The Honorable Tiffany M. Cartwright

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ZAFAR IQBAL, Petitioner, v. Julio HERNANDEZ, et al. Respondents.	Case No. 2:26-cv-00171-TMC **PETITIONER'S MOTION FOR ATTORNEY'S FEES AND COSTS** Noting Date: May 20, 2026

Anna Ciesielski
PO Box 13764
Portland, OR 97213
(503) 548-1575

INTRODUCTION

Petitioner Zafar Iqbal (Mr. Iqbal), 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 him in January 2026. He is entitled to recover reasonable fees under EAJA because he is the prevailing party and because Respondents' position in this matter was not substantially justified.

BACKGROUND

A. STATEMENT OF FACTS

Mr. Iqbal is a citizen of Pakistan who entered the United States on June 12, 2023 to seek asylum. Dkt. 12 p. 1. He was apprehended at the time of entry. *Id.* Mr. Iqbal was released for detention on an order of recognizance parole. *Id.* Mr. Iqbal filed an application for asylum and for a U Nonimmigrant visa. *Id.* at 2. In 2023 Mr. Iqbal was enrolled in Alternatives to Detention (ATD) and over the years his reporting requirements decreased due to his compliance. *Id.* On January 3, 2026, U.S. Immigration and Customs Enforcement ("ICE") terminated Mr. Iqbal from the ATD program and arrested him at his home before transferring him to the NWIPC. *Id.*

B. PROCEDURAL HISTORY

Mr. Iqbal filed a petition for a writ of habeas corpus on January 16, 2026. Dkt. 1. Respondents filed their response on January 30, 2026. Dkt. 8. Mr. Iqbal replied on February 1, 2026. Dkt. 11. The Court issued an order granting the petition for a writ of habeas corpus on February 26, 2026. Dkt. 12.

ARGUMENT

I. Mr. Iqbal is entitled to fees under EAJA.

Anna Ciesielski
PO Box 13764
Portland, OR 97213
(503) 548-1575

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. Mr. Iqbal satisfies both elements here.

A. Mr. Iqbal is the prevailing party.

To qualify for an EAJA award, Petitioner must first establish that he 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] Mr. Iqbal readily satisfies those requirements: he obtained a final judgment declaring that Respondents were required to release him within one day of the order. Dkt. 12 at 7. Thus, in ordering that the Respondents were required to release Mr. Iqbal, 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

[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). Mr. Iqbal satisfies this requirement. *See* Decl. of Mr. Iqbal.

Anna Ciesielski
PO Box 13764
Portland, OR 97213
(503) 548-1575

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., 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 "[a]s courts in this district have repeatedly found in similar circumstances, the Court finds all three *Mathews* factors favor Iqbal. Therefore, his re-detention without a pre-deprivation hearing violated his right to due process, and he is in custody in violation of the Fifth Amendment." Dkt. 12 at 7. By stating that the Court found in Mr. Iqbal's favor as it has *repeatedly*, demonstrates that the Respondents' position did not have a reasonable basis in law or fact because in cases just like Mr. Iqbal's the court had *repeatedly* found Respondents violated the Fifth Amendment. Respondents knew and continued to maintain a position that was contrary to the court's position.

Additionally, there are no special circumstances making an award of fees here "unjust." To the contrary, the detention here caused Mr. Iqbal and his family significant harm.

II. Petitioner's requested fees are reasonable.

Mr. Iqbal is entitled to fees at the EAJA statutory rate for the work performed in conjunction with this case, as he 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 time

Anna Ciesielski
PO Box 13764
Portland, OR 97213
(503) 548-1575

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

CONCLUSION

Mr. Iqbal accordingly respectfully requests that this Court grant him requested fees and costs in the amount of $5,085.67, 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 29th day of April, 2026.

s/ Anna Ciesielski
Anna Ciesielski (admitted *pro hac vice)*
Email: anna@oregonimmigrationgroup.com

Anna Ciesielski
PO Box 13764
Portland, OR 97213
(503) 548-1575

s/ Shara Svendsen
Shara Svendsen, WSBA No. 38151
Email: shara@svenlaw.com

Law Office of Shara Svendsen PLLC
16300 Mill Creek Blvd. STE 206
Mill Creek, WA 98012
425-361-1511

Attorneys for Petitioner

Anna Ciesielski
PO Box 13764
Portland, OR 97213
(503) 548-1575

WORD COUNT CERTIFICATION

I certify that this memorandum contains 1,021 words, in compliance with the Local Civil Rules.

DATED this 29th day of April, 2026.

s/ Anna Ciesielski
Anna Ciesielski (admitted *pro hac vice)*
Email: anna@oregonimmigrationgroup.com
PO Box 13764
Portland, OR 97213
(503) 548-1575

Anna Ciesielski
PO Box 13764
Portland, OR 97213
(503) 548-1575