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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

C.S.M., a minor, By and Through M.P.S.M., as Next Friend of Minor,

Petitioner,

v.

RUBY HERNANDEZ, Federal Field Specialist, Office of Refugee Resettlement; NIKY HYMEL, Federal Field Specialist Supervisor, Office of Refugee Resettlement; ALEX J. ADAMS, Assistant Secretary of the Administration of Children and Families; ANGIE SALAZAR, Acting Director of the Office of Refugee Resettlement; and ROBERT F. KENNEDY, Secretary of the U.S. Department of Health and Human Services,

Respondents.

Case No. 5:26-CV-01144

PETITIONER'S NOTICE OF MOTION AND MOTION FOR ATTORNEYS' FEES, AND COSTS UNDER THE EQUAL ACCESS TO JUSTICE ACT

Honorable John W. Holcomb
United States District Judge

Honorable Angela C. Viramontes
United States Magistrate Judge

THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on **September 4, 2026, at 9:00 a.m.**, or as soon thereafter as the matter may be heard, in Courtroom 9D of the above-entitled Court, located at the Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, Santa Ana, California 92701, before the Honorable John W. Holcomb, United States District Judge, Petitioner will and hereby does move for an award of attorneys' fees and expenses pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d).

Petitioner seeks an award of attorneys' fees in the amount of **$85,459.80**, plus expenses in the amount of **$320.95**, for a total award of **$85,780.75.** This Motion is made on the grounds that Petitioner satisfies all requirements for recovery under the EAJA: Petitioner is the prevailing party in this action, Respondents' litigation position was not substantially justified, and no special circumstances make an award unjust.

This Motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the declaration of Stephanie Periban Palacios in support thereof, the declaration of M.P.S.M. in

support thereof, the pleadings and records on file in this action, and any further argument or evidence the Court may consider.

Dated: August 4, 2026

Respectfully Submitted,

/s/Caitlin Jolley
Caitlin Jolley
Attorney for Petitioner

MEMORANDUM AND POINTS OF AUTHORITY

I. INTRODUCTION

Petitioner seeks an award of attorneys' fees and costs under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d).

Petitioner, C.S.M. a fourteen-year-old child, was detained by Respondents, for more than six months, despite the availability of her sister—a qualified sponsor and United States Citizen—in violation of governing law requiring prompt placement. Petitioner sought habeas and constitutional relief challenging the legality of that detention. Ultimately, Petitioner was released only after this Court intervened and ordered it.

Petitioner prevailed in this litigation. On June 2, 2026, the Court adopted the Report and Recommendation in full, issued a writ of habeas corpus prohibiting Petitioner's re-detention absent compliance with due process and governing regulations, declared that Respondents violated Petitioner's procedural due process rights, and entered judgment granting the Petition. (ECF Nos. 27, 29, 30.) In doing so, the Court rejected Respondents' arguments for the legality of Petitioner's detention and their litigation position.

Because Petitioner is the prevailing party, Respondents' position was not substantially justified, and no special circumstances exist that would make an award unjust, the EAJA requires an award of reasonable attorneys' fees and costs.

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner, C.S.M., is a fourteen-year-old child who remained in Office of Refugee Resettlement ("ORR") custody for more than six months while a sponsor application submitted by her sister, a United States citizen, remained pending. *See* Declaration of Stephanie Periban Palacios ("Periban Decl.") at ¶4. While in detention, Petitioner's mother passed away and she was forced to grieve alone in custody during this period rather than with her family. *Id.* at ¶5.

On March 11, 2026, Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and an Ex Parte Application for Temporary Restraining Order seeking immediate release from ORR custody. ECF Nos. 1, 2.

The Court immediately set an expedited briefing schedule, ordering Respondents to respond to the TRO application, permitting a reply, and setting an in-person hearing on March 20, 2026. ECF No. 7. The parties then submitted multiple rounds of briefing, declarations, and supporting evidence concerning Petitioner's continued detention and eligibility for release. ECF Nos. 10, 12.

