Honorable Theresa L. Fricke

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Kevin Alexander QUINONEZ TORRES,

Petitioner,

v.

Julio HERNANDEZ[1] et al.,

Respondents.

Case No. 2:26-cv-00076-TLF

PETITIONER'S MOTION FOR ATTORNEYS' FEES

Note on Motion Calendar:
June 8, 2026

INTRODUCTION

Petitioner Kevin Alexander Quinonez Torres files this motion for attorneys' fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, for time reasonably expended challenging Respondents' unlawful detention of him. He is entitled to recover reasonable fees under EAJA because he is the prevailing party, because Respondents' position in this matter was not substantially justified, and because no special circumstances make an award unjust.

FACTUAL AND PROCEDURAL BACKGROUND

Petitioner Kevin Alexander Quinonez Torres first entered the United States on August 23, 2019, at the age of fifteen, and was apprehended by U.S. Border Patrol near the border. Dkt. 14 at 2. Processed as an unaccompanied child, he was released from government custody on his

[1]Julio Hernandez is the acting director of the Seattle Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations. He is automatically substituted for Laura Hermosillo under Federal Rule of Civil Procedure 25(d).

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own recognizance to his brother on September 27, 2019, and placed in removal proceedings. *Id.* at 3. On September 6, 2023, U.S. Citizenship and Immigration Services (USCIS) granted Mr. Quinonez Special Immigrant Juvenile Status (SIJS) and, because no visa was then available for him to apply for adjustment of status, placed him in deferred action for a period of four years; he was also granted employment authorization. *Id.* at 3; Dkt. 1 ¶¶ 23–25. In November 2024, the immigration judge (IJ) terminated his removal proceedings. Dkt. 14 at 3–4.

On March 4, 2025, ICE re-arrested Mr. Quinonez as he was leaving a state courthouse after attending a hearing in a pending criminal courthouse, and placed him in removal proceedings a second time, again charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). Dkt. 14 at 4–5. His SIJS and deferred action remained valid and had not been revoked. Dkt. 1 ¶ 28. He was detained successively in Rhode Island and Arizona before being transferred to the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington. Dkt. 14 at 4–5. On July 9, 2025, an IJ denied Mr. Quinonez a bond hearing for lack of jurisdiction, reasoning that he was subject to mandatory detention under 8 U.S.C. § 1225(b)(2); in the alternative, the IJ found that, if she had jurisdiction, she would set a bond of $4,000. *Id.* at 5.

Mr. Quinonez filed the instant petition for a writ of habeas corpus on January 8, 2026, raising two claims: that his detention under § 1225(b)(2) violated the Immigration and Nationality Act (INA) because he is properly detained under the discretionary-detention provision, 8 U.S.C. § 1226(a); and that his re-detention without adequate notice and a hearing violated his Fifth Amendment right to procedural due process. *See generally* Dkt. 1.

On February 23, 2026, the Court granted the petition in part. First, the Court rejected Respondents' contention that Mr. Quinonez was subject to mandatory detention under § 1225(b)(2), holding that he is instead detained under § 1226(a) and was "entitled to a hearing" upon his arrest. *Id.* at 8–12. The Court found Mr. Quinonez's circumstances materially identical to those in *Del Valle Castillo v. Wamsley*, No. 2:25-CV-02054-TMC, 2025 WL 3524932 (W.D. Wash. Nov. 26, 2025), and applied the reasoning of *Rodriguez Vazquez v. Bostock*, 802 F. Supp.

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3d 1297 (W.D. Wash. 2025): because of his initial release from custody, his SIJS and deferred action status, and the termination of his original removal proceedings, Mr. Quinonez was not "seeking admission" and therefore was not subject to § 1225(b)(2). *Id.* at 9–12.

Second, applying the three-factor test of *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court held that Mr. Quinonez had not received the process the Fifth Amendment requires. Dkt. 14 at 12–21. The Court found that his interest in his liberty was "the most elemental of liberty interests," *id.* at 12 (citation omitted), strengthened by his release on his own recognizance and grant of SIJS and deferred action, *id.* at 16; that the risk of erroneous deprivation of that interest was high, *id.* at 19; and that "[t]he Government's interest in bypassing basic procedural protections is low," *id.* at 20. Because the only bond hearing Mr. Quinonez had received denied him bond for lack of jurisdiction under § 1225(b) and improperly placed the burden of proof on him rather than the government, the Court ordered Respondents to provide a new hearing before an IJ at which "the Government shall bear the burden of proof to justify immigration re-detention by clear and convincing evidence." *Id.* at 23. The Court denied without prejudice Petitioner's separate request for a permanent injunction against future re-detention. *Id.* at 21, 24.

