

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JEAN CARLOS VERA VERGARA,
Petitioner–Plaintiff,

v.

KRISTI NOEM,
Secretary of Homeland Security, et al.,
Respondents–Defendants.

Civil Action No. 3:25-cv-02075-B

**PLAINTIFF’S MOTION TO COMPEL IMMEDIATE RETURN TO THE
NORTHERN DISTRICT OF TEXAS AND, IN THE ALTERNATIVE, FOR AN
ORDER TO SHOW CAUSE RE: CONTEMPT AND SANCTIONS**

TO THE HONORABLE JUDGE BROWN:

Petitioner–Plaintiff Jean Carlos Vera Vergara (“Mr. Vera”), through undersigned counsel, respectfully moves this Court to compel the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”) to return him to detention within the Northern District of Texas, in compliance with this Court’s August 7, 2025 Order (ECF No. 5). In the alternative, Petitioner requests that the Court hold Respondents in contempt and impose appropriate sanctions for their violation of the Court’s Order. In support whereof, Mr. Vera would respectfully show unto the Court as follows:

I. INTRODUCTION

On August 7, 2025, this Court ordered that Respondents and “any officer, agent, servant, employee, attorney, or representative acting on [their] behalf” **shall not take any further action or steps to deport or remove Petitioner ... or to circumvent the provisions of this Order until September 18, 2025.** *See* Order, ECF No. 5 at 2–3. Despite

timely notice of the Order provided to the U.S. Attorney's Office and to ICE counsel, Respondents transferred Mr. Vera out of the Northern District of Texas to the Rio Grande Processing Center in Laredo, Texas, far outside this district.¹ That transfer frustrates Mr. Vera's access to counsel, attempts to place Mr. Vera beyond this Court's reach, and—on this record—appears calculated to expedite his removal while this Court's jurisdiction is invoked and to make it appear Mr. Vera has *already* been deported, despite this Court's express prohibition. Ex. B. Because the transfer contravenes both the letter and the purpose of the August 7 Order, the Court should direct Mr. Vera's prompt return to this District and require Respondents to show cause why they should not be held in civil contempt.

ARGUMENT

I. The Court should compel immediate return to the Northern District because ICE's transfer violates—and certainly circumvents—the August 7 Order and undermines the status quo the Order preserved.

The August 7 Order prohibits Respondents and their agents from taking “any further action or steps to deport or remove Petitioner” and from “circumvent[ing] the provisions of this Order” through September 18, 2025. ECF No. 5 at 2–3. Removing Mr. Vera from this District—after the Court expressly acted to preserve the status quo—thwarts his access to counsel and this Court, frustrates the Court's ability to secure meaningful relief, and effectively advances the very removal the Order forbids. *See Canal Auth. of Fla. v. Callaway*, 489 F.2d 567, 572–73 (5th Cir. 1974) (preliminary relief exists to preserve the Court's ability to render a meaningful decision and maintain the status quo).

¹ At 2:45 p.m. CDT, the undersigned spoke with staff at the Rio Grande Processing Facility in Laredo, who confirmed that Mr. Vera remained in ICE custody at the time of the call. This fact was also confirmed by Petitioner's family, who spoke with him today at noon and were able to confirm his presence in ICE custody in Laredo. *See* Ex. A, Affidavit of Maria Maldonado.

The Court's authority over Respondents is neither symbolic nor optional. Federal courts have long recognized that temporary restraining orders exist to "preserve the district court's ability to render a meaningful decision on the merits" and prevent parties from evading judicial review. *Canal Auth. of Fla. v. Callaway*, 489 F.2d 567, 572–73 (5th Cir. 1974). By removing Mr. Vera from this District, Respondents have altered the status quo the Court sought to protect, thereby undermining the Court's jurisdiction. The Supreme Court has made clear that orders such as this one must be obeyed in both letter and spirit. *See Chambers v. NASCO, Inc.*, 501 U.S. 32, 44–45 (1991) (federal courts retain inherent power to enforce compliance with their lawful orders through contempt sanctions).

