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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Rodolfo Pena Estrada,

Petitioner,

vs.

Eric Rokosky, Warden, Eloy Detention Center, et al.,

Respondents.

No. 2:26-cv-4085-PHX-JJT (JZB)

Motion to Compel Respondents to Return Mr. Pena to the United States as a Sanction for Violating Court Orders

Ten days after Mr. Pena filed his *pro se* habeas petition, respondents removed him from the United States. This action violated two different court orders. First, as respondents have admitted, this action violated the stay of removal entered by the United States Court of Appeals for the Ninth Circuit in *Pena Estrada v. Blanche*, No. 25-2988, on September 24, 2025. Second, as this Court has concluded, this action violated the provision of General Order 26-09 that respondents must provide two business days' advance notice of a petitioner's impending removal, and must not remove the petitioner in that time. As a corrective measure for these violations, this Court should order respondents to return Mr. Pena to the United States, on pain of monetary sanction if they fail to do so within 15 days of the Court's order.

Background

Mr. Pena is a native and citizen of Cuba. On June 5, 2026,[1] he filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2241. At the time, the government was prohibited from removing him from the United States, because on September 24, 2025, the United States Court of Appeals for the Ninth Circuit had stayed his removal. *See* Order, *Pena Estrada v. Blanche*, No. 25-2988 (9th Cir.) (CA9 Dkt. #20). By its terms, the stay would last until the mandate issued in the Ninth Circuit's case, which was set to happen on July 27, 2026. *See* Fed. R. App. P. 41(b) (mandate must issue 7 days after time for filing for rehearing expires). Nevertheless, on June 15, 2026, the government removed Mr. Pena to Mexico.

Also, effective June 15, 2026, this Court adopted General Order 26-09:

> This General Order establishes a case assignment and scheduling procedure to address the influx of petitions for writs of habeas corpus filed by persons seeking immigration-related relief pursuant to 28 U.S.C. § 2241 ("§ 2241 Immigration Petitions"). Given the unprecedented volume of these filings, it is necessary to expand the pool of available judges and standardize a schedule to expedite resolution of these cases. These procedures will apply to all § 2241 Immigration Petitions, unless otherwise ordered by the judge assigned to the case.
>
> General Order 26-09 at 1.

General Order 26-09 required the government to provide to the court two business days' notice before removing a habeas petitioner from the United States, and forbade the government from removing the petitioner "during that time period." General Order 26-09 at 4 ¶ 5. As this Court has observed, the government violated General Order 26-09 when it removed Mr. Pena. (Dkt. #14 at 2)

The government notified this Court that it had removed Mr. Pena on June 16, 2026, when it sought an extension of time to respond to Mr. Pena's *pro se* petition. (Dkt. #6) Respondents' counsel explained that while he was "preparing a response to the Petition," he "determined that [Mr. Pena] may have been removed in violation of" the Ninth Circuit's September 24, 2025, stay

[1] *See Butler v. Long*, 752 F.3d 1177, 1178 n.1 (9th Cir. 2014) (applying the prison mailbox rule to a *pro se* habeas petition and using the date the prisoner signed the petition).

order. (Dkt. #6 at 1) "Respondents request this additional time to determine whether [Mr. Pena] was removed unlawfully and to determine what corrective action, if any, they intend to take." (Dkt. #6 at 1) Four days later, this Court granted the extension of time, allowing until June 25, 2026, to respond to the *pro se* petition. (Dkt. #7)

On June 26, 2026, the government (through the Office of Immigration Litigation) notified the Ninth Circuit that Mr. Pena had been removed from the United States. OIL explained:

> The Court issued a memorandum disposition on June 3, 2026, denying this petition for review. On June 18, 2026, the Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), Office of the Principal Legal Advisor, notified the undersigned government attorney that Petitioner was removed from the United States on June 15, 2026. ICE subsequently confirmed that Petitioner was removed to Mexico rather than Cuba, the designated country of removal.

Notice of Removal, *Pena Estrada v. Blanche*, No. 25-2988 (9th Cir. filed Jun. 26, 2026).

The Ninth Circuit has taken no action as of yet in light of the government's apparent violation of the stay of removal. The mandate issued in due course on the schedule set forth in Fed. R. App. P. 41. Mr. Pena plans to file a motion for sanctions with the Ninth Circuit that parallels this motion.

