No. 25-1223

IN THE

Supreme Court of the United States

KEVIN ISAAC MONTOYA PALACIOS,

Petitioner,

v.

VERNON LIGGINS, ACTING FIELD OFFICE DIRECTOR, BALTIMORE FIELD OFFICE, UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, ET AL.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

BRIEF OF CONSTITUTIONAL ACCOUNTABILITY CENTER AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTEREST OF *AMICUS CURIAE*	1
INTRODUCTION AND SUMMARY OF ARGUMENT	1
ARGUMENT	5
I. The Decision Whether to Waive the Federal Government's Sovereign Immunity Belongs to Congress.	5
II. This Court Should Respect Congress's Unambiguous Waiver of Sovereign Immunity in the EAJA, Authorizing Fees and Costs in "Any Civil Action."	11
CONCLUSION	18

TABLE OF AUTHORITIES

Page(s)

Cases

Ali v. Fed. Bureau of Prisons,
552 U.S. 214 (2008) 13

Ardestani v. INS,
502 U.S. 129 (1991) 10

Bell v. Hood,
327 U.S. 678 (1946) 7

Bostock v. Clayton County,
590 U.S. 644 (2020) 9

Browder v. Dir., Dep't of Corr. of Ill.,
434 U.S. 257 (1978) 4, 15

Conn. Nat'l Bank v. Germain,
503 U.S. 249 (1992) 10

Dellmuth v. Muth,
491 U.S. 223 (1989) 3, 10

Dep't of Agric. Rural Dev. Rural Hous. Serv. v. Kirtz,
601 U.S. 42 (2024) 1-3, 8, 9, 11, 14

Egbert v. Boule,
596 U.S. 482 (2022) 2

Ex parte Tom Tong,
108 U.S. 556 (1883) 14

Exxon Mobil Corp. v. Corporación Cimex, S. A. (Cuba),
146 S. Ct. 1909 (2026) 3, 9

TABLE OF AUTHORITIES – cont'd

Page(s)

FAA v. Cooper,
566 U.S. 284 (2012) 2, 3, 11

Fin. Oversight & Mgmt. Bd. for P.R. v. Centro de Periodismo Investigativo, Inc.,
598 U.S. 339 (2023) 9, 10

Food Mktg. Inst. v. Argus Leader Media,
588 U.S. 427 (2019) 14

FS Credit Opportunities Corp. v. Saba Cap. Master Fund, Ltd.,
146 S. Ct. 1546 (2026) 8

Great N. Life Ins. Co. v. Read,
322 U.S. 47 (1944) 6

Harris v. Nelson,
394 U.S. 286 (1969) 4, 5, 14, 15

Harrison v. PPG Indus., Inc.,
446 U.S. 578 (1980) 12

Health & Hosp. Corp. of Marion Cnty. v. Talevski,
599 U.S. 166 (2023) 7

Hernandez v. Mesa,
589 U.S. 93 (2020) 5

Indian Towing Co. v. United States,
350 U.S. 61 (1955) 18

INS v. Lopez-Mendoza,
468 U.S. 1032 (1984) 16

TABLE OF AUTHORITIES – cont'd

Page(s)

Kimel v. Fla. Bd. of Regents,
528 U.S. 62 (2000) 10

Kisor v. Wilkie,
588 U.S. 558 (2019) 3

Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin,
599 U.S. 382 (2023) 9, 11

Larson v. Domestic & Foreign Com. Corp.,
337 U.S. 682 (1949) 1

Marbury v. Madison,
5 U.S. (1 Cranch) 137 (1803) 6

Michelin v. Warden Moshannon Valley Corr. Ctr.,
169 F.4th 418 (3d Cir. 2026) 16

Milner v. Dep't of Navy,
562 U.S. 562 (2011) 9

Obando-Segura v. Garland,
999 F.3d 190 (4th Cir. 2021) 4

O'Brien v. Moore,
395 F.3d 499 (4th Cir. 2005) 4, 15

O'Neal v. McAninch,
513 U.S. 432 (1995) 15

Pennsylvania v. Union Gas Co.,
491 U.S. 1 (1989) 8

Richlin Sec. Serv. Co. v. Chertoff,
553 U.S. 571 (2008) 10, 17

TABLE OF AUTHORITIES – cont'd

Page(s)

