

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
FLORIDA

Sebastian Guenther v. Elizabeth Victoria McPherson

Guenther · No. 25-CV-61838-DAMIAN/Valle · Decided January 24, 2026

SUMMARY

The United States District Court for the Southern District of Florida adopted a magistrate judge’s Sixth Report and Recommendation in a Hague Convention proceeding concerning the alleged wrongful removal of a minor child from Germany. The court held the respondent in civil contempt, continued a temporary restraining order, ordered the respondent’s custody until purging contempt, and authorized separate warrants concerning the respondent and the child.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida
JURISDICTION	United States District Court for the Southern District of Florida
DECIDED	January 24, 2026
DOCKET	25-CV-61838-DAMIAN/Valle
DISPOSITION	approved
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Sixth Report and Recommendation in an ex parte Hague Convention proceeding after Respondent failed to file timely objections. The court adopted the recommendation, granted interim injunctive relief, and held Respondent in civil contempt.
STANDARD OF REVIEW	When no timely objection is filed to a magistrate judge's report and recommendation, the district court reviews the record for clear error rather than conducting de novo review.
PRECEDENTIAL VALUE	nonprecedential district court order

TOPICS

- injunctions
- contempt
- child custody
- family law
- civil procedure

PRACTICE AREAS

- family law
- civil procedure
- remedies
- contempt
- international child abduction

QUESTIONS PRESENTED

1. What standard of review governs a magistrate judge's report and recommendation when the respondent does not timely object?
2. Whether the Sixth Report and Recommendation should be adopted after clear-error review.
3. Whether Respondent should be held in civil contempt for failing to comply with the court's orders requiring her appearance and participation in the Hague Convention proceeding.
4. Whether the court should continue temporary restraints, require surrender of the child's passport, and issue warrants and other measures to secure the child's presence.

HOLDINGS

1. When no party timely objects to a magistrate judge's report and recommendation, the district court need only determine that no clear error appears on the face of the record before accepting the recommendation.
2. The Sixth Report and Recommendation was approved and adopted because the district court found no clear error on the face of the record.
3. Respondent was held in civil contempt for failing to comply with lawful court orders requiring her personal appearance to address the merits of the Hague Convention petition.
4. The court granted the ex parte motion, continued the temporary restraining order, required Respondent and the child to remain in the Southern District of Florida, prohibited removal of the child from the jurisdiction, and ordered surrender of the child's passport if in Respondent's possession.

KEY QUOTATIONS

“the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (Conclusion)

“This Court finds that Respondent, Elizabeth Macpherson, is in CIVIL CONTEMPT for failure to comply with this Court’s lawful orders requiring her personal appearance to address the merits of the Petition;”
(Conclusion, paragraph 6)

FACTUAL BACKGROUND

Petitioner alleged that Respondent wrongfully removed their four-year-old child from Germany and brought the child to Fort Lauderdale, Florida. The court had ordered Respondent to remain in the United States with the child, relinquish the child's passport, and appear to address the merits of the Hague Convention petition. Despite repeated service efforts and court orders, Respondent did not appear, and evidence before the magistrate judge indicated that she was evading service or had fled the jurisdiction with the child.

PROCEDURAL HISTORY

Petitioner filed a Hague Convention complaint and an ex parte motion seeking injunctive relief, a temporary restraining order, and a warrant for physical custody of the minor child. The court repeatedly adopted magistrate judge reports extending or renewing temporary restraints while the United States Marshals Service attempted to

serve Respondent. After an evidentiary hearing at which Respondent did not appear, the magistrate judge recommended contempt findings, arrest warrants, custody-related relief, and an extension of the TRO. Respondent did not object, so the district court reviewed the recommendation for clear error, adopted it, and entered the challenged relief.

DISPOSITION

approved

CASES CITED

- Thomas v. Arn, 474 U.S. 140, 149-50 (1985)

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