Meanwhile, on June 18, 2026, Mr. Pena, through an intermediary, sent a *pro se* filing to this Court that he styled a "notice of removal and request for further relief." (Dkt. #8) He explained that, when he was removed from the United States, he had a motion to reopen pending before the Board of Immigration Appeals, and was seeking to adjust his status under the Cuban Adjustment Act. (Dkt. #8 at 1–2) He asked the Court to order respondents to explain five things to the district court:

1. the "date and circumstances" of his removal;
2. whether "Respondents were aware of" his "pending Motion to Reopen at the time removal was executed;"
3. his "current custodial status and location;"
4. whether "any arrangements were made concerning Petitioner's transfer to Mexican authorities;" and

5. whether "Respondents contend that Petitioner's removal renders this action moot."

(Dkt. #8 at 2)

He also asked this Court to take judicial notice of the fact that he had been removed to Mexico "while this habeas action and his appeal before the Board of Immigration Appeals remained pending." (Dkt. #8 at 3)

The caption of his filing explained that he was "currently detained in Tapachula, MX." (Dkt. #8 at 1) He specifically asserted that he was "detained in Tapachula, Mexico Siglo XXI Detention center." (Dkt. #8 at 3) Tapachula is a city in the Mexican state of Chiapas, and sits very close to the border with Guatemala. According to the Global Detention Project, Tapachula Estacion Migratoria (Siglo XXI) is Mexico's largest immigration detention center.

A week later, respondents asked this Court to stay the habeas proceedings. Respondents' counsel explained that he had consulted with counsel at the Office of Immigration Litigation and concluded that "the removal was in violation of" the Ninth Circuit's stay of removal. (Dkt. #11 at 1) Then the government made two conflicting assertions. First, it declined to suggest that this case was moot, even though the usual rule is that release of an immigration detainee renders his habeas petition moot. (Dkt. #11 at 2 (citing *Abdala v. INS*, 488 F.3d 1061, 1063–64 (9th Cir. 2007))) Second, the government posited that Mr. Pena's release from immigration detention, and the lack of collateral consequences that could be redressed by a ruling favorable to him, would not "permit the Court to retain jurisdiction" (Dkt. #11 at 2), suggesting that this case is moot.

Respondents also contended that this Court has no authority to enforce the Ninth Circuit's order staying Mr. Pena's removal. "Even though Petitioner may have been removed in violation of an order from the Ninth Circuit, it is unlikely that the Court has the authority to redress that wrong even if the Petition had presented that issue. Courts have doubted the existence of 'an across-the-board rule that one court may enforce another court's injunction.'" (Dkt. #11 at 2 (quoting *Bruce v. Citigroup Inc.*, 75 F.4th 297, 303 n.6 (2d Cir. 2023))) Respondents' counsel avowed that "the Office of Immigration Litigation is investigating the

circumstances surrounding Petitioner's removal and will inform the Ninth Circuit promptly once their investigation is complete." (Dkt. #11 at 2) He also suggested that the government might voluntarily "facilitate" Mr. Pena's return to the United States. (Dkt. #11 at 2) Alternatively, he suggested that this Court might order Mr. Pena returned to the United States, "though this is not guaranteed." (Dkt. #11 at 3 (citing *Singh v. Waters*, 87 F.3d 346, 349 (9th Cir. 1996))) For these reasons, respondents "request[ed] that the Court hold these proceedings in abeyance until the Ninth Circuit has had an opportunity to determine whether its order was violated and whether Respondents must facilitate his return. If the Court grants this motion, Respondents request that the Court order them to file a status report within two weeks of the Court's order detailing any further proceedings in the Ninth Circuit with respect to the violation of the stay." (Dkt. #11 at 3)

The Office of Immigration Litigation has not, to date, informed the Ninth Circuit about the progress of its investigation into Mr. Pena's removal.