SAS Inst., Inc. v. Iancu,
584 U.S. 357 (2018) 12

Schlanger v. Seamans,
401 U.S. 487 (1971) 4, 14

Schweiker v. Chilicky,
487 U.S. 412 (1988) 2

Sebelius v. Cloer,
569 U.S. 369 (2013) 10

Smith v. United States,
507 U.S. 197 (1993) 2

Thacker v. Tenn. Valley Auth.,
587 U.S. 218 (2019) 6

The Siren,
74 U.S. (7 Wall.) 152 (1868) 6

United States v. Gonzales,
520 U.S. 1 (1997) 12

United States v. Idaho ex rel. Dir., Idaho Dep't of Water Res.,
508 U.S. 1 (1993) 2

United States v. Johnson,
529 U.S. 53 (2000) 13

United States v. Nordic Vill., Inc.,
503 U.S. 30 (1992) 9

U.S. Dep't of Energy v. Ohio,
503 U.S. 607 (1992) 10, 17

TABLE OF AUTHORITIES – cont'd

Page(s)

Wis. Cent. Ltd. v. United States,
585 U.S. 274 (2018) 11

Wiscart v. Dauchy,
3 U.S. (3 Dall.) 321 (1796) 12

Zadvydas v. Davis,
533 U.S. 678 (2001) 16

Statutes

5 U.S.C. § 504(b)(1)(A) 17

28 U.S.C. § 1391(e) (1964 ed.) 14

28 U.S.C. § 2412(d)(1)(A) 3, 5, 11, 13, 17

Books, Articles, and Other Authorities

The American Heritage Dictionary (2d
Coll. Ed. 1982) 12, 17

Appellants' Petition for Rehearing En
Banc, *Daley v. Ceja*, 158 F.4th 1152
(10th Cir. 2025) (No. 24-1191), Dkt.
No. 106-1 .... 5, 13

Amy C. Barrett, *Substantive Canons and
Faithful Agency*,
90 B.U. L. Rev. 109 (2010) 7

Ballentine's Law Dictionary (3d ed. 1969) ... 11

Black's Law Dictionary (5th ed. 1979).... 3, 11, 12

TABLE OF AUTHORITIES – cont'd

Page(s)

Brief for Appellants, *Michelin v. Warden Moshannon Valley Corr. Ctr.*, 169 F.4th 418 (3d Cir. 2026) (No. 24-3198), Dkt. No. 106-1 .... 5, 13

William Blackstone, *Commentaries* 4, 12, 13

Harold J. Krent, *Reconceptualizing Sovereign Immunity*, 45 Vand. L. Rev. 1529 (1992)..................... 8

John Copeland Nagle, *Waiving Sovereign Immunity in an Age of Clear Statement Rules*, 1995 Wis. L. Rev. 771 8

Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* (2012) 7

Gregory C. Sisk, *Twilight for the Strict Construction of Waivers of Federal Sovereign Immunity*, 92 N.C. L. Rev. 1245 (2014) 7

Webster's Ninth New Collegiate Dictionary (1983)................................ 3, 12, 17

INTEREST OF *AMICUS CURIAE*[1]

Constitutional Accountability Center (CAC) is a think tank and public interest law firm dedicated to fulfilling the progressive promise of the Constitution's text and history. CAC works in our courts, through our government, and with legal scholars to improve understanding of the Constitution and preserve the rights and freedoms it guarantees. CAC has a strong interest in protecting meaningful access to the courts, in accordance with constitutional text and history, and accordingly has an interest in this case.

INTRODUCTION AND SUMMARY OF ARGUMENT

Although the text of the Constitution nowhere explicitly provides for federal sovereign immunity, this Court has concluded that "the strongest reasons of public policy" counsel against allowing "any plaintiff who presents a disputed question of property or . . . right" to interfere with the "Government as representative of the community as a whole." *Larson v. Domestic & Foreign Com. Corp.*, 337 U.S. 682, 704 (1949). The converse of this rule is that the community as a whole, through its elected representatives in Congress, can determine that there are situations in which it is appropriate for the federal government to be held accountable in court, including for money damages and other financial penalties. *See, e.g.*, *Dep't of Agric. Rural Dev. Rural Hous. Serv. v. Kirtz*, 601 U.S. 42, 48 (2024) (calling this choice "Congress's prerogative"). Because these principles ensure that democratically

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[1] No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund its preparation or submission. No person other than *amicus* or its counsel made a monetary contribution to its preparation or submission.

accountable leaders decide when public concerns should bow to private complaints, this Court's role is simple: heed the text of the laws Congress has passed and allow for waivers of sovereign immunity that are no broader or narrower than that text dictates. If the statutory text is clear, this Court's job is at its end.

