

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

U.H.A., K.A., H.D., D. Doe, M. Doe, on behalf of themselves and others similarly situated, *and* **THE ADVOCATES FOR HUMAN RIGHTS**,

Plaintiff-Petitioner and Plaintiffs,

v.

PAMELA BONDI, in their official capacity as Attorney General of the United States;
KRISTI NOEM, in her capacity as Secretary of the United States Department of Homeland Security;

TODD M. LYONS, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement;

DAVID EASTERWOOD, in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement; *and*

JOSEPH B. EDLOW, in his official capacity as Director, U.S. Citizenship and Immigration Services,

Defendants-Respondents.

Case No. 0:26-cv-00417-JRT-DLM

**DEFENDANTS' MEMORANDUM
OF LAW IN OPPOSITION TO
PLAINTIFFS' MOTION FOR
FINDING OF CIVIL CONTEMPT**

INTRODUCTION

A coercive civil contempt penalty is “designed to force the offending party to comply with the court’s order.” *Klett v. Pim*, 965 F.2d 587, 590 (8th Cir. 1992). But here, Plaintiffs seek new relief, not to force compliance with the existing TRO. And at present, Defendants are in compliance with the TRO. Even if the Court found issues with Defendants’ compliance process, any such issues would not entitle Plaintiffs to forward-looking relief nowhere found in the Court’s TRO. Accordingly, the Court should deny Plaintiffs’ motion.

BACKGROUND

In early January, DHS launched Operation PARRIS, pursuant to which DHS has arrested and detained refugees who have been in the United States for over a year but have not yet secured permanent resident status. ECF No. 56-1 (Kernan Decl.) ¶ 19; *see* 8 U.S.C. § 1159(a).

On January 18, 2026, Plaintiff U.H.A.—a refugee conditionally admitted in September 2024—filed a petition for writ of habeas corpus, claiming that DHS was unlawfully detaining him pursuant to Operation PARRIS. ECF No. 1. On January 24, 2026, U.H.A., along with other individuals and an organization, filed an amended petition and a complaint on behalf of a putative class of thousands of refugees. ECF No. 12. Plaintiffs raise various claims challenging Operation PARRIS on statutory and constitutional grounds. *Id.* ¶ 6. In the amended petition, Plaintiffs seek to represent a proposed class of “[a]ll individuals with refugee status who are residing in the state of Minnesota, who have not yet adjusted to lawful permanent resident status, and who have

not been charged with any ground for removal under the INA,” and U.H.A seeks to represent a subclass of “[a]ll members of the Class who are or will be detained by DHS pursuant to the Refugee Detention Policy.” *Id.* ¶ 101.

Shortly after filing the amended petition, Plaintiffs moved for a TRO. ECF No. 17. On January 28, 2026, the Court granted the motion. ECF No. 41 (the “Order”) at 31-32. In its Order, the Court enjoined Defendants from arresting or detaining any member of the putative Class for any length of time, ordered Defendants to immediately release all members of the putative Detained Subclass or, if out of state, transport them back to Minnesota and release them within five days—but not until arranging with Plaintiffs’ counsel for an authorized representative to pick up the aliens. *Id.*

In response to the TRO, ICE released, by January 30, all members of the putative Detained Subclass that were detained in Minnesota. Ex. A (Rich Decl.) ¶ 7. ICE also provided a list of eighteen subclass members who were in detention outside of Minnesota. *Id.* ¶ 9. Over the next few days, ICE worked “to expeditiously transfer, coordinate with aliens’ counsel, and release the[se] aliens.” *Id.* ¶ 10. Regarding coordination, ICE first determined whether a refugee had properly submitted a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, with ICE. *Id.* ¶ 6. If a Form G-28 existed, ICE would call the number listed on the form. *Id.* If that call went unanswered, ICE would leave a voicemail or try to send an email to the address listed on the G-28. *Id.* If a refugee’s attorney failed to respond, or if a refugee did not have a G-28, then ICE would ask the alien themselves who to contact to coordinate their release. *Id.*

The release process was delayed by, among other things, “the availability of commercial and charter flights, the amount of aliens that can be on each flight, coordination of the necessary number of escorting officers per flight, processing and transferring the aliens who were housed at various detention facilities, and the accessibility of aliens’ counsel to coordinate a release plan.” *Id.* ¶ 10. To top it off, “there was adverse weather affecting much of the United States and air traffic during this time period,” and there was “limited bedspace in Minnesota to house the alien pending release to aliens’ counsel or an authorized individual.” *Id.* ¶¶ 10, 12.