On July 1, 2026, this Court granted Mr. Pena's *pro se* motion to the extent it asked the court to take judicial notice of his removal to Mexico, but declined to issue any of the other directives Mr. Pena had asked for. (Dkt. #14 at 3) The Court also denied respondents' to stay proceedings, noting that the removal was in violation both of the Ninth Circuit's stay order and General Order 26-09:

> The Court will deny the Motion because Petitioner's removal was not only in violation of the Ninth Circuit's stay of removal, but also in violation of the Orders of this Court. On June 12, 2026, the Court issued General Order 26-09, which went into effect on June 15, 2026. General Order 26-09 applies "to all § 2241 Immigration Petitions," and provides in relevant part that "the government must provide at least two business days' notice to the petitioner, petitioner's counsel—if petitioner has counsel—and the Court of its intent to remove the petitioner from the United States **and must not remove the petitioner during that time period.**" (**Emphasis added**). As a practical matter, General Order 26-09 became effective as of 12:01 a.m. on June 15, 2026. While this may have created operational difficulties for those aliens—like Petitioner—removed in the first hours after the order went into effect, this does not absolve Respondents of their obligations under the General Order.

(Dkt. #14 at 2 (footnotes omitted))

The Court noted that the "present Petition is unquestionably covered by General Order 26-09." (Dkt. #14 at 2 n.3) General Order 26-09 was signed on June 12, 2026, and took effect on June 15, 2026. (Dkt. #14 at 2)

The Court thus disclaimed any need to evaluate whether it could order any "relief" based on the violation of the Ninth Circuit's stay of removal, because it had independent authority to decide how "to enforce its own orders." (Dkt. #14 at 3) "Indeed, the Court notes that Respondents have already indicated in other cases that they are 'working to quickly return [petitioners] to ICE/ERO custody from Mexico' when they have been removed 'in violation of the recently issued General Order.' (*See e.g.* Doc. 7 in 2:26-CV-04146-PHX-SPL (JZB) (D. Ariz. June 24, 2026)). Such actions support that Respondents both recognize their obligations under General Order 26-09, and that efforts to remedy violations of that order are not unduly burdensome." (Dkt. #14 at 3) This Court ordered respondents to file a status update by July 6, 2026, "indicating what efforts have been made to effectuate Petitioner's return to the United States." (Dkt. #14 at 3)

The status report included a declaration from Deportation Officer Jonathan Sotelo. (Dkt. #16) Mr. Sotelo explained that he had "review[ed] the file" in Mr. Pena's case, and that his declaration contained a "true and correct summary of the information available regarding facts alleged in the Petition." (Dkt. #16-1 at 1 ¶¶ 2, 3) Mr. Sotelo explained that Mr. Pena's immigration lawyer (the one who handled the proceedings before the immigration judge in San Diego) had told him that Mr. Pena wanted to return to the United States but was "unable to leave Chiapas." (Dkt. #16-1 at 1 ¶ 5) He also explained that the ERO Attaché in Mexico could not grant safe passage through Mexico or assist Mr. Pena in leaving the state of Chiapas. (Dkt. #16-1 at 2 ¶ 7) He further explained that the ERO Attaché learned that "Mexico will not assist anyone to the border [with the United States] and will not provide ERO Mexico with updates on their immigration processes." (Dkt. #16-1 at 2 ¶ 8) He concluded, "On July 3, 2026, I contacted the Detention and Deportation Officer (DDO) for Cuba at ERO Headquarters in Washington, D.C., to request additional guidance regarding this issue. On July 6, 2026, the DDO for Cuba

instructed me to reach out to Field Operations for purposes of parole for the petitioner and to contact ERO Mexico for further assistance. Efforts are still ongoing to facilitate Petitioners [*sic*] return to the U.S." (Dkt. #16-1 at 2 ¶¶ 9–11)

On August 4, 2026, Mr. Pena submitted to the Court a *pro se* document that presented his understanding of ICE's efforts to return him to the United States. He explained that he had had a phone call with his immigration lawyer and "the assigned ICE officer." (Dkt. #19 at 1) He said that during the phone call, ICE told him to present himself at the border with the United States. (Dkt. #19 at 1–2) Mr. Pena pointed out that, once he arrived in Chiapas, Mexican officials "issued him documents limiting his ability to travel outside the State of Chiapas." (Dkt. #19 at 2) Mr. Pena said that, after this phone call, he personally visited numerous Mexican immigration officials, who all declined to grant him permission to leave the state of Chiapas. (Dkt. #19 at 2) "Mexican immigration officials further advised Petitioner that, if the United States wished to facilitate his return, he would first need to travel to Guatemala and abandon his pending refugee application in Mexico." (Dkt. #19 at 2) Mr. Pena's immigration lawyer relayed this information to ICE, and ICE endorsed the advice that he should proceed to Guatemala if he wanted to return to the United States. (Dkt. #19 at 2)

