

2026 WL 373336

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United States District Court, E.D. California.

DANIEL JAMES CUMMINS, Petitioner,
v.
MOISES BECERRA, et al., Respondents.

No. 1:25-cv-01853-DC-AC
|
Filed 02/10/2026

ORDER TO PETITIONER TO SHOW CAUSE AS
TO WHY SANCTIONS SHOULD NOT ISSUE

Dena Coggins United States District Judge

*1 On January 15, 2026, the court issued an order denying Petitioner's motion to enforce and modify habeas relief. (Doc. No. 31.) In that order, the court noted that numerous citations in Petitioner's motion to enforce and modify habeas relief (Doc. No. 19) and reply thereto (Doc. No. 24) contained "erroneous citations," and indicated that the court would address those erroneous citations by separate order. (Doc. No. 31 at 6 n.2.)

For the reasons set forth below, the court will order Petitioner's counsel to show cause as to why sanctions or other appropriate disciplinary action should not issue due to Petitioner's inclusion of non-existent and erroneous citations in Petitioner's briefing, and due to law student Gina Herrera's unauthorized appearance in this court.

On December 15, 2025, Petitioner Daniel James Cummins filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. No. 1.) Attorney Robert G. Cummings and law student Gina Herrera are listed as counsel of record on the caption of that petition. (*Id.*) The petition indicated that Ms. Herrera was appearing "pursuant to 8 C.F.R. § 1292.1(a)(2)." (*Id.* at 1.) On that same day, Petitioner filed a motion for temporary restraining order, which the court granted in part and denied in part on December 23, 2025. (Doc. Nos. 3, 12.)

On January 2, 2026, Petitioner filed a motion to enforce and modify habeas relief, and Petitioner filed a reply in support of that motion on January 12, 2026. (Doc. Nos. 19, 24.) As discussed in detail below, both the motion and reply contained

numerous citations to cases that do not exist, or that do not support the proposition asserted by Petitioner.

On January 14, 2026, after the court issued an order requiring counsel to appear at a hearing and to be "prepared to address the hallucinated citations included in Petitioner's briefs," Petitioner filed a notice of errata indicating he "mistakenly included" four cases in his reply brief, and that the identified citations "do not appear in publicly available legal databases or were incorrectly cited in the initial brief." (Doc. Nos. 26; 28 at 1.) Petitioner maintained that the "remainder of the brief and argument including citations remain accurate and are not impacted by this correction." (*Id.*) Finally, Petitioner indicated that "Petitioner's counsel is in the process of reviewing all filings in the matter to ensure continued accuracy and integrity of the record" and "apologize[d] to the Court and opposing counsel for the inadvertent inclusion of those citations." (*Id.* at 2.) Petitioner has not filed any follow up to his notice of errata despite the notice of errata failing to address all erroneous citations in his motion and reply.

On January 15, 2026, the court issued an order vacating the hearing date and indicating that the court would address the erroneous citations by separate order. (Doc. No. 31.)

As detailed in the following chart, Petitioner's motion to modify and enforce habeas relief and reply thereto are replete with citations to cases that do not exist, or that do not stand for the propositions asserted by Petitioner.

*2 Tabular or graphical material not displayable at this time.

These erroneous citations bear the hallmarks of hallucinated cases created by artificial intelligence ("AI") tools. *See United States v. Hayes*, 763 F. Supp. 3d 1054, 1065-66 (E.D. Cal. 2025) (noting that cases created by generative AI tools "look [] like a real case with a case name," including "a citation to the federal supplement," "identification of a district court," and "the year for the decision," but in actuality lead to cases that "do not address, refer to, or have anything to do with" the issues raised in the motion); *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 454 (S.D.N.Y. 2023) (finding that generative AI tools created case citations that had "correct names and citations but d[id] not contain language quoted or support the propositions for which they [we]re offered").

Notably, Petitioner's notice of errata identified only *Vuong*, *Arellano*, *Calderon*, and *Pham* as erroneously cited, and did

not provide any explanation for their erroneous inclusion in Petitioner's reply. (Doc. No. 28.)

Numerous courts, both within and outside of this circuit, have issued sanctions due to counsel's inclusion of erroneous and/or hallucinated citations bearing the hallmarks of AI generative tools such as those listed above. *See, e.g., Hayes*, 763 F. Supp. 3d at 1073 (issuing sanctions for inclusion of AI generated citations pursuant to Eastern District Local Rule 180(e)); *Wadsworth v. Walmart Inc.*, 348 F.R.D. 489, 499 (D. Wyo. 2025) (issuing sanctions for inclusion of AI generated citations pursuant to Federal Rule of Civil Procedure 11); *Ezzy Credit, LLC v. Prescription Techs., Inc.*, No. 8:24-cv-02436-SDM-AAS, 2025 WL 3067426, at *4 (M.D. Fla. Jul 8, 2025) (issuing sanctions for inclusion of AI generated citations pursuant to 28 U.S.C. § 1927). Accordingly, the court will order Petitioner to show cause why sanctions or other appropriate disciplinary action should not issue under these circumstances.

In addition, as to the unauthorized appearance of law student Gina Herrera, the Local Rules mandate that only certified law students may appear in proceedings in front of a judge in this court. L.R. 181(d)(2)(B). To be certified, a law student must be eligible for certification, apply to the clerk for certification, and provide the written consent of their client on a consent form available from the clerk before appearing on that client's behalf. L.R. 181. Ms. Herrera has not provided documentation showing she has satisfied these requirements. Additionally, the court notes that Petitioner's counsel has already been

made aware of Ms. Herrera's unauthorized appearances in this court. *See Chavez v. Becerra*, No. 1:25-cv-cv-02058-KES-SAB, 2026 WL 91757, at 1 n.1 (E.D. Cal. Jan 13, 2026) (noting that Mr. Cummings and Ms. Herrera's filings in that case “do not evidence compliance with E.D. Cal. Local Rule 181” and requiring that “Attorney Cummings [] document compliance with Local Rule 181 in any further filing listing Ms. Herrera.”).

Accordingly, the court will also order Petitioner to show cause as to why sanctions should not issue due to Ms. Herrera's unauthorized appearance in this case in violation of Local Rule 181.

***3** For the reasons set forth above, Petitioner is ORDERED TO SHOW CAUSE by no later than February 20, 2026, as to why sanctions should not issue due to Petitioner's use of erroneous case citations in his motion to enforce and modify habeas relief (Doc. No. 19) and reply thereto (Doc. No. 24), and due to law student Gina Herrera's unauthorized appearance in this case.

IT IS SO ORDERED.

Dated: **February 9, 2026**

All Citations

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