On March 20, 2026, the Court conducted an in-person hearing on Petitioner's Ex Parte Application for Temporary Restraining Order. During that proceeding, the Court heard testimony and developed an evidentiary record concerning the circumstances of Petitioner's continued detention, the status of the pending sponsor application, and Respondents' asserted basis for maintaining custody—a pending DNA test. Following the hearing, the Court granted the application and ordered Respondents to release Petitioner to her sister "FORTHWITH." ECF No. 14. The Court further ordered Respondents to file a status report regarding the DNA testing and any remaining investigation and set additional proceedings concerning Petitioner's request for further injunctive relief. *Id.*

Following Petitioner's release, counsel continued investigating the circumstances surrounding Petitioner's prolonged detention. During that investigation, counsel discovered evidence indicating that Respondents had obtained DNA test results confirming Petitioner's biological relationship to her sister before the March 20, 2026, hearing, despite representing that the DNA results were the final information needed before release could occur. ECF No. 19. Petitioner brought those facts to the Court's attention in a post-release status report. *Id.*

Petitioner's release did not end the litigation. Following reunification, counsel continued to represent Petitioner in connection with the Court-ordered post-release

proceedings, including review of Respondents' status report, preparation of Petitioner's status report, litigation concerning the appropriate scope of future relief, and continued merits briefing. ECF Nos. 16, 17, 18, 19.

Respondents subsequently filed an Answer to Petition for Writ of Habeas Corpus and a Response to Order to Show Cause Re: Status Conference contending that Petitioner's release rendered the action moot. ECF Nos. 23, 24. The Court ordered further briefing on that issue, and Petitioner filed a Traverse addressing both mootness and the merits of her habeas claims. ECF Nos. 25, 26.

On May 13, 2026, Magistrate Judge Viramontes issued a Report and Recommendation concluding that Petitioner's detention violated procedural due process and recommending that the Petition be granted. ECF No. 27. In reaching that conclusion, the Court found it "troubling" that Respondents appeared to have received the DNA test results before the March 20 hearing and determined that this circumstance further supported the conclusion that the risk of erroneous deprivation of Petitioner's liberty was high. *Id.* The Report and Recommendation further recommended issuance of a writ of habeas corpus prohibiting Petitioner's re-detention absent compliance with due process and applicable regulations. *Id.*

On June 2, 2026, the Court entered judgment for Petitioner in the form of adopting the Report and Recommendation in full, granting the Petition, issuing a

writ of habeas corpus, declaring that Respondents violated Petitioner's procedural due process rights, and prohibiting Petitioner's re-detention absent compliance with constitutional and regulatory requirements. ECF Nos. 29, 30.

Petitioner now brings this motion for fees under the EAJA.

III. LEGAL STANDARD

The EAJA permits litigants to recover fees and costs against the United States, to encourage the vindication of rights by persons who would otherwise be deterred from challenging government action because of the expense of litigation.[1] EAJA, Pub. L. No. 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504 note).

Under the EAJA a court *shall* award "fees and other expenses, in addition to any costs . . . incurred by that party in any civil action . . . brought [] against the United States in any court having jurisdiction of that action" to a "prevailing party." 28 U.S.C. § 2412(d)(1)(A). Unless the court finds that the position of the United States was "substantially justified or that special circumstances make an award unjust." *Id.*

[1] During the parties' meet-and-confer efforts, Respondents identified the Supreme Court's recent grant of certiorari in *Kevin Isaac Montoya Palacios v. Liggins*, No. 25-1223 (addressing whether the EAJA applies to immigration detention habeas proceedings). Petitioner files this application pursuant to existing controlling law as a grant of certiorari does not alter governing precedent. Petitioner further reserves the right to address any arguments concerning *Montoya Palacios* should Respondents raise them.

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." *Ibrahim v. U.S. Dep't of Homeland Sec.*, 912 F.3d 1147, 1167 (9th Cir. 2019) (en banc) (quoting *Comm'r, INS v. Jean*, 496 U.S. 154, 158 (1990)).

