

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MINNESOTA**

MARCELINO J.U.)	
)	
Plaintiff,)	
)	
v.)	Case No. 26-cv-00862-SRB
)	
KRISTI NOEM, et al.,)	
)	
Defendants.)	

ORDER

Before the Court is Petitioner Marcelino J.U.’s (“Petitioner”) Motion for Attorney Fees. (Doc. #23.) Plaintiff requests an award of attorney’s fees and costs in this case pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$6,846.17.

The EAJA requires a court to award fees, costs, and other expenses to a prevailing party in proceedings brought against the federal government, unless the position of the government was substantially justified or special circumstances make an award unjust. § 2412(d)(1)(A). The federal government carries the burden of proving that its position, including the action by the agency upon which the civil action was based, *see* § 2412(d)(2)(D), was substantially justified. *United States v. Hurt*, 676 F.3d 649, 652 (8th Cir. 2012).

Respondents have failed to carry their burden. The Court finds that Petitioner is the prevailing party for the purposes of EAJA. Respondents do not dispute that Petitioner is the prevailing party. *See* (Doc. #25, p. 2.) Respondents argue, however, that their position was substantially justified and so EAJA fees are not warranted. The Court disagrees with Respondents and instead agrees with Petitioner that

[T]his Court found that Respondents continue to rely on an incorrect interpretation of sections 1225 and 1226 and concluded, as in other similar cases, that Respondents’ interpretation lacks merit. Indeed, Courts have overwhelmingly

rejected Respondents' interpretation that section 1225(b)(2) requires the mandatory detention of all noncitizens living in the country who are "inadmissible" because they entered the United States without inspection. . . . Petitioner prevailed on the major goals of the litigation, in furtherance of the policy behind the EAJA, and is entitled to attorney's fees.

(Doc. #23, p. 8.)

For these reasons, and the reasons articulated in *Salazar v. Noem*, No. 8:26-CV-44, 2026 WL 594606 (D. Neb. Mar. 3, 2026), the Court finds that Respondents' position was not substantially justified.

Next the Court must determine what fees are reasonable. The best starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). This calculation provides an objective basis on which to make an initial estimate of the value of a lawyer's services. *Id.* The Court must exclude from this calculation hours that were not reasonably expended. *Id.* at 433-34.

Petitioner requests \$6,846.17 in attorneys' fees and costs. This amount consists of \$6,266.88 in fees for work performed by Attorney Karen Venice Bryan, \$565.39 in fees for work performed by her paralegal, and \$13.90 in costs. These amounts compensate attorney Bryan for 24 hours of work and her paralegal for 7 hours of work.

Upon review, the Court finds that hours expended were reasonable. These hours were required by the government's conduct not only in unlawfully detaining the petitioner, but removing him from the jurisdiction, failing to release him promptly per the Court's orders, and failing to return his property upon release. This case further involved two show cause Zoom hearings addressing Respondents' failure to abide by the Court's Orders. *See* (Doc. #23-3).

While the Government argues the hours expended were unreasonable, the Court agrees

with Petitioner that “the hours expended reviewing the record and writing briefs in this case[, including the EAJA motion], were reasonable because the facts were new and novel, even if the legal issues were not.” (Doc. #26, p. 9.)

As for the hourly rates, Petitioner requests her hours be billed at \$261.12 per hour and the paralegal rate be billed at \$80.77 per hour. The Court finds these rates appropriate given the cost of living and that similar rates have been approved by the District of Minnesota in similar cases. *See* § 2412(d)(2)(A); *see also Maria V.H. v. Pamela Bondi*, 26-cv-546-JMG.

Accordingly, it is hereby ORDERED that Plaintiff’s Motion for Attorney Fees (Doc. #23) is GRANTED.

It is further ORDERED that Plaintiff shall be awarded attorney’s fees and costs in the amount of \$6,846.17 pursuant to the EAJA.

IT IS SO ORDERED.

Date: March 25, 2026

/s/ Stephen R. Bough
STEPHEN R. BOUGH
UNITED STATES DISTRICT JUDGE