This Court has repeatedly taken exactly this approach. Time and again, it has explained that "just as 'we should not take it upon ourselves to extend [a] waiver [of sovereign immunity] beyond that which Congress intended[,] . . . [n]either, however, should we assume the authority to narrow the waiver that Congress intended.'" *United States v. Idaho ex rel. Dir., Idaho Dep't of Water Res.*, 508 U.S. 1, 7 (1993) (third and fourth alterations in original) (quoting *Smith v. United States*, 507 U.S. 197, 203 (1993)). And because the decision to waive sovereign immunity involves policy considerations that "Congress is 'far more competent than the Judiciary' to weigh," *Egbert v. Boule*, 596 U.S. 482, 491 (2022) (quoting *Schweiker v. Chilicky*, 487 U.S. 412, 423 (1988)), this Court has made clear that judges should not dictate *how* Congress waives sovereign immunity. Doing so—"imposing a 'magic-words' requirement," *Kirtz*, 601 U.S. at 54, for example—would undermine the entire basis for vesting the authority to waive sovereign immunity in Congress in the first place.

It would equally undermine congressional authority for courts to invoke the so-called "sovereign immunity canon" *before* completing a comprehensive analysis of "the language of the statute." *FAA v. Cooper*, 566 U.S. 284, 289-90 (2012). Because "the power to waive the federal government's immunity is Congress's prerogative, not [this Court's]," when an "'unmistakably clear' waiver of sovereign immunity appears in a statute," no extrinsic sources like substantive canons of construction or legislative history "can dislodge it." *Kirtz*, 601 U.S. at 48-49 (quoting *Dellmuth v. Muth*, 491 U.S. 223, 230 (1989)). The inquiry into sovereign immunity thus, first and foremost, always "trains on statutory text," *id.* at 49, and courts should not "wave the ambiguity flag" before "exhaust[ing] all the traditional tools of [textual] construction," *Kisor v. Wilkie*, 588 U.S. 558, 575 (2019) (quotation marks omitted). In other words, a court may not put a thumb on the scale in favor of immunity when a waiver of immunity is "clearly discernable from the statutory text in light of traditional interpretive tools." *Cooper*, 566 U.S. at 291.

In this particular case, it is difficult to imagine how the scope of the waiver of the United States' immunity in the Equal Access to Justice Act (EAJA) could be more "clearly discernable from the statutory text in light of traditional interpretive tools," *id.* The EAJA authorizes the award of fees and other expenses to a prevailing party "in *any* civil action (other than cases sounding in tort) . . . brought by or against the United States . . . unless the court finds that the position of the United States was substantially justified." 28 U.S.C. § 2412(d)(1)(A) (emphasis added). At the time the EAJA was enacted, the term "civil action" covered "all types of actions other than criminal proceedings," *Black's Law Dictionary* 222 (5th ed. 1979), and the statute's inclusion of the term "any" made explicit that it truly meant "every" and "all" civil actions, *Webster's Ninth New Collegiate Dictionary* 93 (1983). Combine that with the EAJA's one explicit exception for "cases sounding in tort," 28 U.S.C. § 2412(d)(1)(A), and it becomes unmistakably clear from the "sum total" of Congress's work, *Exxon Mobil Corp. v. Corporación Cimex, S. A. (Cuba)*, 146 S. Ct. 1909, 1923 (2026), that any civil action—even one with arguably unique features—is covered by the EAJA's waiver so long as it is not one "sounding in tort."

Habeas corpus petitions seeking relief from civil immigration detention plainly qualify as "civil actions" that fall within the scope of that expressly broad waiver. Since the era of Blackstone, the writ of habeas corpus has been considered a civil action that seeks to remedy the "private wrong[] or *civil* injur[y]" of deprivation of "personal liberty." 3 William Blackstone, *Commentaries* *118-19, *129 (emphasis added).

In attempting to argue otherwise, Respondents make two fundamental errors. First, they misinterpret this Court's precedents. The cases upon which they primarily rely—*Schlanger v. Seamans*, 401 U.S. 487 (1971), and *Harris v. Nelson*, 394 U.S. 286 (1969)—both made clear that habeas corpus proceedings *are* civil actions, even as they declined, based on particular features of the statutes or rules under consideration, to apply those statutes or rules to habeas actions. Moreover, after *Harris* and *Schlanger*, and just two years before the EAJA was enacted in 1980, this Court doubled down on its characterization of habeas corpus as a civil action, deeming the principle "well settled." *Browder v. Dir., Dep't of Corr. of Ill.*, 434 U.S. 257, 269 (1978).

