Hon. Richardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
Seattle Division

ROLMA TURENNE, Petitioner, vs. LAURA HERMOSILLO, et al., Respondents	2:26-cv-00275-RSM MOTION FOR ATTORNEY FEES UNDER THE EQUAL ACCESS TO JUSTICE ACT Noted for August 12, 2026 motion calendar

MOTION

Petitioner seeks attorney fees and costs under the Equal Access to Justice Act ("EAJA") , 28 U.S.C. § 2412(d) at the adjusted statutory rate of $ 258.46 per hour for a 16.35 hours worked on this case by two attorneys, Michael T. Purcell (14.85 hours) and Caroline Keating Medeiros (1.5 hours) for total attorney time award of $4,225.82. Petitioner also seeks an award for the time of one paralegal, Erika Spencer (1.2 hours at $200 per hour) for a total award for professional time of $4,465.82. To this award should be added $5 in costs.

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MEMORANDUM

This motion is timely filed and includes:

- A showing that petitioner is the prevailing party;
- An allegation that the pre-litigation and litigation position of the government was not substantially justified. See also 28 USC§ 2412(d)(2)(D) ;
- An allegation that there are no special circumstances making an award unjust;
- A showing that the party seeking an award has met the appropriate "net worth" requirements. See also 28 USC§ 2412(d)(2)(B);
- An assignment of the right to the fees from petitioner to counsel; and,
- A statement of the total amount of fees and costs sought with an itemized account of time spent and rates charged.

I. SUMMARY OF FEES AND COSTS SOUGHT.

If a plaintiff is entitled to an award, a court sets reasonable attorney fees by the lodestar calculation, which multiples the reasonable hourly rate by the reasonable number of hours expended. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).

Under EAJA, attorney's fees are authorized at the statutory rate of $125 per Hour adjusted for inflation, 28 USC § 2412 (d)(2)(A). For 2025 the inflation adjusted rate is $258.46. The following is a tabular summary of the fees and costs sought.

Table 1: Summary of fees and costs requested (lodestar method)		
1	Attorney hours (Michael T. Purcell):	14.85
2	Attorney hours (Caroline Keating Medeiros):	1.5

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Table 1: Summary of fees and costs requested (lodestar method)		
3	Ninth Circuit 2025 statutory hourly rate for attorneys:	258.46
4	Total attorney hours (16.35) times line 2:	$ 4,225.82
5	Paralegal Erika Spencer at $200/hr for 1.2 hrs:	240.00
6	Total award sought:	$ 4,465.82
7	Costs sought in addition:	$ 5.00

II. THIS IS A "CIVIL ACTION" UNDER EAJA.

This habeas corpus action is a "civil action" for which fees may be awarded under EAJA. *In re Hill*, 775 F.2d 1037, 1040-41 (1985); see also *Daley v. Ceja*, 158 F.4th 1152, 1165-66 (10th Cir. 2025); *Michelin v. Warden Moshannon Valley Corr. Ctr.*, 169 F.4th 418, 435-36 (3d Cir. 2026); *Vacchio v.Ashcroft*, 404 F.3d 663, 672 (2d Cir. 2005) (limiting *Boudin v. Thomas*, 732 F.2d 1107 (2d Cir. 1984)),

III. PARALEGAL FEES ARE RECOVERABLE.

The court may grant paralegal fees as part of an EAJA fee award. Missouri v. Jenkins, 491 U.S. 274, 285 (1989); see also Nadarajah v. Holder, 569 F.3d 906, 918 (9th Cir. 2009). Recent cases in the Western District of Washington have awarded as high as $236 per hour for paralegal time. See e.g. *Y.M.M. v. Wamsley*, 2:25-cv-02075, 2026 U.S. Dist. LEXIS 62287 *; 2026 LX 157758 (W.D. Wash Mar.24, 2026), at *5. (citations omitted).

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IV. OUT-OF-DISTRICT ATTORNEY TIME IS RECOVERABLE.

Recovery of fees for Caroline Keating Medeiros, who assisted in the case as the petitioner's lawyer in his case before U.S. Citizenship and Immigration Services ("USCIS") is permitted under *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 558 F.3d 815, 825 (9th Cir. 2009) because, although not admitted to the bar of this court, she did not appear in this court, she did sign any pleadings, and counsel of record, Michael T. Purcell, remained fully responsible to the client for the case.

V. THIS MOTION IS TIMELY FILED.

A party seeking EAJA fees must file the application within 30 days of the final judgment. 28 USC § 2412(d)(1)(B). The judgment is final when it is no longer appealable. *Barry v. Bowen*, 825 F.2d 1324 (9th Cir. 1987), reversed on other grounds, 884 F.2d 1324 (9th Cir. 1989).