Mr. Pena then related his misgivings about this advice. He said he was afraid to proceed to Guatemala and thereby give up his pending asylum application in Mexico, which he described as "currently the only lawful protection available to him." (Dkt. #19 at 2) "Petitioner is concerned that traveling to Guatemala would require him to leave Mexico without any assurance that Respondents will ultimately facilitate his return to the United States as ordered by this Court." (Dkt. #19 at 2) "If he abandons his asylum proceedings in Mexico and Respondents fail to complete his return, Petitioner could be left without legal status or protection in either country." (Dkt. #19 at 2)

With all this information in hand, this Court ordered the government to show cause why it should not be ordered to return Mr. Pena to the United States. (Dkt. #20) The district court expressly said that Mr. Pena's fears were "reasonable." (Dkt. #20 at 3) In response to the OSC,

the government relied on a declaration that it said was prepared by one Christopher Apodaca (Dkt. #21 at 1), but neither explained Mr. Apodaca's relationship to Mr. Pena's situation nor submitted the declaration itself to this Court.

The Court was not satisfied by the government's response to the order to show cause. It therefore appointed counsel under 18 U.S.C. § 3006A(a)(2)(B) to assist Mr. Pena in securing his return to the United States based on the violations of General Order 26-09 and the Ninth Circuit's stay of removal. (Dkt. #22 at 4–5) The Court set a deadline of September 17, 2026, for counsel to file a motion for sanctions or an amended habeas petition. (Dkt. #22 at 4–5) The district court later *sua sponte* extended this deadline to October 2, 2026. (Dkt. #25)

ICE has not taken any action to remedy their violation of both General Order 26-09 and the Ninth Circuit's stay of removal. Everything ICE has said to this Court (through counsel) indicates that they believe they lack the ability to do so. A review of the filings in *Pantaleon-Vasquez v. David R. Rivas*,[2] No. 2:26-cv-4146-PHX-SPL (D. Ariz. filed Jun. 9, 2026), the comparator case flagged in the Court's July 1, 2026, order (Dkt. #14), suggests that ICE believes it lacks the ability or the desire to return *anyone* who was illegally removed from the United States. But it stands to reason that if ICE has the ability to send a detainee to southern Mexico, it should also be able to retrieve that same detainee from southern Mexico.

Alongside this motion, Mr. Pena's counsel is filing a motion with the Ninth Circuit, asking it to order the government to return Mr. Pena to the United States as a sanction for violating the stay of removal and to remand the case to this Court for the purpose of making any necessary factual findings in support of imposing such sanctions.

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[2] Although Mr. Pantaleon explained in his *pro se* petition that he was detained at the Florence Service Processing Center, the court directed the clerk to substitute David R. Rivas, the Warden of San Luis Regional Detention Center, instead. Order to Show Cause, *Pantaleon-Vazquez v. Rivas*, No. 2:26-cv-4146-PHX-SPL (JZB) (D. Ariz. Jun. 18, 2026) (Dkt. #3). This document will use the caption with David Rivas as the named respondent for No. 2:26-cv-4146-PHX-SPL (JZB).

Argument

This Court has "the inherent authority… to enforce its orders by whatever means," as well as "the authority to correct that which has been wrongfully done by virtue of its process." *Cahill v. Insider, Inc.*, 131 F.4th 933, 938 (9th Cir. 2025) (quotations omitted). "When acting under its inherent authority to impose a sanction, as opposed to applying a rule or a statute, a district court must find either: (1) a willful violation of a court order; or (2) bad faith." *America Unites for Kids v. Rousseau*, 985 F.3d 1075, 1090 (9th Cir. 2021) (citing *Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1035 (9th Cir. 2012)). "A determination that a party was willfully disobedient is different from a finding that a party acted in bad faith. Either supports the imposition of sanctions." *Evon*, 688 F.3d at 1035. A "willful violation of a court order does not require proof of mental intent such as bad faith or an improper motive, but rather, it is enough that a party acted deliberately." *Id.* "On the other hand, bad faith, including conduct done vexatiously, wantonly, or for oppressive reasons, requires proof of bad intent or improper purpose." *America Unites for Kids*, 985 F.3d at 1090 (citing *Evon*, 688 F.3d at 1035; *Fink v. Gomez*, 239 F.3d 989, 993–94 (9th Cir. 2001)).

