

The Honorable Tiffany M. Cartwright

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARCO CANTERO GARCIA, *et al.*

Petitioners,

v.

JULIO HERNANDEZ, Seattle Field Office
Director, Enforcement and Removal Operations,
United States Immigration and Customs
Enforcement,¹ *et al.*,

Respondents.

Case No. 2:25-cv-02092-TMC

FEDERAL RESPONDENTS'
RESPONSE IN OPPOSITION TO
MOTION FOR SANCTIONS

Federal Respondents respectfully request that the Court deny Petitioner Armando Benitez Chavez's Motion for Sanctions (Dkt. 24).

I. FACTUAL BACKGROUND

A. Federal Respondents transferred Petitioner Benitez to Arizona before receiving notice of the Court's Order at Dkt. 7

Petitioner Benitez filed the underlying action and *ex parte* motion for an order to show cause on October 24, 2025. Dkts. 1-2. The Court granted Petitioner Benitez's motion in part on

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Federal Respondents substitute Julio Hernandez for Laura Hermosillo.

1 October 29. Dkt. 7. As pertinent to this motion, the Court ordered that “Respondents must provide
2 Petitioners and Petitioners’ counsel in this habeas action at least 48 hours’ notice (or 72 hours’
3 notice if the period extends into the weekend) prior to any action to move or transfer any Petitioner
4 from NWIPC or to remove him from the United States.” *Id.*

5 Unfortunately, U.S. Customs and Immigration Enforcement (“ICE”) did not receive notice
6 from the U.S. Attorney’s Office about the Court’s Order at Dkt. 7 until late in the afternoon on
7 October 30. Kipnis Decl., ¶¶ 2-7; Rodriguez Decl., ¶ 8. By that time, ICE had already transferred
8 Petitioner Benitez to the Florence (Ariz.) Service Processing Center as part of an effort to relieve
9 overcrowding at the Northwest ICE Processing Center (“NWIPC”). Rodriguez Decl., ¶ 5. ICE’s
10 records show that it booked Petitioner Benitez out of the NWIPC at 1:42 P.M. and eventually
11 booked him into the Florence Service Processing Center at 9:30 P.M. Rodriguez Decl., ¶ 6.

12 The next day, Petitioner Benitez’s counsel informed the U.S. Attorney’s Office of his
13 transfer to Arizona. Dkt. 26, ¶ 8. After the United States Attorney’s Office notified the agency,
14 ICE began preparations to return Petitioner Benitez to the NWIPC, where he was returned to on
15 November 1. Rodriguez Decl., ¶ 9. Petitioner Benitez participated in a Master Calendar Hearing
16 with his immigration counsel on November 6 in Tacoma. Dkt. 25, ¶ 6; Dkt. 26, ¶ 8.

17 **B. The Court orders habeas relief, dissolving the prior order at Dkt. 7**

18 On November 7, this Court ordered that Federal Respondents must “either release
19 Petitioner Armando Benitez Chavez or allow his release upon payment of the alternative bond
20 amount of \$10,000 and any conditions set by Immigration and Customs Enforcement/the
21 Department of Homeland Security.” Dkt. 13. The Court entered judgment on the same day stating
22 the Petition was granted in part and denied in part “with the relief ordered in Dkt. 13.” Dkt. 14.
23 That evening by 9:29 P.M., ICE confirmed that its systems were set to accept bond for Petitioner
24 Benitez. Rodriguez Decl., ¶ 10.

1 Although he states that “on or around November 7, 2025 ... Respondents *again* transferred
2 Mr. Benitez out of the district, this time to a detention center in New Mexico,” Dkt. 24, p. 3 (*see*
3 *also* Dkt. 26, ¶ 9), Petitioner Benitez was in fact transferred the following day, November 8, to the
4 Otero County Processing Center in New Mexico. Rodriguez Decl., ¶ 11. ICE had a decompression
5 flight out of the NWIPC on November 8 and ICE’s records indicate that is why it transferred
6 Petitioner Benitez. Rodriguez Decl., ¶ 12. ICE booked Petitioner Benitez out of the NWIPC at
7 12:33 P.M. and into the Otero County Processing Center at 7:26 P.M. Rodriguez Decl., ¶ 13.

