IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ARNALDO SEIJAS AQUINO,	:	
	:	
Petitioner	:	
	:	Civ No: 26-386 (Judge Scott)
v.	:	
	:	
J.L. JAMISON, ET AL.,	:	
	:	
Respondents.	:	

RESPONDENTS' BRIEF REGARDING PETITIONER'S CLAIM FOR ATTORNEYS' FEES

Attorneys' fees are not available to petitioner under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), because the government's position is "substantially justified" under EAJA. Although district courts in this district and around the country have largely disagreed with the government's position, the Fifth Circuit Court of Appeals, in a recent precedential opinion, adopted the government's interpretation of the core statutory question in this case—whether an applicant for admission present in the United States is subject to mandatory detention under 8 U.S.C. § 1225(B)(2)(A). A number of district courts elsewhere have similarly agreed with the government's position. Thus, although the government has advanced a minority interpretation of 8 U.S.C. § 1225(B)(2)(A), in light of these authorities, the Court should conclude that the government's position is "substantially justified."

Respondents therefore respectfully ask that this Court determine that attorneys' fees under EAJA are not available here.

I. Relevant Factual and Procedural History

Petitioner Arnaldo Seijas Aquino is a native of Venezuela who entered the United States on June 20, 2023, without being admitted or paroled after inspection. Habeas

Pet. (Doc. No. 1) Ex. A at 1. He was arrested, placed in removal proceedings, and released on his own recognizance the next day, June 21, 2023. *Id.* Ex. B at 1. On January 16, 2025, ICE arrested the petitioner. *Id.* at 2. On February 5, 2025, an Immigration Judge ordered his release on bond. *Id.* Ex. C. He returned to live with his family in Philadelphia. *Id.* at 2. On January 21, 2026, ICE arrested him again. *Id.*

The same day, he filed a petition for habeas corpus challenging his detention. Pet. (Doc. No. 1). In his petition, he asked to be awarded reasonable costs and attorneys' fees. *Id.* at 23. After briefing, by order dated January 29, 2026, the Court ordered the petitioner's immediate release and for respondents to file a brief explaining their position regarding petitioner's request for attorneys' fees. (Doc. No. 8).

Subsequent to the Court's January 29, 2026 order, the petitioner's counsel provided respondents' counsel with an accounting of his fees, pursuant to counsel's request. A fee petition, however, has not yet been submitted to the Court. On February 12, 2026, the Court issued an order setting a briefing schedule and allowing the petitioner to submit his attorneys' fee petition after the government briefs the question of whether such fees would be available under EAJA. (Doc. No. 11). Accordingly, respondents address herein only the threshold legal question of whether attorneys' fees are available to petitioner. Per the Court's February 12th Order, respondents reserve argument regarding the particulars of petitioner's claimed attorneys' fees until such time as they are presented to the Court.

II. Legal Standard

EAJA is a limited waiver of the United States' sovereign immunity, and therefore "must be strictly construed in favor of the United States." *Ardestani v. I.N.S.*, 502 U.S. 129, 137 (1991). Under EAJA, a court may award fees and expenses to a prevailing party

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). "Thus, eligibility for a fee award in any civil action requires: (1) that the claimant be a 'prevailing party'; (2) that the Government's position was not 'substantially justified'; (3) that no 'special circumstances make an award unjust'; and, (4) pursuant to 28 U.S.C. § 2412(d)(1)(B), that any fee application be submitted to the court within 30 days of final judgment in the action and be supported by an itemized statement." *Comm'r, I.N.S., et al., v. Jean*, 496 U.S. 154, 158 (1990). EAJA only authorizes the payment of "reasonable" attorneys' fees and expenses. 28 U.S.C. § 2412(d)(2)(A).

Here, the government challenges petitioner's eligibility for fees on the ground that the government's position is "substantially justified." The Third Circuit recently explained the "substantially justified" standard under EAJA in an immigration detention case:

> Under the EAJA, the Government's position was substantially justified only if its conduct was "justified to a degree that could satisfy a reasonable person." *Johnson v. Gonzales*, 416 F.3d 205, 210 (3d Cir. 2005) (quoting *Pierce v. Underwood*, 487 U.S. 552, 565 (1988)). The Government bears the burden of proving its position was justified. *Hanover Potato Prods., Inc. v. Shalala*, 989 F.2d 123, 128 (3d Cir. 1993). "To satisfy this burden and defeat a prevailing party's application for fees, the government must . . . demonstrat[e] '(1) a reasonable basis in truth for the facts alleged; (2) a reasonable basis in law for the theory it propounded; and (3) a reasonable connection between the facts alleged and the legal theory advanced.'" *Cruz*, 630 F.3d at 324 (quoting *Morgan v. Perry*, 142 F.3d 670, 684 (3d Cir. 1998)). "[I]n immigration cases, the Government must meet the substantially justified test twice": once for its underlying conduct and once for its decisions in the ensuing litigation about that conduct. *Johnson*, 416 F.3d at 210. We do not assume the position of the Government was not substantially justified simply because it lost. *William v. Astrue*, 600 F.3d 299, 302 (3d Cir. 2009).

