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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

Federico Reyes Vasquez,

Petitioner

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,

TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement,

Michael Bernacke, in his official capacity as ICE Field Officer Director and Warden in current custody of Pettioner,

PAMALA BONDI, in her official capacity as the United States Attorney General,

The Executive Office for Immigration Review

United States Immigration and Customs Enforcement.

Respondents

Civil No.: **2:25-cv-01146-JNP**

PETITIONER'S REPLY IN SUPPORT OF MOTION FOR SANCTIONS

IMMIGRATION HABEAS CASE

PETITIONER'S REPLY IN SUPPORT OF MOTION FOR SANCTIONS

Respondents' Amended Response confirms the essential facts warranting sanctions: the Court entered an unambiguous non-removal directive on December 22, 2025; Respondents' counsel and agency counsel received the Order that afternoon; and ICE removed Petitioner the next morning. Respondents' defenses—(1) alleged lack of "actual notice" by the specific Arizona officers executing removal; (2) purported "inability" to comply; (3) a post hoc venue/jurisdiction challenge; and (4) a claimed "purge" by later offering return—are legally and factually insufficient.

Civil contempt sanctions are remedial and are properly imposed to (1) coerce obedience to court orders and/or (2) compensate the moving party for losses caused by noncompliance. *See O'Connor v. Midwest Pipe Fabrications, Inc.*, 972 F.2d 1204, 1211 (10th Cir. 1992); *Bad Ass Coffee Co. of Hawaii v. Bad Ass Coffee Ltd. P'ship*, 95 F. Supp. 2d 1252, 1256 (D. Utah 2000) ("The contemnor's disobedience need not be 'willful' to constitute civil contempt.").

The record meets the Tenth Circuit's contempt elements: a valid order, knowledge, and disobedience. *Reliance Ins. Co. v. Mast Constr. Co.,* 159 F.3d 1311, 1315 (10th Cir. 1998).

I. Respondents' Attempt to Relitigate Venue/Jurisdiction Is Waived and, In Any Event, Does Not Excuse Disobedience

Respondents' threshold contention—that the December 22 Order was "valid" only if this Court had venue jurisdiction at the moment the habeas petition was filed, and that jurisdiction purportedly did not exist because Petitioner was booked into a Wyoming facility at 1:37 p.m. while the petition was filed at 5:13 p.m.—fails both procedurally and substantively.

First, the jurisdictional argument is waived. In their response, Respondents paraphrase the December 31 hearing to suggest uncertainty regarding jurisdiction. But the transcript submitted by Respondents reflects that the Government did not raise any jurisdictional objection at that hearing.[1] To

[1] "we're not questioning the Court's jurisdiction, personal jurisdiction and venue over Mr. Vazquez." Doc. 29-4 at 10.

the contrary, prior Government counsel affirmatively proceeded without contesting the Court's authority, thereby conceding jurisdiction for purposes of the Court's issuance of the Order to Show Cause and non-removal directive.

That concession is reinforced by Respondents' own litigation conduct. Neither Respondents' original response to the habeas petition nor their subsequent motion to dismiss raised any jurisdictional or venue challenge. Those filings were prepared after the relevant facts were known or readily available to the Government. Jurisdiction was not merely overlooked—it was affirmatively bypassed. Respondents cannot now resurrect a waived argument only after violating a court order and facing sanctions. Further, had jurisdiction not existed, Respondents could have waited to execute the removal, dissolved the order, and removed Petitioner.

Second, even if Respondents subjectively believed jurisdiction was lacking, collateral jurisdictional arguments do not authorize self-help. The remedy for a perceived jurisdictional defect is to move to dismiss, seek reconsideration, request a stay, or pursue appellate relief—not to disregard an operative court order. Respondents did none of those things. Instead, they removed Petitioner in direct violation of the Court's order and only later invoked jurisdiction as a shield against contempt. Contempt doctrine does not permit that result. *Walker v. City of Birmingham*, 388 U.S. 307, 314–15 (1967).

Third, Respondents' assertion that compliance was impractical or unnecessary ignores a simple and dispositive fact: there was no exigency requiring immediate execution of removal. Respondents could have waited a single day, filed a motion to dismiss the habeas petition, and submitted evidence that jurisdiction allegedly did not exist. They could have presented evidence of reinstatement and asked the Court to dissolve or modify the non-removal order. They did neither. Instead, they chose to violate the order outright.