8 On November 10, 2025, bond was posted for Petitioner Benitez, and ICE released him.
9 Rodriguez Decl., ¶ 15, Dkt. 26, ¶ 11, Dkt. 25, ¶ 7. ICE advised the bond obligor that Petitioner
10 Benitez would be given the choice of going to the nearest Greyhound station or to the airport in El
11 Paso. Rodriguez Decl., ¶ 15.

12 II. ARGUMENT

13 A. This motion must be evaluated under 28 U.S.C. § 2412(b)

14 “Sovereign immunity bars an award of attorneys’ fees against the United States unless a
15 statute expressly authorizes such an award.” *Anderson v. United States*, 127 F.3d 1190, 1191 (9th
16 Cir. 1997). Petitioner Benitez did not identify such a statute in his motion, but Federal Respondents
17 acknowledge that 28 U.S.C. § 2412(b) “waives the government’s sovereign immunity for the
18 imposition of attorneys’ fees to the same extent that any other party would be liable under the
19 common law.”² *Lu v. United States*, 921 F.3d 850, 854 (9th Cir. 2019) (internal quotations
20 omitted). Federal Respondents further recognize that the common law provides that “willful
21 disobedience of a court order” can merit an award of attorney’s fees. *Chambers v. NASCO, Inc.*,

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24 ² Section 2412(b) is separate from 28 U.S.C. § 2412(d)(2)(A). *See Lauritzen v. Lehman*, 736 F.2d 550, 552 (9th Cir. 1984).

1 501 U.S. 32, 45 (1991). However, “the fee award may go no further than to redress the wronged
2 party ‘for losses sustained’; it may not impose an additional amount as punishment for the
3 sanctioned party’s misbehavior.” *Lu*, 921 F.3d at 859 (quoting *Goodyear Tire & Rubber Co. v.*
4 *Haeger*, 581 U.S. 101, 108 (2017)). “Because of their very potency, inherent powers must be
5 exercised with restraint and discretion.” *Chambers*, 501 U.S. at 44.

6 **B. Federal Respondents did not violate this Court’s order when Petitioner**
7 **Benitez was transferred to New Mexico**

8 The thrust of Petitioner Benitez’s motion is that the New Mexico transfer on November 8
9 violated the Court’s Order at Dkt. 7. The Order at Dkt. 7, however, was no longer in effect on
10 November 8, having been dissolved after the Order at Dkt. 13 had issued. Therefore, Petitioner
11 Benitez cannot show that Federal Respondents violated a court order.

12 Generally, a preliminary injunction “dissolves *ipso facto* when a final judgment is entered
13 in the cause.” *U.S. Philips Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1093 (9th Cir. 2010). That is
14 because “the very purpose of a preliminary injunction ... is to preserve the status quo and the rights
15 of the parties until a final judgment issues in the cause.” *Id.* at 1094. Although this Court did not
16 issue the Order at Dkt. 7 as a preliminary injunction *per se*, the Court based it on its authority to
17 “maintain the status quo” and “to allow Petitioners time to move for emergency relief before the
18 Court could review the petition,” *see id.*, ¶ 4, which is functionally the same as “to preserve the
19 status quo and the rights of the parties until a final judgment issues.” *U.S. Philips*, 590 F.3d at
20 1094. But, once the Court issued the order on the habeas petition and the corresponding judgment
21 on November 7, Federal Respondents reasonably determined the Court’s Order at Dkt. 13 was the
22 operative order, and the Court’s prior Order at Dkt. 7 had dissolved *ipso facto* as preliminary
23 injunctive relief. *Id.* at 1093.
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1 Petitioner Benitez does not allege that Federal Respondents violated the Court's Order at
2 Dkt. 13, and to the extent he might on reply, he cannot show as much. The Court's order at Dkt.
3 13 provided that Federal Respondents must:

4 Either release Petitioner Armando Benitez Chavez or allow his release upon
5 payment of the alternative bond amount of \$10,000 and any conditions set by
6 Immigration and Customs Enforcement/the Department of Homeland Security.

