

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.1:25-cv-04046-RBJ

JUAN VENCES NUÑEZ,

Petitioner,

v.

KRISTI NOEM, Secretary of the Department of Homeland Security;
PAMELA BONDI, Attorney General of the United States;
TODD M. LYONS, Acting Director U.S. Immigration and Customs Enforcement;
ROBERT G. HAGAN, ICE Denver Field Office Director; and,
JUAN BALTAZAR, Warden of the Denver Contract Detention Facility, Aurora, Colorado

Respondents.

_____ /

**PETITIONER’S MOTION FOR ATTORNEYS’ FEES PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT, 28 USC § 2412, ET. SEQ., AND INCORPORATED
MEMORANDUM OF LAW**

Petitioner, Juan Vences Nuñez (“Petitioner”), pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d); Rule 54(d)(2), Federal Rules of Civil Procedure; and Local Rule 54.3, United States District Court for the District of Colorado (“Local Rule”) respectfully moves this Court for an order establishing entitlement to attorneys’ fees incurred in connection with this habeas corpus action. In support, Petitioner states:

I. INTRODUCTION

1. On January 16, 2026, this Court entered an Order in Petitioner’s favor on his petition for a writ of habeas corpus. The Court granted relief on Petitioner’s claims and ordered Respondents to provide Petitioner with the statutory requirements under 8 U.S.C. § 1226, including a bond hearing. (Doc. 10)

2. Petitioner is therefore the “prevailing party” in this civil action brought against the United States or an agency or officer thereof within the meaning of the EAJA, 28 U.S.C. §

2412(d)(1)(A) & (2)(B).

3. Petitioner timely files this motion for entitlement pursuant to 28 U.S.C. § 2412(d)(1)(B).

4. The position of the United States in this litigation was not “substantially justified,” and no special circumstances make an award of fees unjust. Accordingly, Petitioner is entitled to an award of reasonable attorneys’ fees under 28 U.S.C. § 2412(d).

II. STATUTORY FRAMEWORK

5. The EAJA provides, in relevant part: “Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses... incurred by that party in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.” 28 U.S.C. § 2412(d)(1)(A).

6. To obtain fees under EAJA, a petitioner must show: (1) he is a prevailing party; (2) the Government’s position was not substantially justified; (3) no special circumstances make an award unjust; and (4) the fee application is timely and supported by an itemized statement. 28 U.S.C. § 2412(d)(1)(A), (B).

7. The statute further requires that the party seeking fees demonstrate that, at the time the civil action was filed, his net worth did not exceed \$2,000,000. 28 U.S.C. § 2412(d)(2)(B).

III. ARGUMENT

A. Petitioner Is a Prevailing Party

8. Petitioner is a prevailing party because this Court granted habeas relief and entered an order materially altering the legal relationship between Petitioner and Respondents in Petitioner’s favor. The order provides Petitioner with enforceable relief, which constitutes success on the merits.

9. Such judicial relief is sufficient to confer “prevailing party” status under EAJA.

B. Petitioner Meets EAJA’s Eligibility and Timeliness Requirements

10. At the time this action was filed, Petitioner’s net worth did not exceed \$2,000,000. Petitioner is an individual of modest means who has been in custody and has not owned or operated any substantial business or high-value assets. Petitioner’s counsel has confirmed Petitioner’s financial status and is authorized to represent to the Court that Petitioner meets EAJA’s net-worth requirement.

11. This motion is timely under 28 U.S.C. § 2412(d)(1)(B) because it is filed within thirty (30) days of final judgment in this case.

C. The Government’s Position Was Not Substantially Justified

12. Under EAJA, the Government bears the burden of proving that its position was “substantially justified,” meaning “justified to a degree that could satisfy a reasonable person” or having a reasonable basis in both law and fact.

13. The Court’s order granting habeas relief necessarily reflects that the Government’s position in defending Petitioner’s detention was not reasonable in light of clearly established federal law and the facts of the case. Among other things, the Court found that Respondent’s detention was not governed by 8 USC § 1225, which provides for mandatory detention, and instead was governed by 8 USC § 1226(a), which granted him a right to a bond hearing.