Second, Respondents urge this Court to use the sovereign-immunity canon to construe the EAJA's broad and unambiguous waiver in an artificially narrow fashion from the get-go. Like the Fourth Circuit, *see Obando-Segura v. Garland*, 999 F.3d 190 (4th Cir. 2021); *O'Brien v. Moore*, 395 F.3d 499 (4th Cir. 2005), Respondents assert that application of this substantive canon of strict construction combined with statements that this Court has made about the "unique" nature of habeas corpus proceedings injects ambiguity into the question whether Congress really meant what it said—“*any* civil action,” 28 U.S.C. § 2412(d)(1)(A) (emphasis added)—when it wrote that broad phrase into the EAJA. *See* Resp. Cert. Br. 5-6 (quoting *Harris*, 394 U.S. at 294); *see also* Brief for Appellants at 16-17, 32-33, *Michelin v. Warden Moshannon Valley Corr. Ctr.*, 169 F.4th 418 (3d Cir. 2026) (No. 24-3198), Dkt. No. 14 [hereinafter “Gov’t *Abioye* Br.”]; Appellants’ Petition for Rehearing En Banc at 7-9, *Daley v. Ceja*, 158 F.4th 1152 (10th Cir. 2025) (No. 24-1191), Dkt. No. 106-1 [hereinafter “Gov’t *Daley* Pet.”].

That approach turns textualism on its head and undermines Congress’s exclusive prerogative over waivers of sovereign immunity. Rather than interpret the language of the statute that Congress has written and ensure that it clearly waives sovereign immunity for habeas corpus, Respondents would have this Court begin its analysis from a position of skepticism—that Congress could not have possibly meant to include habeas within the unambiguously broad scope of the EAJA’s waiver because habeas has certain unique features. But a “unique” civil action is still “any civil action” within the plain meaning of the EAJA’s unambiguous text. To hold otherwise would give courts license under the guise of the sovereign-immunity canon to effectively rewrite the EAJA, “arrogating legislative power” along the way, *Hernandez v. Mesa*, 589 U.S. 93, 100 (2020). This Court should reject Respondents’ invitation to infringe on Congress’s authority in such fashion.

ARGUMENT

I. The Decision Whether to Waive the Federal Government’s Sovereign Immunity Belongs to Congress.

Since the earliest invocations of the sovereign immunity doctrine, this Court has recognized that only

Congress, as the institution composed of the people's representatives, has the power to decide whether to waive the United States' sovereign immunity. In justifying this rule, this Court has often spoken of the gravity of the decision to allow a private individual to vindicate his or her own private interests against the entity entrusted with protection of the greater public, as well as the risk that allowing such private litigation might divert government resources away from pursuit of the public welfare. *See, e.g.*, *The Siren*, 74 U.S. (7 Wall.) 152, 154 (1868) (warning that "the public service would be hindered, and the public safety endangered, if the supreme authority could be subjected to suit at the instance of every citizen, and consequently controlled in the use and disposition of the means required for the proper administration of the government"); *Great N. Life Ins. Co. v. Read*, 322 U.S. 47, 53 (1944) ("The principle of immunity from litigation assures the states and the nation from unanticipated intervention in the processes of government."). Decisions involving such matters, according to this Court, are squarely within Congress's "bailiwick," and thus Congress is "[t]he right governmental actor" to determine whether "to waive immunity." *Thacker v. Tenn. Valley Auth.*, 587 U.S. 218, 226 (2019).

To vindicate that principle, this Court has been clear that courts should not second-guess Congress's decision to waive immunity. After all, while private suits risk interfering with governmental functions, those risks must be weighed against the fundamental principle, dating at least to *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), that "[t]he very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury." *Id.* at 163. Our constitutional structure manifests a strong interest in permitting individuals to sue the government "where [their] federally protected rights have been invaded." *Bell v. Hood*, 327 U.S. 678, 684 (1946). Thus, "once Congress has acted to permit the claim of the aggrieved against the sovereign to be pursued in a judicial forum"—having determined that for a particular area of law, any threat of private litigation disrupting government is outweighed by the need for a remedy—"courts should not frustrate the legislative promise of relief by reconstructing a broader scope of immunity through a hostile and narrow construction of the statute." Gregory C. Sisk, *Twilight for the Strict Construction of Waivers of Federal Sovereign Immunity*, 92 N.C. L. Rev. 1245, 1252 (2014). After all, "[i]t is one thing to regard government liability as exceptional enough to require clarity of creation as a matter of presumed legislative intent," yet it "is quite something else to presume that a legislature that has clearly made the determination that government liability is in the interest of justice wants to accompany that determination with nit-picking technicalities that would not accompany other causes of action." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 285 (2012).

