IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 25-cv-04164-RMR

ALDEGUNDO RODRIGUEZ HERNANDEZ,

Petitioner,

v.

MARKWAYN MULLIN, United States Secretary, Department of Homeland Security[1],
TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement (ICE),
MARCOS CHARLES, Acting Executive Associate Director, ICE Enforcement and Removal Operations,
GEORGE VALDEZ, ICE Denver Field Office Director,
JUAN BALTAZAR, Warden, GEO-ICE immigration detention facility in Aurora, Colorado, and
TODD BLANCHE, United States Attorney General.[2]

Respondents.

PETITIONER'S MOTION FOR ATTORNEY FEES AND EXPENSES UNDER THE EQUAL ACCESS TO JUSTICE ACT

Petitioner, through undersigned counsel, respectfully requests attorney fees and expenses pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and states the following:

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[1] Markwayne Mullin, the Secretary of Homeland Security, is substituted for Kristi Noem as a party under Fed. R. Civ. P. 25(d)

[2] Todd Blanche, the Acting Attorney General, is substituted for Pamela Bondi under Fed. R. Civ. P. 25(d)

1. Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 challenging his immigration detention on December 24, 2025 (ECF No. 1).
2. On March 10, 2026, this Court granted Petitioner's habeas petition and ordered Respondents to release Petitioner within 48 hours of the issuance of the order. The final judgment was entered on April 20, 2026 (ECF No. 13).
3. This motion is timely under because it is filed within 30 days of the final judgment as defined by the EAJA and the Petitioner has never had a net worth of two million dollars or more. 28 U.S.C. §§ 2412(d)(1)(B), (d)(2)(B)(i). *See,* **Exhibit 1**, Affidavit of Petitioner.
4. Undersigned counsel conferred with counsel for Respondents regarding the relief requested in this motion. Respondents indicated they may not oppose the amount of fees requested if supported by an affidavit and detailed billing records as required, but Respondents have not yet stated a final position regarding the amount requested. These items are attached here as **Exhibit 2** (affidavit of attorney), **Exhibit 3** (attorney hours), **Exhibit 4** (paralegal hours) and **Exhibit 5** (cost record).
5. The EAJA provides that a court shall award attorney fees and expenses to a prevailing party in a civil action against the United States unless the Court finds

that the Government's position was substantially justified or that special circumstances make an award unjust. 28 U.S.C. § 2412(d)(1)(A).

6. The Tenth Circuit Court of Appeals agrees that the EAJA authorizes fee awards in habeas actions challenging immigration detention. *Daley v. Ceja*, 158 F.4th 1152 (10th Cir. 2025).
7. Petitioner is the prevailing party in this matter because this Court entered judgment ordering his release. Thus, the Petitioner satisfies the prevailing party requirement under the EAJA.
8. The Court found that the Petitioner could not be detained indefinitely while Respondents pursued speculative removal efforts. ECF No. 13 at p. 6.
9. Thus, the Respondents' position during the habeas proceeding was not substantially justified.
10. The Government bears the burden of establishing substantial justification. *Scarborough v. Principi*, 541 U.S. 401, 414 (2004).
11. Petitioner's continued detention imposed significant and concrete harm to him. Petitioner is a business owner who suffered disruption to his livelihood and loss of income during detention. The Petitioner's lifetime pulmonary issues were exacerbated while in detention.

12. There are no special circumstances that would render an EAJA award unjust. Petitioner acted reasonably and incurred attorney's fees and costs solely to vindicate rights protected under federal law and the Constitution.
13. Because the Court rejected Respondents' justification for continued detention and granted habeas relief, an award of attorney fees and expenses under the EAJA is appropriate and respectfully requested.
14. Petitioner seeks compensation for 44.6 attorney hours at $450 per hour for a total of $20,070. **Exhibit 3.**
15. Petitioner seeks compensation of 6.3 paralegal hours at $100 per hour for a total of $630. **Exhibit 4.**
16. The requested hourly rates reflect prevailing rates for the Denver area in the specialized field of federal immigration litigation.
17. Petitioner seeks compensation for costs incurred in the amount of $263.04. **Exhibit 5.**
18. Petitioner seeks a total costs and fees reimbursement in the amount of $20,963.04.
19. Petitioner requests to reserve the right to augment his hourly fees incurred during the EAJA litigation portion as appropriate.

20. Petitioner has assigned any EAJA fee recovery to undersigned counsel. Subject to any offset permitted by law, Petitioner requests that payment be made directly to counsel pursuant to the assignment.

21. WHEREFORE, the Petitioner respectfully requests that this Court grant this Motion and award fees and expenses under EAJA in the total amount of $20,963.04, together with such additional relief as the Court deems just and proper.

Respectfully submitted on May 20, 2026.

/s/ Catherine A. Chan
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Counsel for Mr. Aldegundo Rodriguez Hernandez

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

/s/ Catherine A. Chan
Catherine A. Chan
Counsel for Petitioner