UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jairo Ulloa Gonzales

Plaintiff(s)

v.

Markwayne Mullin et al.

Defendant(s)

PETITIONER'S RESPONSE IN OPPOSITION TO RESPONDENTS' MOTION TO HOLD CASE IN ABEYANCE

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

Respondents submitted Motion to Place Petitioner's Motion for Attorney's Fees under the Equal Access to Justice Act (EAJA) pursuant to 28 U.S.C. § 2412 in Abeyance pending the Supreme Court's decision in *Montoya Palacios v. Liggins,* No. 25-1223. Petitioner respectfully submits this Response in Opposition to Respondents' Motion to Place Case in Abeyance. Respondents have not shown good cause to hold Petitioner's motion for attorney's fees in abeyance, and this Court should dismiss Respondents' motion.

The Supreme Court has not issued an injunction prohibiting Petitioner's request for attorney's fees pending the resolution of *Montoya Palacios v. Liggins*. Petitioner will suffer substantial prejudice if the abeyance motion is granted and at the time of filing Petitioner's motion for attorney's fees, as well as to date, habeas petitions filed by federal detainees in this Circuit are considered civil actions to which the prevailing party is entitled to attorney's fees should the government not demonstrate its position was

substantially justified. Holding Petitioner's motion for attorney's fees in abeyance does not promote judicial efficiency or conserve judicial resources, but rather, unnecessarily prolongs litigation in this case. Should this Court grant Respondents' Motion, Petitioner reserves the right to calculate additional attorney's fees incurred at a higher rate.

Notably, Respondents falsely state that Petitioner's attorney took this case *pro bono*. That is incorrect. Counsel did not take Petitioner's case *pro bono*. Petitioner's family retained Counsel to draft and file his habeas petition on his behalf. Moreover, counsel for Respondents did not contact undersigned counsel regarding Petitioner's position on the relief requested in this motion. Regardless, Petitioner opposes the unilateral request to hold this fully briefed case in abeyance. This Court should dismiss Respondents' Motion to Place Case in Abeyance. Respondents filed Opposition to Petitioner's Motion for Attorney's Fees on July 31, 2026, and this case is now ripe for adjudication.

Accordingly, Petitioner respectfully requests the Court grant Petitioner's request for attorney fees under the EAJA and award the amended requested amount of $7,813.26. *See* Petitioner's Reply to Respondents' Opposition to EAJA Fees. Respondents' position, both prior to and during litigation, was not substantially justified and Respondents have failed to meet their burden to show otherwise. Should this Court grant Petitioner's motion for attorney's fees, Petitioner respectfully requests this Court order the Government to make payment to Petitioner within 30 days of the Order. *Nyolo v. Mullin,* No. 26-cv-02025-LMP-DLM (D. Minn. 2026).

ARGUMENT

I. Respondents Have Failed to Show Good Cause Exists to Hold This Case in Abeyance.

This Court should deny Respondents' request to hold this case in abeyance. "The proponent of a stay bears the burden of establishing its need." *Clinton v. Jones,* 520 U.S. 681, 708 (1997). To carry their burden, Respondents "must make out a clear case of hardship or inequity in being required to go forward, if there is even a fair possibility that the stay for which [they] pray[] will work damage to someone else." *Landis v. N. Am. Co.,* 299 U.S. 248, 255 (1936). Respondents cannot show hardship in continuing with this case, and there is far more than a fair possibility of hardship to Petitioner. Respondents have, therefore, failed to show good cause exists to hold this case in abeyance.

Respondents raise vague notions of conserving judicial resources. But "the interests of judicial economy alone are insufficient to justify such an indefinite stay." *Ortega Trujjillo v. Conover & Co. Commc'ns,* 221 F.3d 1262, 1265 (11th Cir. 2000). Briefing has now been completed and this Court need not hold oral arguments before issuing an opinion or order. Weighing against any slight consideration of preserved effort is the substantial prejudice such a stay would cause Petitioner. If the Court holds this case in abeyance, it will extend a dispute that can easily be resolved now on the merits.

