

The Honorable Kimberly K. Evanson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Daixon RAMIREZ TESARA,

Petitioner,

v.

Julio HERNANDEZ, et al.,

Respondents.

Case No. 2:25-cv-01723-KKE

**PETITIONER'S REPLY IN SUPPORT
OF MOTION FOR ATTORNEYS'
FEES AND COSTS**

Noting Date: March 17, 2026

1 **INTRODUCTION**

2 The Court should grant Petitioner's requested fees. Respondents' opposition to
3 Petitioner's motion ignores that Supreme Court and Ninth Circuit caselaw have long established
4 the principles that governed Petitioner's arrest, and that even where precedent is lacking, the
5 government's position may lack justification. Moreover, Respondents' objections to Petitioner's
6 timekeeping entries as excessive fail to account for the fact that—as they themselves
7 acknowledge—this was one of the earliest cases in this district on this issue, meaning time was
8 needed to develop the arguments.

9 **ARGUMENT**

10 **I. Respondents' position was not substantially justified.**

11 Respondents err in asserting that their position was substantially justified because “the
12 legal issue presented here was unsettled in this District.” Dkt. 37 at 2. First, as the Court
13 explained in its orders, the principles governing this case result from Supreme Court precedent.
14 *See, e.g.*, Dkt. 19 at 6 (“The Supreme Court has repeatedly recognized that individuals who have
15 been released from custody, even where such release is conditional, have a liberty interest in
16 their continued liberty” (citation omitted)); Dkt. 31 at 4 (quoting Supreme Court precedent for
17 the proposition that due process requires “the opportunity to be heard at a meaningful time and in
18 a meaningful manner” (citation omitted)). That a person who has been released from custody is
19 entitled to meaningful process prior to re-detention is not controversial. As the D.C. Circuit has
20 explained, “[t]he Supreme Court has repeatedly held that in at least some circumstances, a person
21 who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a
22 liberty interest that entitles him to constitutional due process before he is re-incarcerated.” *Hurd*
23 *v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017); *see also id.* (citing several Supreme
24 Court cases supporting this principle).

1 In addition, the lack of directly controlling precedent does not foreclose the conclusion
2 that the government's position lacked substantial justification. This too is well-established. In
3 *Oregon Natural Resources Council v. Madigan*, the Ninth Circuit concluded that the
4 government's position lacked substantial justification even though that "precedent [was] lacking"
5 on the issue before the court. 980 F.2d 1330, 1332 (9th Cir. 1992). The government's "string of
6 losses" in court after such arrests merely further underscore its lack of substantial justification in
7 detaining people like Petitioner. *Pierce v. Underwood*, 487 U.S. 552, 569 (1988). And these
8 same principles also govern Respondents' assertion that *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d
9 1316 (W.D. Wash. 2025), did not establish a "categorical rule." Dkt. 37 at 2. That argument
10 misses the point: long-standing caselaw made clear that in the circumstance of *E.A. T.-B.* and
11 here, pre-deprivation process was constitutionally required.

12 Respondents also miss the point in pointing to the specific record in this case and their
13 allegations of "parole violations." *Id.* at 3. As this Court explained, "[t]he factual disputes as to
14 Petitioner's alleged parole violations should be resolved at a pre-deprivation hearing, rather than
15 resolved after the fact by this Court." Dkt. 31 at 9. That is the whole point of this case and the
16 basic principle of the caselaw cited above. That Respondents chose to ignore this law simply
17 underscores that they lacked substantial justification.

18 **II. Petitioner's requested fees are reasonable.**

19 **A. The case was not excessively staffed.**

20 Respondents also assert that the requested fees are excessive. First, they contend the case
21 was excessively staffed, with duplicate billing for the TRO motion and hearing. Dkt. 37 at 4–5.
22 This argument is unavailing.

23 As an initial matter, the Court should view this case in the larger context of habeas
24 petitions in this district. This case was one of two initial cases—along with *E.A. T.-B.*—that

1 developed and adopted the arguments which this Court and dozens of other practitioners now
2 rely on in “re-detention” cases. Developing those arguments—and doing it well—takes time and
3 collaboration, and is entitled to compensation under EAJA. *See Nadarajah v. Holder*, 569 F.3d
4 906, 924 (9th Cir. 2009) (awarding fees for significant oral argument preparation time given
5 case’s “impact” not only on the individual petitioner but also “on the law regarding indefinite
6 detention”).

7 The Ninth Circuit has explained that “[b]y and large, the court should defer to the
8 winning lawyer’s professional judgment as to how much time he was required to spend on the
9 case; after all, he won, and might not have, had he been more of a slacker.” *Moreno v. City of*
10 *Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008). Nor should a court “attempt to impose its own
11 judgment regarding the best way to operate a law firm, nor to determine if different staffing
12 decisions might have led to different fee requests.” *Id.* at 1115.

