



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 6, 2020

The Honorable Eric V. Moyé
14th Civil District Court
George L. Allen, Sr. Courts Building
600 Commerce Street, 5th Floor New Tower
Dallas, Texas 75202

Dear Judge Moyé:

Yesterday, you ordered Ms. Shelley Luther “confined in a penal facility” for operating her small business.¹ I urge you to reconsider and immediately release Ms. Luther.

As a mother, Ms. Luther wanted to feed her children. As a small business owner, she wanted to help her employees feed their children.² Needless to say, these are laudable goals that warrant the exercise of enforcement discretion.

Indeed, local officials in Dallas have already gone considerably farther in cases less deserving of enforcement discretion. The Dallas County District Attorney announced that he “will not prosecute theft of personal items less than \$750 unless the evidence shows that the alleged theft was for economic gain.”³ If Dallas County is prepared to completely forgo prosecution of actual thefts, it cannot confine a woman to jail because she operated her business.

Recent events have been trying for everybody, both everyday Texans and those involved in our justice system. That is why the Dallas County Sheriff recently “request[ed] that local arresting agencies exercise their discretion to bring fewer people to jail.”⁴ Exercising similar discretion here, the Court should recognize that confinement is not needed in this case. The

¹ Judgment of Contempt and Order of Confinement, *City of Dallas v. S&B Hot Mess Enters., LLC*, No. DC-20-06131 (May 5, 2020), <https://courtsportal.dallascounty.org/DALLASPROD/DocumentViewer/Embedded/SsVFbMXUbTMZOmr16jiVKmt23jp8S3VxopsIjjnjAIO4cUFdA0WWlxXN6XT5BSnS6Tcn8BgEZ9q7va7COvGdsQ2?p=0>.

² Andrea Lucia, *Dallas Salon Owner Begins Week-Long Sentence For Contempt Of Court*, CBS DFW (May 6, 2020), <https://dfw.cbslocal.com/2020/05/06/dallas-salon-owner-week-long-sentence-contempt-of-court/>.

³ John Crezot, Letter to the People of Dallas County (Apr. 11, 2019), https://www.dallascounty.org/Assets/uploads/docs/district-attorney/messages-from-da/Official-DACrezotPoliciesLetter_April2019.pdf.

⁴ Defs. □ Resp. to Mot. for Temp. Restraining Order, Prelim. Inj., and Writ of Habeas Corpus, *Sanchez v. Brown*, No. 3:20-cv-832, Doc. 34 at 5 (N.D. Tex. Apr. 15, 2020).

disconnect between the approach taken by local law enforcement and the approach taken by this Court highlights the injustice of continuing to confine Ms. Luther.

In recent weeks, Dallas County has voluntarily reduced its “jail population . . . by about one thousand people” due to concerns about COVID-19.⁵ A community that released all those people, some of whom committed serious crimes, can certainly stand to release one more—a mother whose only crime was operating a small business in an effort to feed her children.

Finally, the Court’s confinement order is significantly overbroad. Under the Governor’s new executive order, Ms. Luther will be allowed to lawfully operate her business in just *two days*.⁶ Confining Ms. Luther for *seven days*, well after she could be operating her business and providing for her children, is unjustifiable.

In light of the foregoing, your actions abused your discretion in holding Ms. Luther in contempt and ordering her to jail in a civil court proceeding. For these reasons, the Court should immediately reconsider its order and release Ms. Luther from confinement.

Best regards,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

KEN PAXTON
Attorney General of Texas

⁵ Defs. □ Resp. to Mot. for Temp. Restraining Order, Prelim. Inj., and Writ of Habeas Corpus, *Sanchez v. Brown*, No. 3:20-cv-832, Doc. 34 at 5 (N.D. Tex. Apr. 15, 2020).

⁶ Executive Order GA-21 (May 5, 2020), <https://irl.texas.gov/scanned/govdocs/Greg%20Abbott/2020/GA-21.pdf>.