Fourth, Respondents' effort to recast the original habeas petition as "inaccurate" is unfounded. At the time of filing, there was no verifiable confirmation that a prior removal order had been reinstated. DHS is not required to reinstate a prior order and may instead commence removal proceedings anew. *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 483–84 (1999) (recognizing that the Executive retains discretion at each stage including whether to commence proceedings, adjudicate cases, or execute removal orders.). Petitioner's counsel and family attempted—unsuccessfully—to obtain information from ICE regarding Petitioner's status. ICE was unreachable, and no documentation was provided. Under those circumstances, the filing of a habeas petition to preserve jurisdiction and prevent irreparable harm was not only reasonable, it was necessary.

Finally, Respondents again overlook that they retained complete control over the procedural posture. If they believed reinstatement had occurred and that jurisdiction was lacking, they could have waited days—not hours—filed the relevant evidence, and sought dissolution of the TRO through lawful process. The Constitution does not permit executive agencies to bypass judicial review by acting first and litigating later.

For all of these reasons, Respondents' belated jurisdiction and venue argument—raised for the first time in opposition to sanctions—cannot excuse their violation of the Court's December 22 Order and provides no basis to deny sanctions.

II. Respondents Had Actual Notice; Rule 65(d) Does Not Require Personal Notice to the Specific Line Officer Who Executes Removal

Respondents' principal defense is that neither ICE ERO personnel nor even ICE OPLA allegedly had "actual knowledge" of the Order before removal. Doc. 29.

That position is not credible on this record and misstates Rule 65(d).

The Court's Order was "clear, unambiguous, and effective immediately," and the AUSA received notice through ECF; counsel then transmitted the Order by email. Doc. 8. Respondents admit

that the U.S. Attorney's Office forwarded the OSC to ICE OPLA at 4:21 p.m. on December 22. Doc. 29. Respondents' theory—that "transmittal" to ICE attorneys does not "equate to actual knowledge" and that "they did not" have actual knowledge—would effectively nullify Rule 65(d) in any case involving a large agency, because the Government could always disclaim "actual notice" until the very moment a field office acknowledges it. Doc. 29. Rule 65(d) binds parties and their "officers, agents, servants, employees, and attorneys" who receive actual notice.

Notice to Government counsel and agency counsel—especially where (as here) counsel actually transmitted the Order internally—is notice to the party. Respondents cannot avoid sanctions by asserting internal routing delays that are wholly within their control.

Respondents further contend that because the OSC directed service by 5:00 p.m. on December 23, "actual knowledge wasn't legally expected before then." *Id.* That conflates a service deadline with the Order's operative effect. The OSC was entered on December 22 at 3:36 p.m., and Respondents admit it was forwarded internally at 4:21 p.m. that same day. The Court's directive was not a "non-existent Order." *Id.* It existed, it was communicated, and it was violated.

III. "Inability to Comply" Is Not Shown; Respondents Identify No Reasonable Step They Took to Halt Removal After Receiving the OSC

Respondents claim they "plainly couldn't comply" because Petitioner was already transferred and the removal process was "too far underway." *Id.* But Respondents' own timeline establishes multiple points at which compliance was possible:

- The OSC entered at 3:36 p.m. on December 22, and was forwarded at 4:21 p.m. *Id.*
- Petitioner was booked into Florence at ~1:55 a.m. on December 23 and booked out at 8:30 a.m., then transported to the border and removed. *Id.*

That is not "plain and unmistakable" impossibility. It is a window of many hours during which Respondents could have taken "all reasonable steps" to comply—contacting the Florence facility,

instructing ERO to halt removal, or seeking emergency relief from the Court. Respondents cite authority recognizing impossibility as an affirmative defense only where the contemnor proves inability clearly and convincingly. *Id.* They offer no evidence of any concrete effort to stop removal after the OSC was sent to ICE OPLA at 4:21 p.m. *Id.* Respondents' narrative is, at the very least, an admission of internal breakdown: that a federal court order was received by the agency's legal office yet not communicated in time to prevent removal. *Id.* That is not a defense; it is a reason sanctions are necessary.

IV. Respondents' "Purge" Theory Does Not Defeat Sanctions Liability and Confirms the Need for Remedial Relief

Respondents argue that "any contempt here is purged" because they offered to facilitate Petitioner's return. Doc. 29. This argument is misplaced.