ARGUMENT

I. Petitioner is entitled to fees under EAJA.

EAJA requires a court to award fees and costs in a civil action against the United States where a party demonstrates that they are a prevailing party and the government does not demonstrate that its position was substantially justified or that special circumstances make an award unjust. 28 U.S.C. § 2412(d)(1)(A).[2]

[2] Under 28 U.S.C. § 2412(d)(2)(B)(i), only parties with a net worth of less than $2,000,000 at the time their complaint was filed may seek fees under EAJA. To qualify for pro bono legal services by undersigned counsel, an individual's income generally must not exceed 200% of the federal poverty guidelines. Kang Decl. ¶ 3. Petitioner, who was in immigration detention when this petition was filed, *id.* ¶ 4, satisfies this requirement.

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A. Petitioner is the prevailing party.

To demonstrate they are a prevailing party, a party 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). Mr. Quinonez readily satisfies those requirements: he obtained a final judgment determining that he is detained under § 1226(a) and not subject to mandatory detention under § 1225(b)(2), and ordering Respondents to provide him a hearing before an Immigration Judge at which the Government must justify his continued detention by clear and convincing evidence. *See* Dkt. 14 at 22–24. Such final relief satisfies the prevailing party requirement "by granting enduring judicial relief on the merits." *Lackey v. Stinnie*, 604 U.S. 192, 203–04 (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." *Gutierrez v. Barnhart*, 274 F.3d 1255, 1258–59 (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) ("[U]nreasonable agency action at any level entitles the litigant to EAJA fees."); *see also* H.R. Rep. No. 96-1418, 96th Cong., 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).

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Here, Respondents' detention of Mr. Quinonez violated both the INA and the Fifth Amendment, and Respondents pressed two principal positions in this litigation that were each foreclosed by clearly established law at the time they were advanced.

First, Respondents' position that Mr. Quinonez was subject to mandatory detention under § 1225(b)(2)—and therefore not entitled to a bond hearing at all—had already been squarely rejected by this District. In *Rodriguez Vazquez v. Bostock*, this Court held that Respondents' interpretation of § 1225(b)(2) violates the INA, because the statute's mandatory-detention scheme applies to noncitizens "seeking admission" and not to those who entered without inspection and have since been residing in the country. 802 F. Supp. 3d 1297, 1329–31 (W.D. Wash. 2025). And in *Del Valle Castillo v. Wamsley*, this Court applied that reasoning to circumstances materially identical to Mr. Quinonez's—an individual who entered as an unaccompanied minor, was released, was granted SIJS and deferred action, had his removal proceedings terminated, and was later re-detained—and held that such an individual is detained under § 1226(a) and entitled to a bond hearing. *See* 2025 WL 3524932, at *5–6. The amended order here followed *Del Valle Castillo* directly. Dkt. 14 at 9–12. Numerous courts elsewhere had likewise held that individuals with SIJS who were apprehended on entry, released, and later re-detained are detained under § 1226(a). *See, e.g.*, *Martinez v. Hyde*, 810 F. Supp. 3d 135, 146 & n.33 (D. Mass. 2025); *Singh v. Andrews*, No. 1:25-cv-01543-DCJ-SCR, 2025 WL 3248059, at *6 (E.D. Cal. Nov. 19, 2025); *Del Cid v. Bondi*, No. 3:25-cv-00304, 2025 WL 2985150, at *16–17 (W.D. Pa. Oct. 23, 2025); *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024). Persisting in a statutory interpretation that this Court—and courts around the country—had already rejected was not substantially justified.

Second, Respondents' position that they could re-detain Mr. Quinonez "without any additional notice or process," Dkt. 14 at 16, was contrary to well-established due process law. It has long been established that "[p]rocedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the

