

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Michelin v. Warden Moshannon Valley Correctional Center; Abioye
v. Warden Moshannon Valley Processing Center

Michelin; Abioye · No. Nos. 24-2990 and 24-3198 · Decided March 2, 2026

SUMMARY

The United States Court of Appeals for the Third Circuit denied petitions for panel rehearing and rehearing en banc in consolidated cases involving attorney-fee awards under the Equal Access to Justice Act for immigration-related habeas proceedings. Judge Bove, joined by Judges Porter, Matey, and Phipps, dissented from the denial of rehearing en banc, arguing that habeas petitions are not "civil actions" under the EAJA and that the government's positions were substantially justified. Judge Mascott filed a separate dissent, which is referenced but not included in the provided text.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Thomas L. Ambro
JURISDICTION	United States Court of Appeals for the Third Circuit
DECIDED	March 2, 2026
DOCKET	Nos. 24-2990 and 24-3198
DISPOSITION	other
PROCEDURAL POSTURE	The appellants petitioned for panel rehearing and rehearing en banc after a Third Circuit panel affirmed attorney-fee awards under the Equal Access to Justice Act in immigration-detention habeas proceedings. The court denied both petitions.
STANDARD OF REVIEW	Rehearing en banc is appropriate only when the criteria in Federal Rule of Appellate Procedure 40(b)(2) are satisfied; the dissent separately argued that the fee determinations involved abuse-of-discretion errors.
PRECEDENTIAL VALUE	Published order denying rehearing; the attached dissents are not binding holdings.
PARTIES	Warden Moshannon Valley Correctional Center, et al., Warden Moshannon Valley Processing Center, et al. v. Adolph Michelin, Adewumi Abioye

TOPICS

appellate procedure

immigration detention

statutory interpretation

remedies

standard of review

PRACTICE AREAS

appellate procedure

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immigration

QUESTIONS PRESENTED

1. Whether the petitions for panel rehearing and rehearing en banc should be granted.
2. Whether the EAJA's sovereign-immunity waiver for fees in 'any civil action' clearly extends to § 2241 habeas petitions challenging immigration detention.
3. Whether the government's position opposing Abioye's habeas petition was substantially justified under 28 U.S.C. § 2412(d)(1)(A).
4. Whether special circumstances made an EAJA fee award to Abioye unjust.

HOLDINGS

1. The petitions for rehearing by the panel and by the court en banc were denied because no judge who concurred in the decision requested rehearing and a majority of the active judges did not vote for rehearing.

KEY QUOTATIONS

“the petitions for rehearing by panel and the Court en banc, are denied.” (at 1)

“In sum, the sovereign-immunity question presented in these cases is complex and exceptionally important.” (at 36)

“These cases readily merit en banc consideration.” (at 49)

FACTUAL BACKGROUND

The underlying cases involved noncitizens detained during removal proceedings who successfully challenged continued detention under 28 U.S.C. § 2241 and obtained bond hearings. The district courts awarded them attorney's fees under the EAJA. In dissent, Judge Bove emphasized Michelin's criminal and immigration history and Abioye's visa overstay, alleged marriage fraud, substantial wire-fraud conviction, restitution obligations, and ongoing removal litigation.

PROCEDURAL HISTORY

Michelin and Abioye obtained habeas relief in the district courts requiring bond hearings concerning their immigration detention. Magistrate judges later awarded attorney's fees under the EAJA. A Third Circuit panel upheld the fee awards, and the government petitioned for panel rehearing and rehearing en banc. The petitions were denied; Judges Bove, Porter, Matey, Phipps, and Mascott dissented from denial of en banc rehearing.

DISPOSITION

CASES CITED

- *Michelin v. Warden Moshannon Valley Corr. Ctr.*, 2026 WL 263483 (3d Cir. 2026)
- *United States v. Bendolph*, 409 F.3d 155, 166 (3d Cir. 2005) (en banc)
- *Barco v. Witte*, 65 F.4th 782, 785 (5th Cir. 2023)
- *Obando-Segura v. Garland*, 999 F.3d 190, 195 (4th Cir. 2021)
- *Daley v. Ceja*, 158 F.4th 1152, 1164 (10th Cir. 2025)
- *Vacchio v. Ashcroft*, 404 F.3d 663, 668-69 (2d Cir. 2005)
- *In re Hill*, 775 F.2d 1037, 1040-41 (9th Cir. 1985)
- *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin*, 599 U.S. 382, 388 (2023)
- *United States v. Williams*, 514 U.S. 527, 531 (1995)
- *Ardestani v. INS*, 502 U.S. 129, 138-39 (1991)
- *Santana v. United States*, 98 F.3d 752, 754-55 (3d Cir. 1996)
- *Garrett v. Murphy*, 17 F.4th 419, 431 (3d Cir. 2021)
- *German Santos v. Warden Pike County Correctional Facility*, 965 F.3d 203, 209-12 (3d Cir. 2020)
- *Demore v. Kim*, 538 U.S. 510, 518, 530-31 (2003)
- *Jennings v. Rodriguez*, 583 U.S. 281, 303, 305-06 (2018)
- *Morgan v. Perry*, 142 F.3d 670, 683 (3d Cir. 1998)
- *Hanover Potato Prods., Inc. v. Shalala*, 989 F.2d 123, 128 (3d Cir. 1993)
- *Williams v. Astrue*, 600 F.3d 299, 302 (3d Cir. 2009)
- *Russell v. Heckler*, 814 F.2d 148, 153 (3d Cir. 1987)
- *Brinker v. Guiffrida*, 798 F.2d 661, 667-68 (3d Cir. 1986)
- *Oguachuba v. INS*, 706 F.2d 93, 99 (2d Cir. 1983)