This makes sense not just as a principle of statutory interpretation, but also as a matter of separation of powers. Elevating "nit-picking technicalities," *id.*, over the ordinary meaning of a statute's language would empower judges to effectively rewrite the words that Congress passed. That surely "violates the baseline rule of legislative supremacy" in our constitutional system, Amy C. Barrett, *Substantive Canons and Faithful Agency*, 90 B.U. L. Rev. 109, 167 (2010), which gives judges the power only to "implement Congress's choices rather than remake them," *Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 178

(2023); *see FS Credit Opportunities Corp. v. Saba Cap. Master Fund, Ltd.*, 146 S. Ct. 1546, 1553 (2026) ("Rather than augmenting statutes, we interpret them.").

Put another way, if the primary constitutional "justification for sovereign immunity is to allow Congress to determine the appropriate balance between protecting government policymaking and providing remedies to those injured by government actions," then "the object of interpreting statutory waivers of sovereign immunity should be to ascertain and implement the deliberate balance achieved by Congress." John Copeland Nagle, *Waiving Sovereign Immunity in an Age of Clear Statement Rules*, 1995 Wis. L. Rev. 771, 818. This approach is particularly important given the myriad policy considerations and conflicting interests that go into a congressional decision to waive sovereign immunity—interests that Congress, more so than this Court, is positioned to reconcile. *See, e.g.*, Harold J. Krent, *Reconceptualizing Sovereign Immunity*, 45 Vand. L. Rev. 1529, 1531 (1992) ("The dominant justification for sovereign immunity must be that we trust Congress, unlike any other entity, to set the rules of the game.").

This Court's recent sovereign immunity precedents reflect that understanding. For instance, in *Kirtz*, this Court unanimously rejected the Department of Agriculture's invitation to impose a "'magic-words' requirement" on the Fair Credit Reporting Act's waiver of sovereign immunity, effectuated through two separate statutory provisions enacted at different times but which, read together, unambiguously abrogated the United States' immunity. 601 U.S. at 54. "'If no magic words are required' to waive sovereign immunity, then the clarity of 'each statute must be evaluated on its own terms,'" this Court explained. *Id.* at 52 (quoting *Pennsylvania v. Union Gas Co.*, 491 U.S.

1, 13 n.4 (1989)). Failing to respect Congress's choices reflected in the clear statutory text, this Court cautioned, would impermissibly usurp congressional authority—it "would effectively 'negat[e]' suits Congress has clearly authorized." *Id.* at 51 (alteration in original) (quoting *Fin. Oversight & Mgmt. Bd. for P.R. v. Centro de Periodismo Investigativo, Inc.*, 598 U.S. 339, 348 (2023)). This Court has emphasized this point again and again in its recent sovereign immunity decisions. *See, e.g.*, *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin*, 599 U.S. 382, 391 (2023) (explaining that imposing a magic-words requirement "risks upending [Congress's] policy choices that [the relevant statute] embodies in this regard"); *Exxon Mobil*, 146 S. Ct. at 1924 ("[T]his Court's precedents repeatedly emphasize that Congress does not need to use 'magic words' to abrogate sovereign immunity." (quoting *Kirtz*, 601 U.S. at 48)).

Consistent with its insistence on fidelity to statutory text, this Court long ago discarded the rule that legislative history can create ambiguity in a statute that plainly waives immunity. *See, e.g.*, *United States v. Nordic Vill., Inc.*, 503 U.S. 30, 37 (1992) (noting that "legislative history has no bearing on the ambiguity point" in a sovereign immunity inquiry); *Milner v. Dep't of Navy*, 562 U.S. 562, 574 (2011) ("Legislative history, for those who take it into account, is meant to clear up ambiguity, not create it."). Focusing on text rather than legislative history allows people "to rely on the law as written, without fearing that courts might disregard its plain terms based on some extratextual consideration." *Bostock v. Clayton County*, 590 U.S. 644, 674 (2020). That principle is especially important in the context of sovereign immunity, a rule designed to protect the interests of the people as a whole and to give way when Congress determines that allowing suit furthers the public interest.