1. There is ample evidence from which this Court may conclude that removing Mr. Pena in violation of both the Ninth Circuit's stay of removal and General Order 26-09 was a deliberate action on respondents' part.

On June 15, 2026, the government was well aware that it was forbidden from removing Mr. Pena from the United States. Todd Blanche is a party both to this habeas case and to Mr. Pena's petition for review of his removal order. His deputies at the Office of Immigration Litigation unsuccessfully opposed Mr. Pena's motion for a stay of removal in the Ninth Circuit. Thus he is deemed to have been aware that (1) there was a stay of removal in place and (2) that that stay had not expired on June 15, 2026. As part of Mr. Blanche's role in overseeing the government's immigration detention and removal operations—including representing the government before the courts of appeals in connections with petitions for review—he was responsible for ensuring that Mr. Pena was not removed from the United States until the stay of removal had terminated. Yet, according to the notice of removal filed in the Ninth Circuit, ICE

did not confirm with the Office of Immigration Litigation that the stay of removal had been lifted before removing Mr. Pena to Mexico.

The Court has suggested that respondents (including General Blanche) had adequate notice of General Order 26-09, including its requirement of advance notice of the impending removal of an immigration detainee who has a pending habeas petition and its prohibition on removing the detainee within the two business days required by the advance-notice requirement. "On June 12, 2026, the Court issued General Order 26-09, which went into effect on June 15, 2026." (Dkt. #14 at 2) The Court notes that an announcement published prominently on the court's website explains that General Order 26-09 implemented changes "beginning on" June 15, 2026. (Dkt. #14 at 2 & n.4) Although Chief Judge Zipps signed General Order 26-09 on June 12, 2026, it was not publicly filed until June 15, 2026. Mr. Pena's counsel received an automated email from <uscourts@updates.uscourts.gov> regarding the issuance of General Order 26-09 at 5:11 P.M. on June 15, 2026. He has been unable to ascertain precisely when the court's website was updated to include the notice about General Order 26-09 that the Court cited in its July 1, 2026, order.[3]

In any event, the fact remains that General Order 26-09 was in effect when Mr. Pena was removed from the United States. (Dkt. #14 at 2) The Office of Immigration Litigation has already explained that ICE did not consult with them before removing Mr. Pena to Mexico. This fact suggests that ICE also did not consult with the U.S. Attorney's Office in Arizona before it removed him to Mexico. And in any event, Mr. Pena was illegally removed to Mexico. He had only been ordered removed to Cuba. *See* 8 U.S.C. § 1231(b)(2)(A). There is no indication that

[3] The Wayback Machine has archived a version of the court's website cached on June 10, 2026, that did not include the notice about General Order 26-09, and one cached on June 27, 2026, that does include the notice. "The Wayback Machine is an online digital archive of web pages. It is run by the Internet Archive, a nonprofit library in San Francisco, California." *Valve Corp. v. Ironburg Inventions Ltd.*, 8 F.4th 1364, 1374 (Fed. Cir. 2021). The Court may take judicial notice of the Wayback Machine's information that the court's website was updated to include the notice about General Order 26-09 sometime between June 10 and June 27, 2026. *See Roman v. Newsom*, 834 F. Supp. 3d 888, 910 (C.D. Cal. 2026).

Mexico agreed to accept him for removal, because there is no indication that Mr. Pena agreed to go there. *See* 8 U.S.C. § 1231(b)(2)(E)(vii); *Pantoja v. Bondi*, 818 F. Supp. 3d 1227, 1232 (W.D. Wash. 2026) (noting that there was no likelihood of a Cuban national's removal to Mexico in part because Mexico was unlikely to accept a Cuban national for removal "absent his consent to be removed to Mexico"). The lack of consultation with counsel in two different cases, coupled with the express violation of the statute that dictates countries to which a noncitizen with a removal order may be removed, leads only to the conclusion that the decision to remove Mr. Pena was deliberate. Thus the violations of both the stay of removal and General Order 26-09 were willful. That is a sufficient basis for this Court to impose sanctions.