13 Respondents do not heed these principles. Instead, they propose eliminating entirely the
14 requested hours for Matt Adams, Leila Kang, Glenda Aldana Madrid, Amanda Ng, Doug
15 Valladres, and Natalie Webb, resulting in a 60% reduction of the requested fees, as if these
16 individuals made no contributions to this case. *See* Dkt. 37 at 8. The Court should reject that
17 unreasonable position. Respondents emphasize that attorney Aaron Korthuis argued the TRO
18 motion and spoke at the follow-up hearing, but to conclude that from that fact that all other
19 attorneys’ time is duplicative is unwarranted. The “[p]articipation of more than one attorney does
20 not necessarily amount to unnecessary duplication of effort.” *Democratic Party of Washington*
21 *State v. Reed*, 388 F.3d 1281, 1286 (9th Cir. 2004). The individuals whose entries Defendants
22 propose eliminating helped edit motions, prepare the traverse, and confer regarding case strategy.
23 *See generally* Dkt. 35-3. Requesting fees for such work is reasonable. Here, as in other cases,
24 “[a] fair amount of conferencing among the attorneys was reasonable for [a case] of this

1 complexity.” *Nadarajah*, 569 F.3d at 925. Similarly, billing for editing on motions is standard
2 practice, and it is unclear why Respondents think that providing feedback on and editing motions
3 constitutes “duplicative” work. *See id.* (holding that entries for edits on briefing was
4 compensable); *Prison Legal News v. Schwarzenegger*, 561 F. Supp. 2d 1095, 1104 (N.D. Cal.
5 2008) (awarding fees for 35 hours of “researching, drafting, reviewing and editing the
6 complaint”); *id.* at 1103 (“[I]t is not unreasonable to expect that the partner supervising the case
7 would have multiple entries for conferencing and emailing with the associates working with
8 him.”).

9 This includes Petitioner’s billing for having multiple attorneys present during hearings.
10 As the Ninth Circuit has explained, other lawyers “may be needed by the lawyer arguing the
11 case, as when a judge asks ‘where is that in the record’ Also, for example, a lawyer who has
12 worked on the case and will be working on it subsequently may need to observe argument to
13 judge how to proceed later.” *Reed*, 388 F.3d at 1287; *cf. Prison Legal News*, 561 F. Supp. 2d at
14 1103 (awarding fees where multiple attorneys attended telephone conferences). Here, the Ninth
15 Circuit’s observations are equally true, as by its nature, a TRO hearing is last minute and requires
16 other attorneys to assist to brainstorm arguments, find documents in the record, and otherwise be
17 prepared to assist.

18 The Court should accordingly reject Respondents’ efforts to depict this case as overstaffed.

19 **B. Billing judgment**

20 Respondents next assert that Petitioner’s fees request lacks billing judgment, pointing in
21 particular to two entries for attorneys to walk to and from the courthouse. Dkt. 37 at 6. While
22 Petitioner’s attorneys are entitled for their compensation getting to and from the court, as a
23 compromise they have agreed to eliminate those time entries (1.3 hours for Aaron Korthuis and
24

Leila Kang).¹ However, Respondents' claims about "duplication" and "systemic excessiveness" are without merit. The records instead reflect that a few attorneys worked on each substantive filing in this case, with appropriate editing by other attorneys. For example, the records reflect that Aaron Korthuis drafted the TRO motion, and Matt Adams, Leila Kang, and Julia Braker edited it. Similarly, Glenda Aldana Madrid and Amanda Ng drafted the traverse, and then edited each other's work, with help from Leila Kang. And after prevailing, Aaron Korthuis drafted the fees motion. Meanwhile, CLEAR Clinic attorneys and support staff assisted with client communications, drafted declarations, and compiled supporting materials. *See generally* Dkt. 35-3; *see also* Ex. B (resubmitted and updated timekeeping entries). Nor are the time entries for these matters excessive: the time billed is measured in a matter of hours, not dozens of hours or more.

This is not overstaffing a case or excessive billing: it is common sense and reflects a responsible and sensible legal practice, particularly in a case involving an argument that was still under development. *See, e.g., Reed*, 388 F.3d at 1287 (awarding fees where parties assigned several attorneys to collaborate on briefing). Ultimately, despite the rhetoric, Respondents do little to identify work that was truly duplicative, and simply assert it is so. But claims of "duplicative work" should not become a shortcut for reducing an award without identifying just why the requested fee was excessive and by how much." *Moreno*, 534 F.3d at 1113. The Court should accordingly reject Respondents' request to lower the requested fees by 60%, particularly by altogether eliminating the requested hours for certain attorneys.²

¹ In addition, while not reflected in Petitioner's motion, Petitioner's counsel eliminated several time entries prior to filing the motion for fees as an exercise of billing judgment.

