The Honorable David G. Estudillo

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARTHA LIDIA COTOC YAC DE YAC, Petitioner, v. Julio HERNANDEZ, Respondents.	Case No. 2:25-cv-02593-DGE-TLF **PETITIONER'S MOTION FOR ATTORNEY'S FEES AND COSTS** Noting Date: May 6, 2026

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INTRODUCTION

Petitioner Martha Lidia Cotoc Yac de Yac (Ms. Cotoc Yac de Yac), files this motion for attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, for time reasonably expended challenging Respondents' unlawful re-detention of her in December 2025. She is entitled to recover reasonable fees under EAJA because she is the prevailing party and because Respondents' position in this matter was not substantially justified.

BACKGROUND

A. STATEMENT OF FACTS

Ms. Cotoc Yac de Yac is a citizen of Guatemala who entered the United States on August 20, 2021 to seek asylum. Dkt. 25 p. 2. She was apprehended at the time of entry. Dkt. 22-1 at 3. Ms. Cotoc Yac de Yac was released on parole and in October of 2021 was issued a Notice to Appear placing her in removal proceedings. Dkt. 25 p. 2. On March 16, 2023 the immigration judge dismissed proceedings against Ms. Cotoc Yac de Yac and ICE terminated all supervision requirements. Dkt. 25 at 2-3. On January 19, 2022 Mr. Cotoc Yac de Yac filed a new asylum application with the United States Citizenship and Immigration Services and that application remains pending. Dkt. 1-1 at 1. On May 14, 2025 Ms. Cotoc Yac de Yac filed an application for U non-immigrant status, which remains pending. Dkt. 25 at 3. On December 12, 2025 ICE detained Ms. Cotoc Yac de Yac. *Id.*

B. PROCEDURAL HISTORY

Ms. Cotoc Yac de Yac filed the petition for a writ of habeas corpus and a motion for temporary restraining order ("TRO") in the United States District Court, District of Oregon. Dkt. 1, 2. District Judge Michael Simon granted in part Ms. Cotoc Yac de Yac's motion but because the motion had been filed after she was transferred out of Oregon's jurisdiction, the Parties filed a

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stipulated motion to transfer venue to the Western District of Washington. Dkt. 6, 7, 8. The case was then transferred from the District of Oregon to this district. Dkt. 10. On December 17, 2025 Ms. Cotoc Yac de Yac filed an *ex parte* motion for order to show cause and issue an expedited briefing schedule and a new TRO. Dkt. 15. The Court found that the motion for TRO was a request to decide the habeas petition on an expedited basis and issued a briefing schedule. Dkt. 17 at 2-3. Respondents filed a response memorandum on December 31, 2025. Dkt. 20. Ms. Cotoc Yac de Yac filed her traverse on January 6, 2026 and the Court held oral argument on January 14, 2026. Dkt. 20, 23). On January 16, 2026 the Court granted Ms. Cotoc Yac de Yac writ of habeas corpus and ordered Respondents to conduct a bond hearing and enjoining them from denying bond on the basis that Ms. Cotoc Yac de Yac was subject to mandatory detention. Dkt. 25 at 11.

ARGUMENT

I. Ms. Cotoc Yac de Yac is entitled to fees under EAJA.

Under EAJA, a party seeking fees must generally establish two basic requirements: that they are a prevailing party, and that the position of the United States was not substantially justified. Ms. Cotoc Yac de Yac satisfies both elements here.

A. Ms. Cotoc Yac de Yac is the prevailing party.

To qualify for an EAJA award, Petitioner must first establish that she is the prevailing party. 28 U.S.C. § 2412(d)(1)(B). Prevailing parties must show that they (1) have achieved a "material alteration of the legal relationship of the parties," and that (2) the alteration was "judicially sanctioned." *Buckhannon Bd. & Care Home, Inc. v. W. Virginia Dep't of Health & Human Res.*, 532 U.S. 598, 604–05 (2001) (citation omitted).[1] Ms. Cotoc Yac de Yac readily satisfies those

[1] In addition, to qualify for EAJA fees a person must have a net worth of less than $2,000,000. 28 U.S.C. § 2412(d)(2)(B)(i). Ms. Cotoc Yac de Yac satisfies this requirement. *See* Decl. of Ms. Cotoc Yac de Yac.