Given these difficulties, “numerous officers worked exhaustive hours in order to comply with the Court’s order.” *Id.* ¶ 17. ICE returned and released eleven detainees during the weekend of January 31, six detainees on February 3, and the last detainee on February 5. *Id.* ¶ 13. This last detainee was scheduled to return on February 4, “but mechanical issues prevented the departure of the flight and the detainee was promptly re-scheduled for the next available charter the following day.” *Id.* As of now, all members of the putative Detained Subclass have been released.¹ *Id.* ¶¶ 7, 13.

Refugees were released with their personal property in ICE’s possession, “as documented on the appropriate custody receipt.” *Id.* ¶ 15. In some cases, ICE retained

¹ ICE released one refugee in Texas based on ICE’s understanding that counsel requested an immediate release. Rich Decl. ¶ 14. With respect to the petitioner in *Abda v. Bondi*, 26-cv-512, DHS recently issued him a Notice to Appear based on a finding of removability under “Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act.” *See* Ex. B. Because that refugee has been “been charged with a[] ground for removal under the Immigration and Nationality Act,” he is not a member of the putative Class. ECF No. 41 at 32.

certain documents, like foreign passports, in the event the alien is later placed in removal proceedings. *Id.* There is a process, though, for an alien to request return of those documents, and ICE will “evaluate each request on a case-by-case basis.” *Id.*

Some putative Detained Subclass members “were released with instructions to report at a future date or issued parole.” *Id.* ¶ 16. ICE is in the process of removing any release conditions and terminating grants of parole, with the goal of returning all putative Detained Subclass members to the same status they had prior to arrest. *Id.* And ICE is sending out notices to this effect. *Id.*

Plaintiffs moved on February 3 for a finding of civil contempt. ECF No. 69. Plaintiffs claim that Defendants violated the TRO by (1) “failing to release [putative] Detained Subclass members as expressly directed”; (2) “imposing conditions on the release of members of the [putative] Detained Subclass”; and (3) “releasing [putative] Detained Subclass members without their personal belongings and essential documents.” *Id.* at 14-16.

LEGAL STANDARD

“A party seeking civil contempt bears the initial burden of proving, by clear and convincing evidence, that the alleged contemnors violated a court order.” *Chicago Truck Drivers v. Bhd. Lab. Leasing*, 207 F.3d 500, 505 (8th Cir. 2000). If this initial burden is met, then the non-movant must show an inability to comply. *See id.* at 506; *United States v. Rylander*, 460 U.S. 752, 757 (1983). If a non-movant fails to meet its burden, then the movant is entitled to a “coercive” sanction “designed to compel future compliance with a court order.” *Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 827

(1994); see *Gompers v. Buck's Stove & Range Co.*, 221 U.S. 418, 442 (1911) (explaining that a civil contempt sanction is designed to “coerce the defendant to do the thing required by the order for the benefit of the complainant”); *United States v. Hefti*, 879 F.2d 311, 315 (8th Cir. 1989) (“It is an elementary rule that in civil contempt the sanctions are coercive (to encourage compliance), not punitive.”).

ARGUMENT

I. Defendants are Not in Contempt.

Plaintiffs raise three potential grounds for a contempt finding. The Court can easily dismiss two of them. A predicate for a finding of contempt is a court order either requiring or forbidding a specific act. See, e.g., *In re Reed*, 888 F.3d 930, 936 (8th Cir. 2018) (“A party commits contempt when he violates a definite and specific order of the court requiring him to perform or refrain from performing a particular act or acts with knowledge of the court’s order. (quotation omitted)). No such order exists with respect to both the “imposition of conditions on release” and the “failure to return personal belongings and documents” bases for contempt. The TRO does not award Plaintiffs any relief on either issue. Tellingly, as part of their requested relief, Plaintiffs request that the Court “clarify[]” the TRO regarding any conditions on release. ECF No. 69 at 17. By requesting this relief, Plaintiffs tacitly admit that, as it currently stands, the TRO contains no “definite and specific” direction. *In re Reed*, 888 F.3d at 936. And the same is true regarding the retention of any personal property. Black letter law therefore refutes two-thirds of Plaintiffs’ argument. See *Turner v. Rogers*, 564 U.S. 431, 441 (2011) (“Civil contempt . . .

seeks only to coerce the defendant to do what a court had previously ordered him to do.” (cleaned up)).²

With respect to the other purported basis for contempt—the failure to release—Defendants are currently in compliance with the Court’s order. Every member of the putative Detained Subclass has been released. Rich Decl. ¶¶ 7, 13. Plaintiffs contest this conclusion based on the petitioner in *Abda v. Bondi*, 26-cv-512, see ECF No. 69 at 7-8, but the petitioner in that case is not a member of the putative Class. DHS recently issued him a Notice to Appear based on a finding of removability under “Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act,” see Ex. B, and thus he falls outside the putative Class’s definition, see ECF No. 41 at 32 (excluding from the putative Class those that have “been charged with any ground for removal under the Immigration and Nationality Act”). A party is “free” of civil contempt once it “complies with the underlying order.” *Turner*, 564 U.S. at 442. That is exactly what has happened here. In the light of current compliance, there is no basis for a finding of civil contempt.