First, "purge" language addresses the form of civil contempt sanctions (i.e., whether a sanction is coercive and includes a purge condition), not whether a violation occurred. *United States v. United Mine Workers*, 330 U.S. 258, 303–04 (1947). Respondents acknowledge that sanctions may be imposed to coerce compliance and/or compensate the injured party. Doc. 29. "Purging" does not erase the past violation, the resources expended litigating it, or the harm caused by disobedience. *International Union, United Mine Workers of America v. Bagwell*, 512 U.S. 821, 829 (1994).

Second, Respondents' "purge" theory underscores—rather than eliminates—the need for sanctions to ensure future compliance. Respondents insist it is "not unreasonable" that an order sent to ICE OPLA at 4:21 p.m. might not be reviewed and communicated "until sometime the next day." Doc. 29. If that is truly Respondents' operational posture, sanctions are necessary to require implementable compliance protocols so that injunctions barring removal are immediately communicated and acted upon—especially given the irreparable nature of removal once executed. The Motion for Sanctions

correctly explains that the violation threatens to render habeas review "meaningless" if agencies may ignore non-removal orders. Doc. 8.

V. Respondents' Attacks on the Underlying Habeas Merits Are Irrelevant to Whether They Violated the Court's Non-Removal Order

Respondents repeatedly argue that Petitioner's original bond claim was "faulty," "discredited," and later "withdrawn," and they suggest sanctions are therefore inappropriate. Doc. 29. That argument is a non sequitur. Sanctions are sought because ICE removed Petitioner in violation of this Court's directive prohibiting removal during the pendency of the habeas action, not because of how Respondents now characterize the merits of the underlying petition. Doc. 8. Whether Respondents believed the habeas petition would ultimately be dismissed does not authorize disobedience of an operative court order. *Walker*, 388 U.S. at 314–15.

Respondents' emphasis on alleged pleading deficiencies only underscores why compliance safeguards matter. Courts routinely issue temporary non-removal orders precisely to preserve jurisdiction and prevent irreparable harm while the record is developed. If Respondents believed the habeas petition was defective, they could have challenged it directly by filing a motion to dismiss or seeking reconsideration of the non-removal order. There was no exigency requiring immediate execution of removal while the Court's order was in place. Respondents could have waited—even briefly—and pursued relief through orderly judicial process. Instead, they removed Petitioner and now argue that the perceived weakness of the petition excuses that violation.

Contempt doctrine does not permit that approach. Parties subject to a court order must obey it unless and until it is modified, stayed, or vacated through proper judicial channels. *See Walker*, 388 U.S. at 314–15 (holding that even parties who believe an injunction is erroneous must comply with it unless and until it is set aside). Respondents' "remove first, argue later" theory would convert

preservation orders into empty gestures and render judicial review meaningless—precisely the result contempt sanctions are designed to prevent.

VI. Sanctions Are Necessary to Remedy Harm and Ensure Future Compliance

Finally, sanctions remain warranted for the classic civil contempt purposes: to compensate Petitioner for losses caused by Respondents' noncompliance and to coerce systemic compliance with court orders going forward. Doc. 8. The Motion for Sanctions requested precisely that type of remedial relief, including coercive or compensatory sanctions "sufficient to ensure future compliance with court orders." Doc. 8. If the violation resulted from internal communication failure—as Respondents argue—then sanctions are necessary to ensure that ICE develops and implements mechanisms so that (1) court non-removal orders are immediately flagged, (2) communicated to all relevant field offices, and (3) acted upon before removal is executed. Doc. 8. Without sanctions, Respondents' position effectively invites recurrence.

CONCLUSION

The Court entered a clear order prohibiting Petitioner's removal while the habeas action remained pending. Doc. 4. Respondents received notice through counsel and forwarded the OSC internally to agency counsel at 4:21 p.m. on December 22, 2025. Doc. 8. ICE nonetheless removed Petitioner the next morning. Doc. 29. Respondents' defenses (no "actual notice" to the executing officer; "impossibility"; belated venue/jurisdiction; and "purge") fail as a matter of law and are contradicted by their own timeline.

Petitioner respectfully requests that the Court grant the Motion for Sanctions, find that Respondents violated the Court's December 22 non-removal directive, and impose appropriate compensatory and remedial sanctions sufficient to compensate Petitioner and ensure future compliance with court orders.

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Dated: December 23, 2025

Respectfully submitted,

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