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 REPLY TO RESPONDENTS' RESPONSE TO MOTION FOR ATTORNEY'S FEES AND COSTS

Noting Date: May 20, 2026

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INTRODUCTION

Petitioner Zafar Iqbal (Mr. Iqbal), filed a motion for attorney's fees under the Equal Access to Justice Act (EAJA). Respondents opposed the motion arguing that their position was substantially justified. Petitioner will address Respondents' argument and show why the Court should grant EAJA fees.

ARGUMENT

Respondents argue that EAJA fees should not be awarded because their position was substantially justified. They are wrong for two reasons. First, Respondents did not address how their argument that Mr. Iqbal was subject to mandatory detention was substantially justified. Second, Respondents' argument as to why due process did not require Mr. Iqbal to be afforded a pre-deprivation hearing was not substantially justified.

1. **Respondents failed to address how their argument that Mr. Iqbal was subject to mandatory detention was substantially justified.**

The issue in the habeas case was whether Mr. Iqbal's re-detention without a pre-deprivation hearing violated his right to due process. The Court found that Respondents argued two reasons why Mr. Iqbal did not need to be afforded a pre-deprivation hearing. Dkt. 12, 5. The first was that Mr. Iqbal was subject to mandatory detention. Dkt. 12, 5. The second was that Mr. Iqbal's detention was a "special case" not requiring a pre-deprivation hearing due to his Alternatives to Detention violations. *Id.*

Respondents did not address whether their claim that Mr. Iqbal was subject to mandatory detention was substantially justified. Respondents stated that the reason they did not address the mandatory detention argument was because Petitioner only claimed that Respondents' argument concerning revocation of the Order of Recognizance ("OREC") was not substantially justified. Thus, Respondents stated they only addressed the argument of OREC in their reply to the motion

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for fees. Dkt. 15, 2. Respondents did not provide a citation for their claim that Petitioner only argued the OREC issue. The record does not support Respondents' claim that Petitioner only argued the OREC issue. Petitioner's only mention of an order of recognizance in the motion for fees was in his statement of facts, citing that Petitioner was released from detention "on an order of recognizance parole." Dkt. 14, 2. Respondents are incorrect that Petitioner argued that the Respondents' only position that lacked substantial justification was concerning OREC. Petitioner argued that Respondents' position that a pre-deprivation hearing was not required lacked substantial justification. Dkt. 14, 4. Because Respondents failed to address whether their position that Mr. Iqbal was substantially justified when they should have, the Court should find that Respondents have not met their burden to demonstrate that their position was substantially justified.

2. Respondents' argument concerning the revocation of Mr. Iqbal's OREC is not substantially justified.

As mentioned above, the issue in the case was whether due process required that Mr. Iqbal was afforded a pre-deprivation hearing. The Court found that Mr. Iqbal should have been afforded a hearing. Respondents argument that their position was substantially justified because "the governing standard requires a fact-intensive, case-by-case balancing of competing interests" is not compelling. The 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, 7, emphasis added. The Court's use of the word repeatedly demonstrates that Mr. Iqbal's case is not the fact-intensive, case-by-case balancing of competing interests that the government describes, but rather one of countless cases in which Respondents illegally detained individuals in complete disregard of the law.

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CONCLUSION

Respondents have not carried their burden to show that their position was substantially justified and thus Mr. Iqbal respectfully requests that this Court grant him the requested fees and costs in the amount of $5,085.67, and now $895.46 dollars (3.6 hours x $248.46) in addition fees for time spent preparing this reply brief for a total of $5,980.13.

Respectfully submitted this 19th day of May, 2026.

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WORD COUNT CERTIFICATION

I certify that this memorandum contains 644 words, in compliance with the Local Civil Rules.

DATED this 19th day of May, 2026.

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