IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

MARICELA REGALADO-HERNANDEZ,

Petitioner,

v.

JUAN BALTAZAR, *et al.*,

Respondents.

Case No. 26-cv-506-GPG

PETITIONER'S MOTION FOR RECONSIDERATION

Pursuant to Fed. R. Civ. P. 59 and 60, Petitioner respectfully moves this Court for reconsideration of its Order (Dkt. 18) denying her motion for attorney's fees and costs under EAJA. Pursuant to D. Colo. L.R. 7.1, counsel for Petitioner conferred with counsel for Respondents, and Respondents are opposed to this motion.

The Court's Order is essentially identical to its order issued yesterday in *Moya Pineda v. Baltasar*, 1:25-cv-2955-GPG-TPO (Dkt. 36), even though these two cases could not be more different.

In this case, unlike *Moya Pineda*, there was no question that Ms. Regalado was detained under § 1226(a), not § 1225(b). In fact, Respondents had even given her a bond hearing under § 1226(a) as long ago as February 2024. Dkt. 1 ¶ 19. This was a case about the legality of an 828-day detention without a constitutionally compliant bond hearing, similar to *L.G. v. Choate*, 744 F. Supp. 3d 1172 (D. Colo. 2024) and *Diaz-Ceja v. McAleenan*, 19-CV-00824-NYW, 2019 WL 2774211 (D. Colo. July 2, 2019), not a case about whether a newly detained noncitizen had been detained under the right statute.

As argued more fully in her reply brief (Dkt. 17 at 2-5), the burden is on the Government to prove that its position was substantially justified in both fact and law, and here there is not one word of explanation in the Government's response as to how its legal theory was reasonable in light of the facts of this particular case, or how the basis for Ms. Regalado's detention could somehow magically shift from § 1226 to § 1225 more than two years into her detention. Therefore, the Government could not have met its burden.

Petitioner respectfully asks the Court to reconsider the arguments advanced in her reply brief (Dkt. 17), as Petitioner believes that a faithful application of the EAJA caselaw cited therein requires an award of fees and costs in this case.

Dated: June 30, 2026

Respectfully submitted,

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Certificate of Service

I hereby certify that the foregoing was filed via the Court's CM/ECF system this 30th day of June, 2026, which sent notice of such filing to all parties.

/s/ James D. Jenkins
Attorney for Petitioner