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requirements: she obtained a final judgment declaring that Respondents were required to provide Ms. Cotoc Yac de Yac with a bond hearing and were enjoined from denying her ability to be released on bond on the basis that she was subject to mandatory detention, which was the Respondent's sole argument for their authority to detain Ms. Cotoc Yac de Yac. Dkt. 25 at 11, Dkt. 20 at 1-3. The Court found that "Counsel for Respondents agreed that pursuant to *Hurtado* and § 1225, Petitioner would not be entitled to a bond hearing...." Dkt. 25 at 11. Thus, in ordering that the Respondents were required to provide a bond hearing and were enjoined for denying bond on the basis of her being subject to mandatory detention, the Court made a "material alteration of the legal relationship" "by granting enduring judicial relief on the merits." *Buckhannon, Lackey v. Stinnie*, 604 U.S. 192, 202 (2025).

B. Respondents' position was not substantially justified.

"The EAJA creates a presumption that fees will be awarded to prevailing parties." *Flores v. Shalala*, 49 F.3d 562, 567 (9th Cir. 1995). Respondents can rebut this presumption by showing that the government's conduct "was substantially justified or that special circumstances exist to make an award unjust." *Gutierrez v. Barnhart*, 274 F.3d 1255, 1258 (9th Cir. 2001); *see also, e.g., Love v. Reilly*, 924 F.2d 1492, 1495 (9th Cir. 1991) ("The burden of proving the special circumstances or substantial justification exception to the mandatory award of fees under the EAJA rests with the government."). Congress placed the burden of proof on the government to demonstrate that its position was substantially justified in order for "EAJA to be a deterrent for unreasonable agency conduct." *Li v. Keisler*, 505 F.3d 913, 919 (9th Cir. 2007) (order) ("[R]egardless of the government's conduct in the federal court proceedings, unreasonable agency action at any level entitles the litigant to EAJA fees."); *see also* H.R. Rep. No. 96-1418, 96th Cong.,

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2d Sess. at 10, 13–14 (1980) ("[T]he strong deterrents to contesting government action require that the burden of proof rest with the government.").

"'Substantial justification' under the EAJA means that the government's position must have a reasonable basis in law and fact." *Corbin v. Apfel*, 149 F.3d 1051, 1052 (9th Cir. 1998). The Respondents' position did not have a reasonable basis in law and fact. This Court found that Respondents' position "appears to be that any and all noncitizens previously admitted to the United States are subject to mandatory detention regardless of circumstance." Dkt. 25 at 7. The Court, citing *Rodriguez v. Bostock* and *Del Valle Castillo v. Wamsley*, No. 2:25-CV-02054-TMC, 2025 WL 3524932, at *5 (W.D. Wash. Nov. 26, 2025) (collecting cases of courts that have determined similarly situated detainees were detained under 1226(a)), concluded that Respondents' position was contrary to established case law and that Ms. Cotoc Yac de Yac was not subject to mandatory detention. Dkt. 25 at 6-7. Additionally, Respondent also acknowledged "that courts in this District have considered whether noncitizens similar to Petitioner are detained pursuant to Section 1225(b) or Section 1226(a) and ruled against the Government's position that Section 1225(b) applies." Dkt. 20 at 3. Thus, Respondent acknowledged that their position was not justified under case law in this district.

Additionally, there are no special circumstances making an award of fees here "unjust." To the contrary, the detention here caused Ms. Cotoc Yac de Yac and her family significant harm.

II. Petitioner's requested fees are reasonable.

Ms. Cotoc Yac de Yac is entitled to fees at the EAJA statutory rate for the work performed in conjunction with this case, as she is the eligible and prevailing party, the government's position in this matter was not substantially justified, and special circumstances do not make this award unjust. Petitioner also seeks reimbursement of taxable costs under 28 U.S.C. § 1920 and fees for

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time spent preparing this fee application, *see Comm'r, INS v. Jean*, 496 U.S. 154, 163–65 (1990).

CONCLUSION

Ms. Cotoc Yac de Yac accordingly respectfully requests that this Court grant her requested fees and costs in the amount of $8,900.72, in addition to fees for any time spent preparing a reply brief if this motion is opposed by Respondents and order that the government pay the award directly to Petitioner's counsel. *See* Ex. A (timekeeping ledger); Ex. B (chart of fees and costs).

Respectfully submitted this 15th day of April, 2026.

s/ Anna Ciesielski
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WORD COUNT CERTIFICATION

I certify that this memorandum contains 1380 words, in compliance with the Local Civil Rules.

DATED this 16th day of April, 2026.

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