Michelin v. Warden Moshannon Valley Corr. Ctr., No's. 24-2990/24-3198, 2026 U.S. App. LEXIS 3264, at *28-29 (3d Cir. Feb. 2, 2026).

III. Argument

A. Respondents' position was substantially justified.

1. *The government's underlying conduct was substantially justified because a binding decision of the BIA foreclosed a bond hearing.*

As an initial matter, the petitioner's detention without bond hearing was "substantially justified." Indeed, as discussed in the respondents' opposition to the habeas petition, a recent precedential decision of the Board of Immigration Appeals ("BIA") *Matter of Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025) precluded the agency from offering the petitioner a bond hearing. *Hurtado* held that an immigration judge has no jurisdiction to conduct a bond hearing for an alien present in the United States but never admitted, because 8 U.S.C. § 1225 requires mandatory detention for the duration of removal proceedings. *Id*. The *Hurtado* decision is binding on all immigration judges in the United States. 8 C.F.R. § 1003.1(g)(1) ("[D]ecisions of the [BIA] and decisions of the Attorney General are binding on all officers and employees of DHS or immigration judges in the administration of the immigration laws of the United States."). In other words, the *Hurtado* decision leaves the agency no choice but to deny a bond hearing (if one is sought) under the circumstances alleged by this petitioner.

Accordingly, the court should determine that the underlying conduct of detaining the petitioner without bond was "substantially justified" because the agency "did no more than follow binding administrative decisions." *Gjergj G. v. Edwards*, No. 19-5059, 2019 U.S. Dist. LEXIS 120345, *4 (D.N.J. Jul. 17, 2019) (pointing out that the agency

likely could not have acted otherwise where the immigration courts had effectively ruled that neither the BIA nor the immigration judges had authority to hold a bond hearing in the context at issue).

2. *The government's litigation position was "substantially justified," as evidenced by other federal courts that have adopted it.*

Petitioner is not entitled to attorneys' fees because respondents' position was substantially justified. The core statutory question at the heart of this dispute relates to the correct interpretation of § 1225(b)(2)(A):

> In the cases of an alien who is an **applicant for admission**, if the examining immigration officer determines that an **alien seeking admission** is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.

8 U.S.C. § 1225(b)(2)(A) (emphasis added).

Petitioner, like petitioners in similar cases, is indisputably an "applicant for admission," *see* 8 U.S.C. § 1225(a)(1). This Court, in relying on prior decisions in this district (and many elsewhere), concluded that § 1225(b)(2)(A) does not apply to applicants for admission who are present in the interior of the country, like petitioner, because petitioner is no longer "seeking admission." *See* ECF No. 6 at 2 (relying on, among others, *Kashranov v. Jamison*, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025) and *Demirel v. Fed. Det. Ctr. Philadelphia*, 2025 WL 3218243 (E.D. Pa. Nov. 18, 2025)). Those decisions reason that "seeking admission" should be given meaning beyond "applicant for admission" to avoid surplusage; they read the term to require active and ongoing efforts to be admitted at or near the border. *See, e.g., Kashranov,* 2025 WL 3188399 at *6–7; *Demirel*, 2025 WL 3218243, at *4.

By contrast, the government contends that "applicants for admission" are necessarily "seeking admission" until they have been admitted or until their removal

proceedings are complete. And while the government's position has been rejected by the vast majority of district courts to have considered it, the Fifth Circuit Court of Appeals, recently agreed with the government in a precedential decision. *See Buenrostro-Mendez v. Bondi*, --- F.4th ---, 2026 WL 323330, at *1, *4–*6 (5th Cir. Feb. 6, 2026) ("The everyday meaning of the statute's terms confirms that being an 'applicant for admission' is not a condition independent from 'seeking admission.'"); *id.* at *5 ("[A]n 'applicant for admission' is necessarily someone who is 'seeking admission.'"); *id.* at *4 ("When a person applies for something, they are necessarily seeking it.").[1]