The court granted the petition for habeas corpus on April 21, 2026 (ECF 18) The respondents then had sixty (60) days to appeal. FRAP 4(a)(1)(B) and (C). This made Monday, June 22, 2026[1], as the deadline for respondents to appeal. No appeal was filed, so this motion is timely if it filed on or before Wednesday, July 22, 2026.

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[1] Sixty days from the date of judgment fell on Saturday, June 20, 2026, so the deadline to appeal in this case would have been extended to the next day that is not a Saturday, Sunday, or legal holiday. FRAP 26(a)(1)(C).

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VI. PETITIONER IS THE PREVAILING PARTY.

As stated, on April 21, 2026, the court granted the petition for a writ habeas corpus. ECF 18. Without question petitioner is the prevailing party under 28 USC § 2412(a)(1). See *Zavorin v. Walmsley*, No. 26-cv-00173-DGE, 2026 U.S. Dist. LEXIS 69719 *; 2026 LX 153162 (W.D.Wash. Mar. 31, 2026), at *2 ("Because this Court granted Petitioner's petition for writ of habeas corpus and ordered him released from custody, Petitioner is a prevailing party.").

VII. RESPONDENTS WERE NOT SUBSTANTIALLY JUSTIFIED.

A prevailing party is entitled to attorneys' fees unless defendants can show that the government's pre-litigation conduct and its litigation positions were substantially justified. See *Corbin v. Apfel*, 149 F.3d 1051, 1052 (9th Cir. 1998) ("The government's position must be substantially justified at each stage of the proceedings." (internal quotation marks omitted)); 28 U.S.C. § 2412(d)(1)(A). "The government bears the burden of demonstrating substantial justification." *Thangaraja v. Gonzales*, 428 F.3d 870, 874 (9th Cir. 2005); see also H.R. Rep. No. 96-1418, at 10, 13–14 (1980) ("[T]he strong deterrents to contesting government action require that the burden of proof rest with the government.").

A. Respondents' pre-litigation position was not substantially justified.

8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless arrest only if that officer has "reason to believe" that an individual is "likely to escape

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before a warrant can be obtained for his arrest." A "reason to believe is equivalent to the constitutional requirement of probable cause." *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).6. 8 C.F.R. § 287.8(c)(2)(ii) requires that before making, an immigration officer must make an individualized determination that an individual is "likely to escape before a warrant can be obtained."

Respondents arrested petitioner without making such a determination. Further, the respondents attempted to levy a fine on petitioner of $5,130 based on 28 U.S.C. § 2815. That statute however requires among other things that the person being fined must have entered the United States at a place other than a lawful point of entry. Petitioner alleged that he had entered the United States lawfully, and this was not disputed by the government.

Accordingly, on both these grounds the respondents lacked substantial justification.

B. Respondents' litigation position was not substantially justified.

Respondents never filed a response to the petition for habeas corpus. As a result it was necessary for the petitioner to draft and file a separate motion for entry of judgment in the petitioner's favor. Respondents did not file an opposition to this motion either.

If respondents did not intend to either contest the petition for habeas corpus, or the motion for entry of judgment, the appropriate thing to have done would have been

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to notify the court and counsel of that fact so that entry of judgment could have been made sooner and at less trouble to court and counsel. Respondents thus lacked substantial justification in their litigation position.

VIII. NO SPECIAL CIRCUMSTANCES MAKE AN AWARD UNJUST.

The government has the burden of proving the existence of special circumstances that would make a fee unjust. 28 USC § 2412(d)(1)(A); *Abela v. Gustafson*, 888 F.2d 1258, 1266 (9th Cir. 1989). This provision is to be narrowly construed so as to not interfere or defeat the purpose of Congress in passing EAJA. *Martin v. Heckler*, 773 F.2d 1145, 1149 (11th Cir. 1985). There is nothing here unfair or unusual to justify denial of fees.

IX. NET WORTH REQUIREMENTS AND ASSIGNMENT OF FEES.

Petitioner is a natural person and his net worth is less than $2 million. An assignment of fees to petitioner's counsel is included in his declaration of net worth.

X. FEES FOR PREPARATION OF MOTION.

Part of the requested fee is for time spent in preparing this application for EAJA fees, which are also reimbursable. *Commissioner INS v. Jean*, 496 U.S. 154 (1990).

XI. CONCLUSION.

For the above reasons, petitioner's motion for attorney fees should be granted with at the rate of $258.46 per hour for 16.35 hours total attorney (Michael T. Purcell (14.85 hours) and Caroline Keating Medeiros (1.5 hours), for a total of $ 4,425.82. To

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this should be added an award of $240 for paralegal time of Erika Spencer, at the rate of $200 per hour, for a total award of $4,465.82 for professional time in the case. $5 in costs should also be awarded. The court should order that payment should be made directly to petitioner's counsel according to the petitioner's assignment on file with the court.

DATED this 22nd day of July 2026

/s/ Michael T. Purcell

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