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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 Carlos Jesus Colina-Meira

12 Petitioner,

13 v.

14 Todd Lyons, Acting Director, Immigration
15 Customs and Enforcement; and Christopher
16 Chestnut, Warden, California City Correctional
Facility

17 Respondents.
18
19

Case No. 1:25-cv-01716-CSK

**PETITIONER'S REPLY IN SUPPORT
OF MOTION FOR ATTORNEYS'
FEES UNDER THE EQUAL ACCESS
TO JUSTICE ACT**

Magistrate Judge Kim

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1 Petitioner Carlos Jesus Colina-Meira (“Petitioner” or “Colina-Meira”) submits the
2 following Reply in support of his Motion for Attorneys’ Fees under the Equal Access to Justice
3 Act. (Dkt. 20). Petitioner is entitled to fees because he is the prevailing party and requests that
4 the Court grant fees in the amount requested in his motion.

5 **I. ARGUMENT**

6 **A. An Immigration Habeas Petition Is A Civil Proceeding Entitling the Prevailing**
7 **Party to Fees Under the EAJA**

8 Respondents argue that Petitioner is not entitled to attorneys’ fees because it is not clear
9 that sovereign immunity is waived for an immigration habeas corpus petition because it is not
10 clear that an immigration habeas action is a civil matter. (Dkt. 25 at 2-6). At the same time,
11 Respondents acknowledge, as they must, that the Supreme Court has occasionally referred to
12 habeas petitions as civil. (Dkt. 25 at 6). Respondents’ attempt to characterize immigration habeas
13 petitions as outside the scope of “civil actions” entirely lacks merit. Courts have found that
14 “under the EAJA, habeas actions challenging immigration detention are unambiguously ‘civil
15 actions.’ The EAJA authorizes the award of attorneys’ fees to petitioners who prevail against the
16 Government in such actions.” *Daley v. Ceja*, 158 F.4th 1152, 1162 (10th Cir. 2025) (affirming
17 award of attorneys’ fees in habeas petition challenging immigration detention). The same result
18 is warranted here.

19 When Congress enacted the EAJA, the Supreme Court noted that “[i]t is well settled that
20 habeas corpus is a civil proceeding.” *Browder v. Dir., Dep’t of Corr. of Ill.*, 434 U.S. 257, 269
21 (1978)(citing *Fisher v. Baker*, 203 U.S. 174, 181 (1906); *Ex parte Tom Tong*, 108 U.S. 556
22 (1883); see *Heflin v. United States*, 358 U.S. 415, 418 n. 7 (1959)); see also *Stafford v. Briggs*,
23 444 U.S. 527, 543 (1980) (“Habeas corpus is a civil action.”). *Id.* at *17–18. Similarly,
24 immigration detention, as an “aspect of the deportation process,” is civil. *Demore v. Kim*, 538
25 U.S. 510, 523 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

26 While Respondents cite the Fourth Circuit and Fifth Circuits who have rejected an award
27 of attorneys’ fees in the immigration habeas petition context (Dkt. 25 at 8 citing *Obando-Segura*
28 *v. Garland*, 999 F.3d 190 (4th Cir. May 28, 2021), the Second, Tenth and Third Circuits have

1 recently rejected the same argument Respondents make here. *Daley*, 158 F.4th at 1162 (“Because
2 both habeas and the underlying immigration proceedings are civil, habeas actions challenging
3 immigration detention are purely civil.”); *Michelin v. Warden Moshannon Valley Corr. Ctr.*, No.
4 24-2990, __ F.4th __, 2026 U.S. App. LEXIS 3264, 2026 WL 263483, at *13 (3d Cir. 2026)
5 (affirming that EAJA “clearly covers petitions for writs of habeas corpus from immigration
6 detention”) (citing and quoting *Browder*, 434 U.S. at 269; *Stafford*, 444 U.S. at 543); *Vacchio v.*
7 *Ashcroft*, 404 F.3d 663 (2nd Cir. 2005) .

8 Courts in the Ninth Circuit similarly have awarded EAJA attorneys’ fees for immigration
9 habeas corpus petitions. *See, e.g., Vaskanyan v. Janecka*, No. 5:25-cv-01475-MRA-AS, 2025
10 U.S. Dist. LEXIS 216601, at *10 (C.D. Cal. Sep. 10, 2025) (granting EAJA motion); *Rahman v.*
11 *Bondi*, No. 2:24-cv-02132-JHC-TLF, 2026 U.S. Dist. LEXIS 25344, at *16 (W.D. Wash. Feb. 6,
12 2026) (same); *Krajekian v. Cantu*, No. CV 25-02666 PHX DJH (CDB), 2026 U.S. Dist. LEXIS
13 44478, at *20 (D. Ariz. Jan. 2, 2026) (recommending attorneys’ fees be awarded under EAJA in
14 a habeas immigration matter).

