UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jairo Leonel Ulloa Gonzales

Plaintiff(s)

v.

Markwayne Mullin et al.

Defendant(s)

PETITIONER'S MOTION FOR ATTORNEYS' FEES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT

Case No: 0:26-cv-03051-JRT-SGE

INTRODUCTION

Petitioner, Jairo Ulloa Gonzales, by and through undersigned counsel and pursuant to 28 U.S.C. § 2412(d), respectfully requests this Honorable Court to grant his attorneys' fees under the Equal Access to Justice Act (EAJA) in the amount of $6,693.09.

BACKGROUND

Petitioner is a non-citizen from Honduras with an approved Form I-360, Special Immigrant Juvenile (SIJ) classification, who was unlawfully arrested without a valid warrant or probable cause of flight risk and detained by immigration authorities while in a valid period of deferred action. Petitioner was released from detention after this Court granted his Habeas Petition and ordered his release from Respondents' custody.

Petitioner entered the United States on September 8, 2021, without inspection. On November 14, 2022, Petitioner was convicted of underage drinking and driving pursuant to Minn. Stat. 169A.33.2 and sentenced to ten (10) days confinement. On September 7, 2022, Petitioner submitted Form I-360, Petition for Amerasian, Widower or Special

Immigrant, in the SIJ classification. On March 24, 2023, USCIS approved Petitioner's Form I-360 and determined that he warranted a favorable exercise of discretion to receive deferred action for a period of four (4) years unless terminated earlier. On February 12, 2026, Petitioner was arrested and charged by the Montevideo Police Department for driving under the influence, which remains pending. On May 22, 2026, Petitioner was ordered released from state custody. On May 22, 2026, the Department of Homeland Security (DHS) arrested Petitioner without a valid warrant or probable cause and placed him in ICE custody. Petitioner was subsequently transferred to the Kandiyohi County Jail in Willmar, Minnesota.

On June 23, 2026, Petitioner filed Petition for Writ of Habeas Corpus ("Habeas Petition") with this Court seeking immediate release from detention. This Court granted Petitioner's Habeas Petition on July 1, 2026, and ordered his immediate release from custody. Petitioner was released from detention on July 2, 2026.

DISCUSSION

I. THE EQUAL ACCESS TO JUSTICE ACT ENTITLES PETITIONER TO AN AWARD OF REASONABLE ATTORNEYS' FEES FROM THE UNITED STATES.

Petitioner seeks the recovery of reasonable attorneys' fees incurred on his behalf from the United States under the EAJA. 28 U.S.C. § 2412, which provides, in part, that

> a court shall award to the prevailing party…fees and other expenses, …incurred by that party in any civil action…brought by or against the United States in any court having jurisdiction of that action, *unless* the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

28 U.S.C. § 2412(d)(1)(A) (emphasis added).

To be granted EAJA fees, the moving party must demonstrate he is a "prevailing party" within the meaning of EAJA. "As the Supreme Court recently reiterated, '[b]efore deciding whether an award of attorney's fees is appropriate ... a court must determine whether the party seeking fees has prevailed in the litigation.'" *Wood v. Burwell*, 837 F.3d 969, 973 (9th Cir. 2016) (quoting *CRST Van Expedited, Inc. v. EEOC*, 136 S. Ct. 1642, 1646 (2016)). Prevailing party status requires a material alteration of the legal relationship between the parties that was judicially sanctioned. *See Wood*, 837 F.3d at 973; *Li v. Keisler*, 505 F.3d 913, 917 (9th Cir. 2007) (order) (citing *Buckhannon Bd. and Care Home, Inc. v. West Virginia Dep't of Health and Human Res.*, 532 U.S. 598, 604–05 (2001)). "[T]he petitioner's success in obtaining the desired relief from the federal court is critical to establishing prevailing party status under *Buckhannon*, regardless of whether the federal court's order addressed the merits of the underlying case." *Li*, 505 F.3d at 917.

