

United States District Court
Western District of Texas
El Paso Division

Arnulfo Pacay Garcia,
Petitioner,

v.

Unknown, Warden of El Paso Camp, East
Montana, *et al.*,
Respondents.

No. 3:25-CV-00591-DB

Response to Order to Show Cause Contempt

On December 11, 2025 the Court issued an order requiring Respondents to show cause why the Court should not find Respondents in contempt for violating the Court's November 25, 2025 order, ECF No.2. The Court also ordered that Respondents explain why they provided inaccurate information regarding a master calendar hearing. For the reasons stated more fully below Respondents respectfully ask the Court not to use the serious sanction of contempt as Respondents have acted in good faith and did not willfully violate the Court's order. Respondents also assert that the information provided to the Court in ECF 4 regarding the master calendar hearing was accurate at the time ECF 4 was filed.

I. Contempt

Willfulness is an element of criminal contempt and must be shown beyond a reasonable doubt. *U.S. v. Remini*, 508 F.2d 529, 531 (7th Cir. 1974). A finding of civil contempt may be rebutted upon a showing of mitigating circumstances and good faith attempts to comply. *Carter v. Local 556, Transport Workers Union of America*, 156 F.4th 459, 502 (5th Cir. 2025). The Respondents did not act willfully in this matter and made good faith attempts to comply with this Court's orders.

On November 25, 2025 in ECF No. 2 the Court ordered Respondents not to remove Petitioner. That order should have been sent to Immigration and Customs Enforcement (ICE) but

due to an error within Respondents' office it was not. This was an inadvertent and unintentional error that resulted in ICE not being notified of the Court's order.

The number of habeas petitions filed within the Western District of Texas has increased considerably since the BIA's *Hurtado* decision in September 2025. Each week there are a record number of immigration related habeas filings. To manage the constantly increasing litigation and short deadlines, Respondents have a dedicated mailbox where all orders are received. That mailbox is regularly monitored by legal staff working on immigration habeas litigation. When an order comes in directing ICE to take, or refrain from taking, a particular action that order is sent to ICE as soon as possible and usually within several hours. Respondents have checked with staff and checked the dedicated mailbox and it appears that last step of forwarding the Court's order to ICE was inadvertently missed in this case for Court's order at ECF No. 2.

Respondents take the Court's concerns and warnings seriously. Since this error was discovered, and even before it was discovered, Respondents have taken meaningful affirmative steps to improve the procedures used to communicate with ICE and to internally process the large volume of incoming petitions and orders. Without revealing in detail the nature of internal legal communications or processes, Respondents represent to the Court that Respondents resources have been increased and redirected to respond to this growing area of litigation. Communication with ICE has also been reviewed and strengthened.

The Court has discretion to hold a party in contempt. *Gashco v. Global Fitness Holdings, LLC*, 875 F.3d 795, 800 (6th Cir. 2017). However, contempt is a sanction that should be used with caution and as a measure of last resort. *Id* at 799. Respondents respectfully request the Court find Respondents did not act willfully and that contempt sanctions are not appropriate.

II. Master calendar hearing converted to a final removal order

The Court also ordered Respondents to provide information related to a master calendar hearing Respondents advised the Court about in ECF 4 filed on December 2, 2025. In that filing Respondents stated that Petitioner was set for a master calendar hearing in immigration court on December 4, 2025. That information was accurate when it was provided to the Court, Petitioner was set for a master calendar hearing on December 4, 2025. See Exhibit A Notice of Hearing. At the master calendar hearing Petitioner did not file for any form of relief from removal and the immigration judge ordered removal at the master calendar setting. See Exhibit B Declaration of SDDO Vasquez and Exhibit C Order of Removal.

While there are two hearings in many immigration cases, a master and individual hearing, if an individual does not file for any form of relief from removal then there is no reason for the immigration court to set the case for further hearing. The master calendar hearing in this case converted into a removal order because Petitioner did not request any relief and there was no need to set the matter for an additional individual hearing. See Exhibit B. This process could be likened to a defendant in a criminal case who is set for trial but pleads guilty before the jury is seated. While Respondents regret any time the Court may have spent unnecessarily on this case, the information provided to the court was accurate at the time it was provided on December 2, 2025.

III. Conclusion

Respondents request that the Court not utilize its power of contempt in this case as the error in this case was not willful. Respondents further ask the Court to find that the representations made in ECF 4 were accurate at the time they were made. Respondents respect the Court's time and understand the power of the Court to sanction litigants. Respondents respectfully ask the Court not to hold Respondents in contempt.

Respectfully submitted,

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