

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	18-CR-602 (JMF)
-v-	:	
	:	<u>ORDER TO</u>
MICHAEL COHEN,	:	<u>SHOW CAUSE</u>
Defendant.	:	
	:	
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JESSE M. FURMAN, United States District Judge:

On November 29, 2023, David M. Schwartz, counsel of record for Defendant Michael Cohen, filed a motion for early termination of supervised release. *See* ECF No. 88. In the letter brief, Mr. Cohen asserts that, “[a]s recently as 2022, there have been District Court decisions, affirmed by the Second Circuit Court, granting early termination of supervised release.” *Id.* at 2. He then cites and describes “three such examples”: *United States v. Figueroa-Florez*, 64 F.4<sup>th</sup> 223 (2d Cir. 2022); *United States v. Ortiz* (No. 21-3391), 2022 WL 4424741 (2d Cir. Oct. 11, 2022); and *United States v. Amato*, 2022 WL 1669877 (2d Cir. May 10, 2022). *Id.* at 2-3.

As far as the Court can tell, none of these cases exist.<sup>1</sup> 64 F.4<sup>th</sup> 223 refers to a page in the middle of a Fourth Circuit decision that has nothing to do with supervised release. *See United States v. Drake*, 64 F.4<sup>th</sup> 220 (4th Cir. 2023). 2022 WL 1669877 corresponds to a decision of the Board of Veterans Appeals. *See (Title Redacted by Agency)*, Bd. Vet. App. A22004268, 2022 WL 1669877 (Mar. 11, 2022). 2022 WL 4424741 appears to correspond to

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<sup>1</sup> The Court is apparently not alone in being unable to find these cases. New counsel entered a notice of appearance on Mr. Cohen’s behalf after the Government opposed his motion and, with the Court’s leave, filed a reply letter. *See* ECF No. 95. The reply letter asserts that many courts in this District have granted early termination of supervised release in similar circumstances and, after citing to various cases (mostly by docket number), includes the following in a footnote: “Such rulings rarely result in reported decisions. While several cases were cited in the initial Motion filed by different counsel, undersigned counsel was not engaged at that time *and must inform the Court that it has been unable to verify those citations.*” *Id.* at 3 & n.6 (citation omitted) (emphasis added).

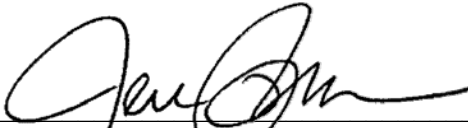
nothing at all. Moreover, the Court contacted the Clerk of the Court for the United States Court of Appeals for the Second Circuit, who found no record of any of the three decisions and reported that the one listed docket number (for *Ortiz*) is not a valid docket number.

In light of the foregoing, Mr. Schwartz shall, no later than **December 19, 2023**, provide copies of the three cited decisions to the Court. If he is unable to do so, Mr. Schwartz shall, by the **same date**, show cause in writing why he should not be sanctioned pursuant to (1) Rule 11(b)(2) & (c) of the Federal Rules of Civil Procedure, (2) 28 U.S.C. § 1927, and (3) the inherent power of the Court for citing non-existent cases to the Court. *See, e.g., Mata v. Avianca, Inc.*, No. 22-CV-1461 (PKC), 2023 WL 4114965 (S.D.N.Y. June 22, 2023). Any such submission shall take the form of a sworn declaration and shall provide, among other things, a thorough explanation of how the motion came to cite cases that do not exist and what role, if any, Mr. Cohen played in drafting or reviewing the motion before it was filed.

The Court will reserve judgment on Mr. Cohen's motion pending the above submission.

SO ORDERED.

Dated: December 12, 2023  
New York, New York

  
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JESSE M. FURMAN  
United States District Judge