United States District Court
Western District of Texas
El Paso Division

Pedro Alexander Mendez-Lainez, Petitioner, v. Markwayne Mullin, *et al.*, Respondents.	No. 5:26-CV-667-JKP

Federal Respondents' Response to Petitioner's Motion for Order to Show Cause

Federal[1] Respondents respectfully submit the following response in opposition to Petitioner's Motion for Order to Show Cause. ECF No. 12.

In his motion, Petitioner seeks an Order for Show Cause from this Court and requests this Court order Respondents to show cause as to why this Court should not hold them in contempt for violating its Order entered at ECF No. 3, wherein the Court ordered that any possible or anticipated removal or transfers is immediately stayed until further order from this Court. *Id.* at 2.

Introduction and Procedural Background

As set forth in Respondent's response entered on April 7, 2026, Respondents informed the Court that Petitioner reserved appeal but had not perfected appeal with the Board of Immigration Appeals (BIA). ECF No. 9 at 4. Moreover, Petitioner's appeal was due on April 6, 2026, and Respondent's response was filed on April 7, 2026. *Id.* Respondents noted for the Court that it was possible Petitioner filed an appeal by the deadline, April 6, 2026, but the BIA has yet to process the appeal. *Id.* On April 8 2026, the Court entered an Order requiring supplementation from

[1] The Department of Justice represents only federal employees in this action.

Petitioner. ECF No. 10. Petitioner was directed to provide an update as to whether Petitioner appealed his order of removal. ECF No. 10 at 2. On April 17, 2026, Petitioner filed a supplemental reply as ordered by the Court. ECF No. 11. Petitioner claims that an appeal was successfully filed. ECF No. 11 at 2. To the contrary, Petitioner's appeal was rejected. *See* Gov't Ex. A (Rejection Notice). This resulted in the removal order becoming final. Believing there were no impediments to removal now that the order was final, Respondents inadvertently removed Petitioner from the United States to Honduras. This was based on Petitioner's failure to perfect her appeal, which resulted in a final administrative order of removal.

Contempt

Willfulness is an element of criminal contempt and must be shown beyond a reasonable doubt. *United States 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 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.

In the present case, as set forth above, the Respondents removed Petitioner to Honduras in good faith and not with the attempt to willfully violate the Court's Order. Respondents unintentionally removed Petitioner from the United States in violation of the Court's Order but did so without the purposeful intention of violating the Court's Order. Thus, Petitioner fails to make a showing sufficient to warrant a finding of contempt.

Conclusion

Based on the foregoing, Respondent's respectfully request that the Court find that Petitioner has failed to make a showing of contempt, and that the Court deny Petitioner's motion for Order to Show Cause.

Date: April 21, 2026

Respectfully submitted,

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