The EAJA authorizes an award of fees and other expenses to certain parties who prevail in adversary proceedings against the United States when five conditions are met: (1) the fee application must be submitted within 30 days of final judgment in the action and be supported by an itemized statement; (2) the applicant, if an individual, net worth must not exceed $2,000,000 at the time the action was filed; (3) the applicant must have been the 'prevailing party' in an action brought by or against the United States; (4) the Government's position must not have been 'substantially justified;' and (5) there cannot exist any special circumstances that would make an award unjust." *WHR Grp., Inc. v. United States*, 121 Fed. Cl., 673, 676 (2015). Petitioner satisfies each of these conditions.

As good cause, Petitioner demonstrates he is the prevailing party in the underlying case, Respondents have not shown substantial justification or special circumstances that support denying an award, attorney fees requested are reasonable, Petitioner meets the net worth requirement, Petitioner timely filed an application for fees incurred in this action, including itemized statement of the time expended and computation rate, and the information provided justifies the award of costs and attorney's fees. Should the government oppose the motion, Petitioner reserves the right to amend this request to not only include additional time, but to recalculate hours at the higher hourly rate.

A. Petitioner is a Prevailing Party Under EAJA.

To recovery attorneys' fees and expenses under EAJA, the movant must demonstrate they are the "prevailing party" within the meaning of the Act. *Buckhannon Bd. and Care Home, Inc. v. W. Va. Dep't of Health,* 532 U.S. 598, 603 (2001). A prevailing party is the one who "has been awarded some relief by a court." *Id.* at 603. In addition, "it is well established that a party need not obtain relief on every claim or legal theory…in order to be considered prevailing under a fee-shifting statute." *Jean,* 863 F.2d at 766 (internal quotations omitted). To be a "prevailing party," a federal court's actions must have resulted in a "material alteration of the legal relationship of the parties" and that alteration was "judicially sanctioned." *Cody v. Hillard*, 304 F.3d 767, 772 (8th Cir. 2002) (citing *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Human Res.*, 532 U.S. 598, 604-605 (2001).

The District Court granted Petitioner habeas relief and ordered his immediate release from detention. His status as a prevailing party is beyond dispute. Habeas

proceedings qualify as civil actions under the EAJA. *See., e.g., Oscar v. Gillen,* 595 F. Supp. 2d 166, 169 (D. Mass. 2009) (finding petitioner, who filed a habeas petition and successfully challenged his confinement in immigration detention without a bond hearing to be the prevailing party); *Geegbae v. McDonald,* 2011 WL 841237, at *1 (D. Mass. March 8, 2011) (a party who has successfully petitioned for a writ of habeas corpus is a "prevailing party"); *Muhur v. Ashcroft,* 382 F.3d 653, 654-55 (7th Circ. 2004) (grant of remand to BIA confers status as prevailing party); *Johnson v. Gonzalez,* 416 F.3d 205, 209-10 (3d Circ. 2005); *Rueda-Menicucci v. INS,* 132 F.3d 493, 495 (9th Circ. 1997); *Vacchio v. Ashcroft,* 404 F.3d 663 (2nd Circ. 2005); *In re Hill,* 775 F.2d 1037 (9th Cir. 1985); *Muse v. Barr*, No. 18-cv-0054 (PJS/LIB), 2019 WL 4254676 (D. Minn. Sept. 9, 2019); *see also Nadarajah v. Holder,* 569 F.3d 906, 909-10 (9th Circ. 2009); *Vacchio,* 404 F.3d at 672, *In re Hill,* 775 F.2d at 1040-41; *Nyolo v. Mullin,* No. 0:26-cv-02025 (LMP/DLM) (D. Minn. May 19, 2026); *Jacome Ulloa v. Noem,* No. 0:26-cv-00862 (D. Minn. Mar. 25, 2026). Because Petitioner sought and received an order granting habeas relief, Petitioner undoubtedly qualifies as the prevailing party.

B. The Government Cannot Meet Its Burden to Prove Substantial Justification.

The EAJA provides that a prevailing party is entitled to fees and expenses in any action brought against the United States "unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust," 28 U.S.C. § 2412(d)(1)(A), i.e. "justified to a degree that could satisfy a reasonable person." *Bah v. Cangemi*, 548 F.3d 680, 683 (8th Cir. 2008). Further, a court decision lacks substantial justification when it is "contrary to clearly established law." *Fraction v. Bowen*, 859 F.2d 574, 575 (8th Cir. 1988) (citation omitted).