The Court has discretion to determine whether the requested fees are reasonable. *See Pierce v. Underwood*, 487 U.S. 552, 571 (1988). Once this showing is made, the burden shifts to the Government to prove that its position, both before and during the litigation, was substantially justified or that special circumstances make an award of attorneys' fees unjust. *See Scarborough v. Principi*, 541 U.S. 401, 416–17 (2004).

IV. THE COURT SHOULD AWARD PETITIONER ATTORNEYS FEES AND COSTS UNDER THE EAJA

This Court should award attorneys' fees and cost because Petitioner satisfies all requirements for recovery under the EAJA: (1) Petitioner is eligible for an award of fees; (2) this Motion is timely; (3) Petitioner is the prevailing party in this action;

(4) Respondents' litigation position was not substantially justified, and (5) no special circumstances make an award unjust.

Petitioner has assigned any EAJA attorneys' fees to counsel. *See* Declaration of M.P.S.M. ("M.P.S.M. Decl.") at ¶4. Consistent with *Astrue v. Ratliff*, 560 U.S. 586 (2010), Petitioner requests that, following any required offset for federal debts, the awarded fees be paid directly to counsel pursuant to that assignment.

A. PETITIONER IS ELIGIBLE FOR FEES

To be eligible for EAJA fees a petitioner's net worth cannot exceed $2,000,000 at the time the civil action was filed. *See* 28 U.S.C. § 2412(d)(2)(B)(i). Petitioner's net worth has never exceeded $2,000,000. M.P.S.M. Decl. at ¶2.

B. THIS MOTION IS TIMELY

The EAJA requires that a fee application be filed within thirty days of "final judgment," defined as a judgment that is "final and not appealable." 28 U.S.C. § 2412(d)(1)(B), (d)(2)(G). Because the United States is a party, it has sixty (60) days from entry of judgment to appeal. Fed. R. App. P. 4(a)(1)(B). The EAJA filing period begins only after that appeal period expires. *See Hoa Hong Van v. Barnhart*, 483 F.3d 600, 610 (9th Cir. 2007).

The Court entered its final judgment on June 2, 2026. ECF No. 30. The sixty-day appeal period expired on August 3, 2026, after which the judgment became final

and not appealable. Fed. R. App. P. 4(a)(1)(B). Petitioner had thirty (30) days thereafter—through September 2, 2026—to file a timely EAJA application. This motion is therefore timely.

C. PETITIONER IS THE PREVAILING PARTY

A party prevails under the EAJA when she obtains relief on the merits that affects a judicially sanctioned change in the legal relationship between the parties. *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Hum. Res.*, 532 U.S. 598, 604–06 (2001); *Perez-Arellano v. Smith*, 279 F.3d 791, 794 (9th Cir. 2002).

Petitioner easily satisfies that standard. The Court granted the Petition, issued a writ of habeas corpus, declared that Respondents violated Petitioner's procedural due process rights, and entered judgment in Petitioner's favor. ECF Nos. 29, 30. The Court further prohibited Respondents from re-detaining Petitioner absent compliance with constitutional and regulatory requirements. *Id.*

This relief was merits-based and enforceable. It was not procedural, interim, or voluntary. Rather, the Court adjudicated the legality of Respondents' conduct, determined that Respondents violated Petitioner's constitutional rights, and entered judgment providing meaningful relief. ECF No. 30.

The judgment materially altered the legal relationship between the parties. Before judgment, Respondents maintained that their conduct was lawful and

opposed relief. ECF No. 10. The Court disagreed and ordered Petitioner's immediate release at the TRO hearing. ECF No. 13, 14. The Court determined Respondents violated Petitioner's constitutional rights and entered judgment providing meaningful relief. ECF No. 29, 30. Those binding judicial determinations directly addressed the injury that gave rise to this action: Petitioner's prolonged detention without constitutionally adequate process.

Because Petitioner obtained relief on the merits that materially altered the parties' legal relationship, she is the prevailing party for purposes of the EAJA.

