

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FRANCISCO D’COSTA,

Petitioner,

v.

WARDEN, *et al.*,

Respondents.

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CASE NO.4:25-CV-6177

EXPEDITED RESPONSE TO THE EMERGENCY MOTION TO ENFORCE

Respondents respond to the motion to enforce (Docket 9) as follows:

A. Facts regarding Notification of the Court order:

As seen in the advisory filed on December 29, 2025, and the memo from Justin Vedder, Acting Assistant Field Office Director, Mr. D’Costa departed the Joe Corely Processing Center at 10:00 AM for Bush IAH (prior to the issuance of the Court’s order at 11:08 AM) and arrived at the airport at 11:15 AM, where he was turned over the ERO officers to be escorted to the departure gate. After receiving the Court’s order, an e-mail was sent from ICE OPLA to Joe Corley Processing Center ERO facility management at 11:46 AM. At about 2:55 PM Mr. D’Costa’s flight departed. See Vedder memo at Docket 7. These facts suggest removal was inadvertent.

Counsel asks for discovery but the Vedder memo and advisory set forth the timing of the receipt of the Court’s order and subsequent events. The times are established. Discovery is not necessary.

B. Dcosta can pursue his Petition for Review post-removal:

Petitioner has a Petition for Review pending at the Fifth Circuit. Case number 25-60666. Removal subsequent to the filing of a Petition for Review does not render consideration by the Court moot. *Flores-Ledezma v Gonzales*, 415 F.3d 375, 380 (5th Cir. 2005). In other words, counsel can continue to litigate the Petition for Review at the Fifth Circuit even though Mr. Dcosta is now in India.

As counsel points out in his motion to enforce, Mr. Dcosta filed papers regarding change in country conditions both with the Fifth Circuit and the immigration court. The immigration judge, in a December 4, 2025, opinion quotes another judge as follows: “The Immigration Judge specifically asked Respondent whether he had a fear of returning [to India] and he stated that he did not”. See attached exhibit: IJ Order at 2.

C. Sanctions are Not Warranted:

Based on the timeline of what occurred, monetary sanctions are not warranted. The Court’s order was issued at 11:08 AM and by 11:46 AM, ERO had the order. The order was sent as rapidly as possible under the circumstances (a Saturday morning). It appears Mr. Dcosta was inadvertently not removed from the flight.

The motion to enforce should be denied.

Dated: December 31, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 31, 2025, the foregoing was filed and served on counsel of record through the Court's CM/ECF system.

S Daniel Hu
Daniel Hu
Assistant United States Attorney