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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CINTHYA STEPHANIE ARIAS SALAZAR *Petitioner*, v. *Warden of* ADELANTO DETENTION FACILITY; *Ernesto Santacruz Jr in his official Capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations* ADELANTO DETENTION FACILITY; KRISTI NOEM, *in her official capacity as Secretary of the U.S. Department of Homeland Security;* and PAM BONDI, *in her official capacity as Attorney General of the United States*, *Respondents*.	No. 5:25-cv-03236-PA-KES **REPLY IN SUPPORT OF FEE REQUEST** Honorable Percy Andeson United States District Judge Honorable Karen E. Scott United States Magistrate Judge

INTRODUCTION

Pursuant to the Court's Order Requiring Petitioner to File Brief in Support of EAJA Fee Request (Dkt. 11), Petitioner hereby files a reply in support of Petitioner's request for fees and costs under the Equal Access to Justice Act ("EAJA").

ARGUMENT

A. The Government's Position Was Not Substantially Justified

The government's position in this case was not "substantially justified." 28 U.S.C. § 2412(d)(1)(A). Congress placed a heavy burden of proof on the government to demonstrate that its

position was substantially justified. H.R. Rep. No. 96-1418, 96th Cong., 2d Sess. 10, 13-14 (1980) ("[T]he strong deterrents to contesting government action require that the burden of proof rest with the government."). To meet this burden, the government must show that its position had a reasonable basis both in law and in fact. *Pierce v. Underwood*, 487 U.S. 552, 566 n.2 (1988); W.M.V.C., 926 F.3d at 209-10 (quoting *Baker v. Bowen*, 839 F.2d 1075, 1080 (5th Cir. 1988). The government must meet this threshold twice—with regard to the agency action giving rise to the litigation and its litigation positions. 28 U.S.C. § 2412(d)(2)(D); *Herron v. Bowen*, 788 F.2d 1127, 1130 (5th Cir. 1986). If it cannot do both, the Court must award fees. This Court reviews the government's position under a "totality of the circumstances" approach. W.M.V.C., 926 F.3d at 209-10. 4

1. The Respondents pre-litigation position was not substantially justified

The Respondent's pre-litigation position was not justified, let alone substantially justified. At the time the Petition was filed, Respondents were detaining Petitioner under the theory that she was subject to mandatory detention pursuant to 8 U.S.C. § 1225(b), and therefore categorically ineligible for an individualized bond hearing. That position lacked a reasonable basis in law or fact.

As the Court explained, Petitioner has resided in the United States since 2019 and is not "seeking admission" within the meaning of § 1225(b). Rather, because her order of removal is not administratively final while her BIA appeal remains pending, she is detained pursuant to 8 U.S.C. § 1226(a), which expressly authorizes release on bond following an individualized hearing. The Court held that the government's interpretation of the INA of treating long-time residents arrested within the United States as "applicants for admission" conflicts with the statute's plain language and improperly renders significant portions of the INA superfluous.

The Court further noted that the overwhelming majority of district courts to consider this issue, including at least ten judges within this District, have rejected the government's interpretation and held that similarly situated detainees are entitled to bond hearings under § 1226(a). Indeed, well before Respondents detained Petitioner and denied her a bond hearing, multiple courts, including

this Court in *Bautista v. Santacruz*, had already concluded that DHS's policy misapplies § 1225(b) and unlawfully denies detainees their statutory and constitutional rights.

Despite this well-established authority, Respondents continued to detain Petitioner without affording her an individualized bond hearing and only acted after judicial intervention. The Court's grant of habeas relief confirms that Respondents' pre-litigation position lacked a reasonable basis in law and was therefore not substantially justified.

2. The government's litigation position was not substantially justified

The Respondent's litigation position was also unreasonable. Respondents' litigation position was also not substantially justified. In opposing the Petition, Respondents argued that: (1) this Court lacked jurisdiction under 8 U.S.C. § 1252; (2) Petitioner failed to exhaust administrative remedies by appealing the immigration judge's bond denial to the BIA; and (3) Petitioner failed to meet the standard for injunctive relief. The Court rejected each of these arguments.

First, the Court expressly rejected Respondents' jurisdictional arguments, explaining that § 1252(g) applies only to three narrow categories of discretionary actions and does not bar challenges to detention or entitlement to a bond hearing. The Court further held that §§ 1252(b)(9) and (a)(5) do not apply because Petitioner does not challenge a final order of removal, but instead raises claims independent of the removal process. These conclusions are consistent with long-standing precedent and numerous recent district court decisions cited in the Order.

Second, the Court rejected Respondents' exhaustion argument, explaining that exhaustion in § 2241 habeas proceedings is prudential rather than mandatory and may be excused where exhaustion would be futile. Here, exhaustion would have been futile because the BIA had already adopted the same position as DHS in *Matter of Yajure-Hurtado*, and DHS had issued a policy directive mandating the very interpretation the immigration judge relied upon. Requiring Petitioner to appeal to the BIA under these circumstances would have served no purpose.

Third, although Respondents framed their merits arguments as opposition to injunctive relief, the Court rejected those arguments and held that Petitioner is entitled to habeas relief on the merits. The Court emphasized that Respondents did not dispute the material facts alleged in the Petition and that their legal position regarding mandatory detention under § 1225(b) had been repeatedly rejected by courts nationwide.

In sum, Respondents' litigation arguments were contrary to the plain language of the INA, inconsistent with controlling precedent, and rejected in full by this Court. Taken together with Respondents' unreasonable pre-litigation conduct, the government's position as a whole was not substantially justified within the meaning of the Equal Access to Justice Act.

CONCLUSION

Therefore, Petitioner is entitled to an award of attorney's fees under EAJA. Accordingly, The Court should grant $5,000 in fees and expenses.

Respectfully submitted,

/s/Alfonso Morales
Alfonso Morales, Esq.
Attorney for Cinthya Stephanie Arias Salazar

Dated: January 21, 2026

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Cinthya Stephanie Arias Salazar, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 21 day of January, 2026.

/s/Alfonso Morales
Alfonso Morales, Esq.
Attorney for Cinthya Stephanie Arias Salazar