Nor is this an isolated concern. Other courts have recently confronted the problem of DHS and ICE disregarding judicial orders designed to safeguard due process in removal proceedings. The federal courts' remedial authority to enforce the court order when the Government violates or maneuvers around judicial directives includes ordering return of a noncitizen whom DHS/ICE has removed or relocated in defiance of a court's order. *See, e.g., Abrego Garcia v. Noem*, No. 8:25-cv-00951, slip op. at 29–31 (D. Md. Apr. 6, 2025) (granting preliminary injunction and directing the United States to facilitate return where the Government's conduct impeded judicial review and access to counsel); *Noem v. Abrego Garcia*, No. 24A949 (U.S. May 3, 2025) (Sotomayor, J., in chambers) (ordering the Government to "facilitate" return and to treat the noncitizen as if he "had not been removed" pending further proceedings).

This recent case illustrates the precise danger here: ICE's willingness to treat federal injunctions as mere suggestions rather than binding commands presents fundamental questions concerning the separation of powers of the highest degree. Ordering

Mr. Vera's immediate return to this District is therefore both appropriate and necessary to effectuate this Court's August 7 Order and to avoid rendering its prospective relief an empty promise.

The facts compel the conclusion that Respondents' actions amount to a circumvention of this Court's August 7 Order. Mr. Vera's transfer to Laredo not only places him geographically beyond the Court's immediate reach, but it also burdens his constitutional right of access to counsel in ongoing litigation. See *Bounds v. Smith*, 430 U.S. 817, 828 (1977) (recognizing access to courts as a fundamental constitutional right). Moreover, this transfer carries the unmistakable appearance of bad faith, as it aligns with ICE's stated intention to place Mr. Vera into expedited removal proceedings notwithstanding this Court's directive.

The most appropriate and narrowly tailored remedy to ensure Respondents comply with the Court's August 7 directive is to compel Respondents to return Mr. Vera to a detention facility within the Northern District of Texas immediately. Such an order would restore the status quo ante, ensure this Court's jurisdiction remains intact, and safeguard Petitioner's meaningful access to counsel. Should Respondents fail to comply, however, this Court has ample authority to hold them in contempt and impose sanctions. Civil contempt is an appropriate means of coercing compliance with court orders and compensating the aggrieved party for costs incurred. See *United States v. United Mine Workers of Am.*, 330 U.S. 258, 303–04 (1947) (courts may impose fines to coerce compliance with injunctions); *Petroleos Mexicanos v. Crawford Enters., Inc.*, 826 F.2d 392, 400 (5th Cir. 1987) (sanctions appropriate to ensure adherence to court orders).

This Court should not permit Respondents to profit from their violation of a clear and unambiguous order. Whether through coercive sanctions, fee-shifting, or other remedial measures, sanctions may be necessary to deter further violations and to protect the integrity of these proceedings. But the priority remains the same: the Court should order the immediate return of Mr. Vera to detention within the Northern District. Only then can his rights—and this Court’s jurisdiction—be meaningfully protected.

II. In the alternative, the Court should issue an order to show cause re: civil contempt and sanctions, because Respondents’ post-Order transfer and refusal to provide basic case documents violate a clear and specific court command.

A. Legal Standard for Civil Contempt.

Civil contempt requires clear and convincing evidence that (1) a court order was in effect; (2) the order required certain conduct; and (3) the respondent failed to comply. *See Petroleos Mexicanos v. Crawford Enters., Inc.*, 826 F.2d 392, 401 (5th Cir. 1987); *American Airlines, Inc. v. Allied Pilots Ass’n*, 228 F.3d 574, 581–82 (5th Cir. 2000). The contemnor’s good faith is no defense to civil contempt, and inability to comply must be proven. *See United States v. United Mine Workers*, 330 U.S. 258, 303–04 (1947); *Petroleos Mexicanos*, 826 F.2d at 401.

The civil contempt power exists precisely because “[i]f a party can make himself a judge of the validity of orders which have been issued, and by his own act of disobedience set them aside, then are the courts impotent.” *Gompers v. Buck’s Stove & Range Co.*, 221 U.S. 418, 450 (1911).