² That Petitioner has not overbilled here is reflected by counsel's fees requests in other cases, which have simply built off the templates and success in this case for similarly situated persons. *See, e.g.,* Reply in Supp. of Mot. for Attorneys' Fees, *Y.M.M. v. Hermosillo*, No. 2:25-cv-02075-TMC (Feb. 25, 2026), Dkt. 21 (requesting \$10,829.92 in fees); Mot. for Attorneys' Fees, *Francois v. Hermosillo*, No. 2:25-cv-2122-RSM-GJL (W.D. Wash. Mar. 5, 2026), Dkt. 23 (requesting \$23,160.25 in multi-petitioner case).

1 **C. Support Staff Rates**

2 Lastly, Respondents assert that Petitioner's rates for their support staff are excessive. Dkt.
 3 37 at 7–8. But, as the EAJA rates provided by the Ninth Circuit do not specify a rate for
 4 paralegal work, *see Statutory Maximum Rates Under the Equal Access to Justice Act*, United
 5 States Courts for the Ninth Circuit, [https://www.ca9.uscourts.gov/attorneys/statutory-maximum-](https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates)
 6 rates (last visited Mar. 16, 2026) (PDF on file with counsel), Petitioner's counsel has previously
 7 sought and been awarded those rates when requesting compensation for legal work performed by
 8 paralegals, *see Koonwaiyu v. Blinken*, Case No. 3:21-cv-05474-DGE, Dkts. 37-3 at 3 & 50-1 at 3
 9 (reflecting EAJA statutory rate for paralegal Maltese), Dkt. 51 at 17–18 (granting fee award
 10 without reducing paralegal rate).

11 Alternatively, Petitioner requests that the Court compensate this work at \$255/hour,
 12 which is the rate established by the Fitzpatrick Matrix, developed and maintained by the U.S.
 13 Attorney's Office for the District of Columbia, *see* U.S. Attorney's Office for the District of
 14 Columbia, Civil Division, The Fitzpatrick Matrix, at 1, [https://www.justice.gov/usao-](https://www.justice.gov/usao-dc/media/1395096/dl?inline)
 15 dc/media/1395096/dl?inline (last visited Mar. 17, 2026) (PDF on file with counsel). The Matrix
 16 is “intended for use in cases in which a fee-shifting statute permits the prevailing party to recover
 17 ‘reasonable’ attorney’s fees,” including EAJA, *id.* at 2, and thus provides an appropriate
 18 benchmark for prevailing market rates. Courts in this district have previously awarded fees for
 19 paralegals based on the same rates reflected in this matrix. *See Cardozo v. Bostock*, Case No.
 20 2:25-cv-00871-TMC (W.D. Wash.), Dkts. 31-1 (showing requested paralegal rate of \$236
 21 consistent with Fitzpatrick Matrix for work performed in 2024), 34 at 6 (granting requested fee
 22 award); *Parada Calderon v. Bostock*, Case No. 2:24-cv-01619-MJP (W.D. Wash.), Dkts. 22-2,
 23 28-2, 29 at 4 (similarly granting award for paralegal work at hourly rate of \$236 consistent with
 24 Fitzpatrick Matrix). Respondents rely on rates under the Criminal Justice Act (CJA) as a

1 benchmark and a 2018 case awarding a similar rate, but CJA rates are not market rates, and rates
2 have increased significantly since 2018. *See, e.g., Kelly v. Wengler*, 822 F.3d 1085, 1103 (9th
3 Cir. 2016) (observing that “actual prevailing rates are very unlikely to be as low” as the rate used
4 in Prison Litigation Reform Act cases, derived from CJA rates). The Court should therefore
5 award the paralegal fees at the requested rate.

6 **CONCLUSION**

7 Mr. Ramirez accordingly respectfully requests that this Court grant his requested fees and
8 costs in the amount of \$42,565.61, which reflects the adjustments above and time for preparing
9 this reply. *See* Ex. A (chart of fees and costs); Ex. B (timekeeping entries).

10 DATED this 17th of March, 2026.

11 s/ Aaron Korthuis
12 Aaron Korthuis, WSBA No. 53974
aaron@nwirp.org

I certify that this memorandum contains 2,056
words, in compliance with the Local Civil
Rules.

13 s/ Glenda M. Aldana Madrid
14 Glenda M. Aldana Madrid,
WSBA No. 46987
glenda@nwirp.org

s/ Leila Kang
Leila Kang, WSBA No. 48048
leila@nwirp.org

15 s/ Amanda Ng
16 Amanda Ng, WSBA No. 57181
amanda@nwirp.org

s/ Matt Adams
Matt Adams, WSBA No. 28287
matt@nwirp.org

17 NORTHWEST IMMIGRANT RIGHTS PROJECT
18 615 Second Ave., Suite 400
Seattle, WA 98104
19 (206) 957-8611

20 s/ Julia M. Braker
21 Julia M. Braker*
Email: julia.braker@clear-clinic.org

22 CLEAR Clinic
23 PO Box 11288
Portland, OR 97211
24 (971) 258-1372

1 *Admitted pro hac vice

2 *Counsel for Petitioner*

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