

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOSE ELIEZER MARTINEZ-ANDINO,

Plaintiff,

v.

MARKWAYNE MULLIN,
Secretary of Homeland Security, et al.,

Defendants.

Civil Action No. 26-1208 (BAH)

**RESPONSE TO PLAINTIFF'S SECOND MOTION FOR
TEMPORARY RESTRAINING ORDER**

Pursuant to the Court's April 10, 2026, Minute Order, Defendants, through undersigned counsel respond to Plaintiff's factual queries.

BACKGROUND

On April 10, 2026, Plaintiff filed a complaint in this action alongside an emergency motion for a temporary restraining order. *See* Emergency Mot., ECF No. 2. Plaintiff's emergency motion requested the Court

order Defendants within 24 hours to:

- (1) Disclose Plaintiff's current physical location;
- (2) Identify the agency exercising custody, if still in custody; and
- (3) Facilitate immediate, confidential attorney-client communication.

Emergency Mot. at 2.

Around 3:15PM, the Court scheduled a teleconference on Plaintiff's emergency motion. Around 3:30PM, counsel for Defendants informed Plaintiff's counsel that Plaintiff had flown to Honduras.

At 4:00PM, the Court held the hearing. *See* Apr. 10, 2026 Min. Order. As is relevant, the Court ordered

(1) that defendants “[d]isclose Plaintiff’s current physical location to his Counsel and the Court,” which relief was provided at the hearing when defendants’ counsel disclosed that plaintiff had been flown to and was presently in Honduras;

(2) that, “[i]f the Plaintiff is in custody, [defendants] identify the agency currently exercising custody,” which relief was provided at the hearing when defendants’ counsel disclosed that plaintiff is, to counsel’s knowledge, no longer in U.S. custody but was last in the custody of Customs and Border Patrol; and

(3) that, “[i]f plaintiff is in the custody of the US government, [defendants] provide Plaintiff with immediate access to counsel,” which relief was directed to be provided promptly by any available means. Plaintiff’s motion is DENIED insofar as plaintiff is no longer in the custody of any agency of the U.S. Government.

Apr. 10, 2026, Min. Order.

Immediately after the hearing, the Undersigned corrected his misunderstanding and informed Plaintiff’s counsel that Plaintiff was last in the custody of Immigrations and Customs Enforcement (ICE). *See* Pl.’s 2d Mot. at 2.

Around 6:00PM, Plaintiff filed his second motion for a temporary restraining order (“Pl.’s 2d Mot.”), largely repeating arguments that Plaintiff had had made at the end of the hearing and that the Court rejected. In his Second Motion, Plaintiff seeks six forms of relief without suggesting any source of law that required such relief. Specifically, Plaintiff requested the court to

order Defendants within 24 hours to:

1. Disclose whether Plaintiff remained in custody at the time of the hearing that began at 4:00 p.m. EDT (2:00 p.m. Honduras local time);
2. Disclose which agency last had custody of Plaintiff, if he is no longer in agency custody, along with the time and address of his release from custody;
3. Provide Plaintiff with immediate access to counsel, if he remains in agency custody;
4. Not to release the Plaintiff to the Honduran government or to his liberty in Honduras;

5. Parole Plaintiff back into the United States under 8 C.F.R. § 212.5(d)(5) to rectify his wrongful removal; and

6. If Plaintiff is no longer in custody, to facilitate his return to the custody of the United States for him to be paroled back to the United States.

Pl.'s 2d Mot. at 3.

Shortly thereafter, the Court ordered

defendants to file, by April 13, 2026, at 2:00 PM, a response to plaintiff's factual queries sought in the motion, namely: 1. "whether Plaintiff remained in custody at the time of the hearing that began at 4:00 p.m. EDT (2:00 p.m. Honduras local time)"; and [2.] "which agency last had custody of Plaintiff, if he is no longer in agency custody, along with the time and address of his release from custody[.]"

Apr. 10, 2026, Min. Order

RESPONSE

Defendants respond as follows.

I. Plaintiff Was Not in Custody at the Time of the Hearing

As stated at the hearing, Plaintiff took Voluntary Departure to Honduras. Plaintiff's plane left Mesa, Arizona, at approximately 8AM EST and landed at the Ramón Villeda Morales International Airport in San Pedro Sula, Honduras at approximately 12:50PM EST. *See* George Decl. ¶ 6.¹

Shortly thereafter, and no later than 2:00 PM EST, Plaintiff was transferred from ICE custody to the custody of Government of Honduras's Instituto Nacional de Migración. *See* George Decl. ¶ 6. Accordingly, Plaintiff was not in custody when the hearing began around 4PM.

¹ Defendants were unable to finalize a declaration given the expedited timeline and tight deadline by which the Court ordered responses to the outstanding questions. Defendants will provide the declaration soon.

II. ICE Last Had Custody of Plaintiff

ICE was the last federal agency that had custody of Plaintiff, and last had custody of Plaintiff at the Ramón Villeda Morales International Airport. George Decl. ¶ 6. ICE released Plaintiff between 12:50PM and 2:00PM EST. *Id.* ¶ 6.

Defendants request that the Court deny the remainder of Plaintiff's second motion. To the extent that the Court considers the remainder of Plaintiff's second motion, Defendants request that the Court enter a briefing schedule to provide Defendants sufficient time to respond.

Dated: April 13, 2026

Respectfully submitted,

JEANINE FERRIS PIRRO
United States Attorney

By: /s/ Brian J. Levy

BRIAN J. LEVY
Assistant United States Attorney
601 D Street, NW
Washington, DC 20530
(202) 252-6734

Attorneys for the United States of America