

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Oscar O.T.,

Petitioner,

v.

Pamela Bondi, Attorney
General, U.S. Department of Justice,

Kristi Noem, Secretary, U.S.
Department of Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs
Enforcement, and

David Easterwood, Acting Director,
St. Paul Field Office Immigration
and Customs Enforcement.

Respondents.

Case No. 26-cv-167 (JWB/JFD)

**MEMORANDUM IN SUPPORT OF
MOTION FOR CONTEMPT**

INTRODUCTION

Petitioner submits this memorandum of law in support of his motion to hold Respondents in civil contempt because they have not complied with the Court's January 15, 2026 Order that granted Petitioner's petition for a writ of habeas corpus. The Court specifically ordered that "Respondents shall immediately release Petitioner from custody" and that Petitioner "must be released in Minnesota." (ECF 6.) Respondents have failed to comply with this Order. Petitioner requests that the Court order Respondents to produce with Petitioner, in coordination with the U.S. Marshal Service, before this Court

by 9:00 a.m. CST on January 22, 2026. This judicial intervention is required to compel Respondents' compliance with this Court's Order.

BACKGROUND

Petitioner is a citizen of Guatemala who has lived in Minnesota since January 2021. (ECF 1 ¶ 13.) He was placed in the custody of the Office of Refugee Resettlement and deemed an Unaccompanied Alien child in January 2021. (ECF ¶ 13.) He was later released to the care of his father. (*Id.*) Petitioner has pending timely applications for asylum and Special Immigrant Juvenile Status (SIJS). (*Id.*) Petitioner—who has no criminal record—recently received employment authorization from the Department of Homeland Security. (*Id.* ¶ 14.) While on his way to work on or about January 10, 2026, Petitioner was taken into custody by ICE as part of ICE's "Operation Metro Surge." (*Id.* ¶¶ 14, 20.)

On January 14, 2026, Petitioner filed an emergency petition for a writ of habeas corpus and a request for an order to show cause why a writ of habeas corpus should not be granted and Petitioner released. (ECF 1.)

On January 15, 2026, this Court granted Petitioner's motion for habeas corpus, finding that Respondents have not identified a valid statutory basis for detention in the first place and that Petitioner has shown that Respondents have not invoked a provision of the INA that authorizes his continued detention. (ECF 6 at 6.) The Court ordered that "Respondents shall immediately release Petitioner from custody" and that "[h]e must be released in Minnesota." (*Id.* at 7.) The Court further ordered Respondents to "confirm the time, date, and location of Petitioner's release within 48 hours," (*id.*)—i.e., no later than January 17, 2026. The Court further ordered that "Respondents may not re-detain Petitioner

under a statutory theory this Court has rejected in this proceeding absent materially changed circumstances.” (*Id.*)

On January 19, 2026, this Court entered a Text Only Order acknowledging Respondents’ noncompliance with the Court’s January 15, 2026 for failure to immediately release Petitioner and confirm the time, date, and location of Petitioner’s release within 48 hours. (ECF 9.) The Court ordered Respondents to comply with the Court’s Order immediately and file a letter that day showing cause why they should not be held in contempt for violating the Court’s Order. (*Id.*)

On January 19, 2026, Respondents, through the U.S. Attorney’s Office for the District of Minnesota, submitted a letter response to the Court’s Order to Show Cause why Respondents should not be held in contempt for failing to comply with the Court’s January 15, 2026 Order to release Petitioner in Minnesota and provide confirmation to the Court within 48 hours. (ECF 10.) The letter claimed that Petitioner was scheduled for return to Minnesota on a flight from El Paso on January 20, 2026 and that he “will be released upon his return.” (*Id.* at 1.) The letter claimed that Respondents’ failure to comply was due to an “oversight” and that the U.S. Attorney’s Office is “updating [their] procedures to ensure that Orders are not missed.” (*Id.*)

On January 20, 2026, this Court issued a Text Order stating that “Respondents state that Petitioner is scheduled for return and release in Minnesota on January 20, 2026.” (ECF 11.) However, as described in Affidavit of Kimberly Boche, after repeated status requests as to Petitioner’s whereabouts, ICE advised that Petitioner is currently in New Mexico with no immediate return travel to Minnesota. (*See Decl.* ¶ 14, Ex. B.)

ARGUMENT

The Court should hold Respondents in contempt because they have not complied with the Court's Order compelling them to release Petitioner in Minnesota. A district court has broad discretion in using its contempt powers to ensure compliance with its orders. *Shillitani v. United States*, 384 U.S. 364, 370 (1966). A party seeking civil contempt must prove, by clear and convincing evidence, that the respondent violated a court order. *Indep. Fed'n of Flight Attendants v. Cooper*, 134 F.3d 917, 920 (8th Cir. 1998). The moving party does not have to show that the violation is intentional; contempt occurs whenever a party fails to comply with a valid order of the court, whether that failure is intentional or not. *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949). Once the moving party has met its burden of showing that the non-moving party has violated the Order, that party bears the burden of showing that compliance is impossible, and they are "obliged to make this showing 'categorically and in detail.'" *United States v. Conces*, 507 F.3d 1028, 1043 (6th Cir. 2007); *see also United States v. Rylander*, 460 U.S. 752, 757 (1983) (noting that in raising the defense of impossibility "the defendant has a burden of production").

Here, the Court's Order required Respondents to release Petitioner *immediately* and to release him in Minnesota. The Order was clear and unambiguous. Respondent has failed to release Petitioner—more than five days after the Court's Order requiring them to do so. Failing to prepare adequately for administrative challenges of the government's own making is hardly a showing that compliance is impossible, much less one that bears Respondents' requisite burden. Thus, Respondents are in contempt of the Order.

Further, to ensure their compliance and provide the relief the Court has already afforded Petitioner, the Court should order Respondents to produce Petitioner, in coordination with the U.S. Marshal Service, before this Court by 9:00 a.m. CST on January 22, 2026.

CONCLUSION

Respondents have willfully violated this Court's Order by not releasing Petitioner immediately upon issuance of this Court's Order more than five days ago. Therefore, the Court should hold Respondents in contempt and require Respondents to release Petitioner and produce him, in coordination with the U.S. Marshal Service, before this Court by 9:00 a.m. CST on January 22, 2026.

Dated: January 21, 2026

Respectfully submitted,

/s/Kira Kelley

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**LR 7.1 WORD COUNT
CERTIFICATION**

I, Kira Kelley, certify that Petitioner's Memorandum of Law in Support of its Motion to Hold Respondents in Contempt complies with Local Rules 7.1(f) and (h). I further certify that, in preparation of this memorandum, I used Microsoft Word, and that this word processing program has been applied specifically to include all text, including headings, footnotes, and quotations, in the following word count. I further certify that the above referenced memorandum contains 1045 words.

Dated: January 21, 2026

Respectfully submitted,

/s/Kira Kelley

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