2. The government's failure to take any meaningful action to return Mr. Pena, or others whom it has wrongfully removed from the United States, suggests that it has no real intention to comply with court orders preventing the government from removing whoever it wants to remove, whenever it wants to do so.

Both ICE's failure to consult with counsel before removing Mr. Pena, and its half-hearted efforts to "facilitate" his return to the United States, suggest that its violation of both the stay of removal and General Order 26-09 was the result of bad faith. ICE's failure to consult with counsel before removing Mr. Pena is obviously wanton behavior. *See Smith v. Wade*, 461 U.S. 30, 39 n.8 (1983) ("Wanton means reckless—without regard to the rights of others.... Wantonly means causelessly, without restraint, and in reckless disregard of the rights of others. Wantonness is defined as a licentious act of one man towards the person of another, without regard to his rights; it has also been defined as the conscious failure by one charged with a duty to exercise due care and diligence to prevent an injury after the discovery of the peril, or under circumstances where he is charged with a knowledge of such peril, and being conscious of the inevitable or probable results of such failure.") (quoting 30 American and English Encyclopedia of Law 2–4 (2d ed. 1905)).

A review of what ICE is and is not doing to return Mr. Pena to the United States shows that it is acting in bad faith there as well. To start with, ICE has not even attempted to explain how Mr. Pena ended up not just in Mexico, but in a Mexican immigration detention facility. It

has not explained whether it knew that Mr. Pena would be restricted to the state of Chiapas once it deposited him in the Mexican immigration detention facility. It has suggested that Mr. Pena could arrange for his own transportation to a port of entry on Mexico's northern border, but will not lean on Mexican officials to allow him to do so of his own accord despite the ban on his leaving the state of Chiapas. And as this Court has observed, ICE has not "avow[ed] that they have tried in several different ways to work with the Mexican government to facilitate Petitioner's return *to the United States*, as distinct from the United States-Mexico border." (Dkt. #22 at 4 n.1) ICE's wanton failure to verify that there was no legal impediment to removing Mr. Pena to Mexico on June 15, 2026, was the direct cause of the violations of the stay of removal and General Order 26-09. Its failure to take concrete steps to correct these violations shows its bad faith.

Almost three months ago, this Court observed that the U.S. Attorney told another judge of this court that ICE is "working to quickly return petitioners to ICE/ERO custody from Mexico when they have been removed in violation of the recently issued General Order." (Dkt. #14 at 3 (quoting Response to Petition for Writ of Habeas Corpus, *Mario Pantaleon-Vasquez v. David R. Rivas*, No. 2:26-cv-4146-PHX-SPL (JZB) (D. Ariz. filed Jun. 24, 2026) (Dkt. #7))) But just as in this case, ICE has behaved with bad faith in its efforts to return Mr. Pantaleon to the United States.

Mr. Pantaleon filed his habeas petition on June 9, 2026, and was removed 10 days later, in obvious violation of General Order 26-09. On July 1, 2026, Judge Logan ordered the government to explain "their efforts to effectuate [Mr. Pantaleon's] return to the United States." Order at 2, *Pantaleon-Vasquez v. Rivas*, No. 2:26-cv-4146-PHX-SPL (JZB) (D. Ariz. Jul. 1, 2026) (Dkt. #9). Five days later, the government explained that "ERO Salt Lake City has no in-country address or phone number" for Mr. Pantaleon, and it had asked "our local Consul of Mexico POC for their assistance in locating/contacting [Mr. Pantaleon] but have not received a response yet." Status Update: Return Efforts, *Pantaleon-Vasquez v. Rivas*, No. 2:26-cv-4146-PHX-SPL (JZB) (D. Ariz. filed Jul. 6, 2026) (Dkt. #11). Judge Logan gave the government 30 more days to update him

