

The Honorable Kimberly Evanson

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

M-Z-H-,

Petitioner,

v.

JULIO HERNANDEZ, Seattle Field Office
Director, Immigration and Customs
Enforcement and Removal Operations
("ICE/ERO"); TODD LYONS, Acting Director
of U.S. Immigration Customs Enforcement
("ICE"); KRISTI NOEM, Secretary of the
Department of Homeland Security ("DHS");
Attorney General of the United States; BRUCE
SCOTT, Warden, Northwest ICE Processing
Center ("NWIPC"); ICE; and DHS.

Respondents.

Case No.: 2:25-cv-02523-KKE

Agency No. A 

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

PETITIONER'S REPLY IN SUPPORT OF MOTION FOR ATTORNEYS' FEES

INTRODUCTION

Respondents do not dispute that Petitioner is the prevailing party, that this motion is timely, that Petitioner is an eligible party under EAJA, that the hourly rate requested is appropriate, or that fees are warranted in principle. The sole issue Respondents raise is whether the number of hours documented by Petitioner's counsel is reasonable. They are. Respondents' proposal to drastically reduce the requested award by eighty percent—from \$40,340.44 to \$8,062.18—is not supported by the facts of this litigation nor caselaw. The Court should grant Petitioner's requested fees in full, plus fees incurred in preparing this reply.

ARGUMENT

I. The Hours Billed by Petitioner's Counsel are Appropriate and Reasonable.

Respondents' objection to the number of hours is misguided and meritless. Petitioner's billing records amply meet the burden of "establishing entitlement to an award and documenting the appropriate hours expended." *Henlsey v. Eckerhart*, 461 U.S. 424, 437 (1982). The Court should defer to counsel's professional judgment as to how much time was required, "after all, he won, and might not have, had he been more of a slacker." *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008). Respondents bear a heavy burden to justify any reduction, and they have not met it here. *Id.* at 1111 (generally describing purpose for EAJA's fee shifting).

A. Petitioner's case was not "straightforward."

Respondents characterize Petitioner's litigation as a "streamlined" and "straightforward." Dkt. No. 21 at 5. This characterization is misleading and contradicted by

1
2 the record. Petitioner is an Afghan asylum seeker who was arrested without warning by
3 masked ICE agents who did not know his identity, could not explain the basis for his arrest,
4 and offered shifting and contradictory justifications throughout his detention. Dkt. No. 16 at
5 2–3, 7. Respondents transferred him to a facility in a different state from his home and family
6 to the Northwest ICE Processing Center in Tacoma, Washington, where he was detained for
7 weeks. Dkt. No. 16 at 5.

8 Petitioner’s counsel acted swiftly to prevent Petitioner’s potential removal from the
9 jurisdiction by filing a habeas petition, motion for temporary restraining order (“TRO”) a
10 supporting declaration, and pro hac vice applications on December 10, 2025. Dkts. Nos. 1–5.
11 Given the TRO, and that the parties stipulated to an expedited briefing schedule, the litigation
12 proceeded on an extraordinarily compressed timeline. Dkt. No. 8. Petitioner filed a twenty-
13 three-page traverse with a supplemental declaration within five days of receiving the
14 Government’s return. Dkts. Nos. 14, 15. The Court granted Petitioner’s writ thirteen days
15 after the Petition was filed. Dkt. No. 16.

16 Litigating a constitutional habeas case to a successful conclusion in thirteen days is not
17 straightforward. Here, it required sustained, intensive effort by multiple attorneys working
18 simultaneously under significant time pressure. Dkt. No. 19-2. Respondents argue that “in
19 practical terms, the absence of [their] developed argument rendered the proceeding
20 functionally equivalent to an unopposed petition.” Dkt. No. 21 at 3. But that the Government
21 chose to file a return that “lack[ed] an analysis section” is merely a manifestation that their
22 litigation position was not substantially justified and also that their agency action was
23 indefensible. It says nothing about the effort required to free M-Z-H- from immigration
24 detention. 28 U.S.C. § 2412(d)(2)(D); Dkt. 16 at 5 n.5. After all, the Respondents choose to

1
2 file a return that was substantially unjustified in lieu of releasing him. Dkt. No. 12. Their
3 unmistakable and very clearly expressed position was to keep M-Z-H- detained. Dkt. No. 12
4 at 1-2.

5 But even then, their objection that this was a “straightforward” case overlooks entirely
6 the agency’s action in detaining M-Z-H-. If this was indeed an uncontested proceeding, that is
7 certainly a well-kept secret, because M-Z-H- was detained until the Court ordered his
8 freedom. Dkt. No. 12 (federal return justifying detention); Dkt. No. 13 (agency declaration
9 justifying detention). Indeed, the Court’s own findings—that the Government’s sole evidence
10 was inadmissible, that the agents did not know Petitioner’s identity, and that the alleged
11 violations had never been raised in nine months of subsequent ICE interactions—reflect the
12 depth of factual and legal analysis that counsel brought to bear on both the agency action and
13 the agency’s litigation position. Dkt. No. 16 at 7–9.