In a similar vein, although this Court typically resolves *unclear* statutes in favor of the sovereign, such "'rules of thumb' give way when 'the words of a statute are unambiguous.'" *Sebelius v. Cloer*, 569 U.S. 369, 381 (2013) (quoting *Conn. Nat'l Bank v. Germain,* 503 U.S. 249, 253-54 (1992)). This Court has only resorted to the so-called "sovereign immunity canon" when it has confronted ambiguity in the plain text of a statute after applying all the "traditional tools of statutory construction." *See, e.g.*, *Richlin Sec. Serv. Co. v. Chertoff*, 553 U.S. 571, 589-90 (2008) (declining to apply "sovereign immunity canon" because "there is no ambiguity left for us to construe"); *U.S. Dep't of Energy v. Ohio*, 503 U.S. 607, 626-27 (1992) (invoking sovereign-immunity canon only after traditional tools of statutory interpretation left the Court "with an unanswered question"); *Ardestani v. INS*, 502 U.S. 129, 136-37 (1991) (same). Thus, even though "[t]he standard for finding a congressional abrogation is stringent," if the "'language of the statute'" amounts to an "'unequivocal'" abrogation, this Court must respect the statutory text. *Fin. Oversight & Mgmt. Bd. for P.R.*, 598 U.S. at 346-47 (first quoting *Kimel v. Fla. Bd. of Regents*, 528 U.S. 62, 73 (2000); and then *Dellmuth*, 491 U.S. at 232).

This means that the sovereign-immunity canon has no role to play at the *outset* of a case. It does not authorize courts to read statutory text in an artificially "narrow[]" fashion. *Richlin*, 553 U.S. at 589. It does not "displace[] the other traditional tools of statutory construction" that, first and foremost, focus on analysis of statutory text. *Id.* Rather, this Court's consistent approach to questions of sovereign immunity has been to "simply" apply the "'traditional' tools of statutory interpretation" to decide whether "Congress's abrogation . . . is 'clearly discernable' from the statute itself." *Lac du Flambeau*, 599 U.S. at 388 (quoting *Cooper*, 566 U.S. at 291). If so, a court "need look no further to resolve [the] case." *Kirtz*, 601 U.S. at 51.

That appropriately restrained approach to the sovereign-immunity canon reflects this Court's understanding that Congress, not the courts, gets to decide when the interest in vindicating individual rights outweighs the government's interest in conducting its affairs free from the threat of litigation. As this Court has recognized, such nuanced decisions should be left in the hands of the people's representatives—and Congress's decisions are always best gleaned from the text of the laws it passes.

II. This Court Should Respect Congress's Unambiguous Waiver of Sovereign Immunity in the EAJA, Authorizing Fees and Costs in "Any Civil Action."

A. In this case, the statutory text could not be clearer: under the EAJA, fees and costs may be recovered from the federal government by a prevailing party in "*any* civil action (other than cases sounding in tort)." 28 U.S.C. § 2412(d)(1)(A) (emphasis added). "Any civil action" plainly covers habeas actions seeking relief from immigration detention.

Start with the plain meaning of the "key statutory term[s] . . . at the time Congress enacted the statute." *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 277 (2018). In 1980, when Congress enacted the EAJA, it was firmly established that the legal term of art "civil action" included "all types of actions other than criminal proceedings." *Black's Law Dictionary*, *supra*, at 222; *see, e.g.*, *Ballentine's Law Dictionary* 202 (3d ed.

1969) ("comprehending every conceivable cause of action, whether legal or equitable, except such as are criminal in the usual sense"). That broad definition encompassed all actions brought to "enforce, redress, or protect private rights." *Black's Law Dictionary*, *supra*, at 222. It was grounded in the common law and centuries of precedent, *see, e.g.*, 3 Blackstone, *supra*, at *2 (distinguishing between "civil injuries," which are "an infringement or privation of the private or civil rights belonging to individuals," and "crimes or misdemeanors," which are "a breach and violation of the public rights and duties, which affect the whole community"); *Wiscart v. Dauchy*, 3 U.S. (3 Dall.) 321, 328 (1796) ("the term civil actions would, from its natural import, embrace every species of suit, which is not of a criminal kind"), and supported by contemporaneous general-purpose dictionaries as well, *see, e.g.*, *Webster's Ninth New Collegiate Dictionary*, *supra*, at 244 [hereinafter *Webster's*] (defining "civil" as "relating to private rights and to remedies sought by action or suit distinct from criminal proceedings").

The EAJA's usage of "any" underscores the breadth with which the term "civil action" should be read. Meaning "every" and "all," *Webster's*, *supra*, at 93, or "without restriction or exception," *The American Heritage Dictionary* 117 (2d Coll. Ed. 1982), "the word 'any' naturally carries 'an expansive meaning,'" *SAS Inst., Inc. v. Iancu*, 584 U.S. 357, 362-63 (2018) (quoting *United States v. Gonzales*, 520 U.S. 1, 5 (1997)). It refers to "*every* member of the class or group," without "distinction or limitation." *Id.* at 363 (internal quotation marks omitted). Thus, this Court has emphasized that where Congress employs the word "any" before a statutory term, there is "no indication whatever that Congress intended [a] limiting construction" of that term. *Harrison v. PPG Indus., Inc.*, 446 U.S. 578, 589

(1980); *see, e.g.*, *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 220 (2008) ("Congress' use of 'any' to modify 'other law enforcement officer' is most naturally read to mean law enforcement officers of whatever kind.").