Further, although the vast majority of district courts around the country have disagreed, a number of district courts have ruled in the government's favor, holding that Section 1225(b) permits the mandatory detention of aliens who had not been previously admitted when subsequently found within the country. *See Vargas Lopez v. Trump*, No. 25-cv-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-cv-2325, 2025 WL 2730228, at *5 (S.D. Cal. Sept. 24, 2025); *see also C.B. v. Oddo*, No. 25-cv-263, 2025 WL 2977870, at *2 (W.D. Pa. Oct. 22, 2025) (holding petitioner could be held without bond pursuant to § 1225(b), but awarding habeas relief due to the petitioner's prolonged detention); *Chen v. Almodovar, et al.*, No. 25-9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026); *Singh v. Noem, et al.*, No. 25-157, 2026 WL 74558 (E.D. Ky. Jan. 9, 2026); *Gomez Hernandez v. Lyons, et al.*, No. 25-216, 2026 WL 31775 (N.D. Tx. Jan. 6, 2026); *Montoya v. Holt, et al.*, No. 25-1231, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025); *Altamirano Ramos v. Lyons, et al.*, ---F. Supp. 3d ---, 2025 WL

[1] The other court of appeals to have encountered the issue ruled that the government was unlikely to succeed on the merits of its position in the context of review of an application for stay of a preliminary injunction. *See Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1061–62 (7th Cir. 2025).

3199872 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem, et al.*, No. 25-168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Azizzadeh v. Rhoney*, No. 25-CV-1288 (JLS), 2026 WL 44324, at *1 (W.D.N.Y. Jan. 6, 2026); *Chen v. Almodovar*, No. 1:250cv-8350-MKV, 2025 WL 3484855, at *4-8 (S.D.N.Y. Dec. 4, 2025); *Candido v. Bondi*, 25-CV-00867-JLS, 2025 WL 3484832, at *3 (W.D.N.Y. Dec. 4, 2025); *Valencia v. Chestnut*, --- F. Supp. 3d. ----, 2025 WL 3205133, *2-4 (E.D. Cal. Nov. 17, 2025); *Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331, *1, *3-6 (S.D. Tex. Nov. 13, 2025); *Altamirano Ramos v. Lyons*, --- F. Supp. 3d ----, 2025 WL 3199872, *4-9 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem*, No. 1:25-cv-00168-JMD, 2025 WL 3131942, *1-5 (E.D. Mo. Nov. 10, 2025); *Silva Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL 3095972, *4-7 (W.D. La. Nov. 4, 2025); *Cirrus Rojas v. Olson*, No. 25-cv-1437-bhl, 2025 WL 3033967, *5, *8-9 (E.D. Wis. Oct. 30, 2025).

Notably, the Chief Magistrate Judge in the Middle District of Pennsylvania recently issued a report and recommendation adopting the government's position. *See Patel v. Lowe*, No. 25-cv-02128, at 7 (M.D. Pa. Feb. 10, 2026). The court, following a "minority of district courts and the only circuit court to decide this issue," held that the plain text of Section 1225 establishes that "applicants for admission" are necessarily "seeking admission," and therefore subject to mandatory detention under Section 1225(b)(2)(A). *Id.*

That multiple federal courts—including the highest federal court to have addressed the issue—as well as the BIA, an administrative appellate body, have agreed with the government's position is an "objective indicia" of substantial justification. *Gjergj G. v. Edwards*, No. 19-5059, 2019 U.S. Dist. LEXIS 120345, *4 (D.N.J. Jul. 17, 2019) (citing *Pierce v. Underwood*, 487 U.S. 552, 568-69 (1988) and *Bryan v. Comm'r*

of Soc. Sec., 478 F. App'x 747, 750 (3d Cir. 2012)). Given that there is no binding Third Circuit or Supreme Court precedent on the question presented, other federal courts have agreed with the government's position, and that the government's position flows from a precedential decision of an appellate administrative body interpreting a statute it is deeply familiar with, it cannot be said that the government's litigation position was unreasonable or not substantially justified. *See id*. at *5-7 ("Although this Court and at least one other in this district have rejected this same contention, that is not sufficient to render the Government's position unjustified, and this Court finds that the decisions in cases [ruling in the Government's favor] provide indicia that a reasonable person could find the Government's position justified in substance given the state of the law, including administrative decisions and applicable regulations, and the facts of this matter.") and citing *Threadgill v. Armstrong World Indus., Inc.*, 928 F.2d 1366, 1371, 1371 n. 7 (3d Cir. 1991) ("it is clear that there is no such thing as 'the law of the district,'" district court judges are free to disagree with prior district court decisions of other judges even where presented with essentially identical facts).

Thus, this Court should not rule that a "reasonable person" could not be satisfied by the statutory interpretation advanced by the government here and concurred with by the Fifth Circuit Court of Appeals and various district courts across the country. *See Michelin*, 2026 U.S. App. LEXIS 3264, at *28-29.

IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court determine that attorneys' fees under EAJA are not available in this matter.

Dated: February 18, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on February 18, 2026, a true and correct copy of the foregoing was filed electronically via the Court's CM/ECF system and served via CM/ECF on all counsel of record.

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