D. RESPONDENTS' POSITION WAS NOT SUBSTANTIALLY JUSTIFIED

Under the EAJA, Respondents bear the burden of establishing that their position was substantially justified. *Scarborough v. Principi*, 541 U.S. 401, 414 (2004). A position is substantially justified only if it is "justified to a degree that could satisfy a reasonable person," meaning that it has a reasonable basis in both law and fact. *Pierce v. Underwood*, 487 U.S. 552, 565 (1988). Respondents must establish substantial justification for their position "as a whole," including both the underlying agency conduct and the litigation position advanced in court. *Ibrahim v. DHS*, 912 F.3d 1147, 1167 (9th Cir. 2019) (en banc).

Here, Respondents cannot meet that burden. The Court determined that Respondents violated Petitioner's procedural due process rights by detaining her for more than six months without constitutionally adequate process and entered judgment granting habeas relief. ECF No. 30. Respondents nevertheless continued to defend that conduct and opposed meaningful relief throughout this litigation. Neither the underlying agency conducts nor the litigation position had a reasonable basis in law or fact.

Accordingly, Respondents cannot establish substantial justification under the EAJA.

i. THE UNDERLYING AGENCY CONDUCT WAS NOT SUBSTANTIALLY JUSTIFIED

Respondents cannot establish that their underlying conduct was substantially justified. The Court held that Respondents violated Petitioner's procedural due process rights by detaining her for more than six months while her sponsor application remained pending. ECF Nos. 29, 30. In reaching that conclusion, the Court found that all three *Mathews* factors favored Petitioner and that her continued detention violated due process. *Id.*

The facts underlying the Court's ruling are straightforward. Petitioner, a fourteen-year-old child, remained in ORR custody for more than six months while

her sister's sponsor application was pending. ECF Nos. 27, 29, 30. During that time, Respondents failed to timely adjudicate the application despite regulations requiring prompt review. *Id.* The Court concluded that the resulting deprivation of liberty violated Petitioner's constitutional rights. *Id.*

The Court also found it "troubling" that Petitioner appeared to remain detained even after Respondents had received DNA test results confirming that her sponsor was her biological sister. ECF Nos. 27. Respondents represented that those results were the final information needed before release could occur, yet the record suggested Respondents had already received those results before the March 20, 2026, TRO hearing. *Id.* The Court further concluded that this circumstance supported its finding that the risk of erroneous deprivation of liberty was high. *Id.*

This was not a close case. The constitutional limitations on civil detention are well established, as is the requirement that the Government provide adequate process before depriving an individual of liberty. The Court concluded that Respondents failed to satisfy those requirements and violated Petitioner's procedural due process rights.

That determination is fundamentally incompatible with Respondents' contention that their conduct was reasonably grounded in law and fact. Because the

underlying agency conduct resulted in a constitutional violation, Respondents cannot establish that it was substantially justified.

ii. THE GOVERNMENT'S LITIGATION POSITION WAS NOT SUBSTANTIALLY JUSTIFIED

Respondents likewise cannot establish that their litigation position was substantially justified. Rather than addressing the merits of Petitioner's constitutional claims, Rcspondents principally argued that the case had become moot because Petitioner was released from custody after this Court granted emergency relief. ECF No. 23. The Court rejected that argument and held that the case remained live notwithstanding Petitioner's release. ECF Nos. 29, 30. The Court subsequently granted the Petition, issued a writ of habeas corpus, and entered judgment in Petitioner's favor. *Id.*

Respondents' mootness argument lacked a reasonable basis in law. As the Court explained, Petitioner's release did not occur voluntarily. *Id.* It occurred because the Court ordered it. *Id.* Nor did the temporary release eliminate the possibility of future detention or provide Petitioner with permanent relief. *Id.* For those reasons, the Court concluded that Petitioner retained a concrete interest in further habeas relief and that the case remained justiciable. *Id.*

The weakness of Respondents' litigation position is underscored by the relief ultimately awarded. Respondents not only argued that the Court lacked a live controversy to resolve, but also continued to defend conduct that the Court later determined violated Petitioner's procedural due process rights. ECF Nos. 23, 24. Had Respondents prevailed on their mootness theory, the Court would have been prevented from adjudicating unconstitutional conduct and providing the relief that it ultimately determined was necessary.