To be sure, Congress did exempt "cases sounding in tort" from the award of fees and costs under the EAJA. 28 U.S.C. § 2412(d)(1)(A). But that exception only confirms that every *other* kind of civil action, including habeas actions, is subject to awards under the EAJA. After all, "[w]hen Congress provides exceptions in a statute," the "proper inference . . . is that Congress considered the issue of exceptions and, in the end, limited the statute to the ones set forth." *United States v. Johnson*, 529 U.S. 53, 58 (2000). Courts do not "have authority to create others." *Id.*

B. Respondents do not contest any of this. Rather, they insist—like the Fourth Circuit in *O'Brien* and *Obando-Segura*—that despite the broad sweep of the word "any" and the EAJA's express carveout only for tort suits, a habeas proceeding is "unique" enough under this Court's precedents that it is somehow no longer a "civil action" when the EAJA is "strictly construed in favor of the United States." Resp. Cert. Br. 5-7 (internal quotations omitted); *see also* Gov't *Abioye* Br. at 16-17, 32-33; Gov't *Daley* Pet. at 7-9. This is doubly wrong.

1. First, habeas actions *are* unequivocally "civil actions" under the ordinary meaning of that term and were considered "civil actions" when the EAJA was enacted. Begin with the rich historical tradition of habeas corpus, in which the writ was overwhelmingly regarded as civil. In his *Commentaries*, Blackstone described habeas as a remedy to redress the "private wrong[] or *civil* injur[y]" of deprivation of "personal liberty." 3 Blackstone, *supra*, at *118-19, *129 (emphasis added). After the Founding, this Court adopted

Blackstone's view that habeas was civil, reasoning that "[t]he writ of habeas corpus is the remedy which the law gives for the enforcement of the civil right of personal liberty," and "[p]roceedings to enforce civil rights are civil proceedings." *Ex parte Tom Tong*, 108 U.S. 556, 559 (1883).

This Court has consistently maintained that view, even in the cases cited by Respondents and relied upon by the Fourth Circuit. For instance, in *Schlanger*, this Court recognized that "habeas corpus is technically 'civil,'" even as it reasoned that a provision of the venue statute that applied to "a 'civil action in which each defendant is an officer or employee of the United States'" was inapplicable to habeas because the statute's "legislative history . . . [was] barren of any indication" that Congress intended to extend it to habeas. 401 U.S. at 490 n.4 (quoting 28 U.S.C. § 1391(e) (1964 ed.)).

Schlanger is a relic from another era—this Court no longer allows legislative history to "muddy the meaning of clear statutory language," *Kirtz*, 601 U.S. at 49 (quoting *Food Mktg. Inst. v. Argus Leader Media*, 588 U.S. 427, 436 (2019)). And in any event, the legislative history of the venue statute obviously has no bearing on the question of how to interpret the term "civil action" in the context of the EAJA. What is more, the presence of "any" before "civil action" in the EAJA distinguishes it from the venue statute at issue in *Schlanger*, indicating that the phrase "civil action" should be given its *complete* scope in the EAJA, including those civil actions, like habeas, with unique features.

Much like *Schlanger*, *Harris* also acknowledged that "habeas corpus proceedings are characterized as 'civil,'" 394 U.S. at 293, even as it held that Rule 81(a)(2) of the Federal Rules of Civil Procedure did not authorize a habeas petitioner to propound interrogatories—again, largely based on the "intent of the draftsmen" of that Rule, *id.* at 295. To be sure, the Court also described the label "civil" as "gross and inexact," and suggested that habeas proceedings are "unique." *Id.* at 293-94 (footnote omitted). But a "unique" civil action is still a civil action. And in any event, those comments were unnecessary to the disposition of the issue before the Court, which concerned the applicability only of a particular rule to habeas proceedings. *Id.* If anything, the Court implied that habeas retained a time-honored place in the civil litigation tradition by acknowledging that other Federal Rules of Civil Procedure *did* apply to habeas proceedings, *id.* at 294 n.5, and that the writers of the 1938 Rules had simply *chosen* not to extend the "innovation[]" of interrogatories to habeas actions, *id.* at 292-96.