6 *Id.*, ¶ 2(c). The Court's Order at Dkt. 13 did not: (1) incorporate its prior Order at Dkt. 7 or (2)
7 require Federal Respondents to provide his counsel with notice of the transfer. Rather, the Order
8 at Dkt. 13 required Federal Respondents to: (1) release Petitioner Benitez or (2) allow his release
9 upon payment of the alternative bond amount. Federal Respondents elected the second option. ICE
10 ensured that its computer systems would accept a bond from Petitioner Benitez, which it completed
11 the same day the Court issued the Order at Dkt. 13. Rodriguez Decl., ¶ 10. Petitioner Benitez,
12 however, did not pay the bond until November 10. Rodriguez Decl., ¶ 15, Dkt. 26, ¶ 11, Dkt. 25,
13 ¶ 7. Therefore, the Court's Order at Dkt. 13 did not require his release until November 10. And
14 when Petitioner Benitez posted bond on that date, Federal Respondents promptly released him as
15 the Court's Order at Dkt. 13 required. Rodriguez Decl., ¶ 15.

16 To merit relief under the Court's inherent powers as made applicable here by 28 U.S.C. §
17 2412(b), Petitioner Benitez must be able to point to a violation of an operative court order; because
18 there is none, sanctions are not warranted on the New Mexico transfer.

19 **C. Sanctions are not warranted regarding the Arizona transfer**

20 Federal Respondents recognize that opposing counsel should have been provided at least
21 48-72 hours' notice before ICE transferred Petitioner Benitez to Arizona on October 30, pursuant
22 to the Court's Order at Dkt. 7, that had issued the day before. The lack of notice to opposing
23 counsel was unintentional and occurred because the United States Attorney's Office did not send
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1 the Order at Dkt. 7 to ICE before he had already been transferred to Arizona.³ Kipnis Decl., ¶¶ 2-
2 7, Rodriguez Decl., ¶ 8. The oversight came during a period of both continuous and dramatic
3 increases in the volume of habeas corpus petitions filed on behalf of persons detained at the
4 NWIPC and a lapse in appropriations to the Department of Justice. Kipnis Decl., ¶¶ 2-7. This is
5 not an excuse however—Federal Respondents and the United States Attorney’s Office both
6 recognize that a violation of a court order is serious regardless of the circumstances that led to it.

7 Nevertheless, shortly after receiving an email from opposing counsel and the United States
8 Attorney’s Office providing further information to ICE, Federal Respondents returned Petitioner
9 Benitez to the NWIPC, and he arrived back within two days of the transfer. Dkt. 26, ¶ 8, Rodriguez
10 Decl., ¶ 9. Petitioner Benitez did not need to seek emergency relief from this Court; in fact, he was
11 able to appear with his immigration counsel at a Master Calendar hearing while this habeas
12 litigation was pending. Dkt. 25, ¶ 6, Dkt. 26, ¶ 8. Thus, Petitioner Benitez was returned to the
13 status quo that was in effect during the pendency of the habeas litigation.

14 Based on this record, sanctions are not warranted on the Arizona transfer. Relying on *Am.*
15 *Unites for Kids v. Rousseau*, 985 F.3d 1075, 1090 (9th Cir. 2021), Petitioner Benitez alleges that
16 sanctions are merited because “it is enough that a party acted deliberately.” Dkt. 24, p. 5. While
17 willful disobedience may be an impetus for sanctions, the thrust of the Ninth Circuit’s decision in
18 *Am. Unites for Kids* was that “a district court acting under its inherent authority to impose
19 compensatory sanctions must apply a ‘but-for’ causation standard.” 985 F.3d at 1089 (quoting
20 *Goodyear*, 581 U.S. at 109). Therefore, Petitioner Benitez must show harm resulting from the

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24 ³ The United States Attorney’s Office has since adjusted its procedures to pare down any lag time and ensure it notifies ICE of incoming habeas petitions and related orders in a timelier fashion than occurred in this case. Kipnis Decl., ¶ 8.

1 allegedly sanctionable conduct. *Lu*, 921 F.3d at 861 (applying *Goodyear* to awards under 28 U.S.C.
2 § 2412(b)).

3 Concerning the Arizona transfer, Petitioner Benitez provides scant argument how on a but-
4 for basis, he is entitled to sanctions; instead, he focuses on the New Mexico transfer. Petitioner
5 Benitez argues he is entitled to compensation for his alleged pain and suffering during the Arizona
6 transfer (which he also seeks for the New Mexico transfer), which is not compensable for the
7 reasons discussed below. Petitioner Benitez also does not seek any attorney fees arising from the
8 Arizona transfer; instead, those are sought in connection with the Motion for Attorney Fees,
9 seeking fees under 28 U.S.C. § 2412(d)(2)(A). *Compare* Dkt. 18-4 (time entries for Oct. 31, 2025)
10 *with* Dkt. 24-3.

