

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Abdulkareem Taher Ahmed Al-Sadeai v. U.S. Immigration and
Customs Enforcement et al.

Al-Sadeai v. U.S. Immigration and Customs Enforcement, No. 3:21-cv-00296-GPC-MDD (S.D. Cal. Mar. 25, 2025) · No. 3:21-cv-00296-GPC-MDD · Decided March 25, 2025

SUMMARY

The United States District Court for the Southern District of California denied Plaintiff Abdulkareem Taher Ahmed Al-Sadeai’s motion for attorney’s fees under the Equal Access to Justice Act. Although the court recognized Plaintiff as the prevailing party, it held that the Government’s position regarding the burden of proof in an immigration bond hearing was substantially justified amid unsettled Ninth Circuit law following *Jennings v. Rodriguez*. The underlying habeas petition had previously resulted in an order requiring Plaintiff’s release or a new custody redetermination hearing.

CASE DETAILS

COURT	United States District Court for the Southern District of California
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 25, 2025
DOCKET	3:21-cv-00296-GPC-MDD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, the prevailing petitioner in a previously granted 28 U.S.C. § 2241 immigration-detention habeas proceeding, moved for attorney's fees and costs under the Equal Access to Justice Act. The district court denied the motion.
STANDARD OF REVIEW	Under the EAJA, the Government bears the burden of showing that its position was substantially justified. Substantial justification requires a reasonable basis in law and fact and is assessed by considering both the agency's underlying action and the Government's litigation position. The court evaluates the legal landscape at the time of the Government's actions.
PRECEDENTIAL VALUE	Unknown

PARTIES

Abdulkareem Taher Ahmed Al-Sadeai v. U.S. Immigration and Customs Enforcement, et al.

TOPICS

attorney fees immigration detention procedural due process equal protection civil procedure

PRACTICE AREAS

Immigration law Immigration detention Federal courts Attorney's fees Habeas corpus

QUESTIONS PRESENTED

1. Whether the Government's position in the Immigration Judge's bond proceeding and in defending the § 2241 habeas petition was substantially justified under the Equal Access to Justice Act.
2. Whether the Immigration Judge's reliance on national-security and flight-risk considerations, including Plaintiff's place of origin and residence, was substantially justified.
3. Whether the court needed to determine whether Plaintiff's requested attorney's fees and costs were reasonable after finding the Government's position substantially justified.

HOLDINGS

1. The Government was substantially justified in defending the Immigration Judge's placement of the burden on Plaintiff to show that he was not a flight risk, danger to the community, or national-security threat, because the post-Jennings legal landscape was unsettled and no Ninth Circuit decision squarely imposed contrary procedures on § 1226(a) bond hearings at the relevant time.
2. The Immigration Judge and the Government were substantially justified in relying on the broad discretion applicable to § 1226(a) custody determinations and in considering national-security evidence and the relevant Guerra factors in denying bond.
3. Because the Government's prelitigation and litigation positions were substantially justified, Plaintiff was not entitled to EAJA fees, and the court did not need to reach the reasonableness of the requested fees and costs.

KEY QUOTATIONS

"To prevail on a motion for attorney's fees under the EAJA, "it must be shown that (1) the plaintiff is the prevailing party; (2) the government has not met its burden of showing that its positions were substantially justified or that special circumstances make an award unjust; and (3) the requested attorney's fees and costs are reasonable." (at 6)

"A position is "substantially justified" if it has a reasonable basis in law and fact." (at 8)

"The question remained – and still remains for the Ninth Circuit and Supreme Court to decide – whether a § 1226(a) detainee is entitled to a bond hearing as a matter of constitutional due process and if so, what procedures are constitutionally required to attach to such hearings." (at 14)

“Because the Court has determined that the Government was substantially justified its prelitigation and litigation positions, and therefore denies the motion for attorneys’ fees, the Court does not need to reach the reasonableness of the proposed fees here.” (at 20)

FACTUAL BACKGROUND

Plaintiff, a Yemeni citizen who had worked for the Qatari and U.S. embassies in Yemen, entered the United States without inspection in November 2020 and was placed in expedited removal and later removal proceedings. ICE detained him under 8 U.S.C. § 1226(a), and an Immigration Judge denied bond based on asserted national-security and flight-risk concerns, including information concerning Plaintiff's residence in areas associated with terrorist organizations. Plaintiff's § 2241 petition succeeded because the court determined that the Immigration Judge improperly placed the burden on Plaintiff to prove that he was not a flight risk or danger to national security. The present opinion concerns only whether the Government's positions were substantially justified for purposes of EAJA fees.