14. The Government’s position has been rejected by multiple federal courts, including this Court, yet the Government continues to advance this position.¹

¹ See, e.g., *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D.

15. The Government nevertheless persisted in opposing relief through briefing and argument, requiring Petitioner to expend attorney time to vindicate his federal rights. The Government's litigation position, viewed in light of the record and the governing law, lacked a reasonable basis in both fact and law.

15. Under these circumstances, the Government cannot meet its burden to show that its position was substantially justified within the meaning of EAJA.

D. No Special Circumstances Make an Award Unjust


16. EAJA directs courts to award fees unless "special circumstances make an award unjust." 28 U.S.C. § 2412(d)(1)(A). No such special circumstances are present here.

17. To the contrary, awarding fees in this case furthers EAJA's purposes by encouraging competent representation of detainees seeking to vindicate fundamental constitutional rights and deterring the Government from maintaining unjustified positions in litigation.

E. The Requested Fees Are Reasonable

18. EAJA provides for an award of reasonable attorney's fees based on prevailing market rates, subject to a statutory cap of \$125 per hour, "unless the court determines that an increase in the cost of living or a special factor... justifies a higher fee." 28 U.S.C. § 2412(d)(2)(A).

19. Petitioner seeks compensation at the EAJA statutory rate, adjusted for cost of living, for work performed by counsel as follows:

- a. Evelyn J. Pabon Figueroa, Esq., Lead counsel, admitted to practice in 2005, at an hourly rate of 

La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); see also, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

b. Barbara Perez, Senior Paralegal, at [REDACTED] per hour, a reasonable rate consistent with prevailing market rates for such work.

20. The requested hourly rates are within the limits allowed by EAJA, taking into account the statutory cap and cost-of-living adjustments, and they are consistent with prevailing market rates for attorneys of similar skill and experience in complex federal habeas litigation.

21. As set forth in the contemporaneously filed itemization of time (Exhibit A), counsel reasonably expended the following hours on this matter:

| Attorney/Paralegal Name | Hours | Hourly Rate | Total |
|-----------------------------------|-------|-------------|------------|
| Attorney Evelyn J. Pabon Figueroa | 7.65 | [REDACTED] | [REDACTED] |
| Paralegal Barbara Perez | 3.5 | [REDACTED] | [REDACTED] |
| Total | | | |

22. The time entries reflect work that was reasonably necessary to achieve the successful result in this case, including but not limited to: reviewing the immigration record; researching applicable federal constitutional and immigration law; drafting the petition; and addressing post-judgment issues.

23. Petitioner does not seek recovery of fees for purely clerical or administrative tasks and has exercised billing judgment to avoid duplicative or unnecessary time.

24. Accordingly, the total requested fees are reasonable and should be awarded in full.

IV. CERTIFICATION

25. Undersigned counsel certifies that counsel conferred with counsel for Respondents regarding the relief requested in this motion. Respondents oppose the relief requested herein.

V. CONCLUSION

WHEREFORE, Petitioner respectfully requests that this Court enter an order:

1. Granting this Motion;

2. Awarding Petitioner attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), in the total amount of \$4,142.50, or such other amount as the Court finds reasonable; and

3. Granting such further relief as the Court deems just and proper.

Respectfully submitted on the 25th day of March, 2026.

/s/Evelyn J. Pabon Figueroa/s/

Evelyn J. Pabon Figueroa, Esquire

Florida Bar No. 0015594

Evelyn@symphorienlaw.com

Symphorien-Saavedra Law, P.A.

P.O. Box 1627

Orlando, FL 32802

Phone: (407) 802-1717

Attorneys for Petitioner

EXHIBITS

| Tab | Description | Page |
|-----|--|------|
| A | Time Listing | |
| B | Sworn Declaration in Support of Motion for EAJA Fees | |

CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2026, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a Notice of Electronic Filing to all counsel of record.

/s/Evelyn J. Pabon Figueroa/s/

Evelyn J. Pabon Figueroa, Esquire

Florida Bar No. 0015594

Evelyn@symphorienlaw.com

Symphorien-Saavedra Law, P.A.

P.O. Box 1627

Orlando, FL 32802

Phone: (407) 802-1717

Attorneys for Petitioner