11 **D. Regardless, Petitioner Benitez is not entitled to compensation sounding**
12 **in tort as a sanction against Federal Respondents**

13 Petitioner Benitez argues he is entitled to \$5,000 compensation for the alleged pain and
14 suffering for being transported to Arizona and New Mexico. Dkt. 24, pp. 6-7. However, 28 U.S.C.
15 § 2412(b) provides that “a court may award reasonable fees and expenses of attorneys;” it does
16 not state that damages that sound in tort are also available.

17 Even assuming the United States’ waiver of sovereign immunity extended as far as he
18 seeks, Petitioner Benitez’s citation to cases do not support the proposition he should be
19 compensated. First, he cites to *Spain v. Proconier*, 600 F.2d 189 (9th Cir. 1979) for the alleged
20 proposition that “the ‘excessive, painful, and degrading’ experience of being placed in chains and
21 flown across the country” merits compensation. Dkt. 24, p. 6. The Ninth Circuit in *Spain*, however,
22 held it did “not consider that use of mechanical restraints such as leg manacles or waist chains, in
23 addition to handcuffs, is excessive or unreasonable” when transporting people outside of a prison.
24 600 F.2d at 198. Petitioner Benitez does not describe any sort of treatment beyond what the Ninth

1 Circuit held was not excessive or unreasonable. Dkt. 26, ¶¶ 7, 9. Therefore, *Spain* does not support
2 Petitioner Benitez’s position that he should be compensated for the conditions of his transport.

3 Second, Petitioner Benitez’s citation to *Avery v. Extradition Transport of Am.*, No. 11-153-
4 DWM, 2013 WL 486658 (D. Mont. Feb. 7, 2013) is distinguishable. *Avery* was a tort action,
5 claiming violations of the Eighth Amendment; it does not support that Petitioner Benitez is entitled
6 to damages for pain and suffering as a sanction under 28 U.S.C. § 2412(b). *Id.* Moreover, the
7 Court’s award was a default judgment where the plaintiff alleged that he was tightly shackled with
8 ankle, wrist, and belly chains for up to eight hours at a time that were progressively tightened each
9 day over a six-day van trip from Iowa to Montana. *Id.* at *1. He also claimed that he was refused
10 bathroom breaks, had to urinate in a water bottle, and forced to sleep in a van overnight without
11 exercise or an opportunity to walk. *Id.* None of what Petitioner Benitez described in his declaration
12 compares to the experience described by the *Avery* plaintiff. *See generally* Dkt. 26.

13 **E. This Court should not award attorney fees to Petitioner for bringing**
14 **this motion**

15 Petitioner’s requested attorney fees arise entirely after the New Mexico transfer. *See* Dkt.
16 24-3. Because Federal Respondents did not violate a court order concerning the New Mexico
17 transfer, attorney fees are not warranted. Notwithstanding, Federal Respondents acknowledge that
18 28 U.S.C. § 2412(b) does not incorporate the statutory rate at 28 U.S.C. § 2412(d)(2)(A). As the
19 fee-seeking party, Petitioner Benitez still bears “the burden to prove that the rate charged is in line
20 with the prevailing market rate of the relevant community.” *Carson v. Billings Police Dep’t*, 470
21 F.3d 889, 891 (9th Cir. 2006) (internal quotations omitted); *accord Hensley v. Eckerhart*, 461 U.S.
22 424, 433 (1983). For the reasons discussed in Federal Respondents’ response to the Motion for
23 Attorney Fees (Dkt. 31), Petitioner Benitez does not meet that burden here even if attorney fees
24 could be awarded here.

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III. CONCLUSION

For the aforementioned reasons, this Court should deny Petitioner Benitez’s Motion for Sanctions (Dkt. 24).

DATED this 6th day of March, 2026.

Respectfully submitted,

s/ James C. Strong
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I certify this memorandum contains 2,466 words in compliance with the Local Civil Rules.