PROCEDURAL HISTORY

Plaintiff was detained under 8 U.S.C. § 1226(a) after entering the United States without inspection and was denied bond by an Immigration Judge. He filed a § 2241 habeas petition, which this court granted on May 18, 2021, ordering release or a new custody redetermination hearing. The Government appealed and voluntarily dismissed the appeal. Plaintiff then moved for \$107,976.86 in EAJA fees and costs. After a stay pending Ninth Circuit proceedings and supplemental briefing, the court denied the fee motion on March 25, 2025, finding the Government's prelitigation and litigation positions substantially justified.

DISPOSITION

other

CASES CITED

- Vargas v. Wolf, No. 21-15439
- Matter of Guerra, 24 I. & N. Dec. 37 (BIA 2006)
- Perez-Arellano v. Smith, 279 F.3d 791 (9th Cir. 2002)
- Gutierrez v. Barnhart, 274 F.3d 1255 (9th Cir. 2001)
- Commissioner, INS v. Jean, 496 U.S. 154 (1990)
- Kali v. Bowen, 854 F.2d 329 (9th Cir. 1988)
- Pierce v. Underwood, 487 U.S. 552 (1988)
- United States v. Marolf, 227 F.3d 1156 (9th Cir. 2000)
- Al-Harbi v. INS, 284 F.3d 1080 (9th Cir. 2002)
- Gonzalez v. Free Speech Coalition, 408 F.3d 613 (9th Cir. 2005)
- Meier v. Colvin, 727 F.3d 867 (9th Cir. 2013)
- Meza-Vasquez v. Garland, 993 F.3d 726 (9th Cir. 2021)
- Ibrahim v. U.S. Department of Homeland Security, 912 F.3d 1147 (9th Cir. 2019)

- Singh v. Gonzalez, 502 F.3d 1128 (9th Cir. 2007)
- Medina Tovar v. Zuchowski, 41 F.4th 1084 (9th Cir. 2022)
- Casas-Castrillon v. Department of Homeland Security, 535 F.3d 942 (9th Cir. 2008)
- Rodriguez v. Robbins, 715 F.3d 1127 (9th Cir. 2013)
- Rodriguez v. Robbins, 804 F.3d 1060 (9th Cir. 2015)
- Jennings v. Rodriguez, 583 U.S. 281 (2018)
- Aleman Gonzalez v. Barr, 955 F.3d 762 (9th Cir. 2020)
- Brito v. Barr, 415 F. Supp. 3d 258 (D. Mass. 2019)
- Abela v. Gustafson, 888 F.2d 1258 (9th Cir. 1989)
- Perez v. McAleenan, 435 F. Supp. 3d 1055 (N.D. Cal. 2020)
- Cruz-Zavala v. Barr, 445 F. Supp. 3d 571 (N.D. Cal. 2020)
- Darko v. Sessions, 342 F. Supp. 3d 429 (S.D.N.Y. 2018)
- Mathurin v. Searls, No. 19-cv-6885, Doc. 36 at 12 (W.D.N.Y. Aug. 12, 2021)
- Viruel Arias v. Choate, 2022 WL 4467245, at *4 (D. Colo. Sept. 26, 2022)
- Matter of Garcia, 28 I. & N. Dec. 693 (BIA 2023)
- Matter of K-S-, 20 I. & N. Dec. 715 (BIA 1993)
- Matter of Adeniji, 22 I. & N. Dec. 1102 (BIA 1999)
- Renee v. Duncan, 686 F.3d 1002 (9th Cir. 2012)
- Carlson v. Landon, 342 U.S. 524 (1952)
- Matter of Patel, 15 I. & N. Dec. 666 (BIA 1976)
- Matter of D-J-, 23 I. & N. Dec. 572 (A.G. 2003)
- Matter of R-A-V-P-, 27 I. & N. Dec. 803 (BIA 2020)
- Demore v. Kim, 538 U.S. 510 (2003)
- Prieto-Romero v. Clark, 534 F.3d 1053 (9th Cir. 2008)
- Zadvydas v. Davis, 533 U.S. 678 (2001)

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