

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FILED

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CLERK US DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

RAUL MEZA, §  
PLAINTIFF, §

BY \_\_\_\_\_ 07  
DEPUTY

V. §

CAUSE NO. A-05-CA-1008-LY

BRAD LIVINGSTON, EXECUTIVE §  
DIRECTOR OF THE TEXAS §  
DEPARTMENT OF CRIMINAL §  
JUSTICE, IN HIS OFFICIAL §  
CAPACITY; STUART JENKINS, §  
DIRECTOR OF THE TEXAS §  
DEPARTMENT OF CRIMINAL §  
JUSTICE PAROLE DIVISION, IN HIS §  
OFFICIAL CAPACITY; AND RISSIE L. §  
OWENS, JOSE ALISEDA, CHARLES §  
AYCOCK, CONRITH DAVIS, JACKIE §  
DENOYELLES, BARBARA LORRAINE, §  
AND JUANITA GONZALES, IN THEIR §  
OFFICIAL CAPACITIES AS MEMBERS §  
OF THE TEXAS BOARD OF PARDONS §  
AND PAROLE, §  
DEFENDANTS. §

**ORDER**

Before the Court in the above styled and numbered cause is Plaintiff's Second Motion for Enforcement of Judgment filed June 13, 2011 (Clerk's Document No. 444); Defendants Owens, Aliseda, Aycock, Davis, Denoyelles, Garcia and Gonzales' Response to Plaintiff's Second Motion for Enforcement of Judgment filed June 29, 2011 (Clerk's Document No. 448); and Plaintiff's Reply to Defendants' Response to Second Motion for Enforcement of Judgment filed July 6, 2011 (Clerk's Document No. 449). Having reviewed the motion, response, reply, as well as all evidence and the file in this case, the Court determines that Plaintiff's motion should be denied.

On March 24, 2009, this Court ordered the Texas Board of Pardons and Paroles (the "Board") to provide Plaintiff Raul Meza a hearing with the following due process protections: (1) written

notice in advance of the hearing; (2) disclosure of the evidence on which the State is relying; (3) a hearing, scheduled sufficiently after the notice to permit Meza to prepare, at which he will have the opportunity to be heard in person, represented by counsel, and to present documentary evidence in his support; (4) an opportunity at the hearing to call witnesses and confront and cross examine state witnesses, 'except upon a finding, not arbitrarily made, of good cause for not permitting each as to a particular witness'; (5) an independent decision maker; and, at issue here, (6) a written statement by the fact-finder as to the evidence relied upon and the reasons for the decision. Specifically, the Court found the record in this case was utterly devoid of findings regarding Meza and rejected the Board's argument that the continued imposition of sex-offender conditions constituted a sufficient finding that Meza possessed the offensive characteristic of lack of sexual control for the basis for such finding. On May 20, 2010, the Fifth Circuit affirmed these findings and conclusions, only disagreeing with this Court's finding that the State is required to provide counsel to Meza.

After the Fifth Circuit's ruling, a hearing was conducted by the Board on June 4, 2010. On June 25, 2010, the panel voted unanimously in a one-page notice to continue Meza's sex-offender conditions. The findings were a single sentence: "Raul Meza constitutes a threat to society by reason of his lack of sexual control." On August 20, 2010,

On November 19, 2010, Meza filed a motion for enforcement of judgment and contempt against Defendants, requesting, in part, that the Court enforce its judgment that the Board provide the required written statement by the fact-finder as to the evidence relied upon and the reasons for the decision. On March 29, 2011, the Court held a hearing on Meza's motion. After reviewing the motion, the evidence, all briefing submitted by the parties, and the arguments of counsel at the hearing, the Court found that the Board decision of June 25, 2010, did not comply with this Court's

Order of March 24, 2009, as affirmed by the Court of Appeals. The Court found the Board's decision was not a written statement by the fact-finder as to the evidence relied upon and the reasons for the decision in that it contained neither reasons for the decision nor evidence relied upon. On March 30, 2011, the Court ordered the Board to prepare a new written statement that set out with specificity the evidence presented to the Board that was persuasive to the Board in its decision and the specific reasons for its decision to continue Meza's sex-offender conditions. On April 28, 2011, the Board issued an additional written statement. Unlike the prior written statement, which was a one-page notice with a one-sentence summary of the Board's findings, the April 28, 2011 statement details the proceedings of the June 4, 2010 hearing, identifies the witnesses who testified and evidence considered in the Board's decision, lists specific findings of fact made by the Board, and identifies specific evidence the Board relied upon to make its findings.

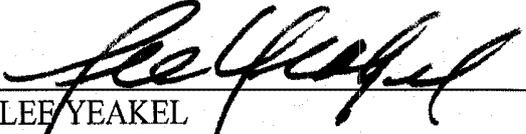
By his current motion, Meza again argues that the written statement is insufficient. Specifically, Meza contends he was not provided with a therapist's notes prior to her testimony at his hearing and was not notified that she would testify, that some statements by Meza presented at the hearing as evidence were compelled in violation of Meza's Fifth Amendment rights, and that the Board's conclusion was not supported by sufficient evidence. Meza asks the Court to appoint a third party to review the record of the hearing, make the required findings, and author the required written statement at the Board's expense. Meza also requests attorney's fees and costs associated with the preparation of his motion.

The Court, after reviewing the motion, response, reply, as well as all evidence and the file in this case, finds that the Board has sufficiently complied with this Court's Order of March 30,

2011. Likewise, the Court finds that the Board has sufficiently complied with this Court's Order of March 24, 2009.

**IT IS THEREFORE ORDERED** that Plaintiff's Second Motion for Enforcement of Judgment filed June 13, 2011 (Clerk's Document No. 444) is **DENIED**.

SIGNED this 24th of August, 2011.

  
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LEE YEAKEL  
UNITED STATES DISTRICT JUDGE