A litigation position that is ultimately rejected may be substantially justified if "a reasonable person could think it correct, that is, if it has a reasonable basis in law and fact." *Id.* at 683-84 (quotation omitted); see *Mattson v. Bowen*, 824 F.2d 655, 656 (8th Cir. 1987) (quotation omitted). The government bears the burden of demonstrating its litigation position was substantially justified. *Bah v. Cangemi*, 548 F.3d 680, 683 (8th Cir. 2008); *Friends of Boundary Waters Wilderness v. Thomas*, 53 F.3d 881, 885 (8th Cir. 1995).

Petitioner challenged his unlawful arrest without a valid warrant or probable cause while in a period of deferred action as well as his continued detention as a violation of due process. Respondents relied on 8 U.S.C. § 1225(b) to justify Petitioner's detention without an individualized bond determination in this case. This Court found that Petitioner's arrest by Respondents was unlawful and represented a violation of constitutional due process under the Fifth Amendment, stating "the Court concludes that Petitioner's arrest was unlawful and will therefore order his immediate release." The Court found the administrative warrant issued for Petitioner's arrest was invalid because "removal proceedings were not commenced against Petitioner...until...nearly three weeks after his arrest," and concluded that "[a]ccordingly, Petitioner's arrest pursuant to the I-200 warrant was unlawful." Further, this Court found that "to the extent that Respondents rel[ied] on their authority to conduct warrantless arrests under 8 U.S.C. § 1225(b)(2) and 8 U.S.C. § 1357(a), such arrest was similarly unlawful" because "the record before the Court [did] not demonstrate that Petitioner was likely to escape before a valid warrant could be obtained for his arrest." Because the Court granted relief to Petitioner on his constitutional due process claim, the Court did not address his Fourth

Amendment claims or claims under the APA. Nor did the Court need to address Petitioner's challenges to Respondents' evidence on hearsay grounds.

The government has taken the position that the Due Process Clause does not place *any* limit on the mandatory detention of an alien who enters the United States without inspection under § 1225(b)(2), defined as any noncitizen present in the county who has not been lawfully admitted. This is no limitation at all, as under such definition, any person who entered the United States without inspection is subject to mandatory detention and never entitled to a bond hearing at which a judge makes an individualized determination about the likelihood they will flee or endanger the community. Indeed, the government contends the length of detention carries no constitutional significance. This Court should find Respondents' position in this case was not substantially justified and no reasonable factfinder would agree. The government argues the language of § 1225(b) mandates the detention of removable aliens considered inadmissible. Whether that is true is irrelevant here. The central question in this litigation is not what the statute requires, but instead the *constitutionality* of what the statute requires. *See Zadvydas v. Davis,* 533 U.S. 678 (2001) (holding that § 1225(b) authorizing detention of noncitizens seeking admission into the United States "permit detention only while removal remains reasonably foreseeable"). Here, the government cannot demonstrate either its actions in arresting Petitioner without a valid warrant or probable cause, failing to conduct an individualized determination of flight risk to justify his warrantless arrest, or its position during the habeas litigation were substantially justified. Further, the government arrested and detained Petitioner despite no evidence on the record that his period of deferred action had been terminated.

The government may contend its position was substantially justified because the Supreme Court has not yet expressed an opinion on the extent to which the Due Process Clause limits detention under § 1225(b). Notably, this Court has disagreed in similar cases where the government argued that "[I]f the governing law is unclear or in flux, it is more likely that the government's position will be substantially justified. *Mattson*, 824 F.2d at 657 (quoting *Martinez v. Sec'y of Health and Human Servs.*, 815 F.2d 1381, 1383 (10th Cir.1987)).

The government's specific litigation position before the Court supports awarding EAJA fees to Petitioner. *See Herring v. United States*, 781 F.2d 119, 121-22 (8th Cir. 1986) (looking to the government's specific litigation position before the district court when deciding if attorney's fees were warranted under the EAJA). Further, that question has been addressed by numerous other federal courts – and the majority (including this Court) have rejected the government's position that mandatory detention under § 1225(b) comports with constitutional due process.