Nor was the mootness argument advanced against a backdrop of uncertainty. As the Report and Recommendation explained, numerous courts had concluded that the release of a detained child pursuant to court-ordered relief does not moot a habeas petition where the risk of re-detention remains. The Court agreed with that authority and rejected Respondents' position.

The totality of the circumstances confirms the absence of substantial justification. In determining whether a position was substantially justified, courts consider Respondents' position as a whole. *League of Women Voters of California v. FCC*, 798 F.2d 1255, 1258 (9th Cir. 1986). Here, Respondents detained a fourteen-year-old child for more than six months without constitutionally adequate process, failed to timely adjudicate a sponsor application despite regulations requiring prompt review, continued to defend that conduct in federal court, and advanced a mootness

argument that the Court rejected. The result was not a close or uncertain legal question. The Court granted the Petition, issued a writ of habeas corpus, and declared that Respondents violated Petitioner's procedural due process rights. Taken together, these circumstances confirm that Respondents' position lacked a reasonable basis in law and fact.

Respondents' litigation strategy ultimately sought to transform compliance with a court order into a basis for avoiding judicial review of the very conduct that necessitated the litigation in the first place. The Court rejected that position and entered judgment for Petitioner.

Viewed as a whole, Respondents' litigation position lacked a reasonable basis in both law and fact and therefore was not substantially justified.

E. NO SPECIAL CIRCUMSTANCES MAKE AN AWARD UNJUST

The EAJA permits denial of fees only where "special circumstances make an award unjust." 28 U.S.C. § 2412(d)(1)(A). This exception is narrow and applied sparingly. See *United States v. 4.0 Acres of Land*, 175 F.3d 1133, 1140 (9th Cir. 1999) (special-circumstances inquiry is an equitable one designed to ensure that fee awards are not unjust); *Ibrahim v. U.S. Dep't of Homeland Sec.*, 912 F.3d 1147, 1168 (9th Cir. 2019) (en banc) (EAJA creates a strong presumption in favor of fees once the statutory requirements are met). Typically, courts find special circumstances only

where the prevailing party engaged in misconduct, the relief obtained was purely technical or de minimis, or equitable considerations otherwise render a fee award unfair. No such circumstances exist here.

Petitioner obtained substantial, merits-based relief. The Court granted the Petition, issued a writ of habeas corpus, and declared that Respondents violated Petitioner's procedural due process rights. There is no allegation of misconduct by Respondents, nor is there any equitable consideration that would render a fee award unjust.

To the contrary, this case presents precisely the circumstances for which the EAJA was enacted: Petitioner was required to seek judicial intervention to remedy unlawful government conduct and prevailed.

Because no special circumstances exist, the EAJA requires an award of reasonable attorneys' fees and costs.

F. THE REQUESTED FEES AND COSTS ARE REASONABLE

EAJA fees are calculated using the lodestar method: the number of hours reasonably expended multiplied by a reasonable hourly rate. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). The resulting figure is presumptively reasonable.

The fees requested here are reasonable because they reflect the work required to obtain extraordinary relief on behalf of a fourteen-year-old child who had been

detained in ORR custody for more than six months. This was not a routine immigration habeas matter that ended upon Petitioner's release. Rather, it involved emergency federal court litigation, factual investigation, constitutional claims, post-release proceedings, and merits litigation culminating in a writ of habeas corpus and a judicial declaration that Respondents violated Petitioner's procedural due process rights.

Counsel initiated this action by filing both a Petition for Writ of Habeas Corpus and an Ex Parte Application for Temporary Restraining Order seeking Petitioner's immediate release from custody. ECF Nos. 1, 2. The Court immediately established an expedited briefing schedule and set an in-person hearing. ECF No. 7. Counsel then prepared multiple rounds of briefing, declarations, and supporting evidence concerning Petitioner's detention, the pending sponsorship application, and the legality of Respondents' conduct. Periban Decl. at ¶8. Counsel further prepared for and attended the March 20, 2026 TRO hearing at which the Court ordered Petitioner's release "FORTHWITH." *Id.* at ¶9; ECF Nos. 7, 14.