Wisely, Respondents do not cite *Browder v. Director, Department of Correction of Illinois*, 434 U.S. 257 (1978), or *O'Neal v. McAninch*, 513 U.S. 432 (1995), which the Fourth Circuit wrongly concluded supported its position, *see O'Brien*, 395 F.3d at 506-07. *O'Neal*, for its part, repeatedly emphasized that "habeas is a civil proceeding" even though "someone's custody, rather than mere civil liability, is at stake." 513 U.S. at 440. *Browder*—decided just two years before the EAJA was passed—stated that "[i]t is well settled that habeas corpus is a civil proceeding," and while, as in *Harris* and *Schlanger*, this Court acknowledged that certain Federal Rules of Civil Procedure may not apply to habeas actions based on the Rules' own terms, this Court ultimately held that the particular Civil Procedure Rules under consideration there *did* apply to habeas, 434 U.S. at 269-70.

Moreover, if there were any doubt that habeas actions are "civil actions" on their own terms under the

EAJA—and there should not be—the context of the present case dispels it: Petitioner successfully sought relief from immigration detention, *not* criminal detention. Immigration detention has long been considered "civil, not criminal," in nature. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984) (a "deportation proceeding is a purely civil action" and does not "punish the respondent for any crime"). Thus, habeas actions that challenge civil confinement—like immigration detention—and succeed in restoring the detainee's civil liberty are unambiguously "civil actions." As the Third Circuit has put it, even if habeas actions could be considered somewhat hybrid in nature, "[a] hybrid of a civil action and a civil action is a civil action." *Michelin v. Warden Moshannon Valley Corr. Ctr.*, 169 F.4th 418, 426 (3d Cir. 2026).

2. Respondents' second misstep lies in their effort to use the sovereign-immunity canon at the outset of the inquiry instead of invoking it only after demonstrating that the meaning of the EAJA's text is ambiguous. Tellingly, Respondents never come out and say that habeas actions are *not* civil actions. Nor could they. Instead, they seize on language in this Court's decisions describing habeas as a "unique" civil action or "technically" a civil action. Those modifiers, they assert, combined with the sovereign-immunity canon, require reading the EAJA's unambiguously broad phrase "any civil action" in an artificially narrow fashion that excludes habeas corpus because of its distinctive features.

That is precisely the approach that this Court rejected in *Richlin*, a case that also involved a provision of the EAJA. The government there argued that "any right to recover paralegal fees under [the] EAJA must be read narrowly in light of the statutory canon requiring strict construction of waivers of sovereign immunity." *Richlin*, 553 U.S. at 589. In "disagree[ing]" with that argument, this Court clarified that resort to the sovereign-immunity canon is appropriate only "after a close reading of the statutory provision [leaves] the Court 'with an unanswered question.'" *Id.* (quoting *Dep't of Energy*, 503 U.S. at 626-27). This Court cautioned that the sovereign-immunity canon does not authorize courts to adopt unduly narrow readings of clear—and expansive—statutory text. *Id.* Accordingly, because pursuant to the "traditional tools of statutory construction," paralegal fees were unambiguously "recoverable as attorney's fees at their 'prevailing market rates'" under the EAJA, there was no need for this Court "to resort to the sovereign immunity canon." *Id.* at 590 (quoting 5 U.S.C. § 504(b)(1)(A)).

So too here. The phrase "any civil action," 28 U.S.C. § 2412(d)(1)(A), is not ambiguous. It means civil actions of "every" type, *Webster's*, *supra*, at 93, "without restriction or exception," *The American Heritage Dictionary*, *supra*, at 117. A "technically" civil action is still a civil action. A "unique" civil action is still a civil action. The only civil actions excluded from the scope of the EAJA are those "sounding in tort"—the sole explicit exception included in the text of 28 U.S.C. § 2412(d)(1)(A).

Thus, the sovereign-immunity canon cannot and does not compel a narrow reading of the sweeping and unambiguous waiver of the United States' sovereign immunity in the EAJA. To use the canon in that fashion would stand textualism on its head, undermining the foundational principle that it is Congress, not courts, that gets to decide when to untie the federal purse strings through a waiver of sovereign immunity.

* * *

Because the text of the EAJA unambiguously covers "any civil action," and a habeas petition seeking relief from immigration detention is unambiguously a type of civil action, this Court's job is straightforward: apply the plain meaning of the law that Congress wrote. This Court should reject Respondents' invitation to act "as a self-constituted guardian of the Treasury" by "import[ing] immunity back into a statute designed to limit it." *Indian Towing Co. v. United States*, 350 U.S. 61, 69 (1955).

CONCLUSION

For the foregoing reasons, the judgment of the court of appeals should be reversed.

Respectfully submitted,

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