The government's position – that, as long as the government does not act in bad faith, an alien detained under § 1225(b) is *never* entitled to a bond hearing, no matter how long he is detained – is not substantially justified. That position has not been accepted by this Court nor the majority of others and cannot be squared with Supreme Court precedent set by *Zadvydas*. The government cannot establish substantial justification for Petitioner's detention without a bond hearing, without a valid warrant, and without probable cause of flight risk to justify his effectively warrantless arrest, considering the numerous district and circuit court decisions finding that the mandatory detention of noncitizens present in the United States under § 1225(b) raises due process concerns.

In the instant case, this Court found Respondents relied on section 1225(b) to justify Petitioner's unlawful arrest without a valid warrant or probable cause, however, this Court found Respondents' reasoning unpersuasive and concluded that Respondents' position lacked merit. Respondents failed to issue NTA until three weeks after Petitioner's unlawful arrest without a valid warrant or probable cause of flight risk and while he remained in a valid period of deferred action. Petitioner prevailed on the major goals of the litigation, in furtherance of the policy behind the EAJA, and is entitled to attorney's fees. *See Sierra Club v. Clark*, 755 F.2d 608, 619 (8th Cir. 1985) (fees recoverable when petitioner achieves some success on the merits of its claims which further the purpose of the Act (citation omitted)).

C. There Are No Special Circumstances in This Case That Make an Award Against the Government Unjust.

A court may deny attorneys' fees even if the government's position was not substantially justified if "special circumstances make an award unjust." 28 U.S.C. § 2412(d)(1)(A). The government bears the burden of establishing such special circumstances. *Rapp v. Colvin*, Case No. 12-cv-2473 (PJS/TNL), 2014 WL 5461889, at *1 (D. Minn. Oct. 27, 2014) (quoting 28 U.S.C. § 2412(d)(1)(A)). "The EAJA directs courts to award fees and other expenses to prevailing parties unless the United States' position was substantially justified or special circumstances would make an award unjust." *Yarbrough v. Cuomo*, 209 F.3d 700, 703 (8th Cir. 2000) (citation omitted).

Here, no special circumstances exist that would make an award unjust. The Government did not advance in good faith novel but credible extensions and interpretations of the law and there are no equitable considerations dictating an award not be made. The government failed to provide any explanation for how Petitioner's

effectively warrantless arrest without probable cause and continued detention without a bond hearing and despite his valid grant of deferred action comported with constitutional due process. *See Liu*, 538 F.Supp.2d at 1122 (finding Respondents provided no explanation for their action and failure to follow clearly established law created the procedural predicament). Therefore, the government cannot claim its position in defending the instant lawsuit was substantially justified in law or fact, or that special circumstances make an award against the government unjust. Petitioner is a prevailing party entitled to reasonable attorneys' fees and costs.

D. Petitioner's Application is Timely Filed.

Petitioner's Motion for Attorneys' Fees is timely filed. Section 28 U.S.C. § 2412(d)(1)(B) requires fee applications to be field within 30 days of "final judgement" in the action. 28 U.S.C. § 2412(d)(1)(B). The District Court of Minnesota granted Petitioner's Habeas Petition on July 1, 2026. Petitioner's 30-day window to file a motion seeking attorneys' fees under EAJA will expire on July 31, 2026. This motion has been filed within that window.

E. Petitioner Meets the Net-Worth Requirement of the EAJA.

Eligibility for an award of fees under the EAJA depends upon the petitioner's net worth, which must not have exceeded $2,000,000 "at the time the civil action was filed." 28 U.S.C. § 2412 (d)(2)(B); *see United States v. Hopkins Dodge Sales, Inc.*, 707 F. Supp. 1078 (D. Minn. 1989). In the instant action, Petitioner is eligible for EAJA fees because his net worth was well below the threshold of $2,000,000 when he filed his Habeas Petition. *See* Exhibit 1 (Sworn Declaration of Jairo Leonel Ulloa Gonzales).