Counsel's work did not end with Petitioner's release. Following reunification, counsel continued investigating the circumstances surrounding Petitioner's detention, reviewed Respondents' court-ordered status report, prepared Petitioner's status report, and developed evidence demonstrating that Respondents appeared to

have received DNA test results confirming Petitioner's biological relationship to her sister before the TRO hearing. Periban Decl. at ¶¶10-11; Counsel brought those facts to the Court's attention and continued litigating the scope of appropriate relief following Petitioner's release. *Id.* at ¶12.

Petitioner was also required to continue litigating the case after release because Respondents argued that the action had become moot. *Id.* at ¶13; ECF Nos. 14, 17, 19, 22, 26. Counsel analyzed and briefed those issues, responded to Respondents' Answer and Notice of Suggested Mootness, prepared a Traverse, and continued litigating Petitioner's constitutional claims on the merits. Periban Decl. at ¶14. That work ultimately resulted in a Report and Recommendation concluding that Respondents violated Petitioner's procedural due process rights and recommending issuance of a writ of habeas corpus, which the Court adopted in full. ECF Nos. 27, 29, 30.

The relief obtained was substantial. Counsel secured Petitioner's release from custody, defeated Respondents' mootness arguments, obtained a writ of habeas corpus, secured a declaration that Respondents violated Petitioner's procedural due process rights, and obtained an order prohibiting Petitioner's re-detention absent compliance with constitutional and regulatory requirements. The requested hours produced extraordinary results.

The staffing of this matter was reasonable. The case required coordination among attorneys with distinct but complementary expertise in children's rights representation, immigration law, and federal litigation. Petitioner is a minor child and a Spanish-speaking client who was detained in federal custody. Periban Decl. at ¶¶21-22. Multiple attorneys assisted with client communication, factual development, litigation strategy, emergency motion practice, and court proceedings. *Id.* Counsel exercised billing judgment and excluded excessive, redundant, clerical, and otherwise unnecessary time. *Id.* at ¶23. The hours submitted reflect only the time reasonably expended litigating this matter and preparing the instant EAJA application.

The requested hourly rates are consistent with the EAJA statutory maximum authorized by 28 U.S.C. § 2412(d)(2)(A) and the Ninth Circuit's published EAJA rate schedule. Periban Decl. at ¶37, Ex. C. Petitioner also seeks recovery of allowable costs under 28 U.S.C. § 2412(a), consisting of one item: the hearing transcript necessary to this litigation.

Respondents may characterize this matter as a routine habeas action. The procedural history demonstrates otherwise. This case required emergency TRO proceedings, an evidentiary hearing resulting in an order directing Petitioner's immediate release, post-release status report litigation, investigation and

development of additional factual issues concerning Respondents' detention decisions, merits briefing following release, and litigation that culminated in a writ of habeas corpus and a declaratory relief.

Given the nature of the litigation, the procedural history of the case, the constitutional issues presented, and the substantial relief obtained, the requested attorneys' fees and costs are reasonable.

V. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant this Motion and award attorneys' fees and costs under the Equal Access to Justice Act in the amounts set forth in the Declaration of Stephanie Periban Palacios, Declaration of M.P.S.M, and supporting exhibits.

Petitioner further requests that, consistent with *Astrue v. Ratliff*, 560 U.S. 586 (2010), any fees remaining after satisfaction of any applicable federal offset be paid directly to counsel pursuant to Petitioner's assignment.

Dated: August 4, 2026

Respectfully Submitted,

/s/Caitlin Jolley
Caitlin Jolley
Attorney for Petitioner

WORD COUNT CERTIFICATION

The undersigned, counsel of record for Petitioners certifies that this brief contains 4119 words, which complies with the word limit of L.R. 11-6.1.