UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

JHON RODRIGUEZ ORELLANA,

Petitioner,

v.

LADEON FRANCIS, *et al.*,

Respondents.

Case No. 1:25-cv-4212

PETITIONER'S RESPONSE IN OPPOSITION TO RESPONDENTS' MOTION FOR RECONSIDERATION

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INTRODUCTION

Respondents seek reconsideration without demonstrating that the Court overlooked controlling authority or disregarded outcome-determinative facts.[1] Their motion hinges on a template mass email used to revoke Petitioner's parole—even though this Court already concluded such an email was legally inadequate. In doing so, the Court found two legal deficiencies: (1) the lack of any individualized determination regarding parole revocation, and (2) the absence of *adequate* notice. Because these requirements remain unsatisfied, this new exercise is unnecessary. The Court should deny Respondents' motion and bring this matter to an end.

STANDARD FOR RECONSIDERATION

"Under Local Civil Rule 6.3, the standard for a motion for reconsideration is 'strict.'" *Wyche v. KM Sys., Inc.*, No. 19-CV-7202(KAM), 2021 WL 1535529, at *1 (E.D.N.Y. 2021). As this Court said recently, reconsideration is "an extraordinary remedy to be employed sparingly." *Bogoraz L. Firm v. Apogee Cap. Fund 5, LLC,* No. 23-CV-1023 (OEM), 2025 WL 2108546, at *2 (E.D.N.Y. July 28, 2025). Reconsideration will "be denied unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." *Cho v. Blackberry Ltd.*, 991 F.3d 155, 170 (2d Cir. 2021).

LEGAL ARGUMENT

I. Respondents fail to establish grounds for reconsideration.

a. Respondents' mass template email is still legally insufficient.

Respondents present no new evidence warranting reconsideration. Their persistent reliance on what they now concede was a mass template email, ECF No. 20 at 1, is misplaced.[2] The Court's

[1] Respondents' 13-page motion exceeds this Court's five-page limitation for reconsideration memoranda. *See* Rules of Practice III.F. Petitioner takes no position on what the Court should do with any excess pages.
[2] References to page numbers refer to the ECF-stamped numbers.

ruling turned not on the email's absence but on two critical deficiencies: the lack of (1) an individualized determination supporting parole revocation, and (2) *adequate* notice. *Orellana v. Francis*, No. 25-CV-04212 (OEM), 2025 WL 2402780, at *5-6 (E.D.N.Y. Aug. 19, 2025). The Court properly aligned with cases like *Y-Z-L-H v. Bostock*, where even with the same email, Respondents' revocation failed because it "was silent as to any finding that Petitioner's parole had served its purpose, that humanitarian reasons do not warrant Petitioner's presence in the country, or that he is a danger to the public or a flight risk." -- F. Supp.3d --, 2025 WL 1898025 (D. Or. July 9, 2025). Unless Respondents sent the kind of notice this Court deemed legally required—which they concede they did not—the Court's original order stands.

b. Respondents' attempt to relitigate already-rejected arguments fails.

Respondents' remaining arguments, which merely disagree with the Court's decision, fail.

First, Respondents' jurisdictional argument under 8 U.S.C. § 1252(a)(2)(B)(ii) is improper. ECF 19-1 at 9-10. Respondents concede the Court did not reach this issue. *Id.* at 9. Regardless, the out-of-circuit cases they cite—*Samirah v. O'Connell*, 335 F.3d 545 (7th Cir. 2003), and *Hassan v. Chertoff*, 593 F.3d 785 (9th Cir. 2010)—lack the rigorous textual analysis of 8 U.S.C. § 1182(d)(5) required under *Ozturk v. Hyde*, 136 F.4th 382, 395-396 (2d Cir. 2025) to assess Section 1252(a)(2)(B)(ii)'s applicability. Plus, *Samirah* left open whether jurisdiction would exist where, as here, a habeas petition is properly filed to challenge parole revocation, 335 F.3d at 549.

Regarding Section 1252(a)(2)(B)(ii)'s "procedural exception," Respondents merely recycle their old argument that 8 U.S.C. § 1182(d)(5) (the Parole Statute) does not require individualized revocation reasoning. ECF 19-1 at 11. However, Respondents fail to cite any controlling authority contradicting this Court's agreement with other courts that found the Parole Statute "require[s] parole revocation to be analyzed on a case-by-case basis and that a decision to

revoke parole 'must attend to the reasons an individual [non-citizen] received parole.'" *Orellana*, 2025 WL 2402780, at *5 (quoting *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *11 (W.D.N.Y. July 16, 2025)). This failure is fatal. *Cuomo v. Off. of the New York State Att'y Gen.*, 727 F. Supp. 3d 231, 235 (E.D.N.Y. 2024). Moreover, controlling precedent supports the Court's conclusion as to the limitation on parole-termination authority. *See Biden v. Texas*, 597 U.S. 785, 806 (2022) (noting "the [parole] authority is not unbounded"); *Jean v. Nelson,* 472 U.S. 846, 857 (1985) (dismissing concerns about unlawful "parole revocation" because the statute and regulations require "individualized" determinations).

Second, Respondents' newly-submitted declaration fails to advance their position. For one, the declaration may be procedurally barred, given the opportunities the Court afforded Respondents to obtain such information. *Banister v. Davis*, 590 U.S. 504, 508 (2020) ("courts will not address…evidence that the moving party could have raised before the decision issued").

Even considering the declaration, it would not alter the Court's original decision, though Respondents suggest otherwise. ECF 19-1 at 13. Their argument incorrectly presumes the Court relied on the absence of *any* notice, rather than the lack of (a) *adequate* notice and (b) any individualized reasoning for revoking Petitioner's parole. *Cf. Orellana*, 2025 WL 2402780, at *6. Respondents offer no reason to dispute this Court's characterization of their purported email as inadequate, beyond claiming the Court relied on "incorrectly decided" or "distinguishable" cases. ECF 19-1 at 14-15. Respondents' primary critique of those cases is their reliance on *Svitlana Doe v. Noem*, 778 F. Supp. 3d 311 (D. Mass. 2025), which it characterizes as "unreliable" because of a stay on appeal. ECF 19-1 at 14. But this over-reads the Supreme Court's four-sentence order in *Noem v. Svitlana Doe*, 145 S. Ct. 1524 (2025). That interim stay was not a merits-ruling and, therefore, does not demonstrate clear error in this Court's analysis that the Parole Statute requires

individualized reasoning for terminating parole—particularly given that reading's sound basis in the statutory text, which speaks in singular and individual terms. *See* 8 U.S.C. § 1182(d)(5) (referencing "the purposes of such parole," "such alien," "the alien," "he," "his case").

Regardless, Respondents' mere disagreement with the Court's conclusion is not enough to warrant reconsideration. *Butto v. Collecto Inc.*, 845 F. Supp. 2d 491, 499 (E.D.N.Y. 2012) (denying reconsideration where party "merely restated its original rejected arguments"); *U.S. for Use & Benefit of Five Star Elec. Corp. v. Liberty Mut. Ins. Co.*, 758 F. App'x 97, 101 (2d Cir. 2018) (reconsideration is not a chance at "taking [another] bite at the apple").

Relatedly, Respondents' contend the Court relieved Petitioner of his "burden of proof" by disregarding their prior declaration asserting transmission of the mass revocation email. ECF No. 19-1 at 13. But the Court acknowledged Respondents' claim. *Orellana*, 2025 WL 2402780, at *6. The email was simply inadequate, as argued by Petitioner. *See* Pet'r Reply, ECF 13, at 10-12.

Finally, