UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Alfredo Barajas Zaragoza Petitioner, v. Markwayne Mullin, et al, Respondents.	Civil Action No. 3:26-cv-02192-DB

RESPONSE TO ORDER

Federal Respondents timely submit this response.

I. The Court's August 24, 2026 Order Was Entered After Petitioner Had Already Been Removed.

Respondents respectfully clarify that Petitioner's removal from the United States occurred before the Court entered its August 24, 2026 Order. The Court's Order was entered on August 24, 2026, and transmitted to Respondents at approximately 3:22 p.m. CDT. Petitioner had already been removed from the United States before that time at 7:30 a.m. Accordingly, Respondents did not remove Petitioner in violation of the Court's August 24, Order, as the removal had already occurred before the Order was entered.

Respondents therefore respectfully submit that the record does not support a finding that Respondents violated the Court's August 24 Order by effectuating Petitioner's removal. The timing of the removal is dispositive of that issue.

II. Respondents Acknowledge That Petitioner's Removal Occurred While a Statutory Stay Was in Effect

Respondents further acknowledge that, notwithstanding the timing of the Court's August 24 Order, Petitioner's removal was not proper because a stay of removal was in effect at the time of his removal.

Petitioner had been ordered removed in absentia and, on August 21, 2026, filed a Motion to Reopen and Rescind the In Absentia Order of Removal. The filing of such a motion stays removal pending disposition of the motion by the immigration judge. The Motion to Reopen remained pending at the time Petitioner was removed.

Respondents have therefore determined that the removal occurred notwithstanding the regulatory stay and was not proper under the circumstances. Respondents do not seek to defend the removal on the ground that the August 24 Order authorized or permitted it; rather, the relevant point is that the removal occurred before that Order was entered, while the separate regulatory stay remained in effect.

Respondents have begun taking steps to address the situation. ICE has been contacted regarding Petitioner's return to the United States, and Respondents will work with the appropriate immigration authorities to facilitate Petitioner's return pending adjudication of the Motion to Reopen. Respondents will continue to take appropriate steps to effectuate Petitioner's return and will advise the Court of developments concerning that effort.

Accordingly, Respondents respectfully submit that although Petitioner's removal was not in violation of the Court's August 24 Order because the removal preceded entry of that Order, the removal should not have occurred while the regulatory stay was in effect. Respondents are taking appropriate steps to remedy that circumstance by working to facilitate Petitioner's return to the United States pending adjudication of his Motion to Reopen.

Respectfully submitted,

JUSTIN R. SIMMONS
UNITED STATES ATTORNEY

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