Respondents argue that the Court should decline to rule on the motion for attorney's fees while relevant litigation unfolds at the United States Supreme Court, contending that "[b]ecause these proceedings present the same issue as *Montoya Palacios*, the Supreme Court's decision in that case, with briefing to begin in August 2026, will inform the outcome of Petitioner's attorney's fees motion." This Court should decline Respondents' invitation to hold in abeyance ruling on Petitioner's motion pending appellate proceedings given the numerous cases in which Judges in this District found that EAJA fees may be awarded to a prevailing petitioner in an immigration habeas

proceeding. *Muse v. Barr*, No. 18-cv-0054 (PJS/LIB), 2019 WL 4254676 (D. Minn. Sept. 9, 2019); *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). *See also., 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); *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. Further, in light of the completed briefing on fees in this case, Respondents' motion should be denied.

Importantly, Respondents' identical argument which is employed here has been recently rejected by numerous District Courts across the country. *See P.C. v. Wofford,* No. 25-1546 (E.D. Cal. 2026); *Gurjinder S. v. Warden of the Golden State Annex Detention Facility,* No. 26-188 (E.D. Cal. 2026); *Torres v. Francis,* No. 25-8408 (S.D.N.Y. 2026). Further, a grant of certiorari by the Supreme Court does not, on its own, change the controlling law in this District or this Circuit. This Court and others have continued to rule on EAJA motions in the period following the Supreme Court's decision to grant certiorari in *Palacios. See Cazales Diaz. v. Bondi,* No. 26-738 (D. Minn. July 30, 2026); *see also Tounkara v. Casey,* No. 26-1306 (S.D. Cali. June 29, 2026); *G.S. v.*

Hermosillo, No. 25-2704 (W.D. Wash. June 30, 2026); *B.D.V.S. v. Forestal,* No. 25-1968 (S.D. Ind. June 29, 2026); *Dominguez Ramirez v. Chestnut,* No. 26-1137 (E.D. Cali. July 2, 2026); *Singh v. Maldonado,* No. 26-2212 (E.D.N.Y. July 8, 2026).

Respondents filed Response in Opposition to Petitioner's Motion for Attorney's Fees on July 31, 2026. That same day, Respondents filed a request to hold this case in abeyance pending the Supreme Court's resolution of *Palacios v. Liggins*. Respondents failed to raise this argument in their opposition to the Motion for Attorney's Fees, and this Court should consider it waived for lack of exhaustion.

Further, this Court should disagree that "Petitioner will not suffer any prejudice if this abeyance motion is granted," and decline to hold the present matter in abeyance. *See Gurjinder,* at *3-4 (E.D. Cal. 2026); (quoting *Clinton v. Jones,* 520 U.S. 681, 706 (1997) ("The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket.")). Petitioner will suffer substantial prejudice if his Motion for Attorney's Fees is held in abeyance, as granting an abeyance would cause severe financial delay to Petitioner and significantly increase litigation costs. Petitioner did not retain undersigned Counsel *pro bono* – Petitioner's family retained Counsel to draft and file his habeas petition on his behalf.

Courts have "broad discretion to stay proceedings." *Clinton v. Jones,* 520 U.S. 681, 706 (1997). This authority is "incidental to the power inherent in every court to control" its docket. *Landis v. North American Co.,* 299 U.S. 248, 254 (1936). A Court may hold its own proceedings in abeyance when it would serve "economy of time and effort for itself, for counsel, and for litigants." *Id.; see also Pacheco v. Garland,* No. 21-

3104, 2021 U.S. App. LEXIS 18546, at *1 (6th Cir. June 21, 2021) (stating that an abeyance can prevent the "unnecessary or redundant use of judicial resources").

An abeyance here would not conserve judicial resources, but rather, would expend additional and largely unnecessary resources and inhibit judicial economy in the present proceedings. The Supreme Court's ruling on whether habeas petitions challenging civil immigration detention qualify as "any civil action" is unlikely to be released until mid-2027 and, thus, may not be forthcoming for a year, as the petitioner's brief on the merits in *Palacios* is not due until August 31, 2026, the time to file respondents' brief on the merits in that case has been extended to October 23, 2026, and oral arguments are not yet scheduled.

Accordingly, Petitioner respectfully requests that this Court deny Respondents' Motion to Hold Case in Abeyance and grant Petitioner's Motion for Attorney's Fees in full for the amended amount of $7,813.26.

Dated: August 2, 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