District Judge Ricardo S. Martinez

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

GINY FRANCOIS, HECTOR MOISES DAVILA ZURITA, JEAN CARLOS PINTO BAUTISTA,

Petitioners,

v.

JULIO HERNANDEZ, *et al.*,[1]

Respondents.

Case No. 2:25-cv-02122-RSM

UNOPPOSED MOTION TO HOLD CASE IN ABEYANCE

Noted for consideration: Today

On March 5, 2026, Petitioners filed a motion for an award of $23,160.25 in attorney's fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, Dkt. 23. Federal Respondents opposed the motion arguing that their position in this case was substantially justified and the rate Petitioners seek for paralegal time is too high. Dkt. 25. The motion remains pending.

Federal Respondents move this Court, pursuant to pursuant to Federal Rule of Civil

[1] Pursuant to Fed. R. Civ. P. 25(d), Federal Respondents substitute ICE/ERO Acting Seattle Field Office Director Julio Hernandez for Laura Hermosillo/Cammilla Wamsley, Department of Homeland Security Secretary Markwayne Mullin for Kristi Noem; and Acting U.S. Attorney General Todd Blanche for Pamela Bondi.

Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

Procedure 6 and Local Civil Rules 7(d)(1), 10(g) and 16, to hold this case in abeyance until 60 days after the Supreme Court issues a decision in *Montoya Palacios v. Liggins*, No. 25-1223.

Undersigned counsel contacted Petitioners' counsel regarding their position on the relief requested in this motion. On July 26, 2026, Petitioner's counsel informed undersigned counsel that Petitioners do not oppose this motion and agree to hold this case in abeyance.

LEGAL STANDARD

Courts have "broad discretion" to stay proceedings. *Clinton v. Jones*, 520 U.S. 681, 706 (1997). "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); *see also* Fed. R. Civ. P. 1.

ARGUMENT

I. Federal Respondents request this case be held in abeyance pending the Supreme Court's ruling in *Montoya Palacios*.

Montoya Palacios involves a petition for attorney's fees under the EAJA. Like *Montoya Palacios*, Petitioners here brought a successful habeas challenge to immigration detention. Petitioners subsequently sought their attorney's fees and costs under the EAJA.

The issue in *Montoya Palacios* is whether, under the EAJA, the phrase "any civil action," 28 U.S.C. § 2412(d)(1)(A), encompasses habeas petitions challenging immigration detention. The question goes to the Government's sovereign immunity and necessarily implicates the district court's authority to award attorney's fees under the EAJA. *See Powelson v. United States*, 150 F.3d 1103, 1104 (9th Cir. 1998) (noting that "sovereign immunity is not merely a defense to an action against the United States, but a jurisdictional bar," citing 16 James Wm. Moore, et. al., *Moore's Federal Practice* ¶ 105.21 (3d ed. 1998) and holding that "while sovereign immunity can bar

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

jurisdiction, a statute that purports to create jurisdiction alone does not necessarily eliminate sovereign immunity"); *Herklotz v. Parkinson*, 848 F.3d 894, 897 (9th Cir. 2017) ("challenges to subject matter jurisdiction may be raised at any point").

Because Petitioner's pending motion for attorney's fees presents the same issue as *Montoya Palacios*, the Supreme Court's decision in that case, with briefing to begin in August 2026, will inform this Court's ruling on the pending motion. Moreover, holding this case in abeyance promotes judicial efficiency and conserves judicial resources. And Petitioners will not suffer any prejudice if this motion is granted because the Court has already granted their habeas petition, ordered them released, and they have been released from immigration custody. Dkt. 22.

CONCLUSION

For the foregoing reasons, Federal Respondents move this Court to hold this case in abeyance until 60 days after the Supreme Court issues a decision in the pending *Montoya Palacios* case.

DATED this 27th day of July, 2026.

Respectfully submitted,

s/ Kristin B. Johnson
KRISTIN B. JOHNSON, WSBA #28189
Assistant United States Attorney
United States Attorney's Office
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
Telephone No. (206) 553-7970
Email: kristin.b.johnson@usdoj.gov

Attorney for Federal Respondents

I certify that this memorandum contains 528 words, in compliance with the Local Civil Rules.