

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Civil No. 0:26-cv-00780-SRB-ECW

Wellington Stephen Pallo Freire,

Petitioner,

**RESPONSE TO COURT'S  
ORDER ECF DOC 10**

v.

Todd Lyons, et al.,

Respondents.

Respondents

Respondents respectfully submit this response to the Court's Order to Show Cause issued Friday, February 10, 2026, ECF No. 12, as to why Respondents should not be held in contempt for failing to follow the court's orders. Respondents' factual basis is set forth in the Declaration of Friedrich A. P. Siekert filed herewith. Specifically, Petitioner's release was delayed because of a miscommunication between the U.S. Attorney's Office and ICE/OPLA. When ICE was aware of the release order, ICE acted promptly and effectuated the release.

Construing the federal contempt statute, 18 U.S.C. § 401, the Eighth Circuit explained, "There are two types of civil contempt: coercive and compensatory." *Coleman v. Espy*, 986 F.2d 1184, 1190 (8th Cir. 1993), *reh'g and reh'g on banc denied* (8th Cir. April 5, 1993) (citing *Klett v. Pim*, 965 F.2d 587, 590 (8th Cir. 1992); *United Mine Workers of Am.*, 330 U.S. 258, 202-04 (1947)). The circuit court further explained:

With coercive contempt penalties, the court issues sanctions such as fines or incarceration to force the offending part to comply with the court's order.... With compensatory contempt, the court attempts to compensate the plaintiff for the damage that the offending party has caused by its contempt.

*Coleman*, 986 F.2d at 1190.

Sovereign immunity bars a compensatory contempt sanction against the federal government (for example, compensation for an injury the petitioner suffered due to the violation). *Colby*, 986 F.2d at 1192. Any sanctions at issue would therefore be coercive in nature to force the government to comply with the Court's order. But the government has already released the detainee, and thus the government has already complied with the Court's order – there is no reason to order contempt sanctions to achieve a result that has already occurred. The “paradigmatic ... civil contempt sanction” is a conditional penalty that may be “purge[d]” through compliance with the original order. *International Union, United Mine Workers of America v. Bagwell*, 512 U.S. 821, 828 (1994); *Shillitani v. U.S.*, 384 U.S. 264, 368 (1966).

Nor is there any indication that the government purposefully disregarded the Court's orders. Rather, as explained above, the delays resulted from an inadvertent oversight of counsel, who has otherwise successfully complied with court orders and continues to work hard to do so and to facilitate the agency's efforts to do the same. As such, there is no “disobedience” within the meaning of the contempt statute.

### CONCLUSION

For these reasons, Respondents respectfully request that no finding of contempt be entered.

Dated: February 9, 2026

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United States Attorney

*s/ Friedrich A. P. Siekert*

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