about Mr. Pantaleon's return to the United States. On August 10, 2026, the government filed another status update, to which it attached the declaration of Evan Tjaden, Acting Assistant Field Office Director of the Salt Lake City ICE Field Office. Mr. Tjaden explained that "On July 1, 2026, SLC ERO contacted Maria Fernanda Gomez Contreras with the Salt Lake City Consulate of Mexico to ask their assistance in location Mr. Pantaleon-Vasquez. On July 7, 2026, Ms. Gomez replied that they had contacted Mr. Pantaleon-Vasquez's daughter, who told them that she would provide them with contact information for Mr. Pantaleon-Vasquez, but then stopped communication and answering their calls. SLC ERO was unsuccessful in contacting the daughter by telephone as well." Declaration of Evan Tjaden at 3 ¶ 7, *Pantaleon-Vasquez v. Rivas*, No. 2:26-cv-4146-PHX-SPL (JZB) (D. Ariz. filed Aug. 10, 2026) (Dkt. #16-1).

Just as in Mr. Pena's case, ICE deported Mr. Pantaleon without first verifying that there were no legal impediments to his removal. And there was such an impediment—General Order 26-09, which unquestionably applied to Mr. Pantaleon's case. No notice of impending removal appears on the docket in Mr. Pantaleon's case. ICE presumably knows where in Mexico they left him, but has not explained where that was. Mr. Tjaden explained that "SLC ERO searched available ICE databases for phone numbers or addresses in [an] effort to contact Mr. Pantaleon-Vasquez, but none could be found." Declaration of Evan Tjaden at 3 ¶ 7, *Pantaleon-Vasquez v. Rivas*, No. 2:26-cv-4146-PHX-SPL (JZB) (D. Ariz. filed Aug. 10, 2026) (Dkt. #16-1). But this search was almost certain to yield no results. Mr. Tjaden does not explain whether the databases would contain the fixed address of a person whom ICE removed from the United States at most 12 days before "SLC ERO" performed the search. Nor does he explain why those databases would contain any noncitizen's foreign address at all. Mr. Pantaleon likely did not have a fixed address in Mexico when he was removed to that country on June 19, 2026. Mr. Pantaleon's *daughter* was not the person who was wrongfully removed from the United States, and in any event Mr. Tjaden does not explain (1) whether Mr. Pantaleon's daughter even lives in the United States or (2) why he believed she might be likely to know where Mr. Pantaleon was, considering that he was unlikely to have a fixed address in Mexico.

So when on July 1 this Court used Mr. Pantaleon's case as a comparator for ICE's efforts to return noncitizens whom it had wrongfully deported, the Court was prescient—in the sense that both that case and this would exemplify ICE's bad faith in complying with court orders that prevent removal of noncitizens with pending habeas petitions or who have stays of removal in place. But this bad faith is not limited to cases filed in the District of Arizona.

A judge in the Eastern District of California has not only previously ordered ICE to return a wrongfully removed noncitizen detainee to the United States, but imposed monetary sanctions when ICE left the removed noncitizen to find her own way back to the United States. Lidia Hernandez Ancelmo was detained at the California City Detention Center in California City, California. *Hernandez Ancelmo v. Kaiser*, No. 1:26-cv-5579-DJC-CSK, 2026 WL 2445562 (E.D. Cal. Aug. 19, 2026). She filed a habeas petition on July 18, 2026, and a motion for a temporary restraining order four days later. *Id.* at *1. In the motion for a TRO, she asked the court to enjoin her removal on the ground that her removal order was not final because she had an appeal pending before the Board of Immigration Appeals. *Id.* The court entered an administrative stay of removal to preserve its jurisdiction over the TRO motion. *Id.* "Despite the Court's express order, Petitioner was removed to Mexico the following morning." *Id.*

The government responded to the motion for a TRO, acknowledging that Ms. Hernandez had been removed in violation of the administrative stay. *Id.* "Notably, the response's recitation of the factual background strongly implied (if not outright suggested) that Petitioner's appeal to the Board of Immigration Appeals ("BIA") had been dismissed and that Petitioner's removal—while still a violation of the Court's Order—was otherwise lawful." *Id.* The court ordered the government "to facilitate Petitioner's return to the United States on or before July 31, 2026." *Id.* at *2. The court also ordered Ms. Hernandez, through counsel, to file a reply in support of the petition. The reply explained that although the Board had rejected Ms. Hernandez's appeal on July 16, 2026, it did so based on the denial of a request for a fee waiver, "and thus included a fifteen-day cure window." *Id.* The government agreed that Ms. Hernandez's appeal to the Board was still pending during the cure window—during which time she had been removed from the