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Due Process Clause of the Fifth or Fourteenth Amendment." *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1320 (W.D. Wash. 2025). The Supreme Court "usually has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990); *see* Dkt. 14 at 13. And case after case in this district has held that re-detained noncitizens are entitled to a hearing at which the government bears the burden of justifying continued detention. *See, e.g.*, *E.A. T.-B.*, 795 F. Supp. 3d at 1321–24; *Ledesma Gonzalez v. Bostock*, 808 F. Supp. 3d 1189, 1202–03 (W.D. Wash. 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17, 2025); *Y.M.M. v. Wamsley*, No. 2:25-CV-02075-TMC, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6, 2025); *P.T. v. Hermosillo*, No. C25-2249-KKE, 2025 WL 3294988, at *4 (W.D. Wash. Nov. 26, 2025); *Francois v. Wamsley*, No. C25-2122-RSM, 2025 WL 3496557, at *4 (W.D. Wash. Dec. 5, 2025); *Cabrera Perez v. Hermosillo*, No. 2:25-cv-02542-RSM, 2026 WL 100735, at *6 (W.D. Wash. Jan. 14, 2026); *Tsyamba v. Hermosillo*, No. 2:25-CV-02623-GJL, 2026 WL 237514, at *4–7 (W.D. Wash. Jan. 29, 2026); *Shinwari v. Hermosillo*, No. 2:26-CV-00009-RAJ, 2026 WL 262605, at *4 (W.D. Wash. Jan. 30, 2026); *Arroyo Silva v. Hermosillo*, No. 2:26-CV-00179-GJL, 2026 WL 445003, at *1 (W.D. Wash. Feb. 17, 2026); *Bealter Reyes v. Hermosillo*, No. 2:26-cv-00270-TLF, 2026 WL 507678, at *2–4 (W.D. Wash. Feb. 24, 2026); *Espinoza Palacios v. Hermosillo*, No. 2:26-cv-00491-JNW, 2026 WL 686138, at *6–11 (W.D. Wash. Mar. 11, 2026); *Caisa Telenchana v. Hermosillo*, No. 2:26-cv-00363-GJL, 2026 WL 696806, at *2–12 (W.D. Wash. Mar. 12, 2026); *Colina Castro v. Hermosillo*, No. 2:26-cv-00662, 2026 WL 817388, at *4–7 (W.D. Wash. Mar. 25, 2026); *Barraza Laguna v. Hernandez*, No. 2:26-cv-00864-GJL, 2026 WL 962127, at *5–10 (W.D. Wash. Apr. 9, 2026). Applying that settled law, the Court held that Mr. Quinonez was entitled to a hearing before an Immigration Judge at which the Government bears the burden of proof by clear and convincing evidence. Dkt. 14 at 21–24. Because Respondents ignored this well-established law, their position was not "substantially justified." *See Li*, 505 F.3d at 919 (clarifying that where "the record indicates that the Agency's

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prior action was not consistent with clearly established law at the time the case was before it, then the government's position would not be substantially justified").

The Supreme Court and the Ninth Circuit have repeatedly recognized that such "a string of losses can be indicative" that the government's position lacks substantial justification. *Pierce v. Underwood*, 487 U.S. 552, 569 (1988); *see also Medina Tovar v. Zuchowski*, 41 F.4th 1085, 1090 (9th Cir. 2022) (similar). Respondents identified no basis to distinguish the decisions foreclosing each of their positions, and they cannot demonstrate that their position in this case was substantially justified.

C. No special circumstances render an award unjust.

EAJA provides that fees must be awarded to a prevailing party unless "special circumstances" would make such an award unjust. 28 U.S.C. § 2412(d)(1)(A). The government bears the burden of establishing such circumstances. *Love*, 924 F.2d at 1495. Here, Respondents cannot identify any special circumstance that would defeat the fee award.

II. Petitioner's requested fees are reasonable.

Petitioner requests fees and costs at the statutory EAJA rate, adjusted for cost of living in the Ninth Circuit, for time reasonably expended by the attorneys working on this case. *See* 28 U.S.C. § 2412(d)(2)(A); *see also* Kang Decl. ¶ 6 & Ex. A. The applicable statutory rate adjusted for inflation is $258.46 for work performed in 2025 and 2026. *See* United States Courts for the Ninth Circuit, Statutory Maximum Rates Under the Equal Access to Justice Act, https://www.ca9.uscourts.gov/attorneys/statutorymaximum- rates/ (last visited May 18, 2026). Counsel's declaration and itemized billing records, submitted contemporaneously, reflect the hours worked and the applicable statutory rate. *See* Kang Decl. & Ex. A. Petitioner also seeks reimbursement of $5.00 in filing fees and any other taxable costs under 28 U.S.C. § 1920, and fees for time spent preparing this fee application, *see Comm'r, INS v. Jean*, 496 U.S. 154, 163–65 (1990).

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CONCLUSION

Petitioner accordingly respectfully requests that this Court grant his requested fees and costs in the amount of $ 4,708.97 in addition to fees for any time spent preparing a reply brief if this motion is opposed by Respondents.

Respectfully submitted this 18th day of May, 2026.

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I certify that the foregoing contains 2,483 words, in compliance with the Local Civil Rules.

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