

United States District Court
Western District of Texas
El Paso Division

Romel Edmundo Garcia Cabrera,

Petitioner,

v.

Kristi Noem, *et al.*,

Respondents.

Case No. 3:26-CV-00232-DB

**Federal Respondents' Response to Petitioner's Notice of Violation of Order
and Motion to Enforce**

Federal Respondents submit the following response in opposition to Petitioner's Notice of Violation of Order and Motion to Enforce, filed on March 6, 2026, (ECF No. 9), and would respectfully show the Court the following.

Introduction and Procedural Background

In her motion, Petitioner contends that Respondents failed to comply with the Court's Order entered on February 10, 2026, (ECF No. 7). Petitioner seeks an order for immediate return of his personal belongings.

On February 4th the Court entered an order requiring Federal respondents to return the Petitioner's personal effects. ECF Doc. 5. On February 17, Federal respondents provided an Advisory to this court notifying the Court that "none of the requested personal effects were located in the detention file". ECF No. 7. ERO further requested the contractor overseeing the operations to search the facility, but nothing came up. *Id.* Ex A, ¶ 6.

On March 6, 2026 Petitioner filed his notice of violation of the Court's order and motion to enforce. ECF No. 9.

Discussion

In the present case, Petitioner contends that Respondents have failed to comply with this Court's orders. Respondents contend that the return of property is not a habeas matter, though they worked diligently to locate and return the property.

I. Petitioner's Claim for Return of Property is not Cognizable under Federal Habeas

Respondents contend that Petitioner is not entitled to relief regarding his property as a claim for the return of private personal property or for financial compensation for lost property is not cognizable under federal habeas review. *See Rincon v. U.S. Dept. of Homeland Security*, No. 5:23cv88, 2024 WL 715078 at *2 (S.D. Ga. Jan. 31, 2024) (report and recommendation adopted by 2024 WL 714317); *Dingler v. Rockwall County Court #2*, No. 3:22cv1252, 2022 WL 2964665 (N.D. Tex. Jul. 25, 2022); *Reynolds v. Werlich*, No. 18cv1186, 2018 WL 3536753 at *2 (S.D. Ill. Jul. 23, 2018); *Smith v. Dismas Charities*, No. 2:15cv10749, 2016 WL 2893783 at *3 (S.D. W.Va. Apr. 8, 2016); *Alcenat v. FCI Schuylkill*, No. Civ. 3:cv05-2601, 2006 WL 148880 at *1-2 (M.D. Pa. Jan. 18, 2006). Here, Petitioner is not challenging the duration or propriety of her confinement. Instead, Petitioner is seeking the return of personal property allegedly confiscated or lost pursuant to his detention by ICE. The favorable resolution of the issue raised in the petition will not result in the Petitioner's release. *See Alcenat*, 2006 WL 148880 at *1-2. Consequently, Petitioner's claim for the return of his property is not cognizable here under 28 U.S.C. § 2241, and should be dismissed. *See Rincon*, 2024 WL 715078 at *2. In fact the Fifth Circuit has ruled that in the immigration context the only claims that can be brought are relating to detention: "the Supreme Court has recently taken a narrow view of habeas relief in the immigration context, which supports our reluctance to extend habeas relief to aliens who are released from detention." *Bacilio-Sabastian v. Barr*, 980 F.3d 480, 483 (5th Cir. 2020).

II. Petitioner Fails to Establish Contempt

Petitioner moves the Court to enter an order of contempt against Respondents. However, he fails to establish any contempt on the part of Respondents. Willfulness is an element of criminal contempt and must be shown beyond a reasonable doubt. *U.S. 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 made good faith attempts to comply with this Court's orders. Respondents filed a status report on February 17, 2026, in accordance with the Court's orders. There is no evidence of any willful disregard by Respondents of the Court's orders. Thus, because Respondents have shown their efforts of compliance with the Court's orders, Petitioner fails to make a showing sufficient to warrant a finding of contempt.

Conclusion

Consequently, Petitioner's motion is without merit and should be denied, given that Petitioner has failed to show any willful noncompliance with the Court's orders by Respondents. Based on the foregoing, Respondents respectfully request that the Court find that Petitioner has failed to support their motion, and that the Court deny Petitioner's motion.

Date: March 13, 2026

Respectfully submitted,

JUSTIN R. SIMMONS
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