United States. *Id.* Ms. Hernandez also had resubmitted her appeal to the Board and tendered the filing fee. *Id.*

July 31 came and went, and Ms. Hernandez had not returned to the United States. She then filed a motion to compel the government to return her. ICE's actions in connection with the court's order to facilitate Ms. Hernandez's return to the United States strikingly resemble ICE's actions with respect to Mr. Pena:

> Petitioner noted that, despite the Court's Order that Respondents facilitate Petitioner's return by July 31, 2026, Petitioner had not yet been returned to the United States. According to counsel, Petitioner had been informed by ICE agents that they would not provide any assistance in enacting her return beyond the United States border. Indeed, ICE agents allegedly told Petitioner that she needed to make her own arrangements to travel from near the Mexico-Guatemala border—where she had been left by the United States Government—to the U.S.-Mexico border where she would then be processed back into the United States.
>
> *Id.* (citations omitted).

The court held a hearing on the motion and granted it in open court. The court "granted Petitioner's Motion, directed Petitioner's Counsel to facilitate Petitioner's return to the United States border, and ordered Respondents to reimburse Petitioner for reasonable costs incurred as a sanction for Respondents' failure to comply with the Court's Order that they facilitate Petitioner's return." *Id.* at *3. The court agreed that "civil sanctions are warranted to compensate Petitioner for the harm that resulted from Respondents' willful violation of the Court's Order." *Id.* The court observed that the "only action taken by the Government appears to have been making telephonic contact with Petitioner. Without more, speaking with Petitioner on the phone cannot be considered facilitating Petitioner's return." *Id.* n.2. The U.S. Attorney's arguments at the hearing also confirmed for the court that the violation was willful, in four ways:

1. "ICE would not provide any transportation, funding, or other assistance to facilitate Petitioner's return beyond the United States border." *Id.*

2. The U.S. Attorney "referenced the possibility that barriers existed which would prevent the Department of Homeland Security from securing transportation or otherwise facilitating Petitioner's return, though he was unable to identify any beyond dismissively stating that the Government could not simply 'Venmo' the Petitioner for the cost of a flight." *Id.*

3. There was a dispute about whether Ms. Hernandez actually wanted to return to the United States, and the court accepted her counsel's assertion that she did. *Id.*

4. The government missed the deadline set by the court for returning Ms. Hernandez to the United States, and "that deadline passed without the Government providing any update to the Court. It was only once Petitioner's Counsel filed the present motion, and the Court set a hearing on that motion, that the Government provided information as to Petitioner's status or the Government's efforts (or lack thereof) to facilitate Petitioner's return." *Id.*

The court finally admonished the government for its "deeply troubling" conduct in the case. *Id.* at *4.

3. Mr. Pena has suffered tangible harm from respondents' violation of the stay of removal and General Order 26-09.

There is no dispute that Mr. Pena was wrongfully removed from the United States. This wrongful removal has prevented him from reopening his removal case in order to seek adjustment of status under the Cuban Adjustment Act. It has instead left him stuck in a Mexican immigration detention center, unable to leave the state in which the detention center is located for fear of breaking Mexican law and abandoning any legal protection he might presently enjoy in light of his pending asylum application. These harms are directly traceable to the violations of the stay of removal and General Order 26-09 that the government has committed. Forcing respondents to return him to the United States, on pain of monetary sanctions for failing to do so within 15 days of the court's order, is a proper sanction for these violations.

Conclusion

This Court should order respondents to return Mr. Pena to the United States as a sanction for violating General Order 26-09, and to accomplish Mr. Pena's return within 15 days of the Court's order. Should respondents fail to meet the 15-day deadline, the Court should further sanction respondents by ordering them to donate $1,000 to the Florence Immigrant and Refugee Rights Project for each day beyond the 15-day deadline that Mr. Pena remains outside the United States.

Respectfully submitted:

September 30, 2026.

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