II. PETITIONER REQUESTS REASONABLE ATTORNEYS' FEES.

Prevailing parties are entitled to be compensated for all time reasonably spent litigating the matter, including time spent on a motion for attorneys' fees. *See Comm'r, I.N.S. v. Jean,* 496 U.S. 154 at 163-65 (1990); *see also Kelly v. Bowen*, 862 F.2d 1333, 1334 (8th Cir. 1988) (stating that time spent preparing EAJA fee application is compensable). Petitioner requests an award in the total amount of $6,693.09 in attorneys' fees and costs. This consists of $6,105.57 in fees for work performed by Attorney Karen Venice Bryan, $587.52 in fees for work performed by her paralegal, and $6.00 in costs. Attorney fees sought are to compensate Attorney Bryan for 22.75 hours of work on the case and to compensate her paralegal for 7 hours of work on the case. The Court should find the amount of fees requested is facially reasonable and commensurate with the success of the litigation and relief obtained and grant the request in its entirety.

A. Petitioner's Counsel is Providing Herein a Statement of Attorneys' Hours and Fees as Required Under 28 U.S.C. § 2412 (d)(1)(B).

A claim for attorneys' fees and recoverable expenses under EAJA must include a statement for any attorney indicating the actual time expended and the rate at which fees and recoverable expenses were computed. 28 U.S.C. § 2412 (d)(1)(B). Attached is Attorney Bryan's declaration, and billing statements for Attorney Bryan as well as the paralegal who worked on the case and the rate fees and costs were computed. *See* Exhibit 2 (Declaration of Attorney Bryan); Exhibit 3 (Billing Statements of Attorney Bryan and Supervised Paralegal). As counsel states in her declaration, she has contemporaneously maintained accurate records of time spent and expenses incurred in this matter. She has also carefully reviewed her time and exercised prudent billing.

B. This Court Should Award Petitioner Attorneys' Fees for Paralegal Work and Attorneys' Fees Above the Statutory Limit for Attorney Karen Venice Bryan and Her Paralegal Based on the Cost-of-Living Adjustment.

Congress has set a statutory cap for attorneys' fees at a rate of one hundred twenty-five dollars ($125.00) per hour *unless* the Court determines that an increase in the cost of living or a special factor permits a higher fee.

1. This Court Should Award the Petitioner's Attorneys' Fees at the Rate Requested for Work Performed by Paralegals.

The U.S. Supreme Court and lower courts "have approved the inclusion of fees for paralegals, law clerks and law students, in fee awards under EAJA ... on the theory that their work contributed to their supervising attorney's work product, was traditionally done and billed by attorneys, and could be done effectively by nonattorneys under supervision for a lower rate, thereby lowering the overall litigation cost." *Cook v. Brown*, 68 F.3d 447, 453 (Fed. Cir. 1995) (citing *Missouri v. Jenkins*, 491 U.S. 274, 288 n. 10 (1989); *West Virginia Univ. Hospitals, Inc. v. Casey*, 499 U.S. 83, 89 (1991), superseded by statute, Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1071; *Miller v. Alamo*, 983 F.2d 856,862 (8th Cir. 1993)). Thus, EAJA fees are allowed for paralegal work. *Richlin Sec. Service Co. v. Chertoff*, 553 U.S. 571, 590 (2008) (holding that a prevailing party may recover paralegal fees from the Government at prevailing market rates); *Jean*, 863 F.2d at 778. This Court should award EAJA fees compensable at the prevailing market rate for the work of the paralegal.

The prevailing market rate for paralegals under the 2015-2021 USAO Attorney's Fees Matrix is $180 per hour and $277 per hour under Laffey Matrix. Petitioner requests fees of $82.93 per hour, based on the market rate, for work done by the paralegal. The requested fees are within prevailing market rates for paralegals. The attached declaration and billing statements demonstrate that the paralegal

performed work generally done by an attorney while under the supervision of a licensed attorney and the time the paralegal expended on the case was reasonable.

This Circuit has held that EAJA allows a prevailing party to recover fees for time spent by paralegals so long as "the paralegal performs work traditionally done by an attorney." *Miller v. Alamo*, 983 F.2d 856,862 (8th Cir. 1993)). *See also Jean*, 863 F.2d at 778; see *Advanced Diabetes Treatment Ctrs.*, LLC v. Sebelius, No. 09-61698, 2012 WL 5077155, at *14 n.18 (S.D. Fla. Sept. 20, 2012) (stating that "[t]ime spent by paralegals…is compensable in an EAJA fee award").

