IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

Civil Action No. 1:25-cv-04187-SKC

OLIVER GRIJALVA ESQUIVEL,

Petitioner,

v.

JUAN BALTASAR, Warden, et al,

Respondents.

APPLICATION FOR ATTORNEY'S FEES AND COSTS PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT,28 U.S.C. § 2412(d)

Petitioner Oliver Grijalva Esquivel, by and through undersigned counsel, respectfully applies for an award of attorney's fees and costs pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). In support, Petitioner states:

Certificate of Conferral

Pursuant to D.C.COLO.LCivR 7.1(a), undersigned counsel conferred with counsel for Respondents, AUSA Kevin Traskos, on April 17 & 21 of 2026. As of filing, Respondents have not responded regarding this application.

I. EAJA ENTITLES PETITIONER TO AN AWARD OF ATTORNEY'S FEES

EAJA authorizes a court to award attorney's fees and other expenses to a prevailing party in a civil action against the United States 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). Four requirements must be met: (1) the applicant must be a prevailing party; (2) the application must be timely; (3) the applicant must satisfy the net worth requirements; and (4) the government's position must not have been substantially justified.

A. Petitioner Is a Prevailing Party

On January 29, 2026, Judge S. Kato Crews granted Petitioner's habeas corpus petition in full, ordering Respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a). ECF No. 15. Respondents complied and filed a status report confirming the bond hearing occurred. ECF No. 18. Final judgment entered February 23, 2026. ECF No. 20. Petitioner is the prevailing party.

B. This Application Is Timely

EAJA requires that a fee application be filed within thirty days of final judgment becoming *not appealable*. 28 U.S.C. § 2412(d)(1)(B). Final judgment entered February 23, 2026. The United States has sixty days to file a notice of appeal. Fed. R. App. P. 4(a)(1)(B). Accordingly, final judgment will not become unappealable until on or about April 24, 2026, and this application—filed April 23, 2026—is timely.

C. Petitioner Meets the Net Worth Requirement

Petitioner Oliver Grijalva Esquivel is an individual whose net worth did not exceed two million dollars at the time this action was filed. 28 U.S.C. § 2412(d)(2)(B). As a detained immigrant with

no significant assets, he easily satisfies this requirement, as set forth in the accompanying Affidavit of Counsel. Mr. Grijalva was represented pro bono.

D. The Government's Position Was Not Substantially Justified

The government's litigation position was not substantially justified because it lacked a reasonable basis in both law and fact. *Pierce v. Underwood*, 487 U.S. 552, 565 (1988). The legal question of whether individuals detained under circumstances like Petitioner's are entitled to a bond hearing under § 1226(a) had already been resolved against the government's position in this very district in *multiple* cases. *Hernandez v. Baltazar*, No. 1:25-CV-03094-CNS, 2025 WL 2996643, at *6 (D. Colo. Oct. 24, 2025). *Hernandez* was cited by this Court in its Order resolving Petitioner's habeas claim. See ECF Doc. 15 at 4-5.

Despite that settled legal landscape, the government defended its refusal to provide a bond hearing, advancing positions that were rejected in their entirety. The government's litigation position was the same position this district had repeatedly found without merit. A position that the court has previously found meritless on identical facts is not substantially justified. *Pierce v. Underwood*, 487 U.S. 552, 569 (1988).

II. FEES AND COSTS REQUESTED

Undersigned counsel requests fees at an hourly rate of $258.46 which reflects a cost-of-living adjustment to the EAJA statutory rate but without the *special factor* enhancement available under § 2412(d)(2)(A) for counsel with specialized expertise in federal immigration habeas corpus litigation not readily available in the Colorado market. See *Pierce v. Underwood*, 487 U.S. at 572. Although counsel has long-term expertise in immigration detention and habeas

litigation, dating from 1995 to present, that expertise was not critical in prevailing on this case because many other local and national attorneys had already prevailed in multiple cases and generously shared their work product. The basis for this non-special-factor rate, counsel's qualifications, and itemized time records are set forth in the accompanying Affidavit of Counsel. Total attorney's fees requested: **$6719.96** (26 hours × $258.46/hour).

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant this application and award attorney's fees in the amount of $6719.96 pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d).

Respectfully submitted,

s/jimsalvator
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