District Judge Tiffany M. Cartwright

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ZAFAR IQBAL, Petitioner, v. JULIO HERNANDEZ, *et al.*, Respondents.	Case No. 2:26-cv-00171-TMC FEDERAL RESPONDENTS' RESPONSE TO PETITIONER'S APPLICATION FOR ATTORNEY'S FEES Noted for Consideration: May 20, 2026.

Respondents oppose Petitioner's motion for an award of $5,058.67 in attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, Dkt. 14, because Respondents' position in this case was substantially justified.

I. LEGAL STANDARD

A party may recover fees and costs under the EAJA only if (1) the party prevailed in the action; (2) the government's position was not "substantially justified"; (3) no special circumstances would make an award unjust; (4) the requested fees and costs are reasonable; and (5) the party filed a timely and supported application. *See* 28 U.S.C. § 2412(b), (d); *United States v. Milner*, 583 F.3d 1174, 1196 (9th Cir. 2009).

Although the EAJA creates a presumption in favor of awarding fees to prevailing parties,

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fee shifting is not mandatory. *Flores v. Shalala*, 49 F.3d 562, 567 (9th Cir. 1995). "Attorney's fees are not available if the position of the United States is 'substantially justified,'" *id.*, meaning "justified to a degree that could satisfy a reasonable person." *Pierce v. Underwood*, 487 U.S. 552, 566 (1992). The government bears the burden of demonstrating substantial justification by showing that it had "a reasonable basis both in law and fact." *Flores*, 49 F.3d at 569–70 (quoting *Pierce*, 487 U.S. at 565). "[T]he government need not establish that it was correct or 'justified to a high degree' . . . but only that its position is one that a 'reasonable person could think [is] correct.'" *Ibrahim v. U.S. Homeland Security*, 912 F.3d 1147, 1167–68 (9th Cir. 2019) (en banc) (quoting Pierce, 487 U.S. at 566 n.2).

II. ARGUMENT

As an initial matter, Petitioner identifies only one issue on which he contends the government's position lacked substantial justification: Respondents' arguments concerning the revocation of Petitioner's Order of Recognizance ("OREC"). Accordingly, Respondents address only that contention here.

Respondents' position regarding the OREC revocation was substantially justified because it appropriately balanced the government's interest in Petitioner's detention against Petitioner's private liberty interest, consistent with the framework established in *Mathews* and relied upon in the Petition. *See* Dkt. 8 at 6-9 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). The government identified and weighed its interests in detention against Petitioner's private liberty interests. *Id.* The Court acknowledged those asserted governmental interests but ultimately concluded that, under the specific facts presented, Petitioner's interests prevailed. Dkt. 12 at 4-6.

That disagreement does not reflect a lack of substantial justification. The Ninth Circuit's guidance is directly applicable: "[t]hat the Government lost does not raise a presumption that its position was not substantially justified." *Edwards*, 834 F.2d at 802 (citations omitted). This

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principle carries particular force where, as here, the governing standard requires a fact-intensive, case-by-case balancing of competing interests. Reasonable litigants can, and often do, reach different conclusions under the *Mathews* framework without rendering one side's position unjustified. *See e.g., Caglar v. Scott*, 2:26-CV-00787-TMC, 2026 WL 1123515 (W.D. Wash. Apr. 24, 2026).

Nor does Respondents' acknowledgment of other district court decisions requiring pre-deprivation hearings undermine the reasonableness of their position. Those cases confirm that no categorical rule exists; instead, courts conduct individualized *Mathews* analyses based on the specific circumstances presented. *See, e.g., E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1321–24 (W.D. Wash. 2025). Consistent with that approach, Respondents set forth the particular facts of Petitioner's case, see Dkt. 8 at 2-3 & Dkt. 9, and were substantially justified in arguing that the *Mathews* factors weighed against Petitioner under those facts, *see* Dkt. 8, even though the Court ultimately reached a different conclusion.

III. CONCLUSION

For the foregoing reasons, Petitioner's application for attorney's fees should be denied.

Dated this 14th day of May, 2026.

Respectfully submitted,

s/ Alixandria K. Morris

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I certify that this memorandum contains 599 words, in compliance with the Local Civil Rules.