In 1989, when the Supreme Court decided *Jenkins*, the prevailing rate for work performed by a paralegal was $40. In 2026, when paralegal began performing legal services for Petitioner, inflation adjustments were calculated using the following equation: (CPI-U June 2026) / (CPI-U December 1989) x $40/hour. This amounts to (333.952/126.1) x $40 = $105.93 per hour. In 1992, the Eight Circuit set paralegal fees at $25 per hour. *See Little Rock*, 959 F.2d at 716. If inflation is calculated using the same equation: (CPI-U June 2026) / (CPI-U March 1992) x $25/hr. This amounts to (333.952/139.3) x $25 = $59.93 per hour. If $105.93 is the high and $59.93 is the low, the median for paralegals is $82.93.

The attached declaration of Attorney Bryan at Exhibit 2 and the Billing Statements of Attorney Bryan and Supervised Paralegal at Exhibit 3 demonstrate the work performed by a paralegal in this case was work generally done by an attorney while under the supervision of a licensed attorney. This Court should therefore award EAJA fees for work performed by the paralegal.

2. This Court Should Award EAJA Fees and Costs Above Statutory Limit for Attorney Bryan Based on Cost-of-Living Adjustment and Specialized Skill.

The EAJA caps attorney fees at $125 per hour unless the court determines an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee." When making such an adjustment, there are two computational issues for courts: (1) which cost-of-living index to use; and (2) what period of time to use to compare to the base period (i.e., March 1996, when 28 U.S.C. § 2412(d) was amended and the statutory ceiling was set at $125 per hour). 28 U.S.C. § 2412(d)(2)(A).

Most courts, including the Eighth Circuit, have approved the use of the Consumer Price Index for All Urban Consumers (CPI-U) as the appropriate index for EAJA cost of living adjustments; *see Johnson v. Sullivan*, 919 F.2d 503, 505 (8th Cir. 1990) (granting higher fee rate based on unrebutted evidence of the Dep't of Labor's Consumer Price Index, information about the attorney's experience and recent award of EAJA fees at the requested rate (citation omitted)). *See* Exhibit 4. Further, most courts have held that the period when services were performed is the correct period to use for calculating the cost-of-living adjustments, not the date the award is made.

Under the 2015-2021 USAO Attorney's Fees Matrix, the prevailing market rate for an attorney with Attorney Bryan's twelve years of experience is $532 per hour and $1,019 per hour under the Laffey Matrix. The market rates for the type of work performed here exceeds the $125 EAJA rate cap. Petitioner requests the Court reimburse Attorney Bryan at a rate of $268.11 per hour, which is the EAJA statutory rate of $125 per hour, adjusted for inflation by the CPI–U. *See Stockton v. Shalala*, 36 F.3d 49, 50 (8th Cir. 1994). This increase is warranted and in line with awards in similar cases after adjustment. *See Bonilla v. Johnson*, No. 14-cv-4962, 2016 WL 10636351, at *3 (D. Minn. Dec. 15, 2016). *See* Exhibit 4.

The cost-of-living increase is calculated by determining the percentage difference between the CPI-U amount in March 1996, when the $125 per hour rate was established, and the current CPI-U. *See Knudsen v. Barnhart*, 360 F.Supp.2d 963, 969 (N.D. Iowa 2004) (stating "the Eighth Circuit Court of Appeals has established that the original rate of $125 per hour set by statute in 1996 is to be adjusted by the CPI if proof is offered by the petitioner' attorney to justify an adjustment"). Petitioner's Habeas Petition was filed on June 23, 2026. The Consumer Price Index-All Urban Consumers ("CPI-U") for June 2026 is 333.952. *See* Exhibit 4. (Consumer Price Index-All Urban Consumers, available at https://www.bls.gov/news.release/cpi.nr0.htm).