The Fifth Circuit has consistently recognized that sanctions may be imposed to coerce compliance with a lawful order and to compensate the aggrieved party for expenses incurred. *See Petroleos Mexicanos v. Crawford Enters., Inc.*, 826 F.2d 392, 400 (5th Cir.

1987) (sanctions for civil contempt serve either or both of two purposes: to coerce compliance with a court order, and to compensate a party harmed by the contemnor's noncompliance). Thus, where the government defies a judicial order designed to preserve jurisdiction, courts have not hesitated to impose meaningful sanctions.

B. Application of the Standard to Mr. Vera's Case.

The August 7 Order is clear: no “further action or steps to deport or remove” Mr. Vera, and no circumvention. ECF No. 5 at 2–3. Respondents had actual notice (ECF No. 8). Yet they transferred Mr. Vera out of the District, impairing counsel access and facilitating removal processing. On these facts, Respondents violated the Order's plain terms and its core purpose. The non-production of basic immigration charging documents and expedited-removal records—despite counsel's prompt requests—likewise frustrates compliance with the Order's preservation of access to this Court and counsel and supports sanctions.

If Respondents should fail to promptly comply with this Court's directive to return Mr. Vera to the Northern District of Texas, sanctions are not only appropriate but necessary to vindicate the Court's authority and protect Petitioner's rights. This Court's inherent power to enforce its orders against DHS and ICE through civil contempt includes the imposition of coercive or compensatory sanctions. *Cf. Chambers v. NASCO, Inc.*, 501 U.S. 32, 44–45 (1991) (“[t]he power to punish for contempts is inherent in all courts,” and it “reaches both conduct before the court and that beyond the court's confines”); *United States v. United Mine Workers of Am.*, 330 U.S. 258, 303–04 (1947) (same).

As argued above, recent immigration habeas litigation involving noncitizens underscores why sanctions are warranted in this context. In *Abrego Garcia v. Noem*, ICE

transferred a habeas petitioner in violation of a federal district court's stay order. No. 8:25-cv-00951, slip op. at 29–31 (D. Md. Apr. 6, 2025). The court not only ordered the petitioner's immediate return but emphasized the seriousness of DHS's disregard for judicial authority, noting that sanctions—including contempt fines—were available to deter future violations. In a similar case decided just two months ago, the Supreme Court dealt with a case in which DHS was in clear violation of a TRO by removing a noncitizen, despite a pending habeas petition. *See Dep't Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153, 2158 (2025) (Sotomayor, J., dissenting). The Court in *D.V.D.* held that the Government's actions were a clear violation of an unambiguous TRO, where:

the Government flew four noncitizens to Guantanamo Bay, and from there deported them to El Salvador. Then, in violation of the very preliminary injunction from which it now seeks relief, the Government removed six class members to South Sudan with less than 16 hours' notice and no opportunity to be heard. The Government's assertion that these deportations could be reconciled with the injunction is wholly without merit.

Id.

Although the Supreme Court ultimately stayed the district court's injunction pending the disposition of the appeal of the TRO by the United States Court of Appeals for the First Circuit, this shows a pattern of conduct by ICE and DHS. *See also Al Otro Lado, Inc. v. Wolf*, 952 F.3d 999, 1013–14 (9th Cir. 2020) (denying stay of injunction requested by government and upholding district court's finding of DHS's recalcitrant noncompliance with court orders in asylum-processing litigation); *Bello-Reyes v. Gaynor*, 985 F.3d 696, 701–02 (9th Cir. 2021) (remanding to district court where court concluded petitioner's

arrested by ICE was potentially retaliatory and raised constitutional concerns). These cases confirm a pattern of DHS or ICE actions flouting the law and defying federal court orders. Thus, sanctions are not extraordinary—they are essential to preserve the rule of law.

Here, ICE has already shown a willingness to disregard the clear terms of this Court's August 7 Order by transferring Mr. Vera outside the District. If Respondents fail to immediately cure this violation, the imposition of sanctions will be the only effective means of ensuring compliance. Sanctions should include (1) coercive fines for each day of noncompliance; (2) fee-shifting to reimburse Petitioner for the costs of bringing this motion; and (3) such further relief as the Court deems necessary to deter future violations.

