

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-00894-KMM-LIB

VINAY BODEPUDI,

Petitioner,

**FEDERAL RESPONDENTS'
SUPPLEMENTAL BRIEF**

v.

KRISTI NOEM, *et al.*,

Respondents.

The Federal Respondents submit this supplemental brief to address the three issues identified in the Court's text-only order entered on March 6, 2026. Dkt. 10. For the reasons explained below, an award of attorneys' fees under the Equal Access to Justice Act ("EAJA") is not appropriate if the Court dismisses this case as moot because Petitioner Vinay Bodepudi would not qualify as a prevailing party.

1. Whether the Court can Grant EAJA Fees

The Federal Respondents acknowledge that this Court has the authority to award Bodepudi attorneys' fees under EAJA. *See* 28 U.S.C. § 2412(d)(1)(A). But that authority is limited because EAJA is a waiver of the federal government's sovereign immunity, meaning the statute "must be strictly construed in favor of the United States." *Ardestani v. INS*, 502 U.S. 129, 137 (1991). The Court cannot use a fee award under EAJA to "do equity," nor can the Court award attorneys' fees that are inconsistent with the express language of the statute. *Levernier Constr., Inc. v. United States*, 947 F.2d 497, 502-03 (Fed. Cir. 1991); *see also RAMCOR Servs. Grp., Inc. v. United States*, 185 F.3d 1286, 1290 (Fed. Cir. 2009) ("EAJA is not a mandatory fee-shifting device.").

2. Whether Petitioner is a Prevailing Party

If the Court dismisses this case as moot, then Bodepudi would not be a prevailing party. EAJA's fee-shifting language provides in relevant part that:

a court shall award to a *prevailing party* other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, 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) (emphasis added). The Supreme Court defines the phrase “prevailing party” to mean a litigant “who has been awarded some relief by the court.” *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep’t of Health & Hum. Res.*, 532 U.S. 598, 603 (2001). This Court further breaks the definition into three principles. First, “a claimant must show that there has been a court-ordered change in the legal relationship between the plaintiff and the defendant.” *Rodriguez v. Pompeo*, 2021 U.S. Dist. LEXIS 61527, at *7 (D. Minn. Mar. 31, 2021). Second, the amount of damages awarded (if any) does not matter so long as the party is the one “in whose favor a judgment is rendered.” *Id.* And third, a party does not become “a prevailing party merely by virtue of having acquired a judicial pronouncement unaccompanied by judicial relief.” *Id.* at *7-8.

Bodepudi does not satisfy the first of these principles (or the *Buckhannon* definition generally) because he has not obtained a court-ordered change in the legal relationship between himself and the Federal Respondents. Following Bodepudi’s arrest, officials with the U.S. Immigration and Customs Enforcement (“ICE”) were able to locate a previously overlooked application to change Bodepudi’s sponsoring employer. That meant Bodepudi

had valid H-1B status and could not be detained, so he was released. ICE also updated its systems to reflect Bodepudi's status and help ensure that he will not be re-detained again. None of those actions were ordered by the Court; ICE initiated a review of its systems and voluntarily corrected the problem.

The fact that Bodepudi was released only after he filed a habeas petition does not matter. *Buckhannon* rejected that type of "catalyst theory" approach to determining who is the prevailing party under fee-shifting statutes like EAJA:

[a] defendant's voluntary change in conduct, although perhaps accomplishing what the plaintiff sought to achieve by the lawsuit, lacks the necessary judicial *imprimatur* on the change. Our precedents thus counsel against holding that the term "prevailing party" authorizes an award of attorney's fees *without* a corresponding alteration in the legal relationship of the parties.

532 U.S. at 605 (original emphasis). Although *Buckhannon* dealt with fee-shifting provisions in the Fair Housing Amendments Act and Americans with Disabilities Act, the Eighth Circuit extends *Buckhannon*'s prohibition on catalyst-theory awards "generally to fee shifting statutes incorporating the 'prevailing party' language." *Advantage Media, LLC v. City of Hopkins*, 511 F.3d 833, 837 (8th Cir. 2008); *see also Cody v. Hillard*, 304 F.3d 767, 773 n.3 (8th Cir. 2002). That includes EAJA.

This Court's prior decisions confirm that litigants like Bodepudi do not become prevailing parties under EAJA when the government gives them the relief they sought without a court order. Take *Tawakal Halal LLC v. United States*, which challenged the Department of Agriculture's decision to disqualify a grocery store from participating in the Supplemental Nutrition Assistance Program. 2019 U.S. Dist. LEXIS 203294, at *1

(D. Minn. Nov. 22, 2019). More than a year into the litigation—but critically, before any order resolving the merits or directing the agency to do so—the Department of Agriculture vacated its disqualification decision. *Id.* That led the Court to grant the government’s motion to dismiss on mootness grounds and then deny a request for EAJA fees because the grocery store did not qualify as a prevailing party. *Id.* at *7-8. Another good example is *Giombetti v. Wolf*, which involved an immigration-related dispute like the one Bodepudi raises here. 2020 U.S. Dist. LEXIS 151074, at *1 (D. Minn. Aug. 20, 2020). The plaintiffs sought fees under EAJA after an agency relented on its pre-litigation position and accepted their application, but this Court denied the fee request because any change in the agency’s position was not the result of a court order. *Id.* at *2-3. Finally, there is this Court’s decision in *Rodriguez*, which involved three consecutive denials of the plaintiff’s passport application by the Department of State. 2021 U.S. Dist. LEXIS 61527, at *1-4. After the case got underway and the parties exchanged initial disclosures, the Department of State determined that the plaintiff had proven his citizenship, and the agency issued him a passport. *Id.* at *5-6. The Court refused to award attorneys’ fees because the approved passport application was not the result of a court order. *Id.* at 10.

Simply stated, Bodepudi is not a prevailing party in this case because the Court has not ordered any change in the parties’ legal relationship. Whether Bodepudi’s habeas petition spurred ICE to locate the change-of-employer application and release him does not change that fact.

3. Whether the Federal Respondents' Position is Substantially Justified

Because Bodepudi is not a prevailing party, that is the end of the EAJA analysis. The Court does not need to determine whether the Federal Respondents' position in this case was substantially justified. Nevertheless, based on the facts currently available to the Federal Respondents' undersigned counsel—as informed by the law governing the issues raised in this case—there does not appear to be a legal or factual basis to argue that the Federal Respondents' position was substantially justified. To the extent the Court decides to award EAJA fees, the Federal Respondents respectfully request an opportunity to respond to Bodepudi's fee petition and challenge the rates that his attorneys charged, the hours that they expended, and the overall reasonableness of the fees that they seek.

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