Assuming the CPI-U for June 2026 is used for all work completed (for ease of calculation and to obtain an overall lower-bound estimate), the cost-of-living adjusted hourly rate for attorney's fees in this case is calculated as follows:

A= June 2026 CPI-U (333.952)

B = March 1996 CPI-U (155.7)

C = CPI-U Adjusted Rate

C = *A/B* x $125/hr. = (333.952/155.7) x $125 = $268.11

The Court should conclude that a rate of $268.11 per hour is warranted. Attorney Bryan has represented Petitioner in this matter since June 1, 2026. Petitioner submits billing records supporting Attorney Bryan's time spent on this matter. Petitioner retained Attorney Bryan after Respondents subjected him to unlawful arrest and detention in violation of his constitutional rights. Attorney Bryan was required to quickly come up to speed on Petitioner's case, including his history dealing with the immigration system. Attorney Bryan's skills and experience enabled her to understand the law and facts in a short amount of time and quickly file an opening brief.

The requested fee rates are reasonable market rates for Attorney Bryan's experience and skill level and the hours incurred are reasonable as attested to in the Attorney Declaration. *See* Exhibit 2. Attorney Bryan's skills were needed in the litigation of this case; without her expertise, it is doubtful whether Petitioner would have succeeded in the case; and her skills are not available, in Minnesota or elsewhere, at the statutory rate. Petitioner's attorney meets all criteria for an enhanced fee.

The attached declaration at Exhibit 2 and billing statements at Exhibit 3 establish that prevailing market rates for the type of work performed here exceed the $125 EAJA rate cap. Therefore, cost-of-living rate adjustment should be applied to the attorney's fees.

C. Petitioner Requests Reasonable Attorneys' Fees and Costs in the Total Amount of $6,693.09 Based on a Reduced Rate.

Because the government fails to meet its burden to establish that its position had a "reasonable basis in law and fact," *Bah,* 548 F.3d at 683-84, Petitioner is entitled to an award of attorney's fees under the EAJA. Petitioner seek to recover all fees and expenses incurred for legal services associated with the Habeas Petition totaling the amount of $6,693.09. Petitioner's request is reasonable, and after review of billing records showing the amount of time expended and the hourly rate requested, this Court should find the hourly rate and number of hours billed by Petitioner's attorney and paralegal are eminently reasonable. *See Am. Wrecking Corp. v. Sec'y of Labor*, 364 F.3d 321, 328 (D.C. Cir. 2004) ("The EAJA limits a party's recovery to those fees and expenses that are 'reasonable.'"). The declaration of Petitioner's attorney and detailed time records are attached and satisfy his burden of justifying the reasonableness of the hours claimed. *See Hensley v. Eckerhart*, 461 US 424, 437 (1983).

Accordingly, Petitioner requests the Court to order the government to pay the fees directly to his attorney after first offsetting any amount Petitioner owes to the United States. See *Dornbusch v. Astrue*, No. 09-CV-1734 (PJS/JJG), 2011 WL 779781, at *1-2 (D. Minn. Mar. 1, 2011) (ordering the defendant to pay EAJA fees and costs directly to the prevailing party's attorney). See Exhibit 5. Assignment of Rights to Attorneys' Fees. Petitioner's total claim for attorneys' fees and costs under EAJA is as follows.

ATTORNEY KAREN VENICE BRYAN

Fees (22.75 hours x $268.11 per hour) = $6,099.57

PARALEGAL

Fees (7 hours x $82.93 per hour) = $578.52

COSTS AND DISBURSEMENTS

$6.00

TOTAL ATTORNEYS' FEES AND COSTS: $6,693.09

Petitioner will defer to the court's calculation of attorneys' fees and costs.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Honorable Court grant his Motion for Attorneys' Fees against the United States pursuant to the EAJA for the **total amount of $6,693.09.**

Dated: July 16, 2026

/s/ Karen V. Bryan
Karen V. Bryan (0397399)
4100 Excelsior Blvd
St Louis Park, MN 55416
Office: (612) 345-4782
Fax: (612) 886 3360
Email: karen.bryan@kblawgrp.com

CERTIFICATE OF COMPLIANCE

This motion complies with the word limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts exempted by Fed. R. App. P. 32(f), it contains 4891 words. This motion complies with the requirements of Fed. R. App. P. 32(a)(5) and Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface (Times New Roman) using Microsoft Office 2024.

Dated: July 16, 2026

/s/ Karen V. Bryan
Karen Venice Bryan, Esq.