The government's repeated pattern of disregarding judicial orders in similar cases makes clear that without sanctions, DHS and ICE will continue to treat this Court's injunction as advisory rather than mandatory. The Court should make unmistakably clear that such defiance will carry tangible consequences.

III. The requested relief protects Mr. Vera's access to this Court and counsel and prevents irreparable harm.

Transfers that isolate a civil detainee from counsel and court undermine the constitutional right of access to the courts and threaten irreparable harm. *See generally Bounds v. Smith*, 430 U.S. 817, 821–25 (1977) (recognizing meaningful access principle). Ordering Mr. Vera's return ensures the Court can adjudicate his claims on a complete record, with full participation by the parties, rather than permitting gamesmanship to defeat judicial review.

ICE may respond that transfer is simply an internal custodial decision. But when a transfer effectively disables counsel access, impairs the Court's process, and advances removal in the face of an order preserving the status quo, it crosses the line from logistics

to circumvention. *See Rumsfeld v. Padilla*, 542 U.S. 426, 447 n.16 (2004) (noting federal courts' authority to prevent jurisdiction-defeating manipulations in habeas custody).

CONCLUSION & PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner-Plaintiff respectfully prays that the Court set this matter for a hearing and, after hearing the further arguments of Counsel, take the following actions as the Court deems necessary:

1. Order Respondents to return Petitioner Jean Carlos Vera Vergara to detention within the Northern District of Texas immediately;
2. Direct Respondents to file a sworn declaration identifying the officials responsible for the transfer decision and explaining how the transfer was consistent with the August 7 Order;
3. In the alternative, hold Respondents-Defendants in contempt for violating the Court's August 7, 2025 Order;
4. Impose sanctions sufficient to compel compliance and compensate Petitioner for the costs of enforcing the Order; and
5. Grant such further relief as justice requires.

DATE: August 21, 2025.

Respectfully submitted,

THE LAW OFFICE OF JOHN M. BRAY, PLLC
911 N. Bishop Ave.
Dallas, Texas 75208
Tel: (855) 566-2729
Fax: (214) 960-4164
Email: john@jmblawfirm.com

By: /s/ John M. Bray
John M. Bray
Texas Bar No. 24081360
ATTORNEY FOR PETITIONER-PLAINTIFF

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned Notary Public in and for the State of Texas personally appeared JOHN M. BRAY, a person known to me, who after being duly sworn, stated the following under oath:

“My name of JOHN M. BRAY, and I am attorney licensed to practice in the State of Texas since May 24, 2012. I am over the age of 18 years, and I am in all ways competent to execute this document.

“I have read the facts contained in the above and foregoing motion, I have personal knowledge of the facts contained therein, and such facts are true and correct to the best of my knowledge and belief.

“I swear under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.


JOHN M. BRAY,
AFFIANT

SWORN AND SUBSCRIBED before me, the undersigned Notary Public in and for the State of Texas, on August 21, 2025.




Notary Public, State of Texas

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 7.1, on August 21, 2025, the undersigned Counsel for Petitioner-Plaintiff attempted to confer with Ms. Ann E. Cruce-Haag, Counsel for Defendants-Respondents, regarding the relief requested herein. Just before filing, the undersigned Counsel learned that Ms. Haag has confirmed that Defendants-Respondents are opposed to the relief requested herein.

/s/ John M. Bray
John M. Bray
Attorney for Petitioner-Plaintiff

DATE: August 21, 2025.

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on this day, I served a true and correct copy of the above and foregoing *Plaintiff's Motion to Compel Immediate Return to the Northern District and, in the Alternative, for an Order to Show Cause re. Contempt and Sanctions*, as well as any and all attachments thereto, on Counsel for Respondents-Defendants by serving the same via email to Ms. Ann E. Cruce-Haag, Counsel for Defendants-Respondents, by filing the same using the Court's CM/ECF system.

/s/ John M. Bray
John M. Bray
Attorney for Petitioner-Plaintiff

DATE: August 21, 2025.