IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JORGE MATA MERCADO, *Petitioner*, v. J.L. JAMISON, et al., *Respondents*.	Civil Action No. 26-1455

RESPONDENTS' MEMORANDUM OF LAW REGARDING PETITIONER'S CLAIM FOR ATTORNEYS' FEES

On March 12, 2026, this Court granted the above-named immigration detainee's petition for a writ of habeas corpus and ordered he be immediately released, rejecting the government's argument that he was subject to mandatory detention under 8 U.S.C. § 1225(b)(2). ECF No. 8 (March 12, 2026 Order) ¶¶ 1 & 2. Instead, the Court found, "Petitioner is subject to detention, if at all, pursuant to the discretionary provisions of 8 U.S.C. § 1226(a)" and therefore entitled to a bond hearing if the government decides to pursue re-detention under 8 U.S.C. § 1226(a). *Id*. at ¶¶ 2 & 4.

Nevertheless, attorneys' fees are not available to petitioner under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), because the government's position was "substantially justified."[1] Although all district judges in this district

[1] Under the EAJA, a court may award fees and expenses to a prevailing party against the United States "unless the court finds that the position of the United

and the vast majority of district courts around the country have disagreed with the government's position, the Fifth and Eighth Circuit Courts of Appeals, in recent precedential opinions, adopted the government's interpretation of the core statutory question in this case—whether an applicant for admission present in the United States is subject to mandatory detention under 8 U.S.C. § 1225(B)(2)(A).[2] A number of district courts elsewhere have similarly agreed with the government's position.[3]

States was substantially justified or that special circumstances make an award unjust." 28 U.S.C. § 2412(d)(1)(A).

[2] *See Buenrostro-Mendez v. Bondi,* 166 F.4th 494, 502 (5th Cir. 2026) *("*The everyday meaning of the statute's terms confirms that being an 'applicant for admission' is not a condition independent from 'seeking admission.*"); Avila v. Bondi,* 170 F.4th 1128, 1134 (8th Cir. 2026) *(*concluding that "the structure of § 1225(b)(2)(A) does not indicate that 'seeking admission' is a separate requirement for detention under the statute*").* However, the Second and Eleventh Circuits have rejected the government's argument. *See Cunha v. Freden,* 175 F.4th 61 (2d Cir. 2026)*; Fidencio Alvarez v. Warden, Fed. Det. Ctr. Miami, et al.*, 175 F.4th 1258 at *5-6 (11th Cir. 2026) (concluding that the text and statutory structure of the INA, in addition to the congressional purpose in passing the IIRIRA, "yield the conclusion that no-bond detention generally applies to arriving aliens seeking lawful entry to the county, and not to aliens who are simply present here.").

[3] *See Vargas Lopez v. Trump*, No. 25-cv-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-cv-2325, 2025 WL 2730228, at *5 (S.D. Cal. Sept. 24, 2025); *see also C.B. v. Oddo*, No. 25-cv-263, 2025 WL 2977870, at *2 (W.D. Pa. Oct. 22, 2025) (holding petitioner could be held without bond pursuant to § 1225(b), but awarding habeas relief due to the petitioner's prolonged detention); *Chen v. Almodovar, et al.*, No. 25-9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026); *Singh v. Noem, et al.*, No. 25-157, 2026 WL 74558 (E.D. Ky. Jan. 9, 2026); *Gomez Hernandez v. Lyons, et al.*, No. 25-216, 2026 WL 31775 (N.D. Tx. Jan. 6, 2026); *Montoya v. Holt, et al.*, No. 25-1231, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025); *Altamirano Ramos v. Lyons, et al.*, ---F. Supp. 3d ---, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem, et al.*, No. 25-168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Azizzadeh v. Rhoney*, No. 25-CV-1288 (JLS), 2026 WL 44324, at *1 (W.D.N.Y. Jan. 6, 2026); *Chen v. Almodovar*, No. 1:250cv-8350-MKV, 2025 WL 3484855, at *4-8 (S.D.N.Y. Dec. 4, 2025); *Candido v. Bondi*, 25-CV-00867-JLS, 2025 WL 3484832, at *3 (W.D.N.Y. Dec. 4, 2025); *Valencia v. Chestnut*, --- F. Supp. 3d. ----, 2025 WL 3205133, *2-4 (E.D. Cal. Nov. 17, 2025); *Cabanas v. Bondi*, No. 4:25-cv-

Thus, although the government has advanced a minority interpretation of 8 U.S.C. § 1225(B)(2)(A), the position is nonetheless "substantially justified."

In light of these authorities, and in concurrence with Judge Stickman's opinion in *Martinez-Briceno v. Warden of Moshannon Valley Processing Center*, No. 3:26-cv-232, 2026 WL 872494, at *1-2 (W.D. Pa. Mar. 30, 2026), this Court has found the government's position to be "substantially justified" in three recent decisions and, on that basis, denied attorneys' fees. *See* Order, *Vicente v. Jamison*, No. 26-cv-2045, ECF No. 16 at ¶ 6 & n. 1 (E.D. Pa. Apr. 7, 2026) (Hodge, J.); Order, *Meireles De Oliveira v. Jamison*, No. 26-cv-1246, ECF No. 15 (E.D. Pa. Apr. 7, 2026) (Hodge, J.); Order, *Izara-Juarez v. Jamison*, No. 26-cv-2817, ECF No. 11 (E.D. Pa. June 4, 2026). *See also Jacinto Salas v. Jamison*, No. 26-0382, 2026 WL 1382583 (E.D. Pa. May 15, 2026) (Kenney, J.); and Order, *Severino-Acosta v. Jamison*, No. 25-7403, ECF No. 11 (E.D. Pa. May 19, 2026) (Diamond, J.). The government respectfully requests that the Court do the same here.[4]

For the foregoing reasons, Respondents respectfully request that the Court determine that attorneys' fees under EAJA are not available in this matter.

04830, 2025 WL 3171331, *1, *3-6 (S.D. Tex. Nov. 13, 2025); *Altamirano Ramos v. Lyons*, --- F. Supp. 3d ----, 2025 WL 3199872, *4-9 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem*, No. 1:25-cv-00168-JMD, 2025 WL 3131942, *1-5 (E.D. Mo. Nov. 10, 2025); *Silva Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL 3095972, *4-7 (W.D. La. Nov. 4, 2025); *Cirrus Rojas v. Olson*, No. 25-cv-1437-bhl, 2025 WL 3033967, *5, *8-9 (E.D. Wis. Oct. 30, 2025).

[4] Should the Court deny this request, the government respectfully requests leave to respond specifically to any itemized petition for attorneys' fees that counsel may file.

Respectfully submitted,

Dated: June 11, 2026

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CERTIFICATE OF SERVICE

I certify that on June 11, 2026, a true and correct copy of the above document was filed electronically via the Court's CM/ECF system and served via CM/ECF on all counsel of record.

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