14 **B. Multiple attorneys were reasonably necessary.**

15 Respondents’ argument that two attorneys billing overlapping hours on the same
16 drafting tasks constitutes impermissible duplication is meritless. Dkt. No. 21 at 3–4. “[I]t is
17 not uncommon for complex litigation to require and necessitate multiple attorneys” on
18 particular tasks. *Sierra Club v. BNSF Ry. Co.*, 276 F. Supp. 3d 1067, 1074 (W.D. Wash.
19 2017). Indeed, the Ninth Circuit has made clear that some level of duplication is “inherent in
20 the process of litigating over time,” and “there is no reason why the lawyer should perform
21 this necessary work for free.” *Moreno*, 534 F.3d at 1112. Here, the two attorneys were not
22 duplicating each other’s work. Dkt. No. 19-2. The attorneys were managing simultaneous
23 workstreams under a compressed timeline —simultaneously researching and drafting the
24 petition, TRO motion, and supporting declarations and traverse. This is precisely the kind of

1 collaborative representation that courts in this district have recognized as appropriate and
 2 necessary. *Sierra Club*, 276 F. Supp. 3d at 1074.

3
 4 **C. Counsel's time entries are sufficiently detailed.**

5 Respondents' characterization of Petitioner's time entries as "vague and compound" is
 6 conclusory, as they fail to point to any specific entry to support this conclusion. Dkt. No. 21 at
 7 3–4. Respondents quote no description and offer no explanation as to what makes any
 8 particular entry insufficient. Petitioner's time entries "are detailed enough for the Court to
 9 assess the reasonableness of the hours billed." *See Campbell v. Nat'l Passenger R.R. Corp.*,
 10 718 F. Supp. 2d 1093, 1103 (N.D. Cal. 2010). Each entry describes a discrete task or a logical
 11 sequence of related tasks. For example, the November 25, 2025, five-hour time entry:
 12 "Drafted habeas petition; Conducted legal research for TRO," is sufficiently detailed for the
 13 Court to assess reasonableness. Dkt. No. 19-2. Because Respondents' objection is conclusory
 14 in nature, no reduction in attorneys' fees is warranted on this basis.

15 **D. An eighty percent reduction in fees is not supported by caselaw.**

16 Respondents propose a drastic eighty percent across-the-board reduction in attorneys'
 17 fees without citing any authority authorizing it. Dkt. No. 21 at 5. They do not specify a single
 18 entry that should be excluded, quantify the allegedly duplicative hours, nor explain how they
 19 arrived at eighty percent rather than any other figure. This is not the "concise but clear"
 20 explanation the Ninth Circuit requires when applying percentage reductions. *Gates v.*
 21 *Deukmejian*, 987 F.2d 1392, 1400 (9th Cir. 1993). Respondents' reliance on *Zavorin v.*
 22 *Wamsley*, No. 2:26-CV-00173-DGE, 2026 WL 879246 (W.D. Wash. Mar. 31, 2026), is
 23 misplaced and, if anything, cuts against them. In *Zavorin*, the court reduced hours by only
 24 twenty percent in a case involving a fraction of the work at issue here — 23.5 total hours.

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2 That Respondents cite a case resulting in a twenty percent reduction as support for an eighty
3 percent reduction here illustrates the absence of any principled basis for the figure they
4 propose. The case Respondents cite for across-the-board reduction does not support an eighty
5 percent reduction here. Dkt. No. 21 at 5 (citing *Moreno and Copeland v. Marshall*, 641 F.2d
6 880 (D.C. Cir. 1980)). Instead, *Moreno* instructs courts to compensate counsel at the
7 prevailing rate “no more, no less,” and cautions against windfalls while equally cautioning
8 against under-compensating counsel for work that was necessary and successful. 534 F.3d at
9 1111–12.

10 Reducing a fee award by eighty percent in a case where counsel secured a client’s
11 release from unlawful detention in compressed timeline would not prevent a windfall—it
12 would undercompensate Petitioner’s Counsel and reward the Government for its illegality.

13 CONCLUSION

14 Respondents have conceded the threshold issues of eligibility, prevailing party status,
15 timeliness, and hourly rate. Their sole argument—that 156.08 hours is excessive—is
16 unsupported by specific objections to individual entries, contradicted by the demanding
17 timeline of this litigation, and anchored to a proposed reduction that finds no basis in caselaw.
18 The Court should grant Petitioner’s motion for attorneys’ fees in the full requested amount of
19 \$40,340.44. The Court should further award Petitioner an additional \$775.38 for the 3.0 hours
20 counsel reasonably spent in preparing this reply, totaling to \$41,115.82.

21
22 DATED this 13th of April, 2026.

23 s/Miguel A. Cardenas de Avila

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WORD COUNT CERTIFICATION

I certify that this motion contains 1,543 words, in compliance with the Local Civil Rules.

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