila Kang, WSBA No. 48048  
leila@nwirp.org

22 <sup>3</sup> *See* 28 U.S.C. § 2412(d)(2)(A) (setting the EAJA ceiling at “\$125 per hour unless the  
23 court determines that an increase in the cost of living [or other factor] . . . justifies a higher fee”).  
The applicable statutory rate is \$258.46. *Statutory Maximum Rates Under the Equal Access to*  
24 *Justice Act*, United States Courts for the Ninth Circuit,  
<https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates> (last visited Feb. 3, 2026).

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s/ Glenda M. Aldana Madrid  
Glenda M. Aldana Madrid,  
WSBA No. 46987  
glenda@nwirp.org

s/ Aaron Korthuis  
Aaron Korthuis, WSBA No. 53974  
aaron@nwirp.org

s/ Amanda Ng  
Amanda Ng, WSBA No. 57181  
amanda@nwirp.org

NORTHWEST IMMIGRANT RIGHTS PROJECT  
615 Second Ave., Suite 400  
Seattle, WA 98104  
(206) 957-8611

*Counsel for Petitioner*

**WORD COUNT CERTIFICATION**

I certify that this memorandum contains 1855 words, in compliance with the Local Civil Rules.

DATED this 4th day of February, 2026.

s/ Matt Adams  
Matt Adams  
Northwest Immigrant Rights Project  
615 Second Avenue, Suite 400  
Seattle, WA 98104  
(206) 957-8611  
(206) 587-4025 (fax)  
matt@nwirp.org

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