15 **B. The Government Has Not Met Its Burden to Show Substantial Justification**

16 Respondents argue that the government’s position was substantially justified before and
17 during litigation. (Dkt. 25 at 12-13). In arguing that its positions were justified, Respondents
18 again cite Fifth Circuit law. *Id.* The burden is on the government to show substantial
19 justification. *Ibrahim v. U.S. Dep’t of Homeland Sec.*, 912 F.3d 1147, 1167 (9th Cir. 2019) (en
20 banc). “Once a party’s eligibility has been proven, an award of fees under EAJA is mandatory
21 unless the government’s position is substantially justified or special circumstances exist that
22 would make the award unjust.” *Love v. Reilly*, 924 F.2d 1492, 1495 (9th Cir. 1991).

23 In Petitioner’s opening brief, he points out that numerous Eastern District of California
24 cases have ruled similarly to this Court in granting the petition for habeas. *See e.g. Josue I.C.V.*
25 *v. Lyons et al.* 1:25-cv-01542-SKO (E.D. Cal Dec. 5, 2025) (granting habeas petition and
26 ordering Petitioner’s release and finding that Petitioner’s re-detention without a pre-deprivation
27 hearing was a violation of the Due Process Clause of the Fifth Amendment). Despite similar
28 cases ordering immediate release from detention, the government made the decision to continue

1 its position, contrary to the Due Process Clause of the Fifth Amendment. Therefore, fees must be
2 awarded. *Jianping Li v. Keisler*, 505 F.3d 913 (9th Cir. 2007).

3 **C. The Requested Fees Are Reasonable**

4 The government argues that 12.4 hours of legal work for one veteran attorney and a first
5 year associate is unreasonable. (Dkt. 25 at 14). But, it is precisely because the lead attorney is a
6 veteran attorney with Federal Court experience, that this entire matter took *only* 12.4 hours. As
7 noted in the Declaration of Sarah S. Brooks (Dkt. 20-1 at ¶ 5), this matter included preparing “a
8 habeas petition, TRO papers, and a few rounds of reply briefing in this matter.” 12.4 hours for
9 all of that legal work is extremely reasonable. And, as noted in the Opening Motion, excessive
10 and duplicative time entries were already deleted. (Dkt. 20-1 at ¶7).

11 Respondents argue the fees should be reduced for duplicative and excessive time entries,
12 yet they fail to specifically identify a single time entry that is excessive or duplicative. (Dkt. 25
13 at 16). In any event, it is well-established that the legal practice often requires multiple attorneys
14 to review drafts and discuss strategy. *See Tchemkou v. Musakey*, 517 F.3d 506, 511 (7th Cir.
15 2008) (“The practice of law often, indeed usually, involves significant periods of consultation
16 among counsel.”); *Democratic Party of Wash. State v. Reed*, 388 F.3d 1281, 1286 (9th Cir. 2004)
17 (“Participation of more than one attorney does not necessarily amount to duplication of effort.”);
18 *Nadarajah v. Holder*, 569 F.3d 906, 925 (9th Cir. 2009) (finding reasonable the time spent on
19 “conferencing among attorneys” and developing strategy).

20 Next, Respondents also argue that the fees should be reduced for billing for clerical tasks,
21 but once again respondents do not identify any specific clerical tasks in the time entries. (Dkt. 25
22 at 17-18). Indeed, there are no such clerical tasks. Nearly all the time entries relate to drafting
23 and revising the habeas, reply or TRO papers.

24 Finally, the fees sought are reasonable because they are based on the actual hours worked
25 on the litigation at or below the market rate for Los Angeles County. *See* 28 U.S.C. §
26 2412(d)(2)(A). Counsel has already deleted duplicative time entries and other time eliminated in
27 the exercise of billing judgment. (Dkt. 20-1 at ¶7).

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1 **II. CONCLUSION**

2 Petitioner respectfully requests that the Court award Petitioner the requested attorneys'
3 fees.

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5 DATED: March 23, 2026

VENABLE LLP

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7 By: /s/ Sarah S. Brooks

Sarah S. Brooks

8 Pro Bono Counsel for Carlos Jesus Colina-Meira
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