Plaintiffs also take issue with the release process—most especially the amount of communication with Plaintiffs’ counsel and the release of one refugee in Texas. ECF No. 69 at 14 & n.7. Defendants have strong factual responses to both contentions. ICE released the refugee in Texas based on its understanding of counsel’s request. Rich Decl. ¶ 14. And

² Defendants’ arguments should not be interpreted as taking a position on the merits of either issue. Indeed, as the Rich Declaration explains, ICE is currently in the process of removing release conditions. Rich Decl. ¶ 16. And, with respect to the retention of personal property, ICE sometimes retains property to assist in the case of any eventual removal proceeding. *Id.* ¶ 15. A process, though, is in place for aliens to request the return of property. *Id.*

ICE took multiple steps, when possible, to coordinate with each alien's listed counsel. *Id.* ¶ 6.³ In any case, given the completion of the release process for all members of the putative Detained Subclass, Plaintiffs fail to explain how their arguments are fit for a motion for contempt. Indeed, Plaintiffs do not even request relief aimed at redressing either issue. Plaintiffs' desire for additional "coordination" is now moot, as is Plaintiffs' displeasure that one member of the Detained Subclass was released, based on ICE's understanding of his counsel's wishes, in Texas. A finding of civil contempt is therefore unwarranted. *Cf. Sisney v. Kaemingk*, 15 F.4th 1181, 1200 (8th Cir. 2021) ("A court cannot impose a coercive civil contempt sanction if the underlying order is no longer in effect." (alteration adopted) (quotation omitted)).

II. Plaintiffs Seek New Relief.

Civil contempt is intended to achieve compliance with an existing order. *See Turner*, 564 U.S. at 441; *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949). It is not a vehicle for new relief. In other words, a plaintiff cannot add to a pre-existing TRO by way of a contempt motion. But that is precisely the move Plaintiffs attempt to make. None of the requested "sanctions" are aimed at achieving compliance with the TRO's release mandate.

Plaintiffs' first request—covered above—is for the Court to add to the TRO a prohibition on the imposition of release conditions. ECF No. 69 at 17. Because no such

³ Defendants should not be penalized for coordinating with counsel listed on the refugee's G-28, especially when considering the Court's requirement of coordination was intended only to ensure the refugee was not released into the cold. ECF No. 41 at 32.

prohibition appears in the TRO, this proposed sanction is not “designed to force [Defendants] to comply” with the TRO. *Klett*, 965 F.2d at 590. The same is true of the fourth and fifth requests—in which Plaintiffs ask the Court to order the return of all personal property and the rescission of release conditions, or, to order Defendants to file written submissions explaining the bases for the retention of property and imposition of conditions. ECF No. 69 at 18. These requests would add to Defendants’ court-imposed obligations, not force Defendants to comply with already existing ones.

Finally, in their second and third requests, Plaintiffs seek an order directing Defendants to file two reports—one “containing the methodology used by Defendants to identify members of the [putative] Detained Subclass” and the other containing various information about those members. ECF No. 69 at 17-18. Plaintiffs fail to explain how either report can be characterized as a sanction aimed to “coerce [Defendants] to do what a court had previously ordered [them] to do.” *Turner*, 564 U.S. at 441. At the most, both reports seek some information detailing *how* Defendants came into compliance, with the third request also seeking information—regarding release conditions and retained property—beyond the scope of the TRO. These are not coercive civil contempt sanctions, and the Court should not enter them.

CONCLUSION

For the foregoing reasons, the Court should deny Plaintiffs’ motion for a finding of civil contempt.

Dated: February 10, 2026

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon Plaintiffs' counsel by the Electronic Case Filing system on February 10, 2026.

/s/ Brantley T. Mayers

CERTIFICATE OF COMPLIANCE

I certify that this memorandum complies with the Local Rules. Specifically, the memorandum complies with the limits in LR 7.1(f) because it contains 2,493 words, as counted by Microsoft Word for Microsoft 365 MSO (Version 2512), which counts all text, including headings, footnotes, and quotations. It also complies with LR 7.1(h) because it is written in Times New Roman in size 13 and double spaced (except as allowed by LR 7.1(h)(1)).

/s/ Brantley T. Mayers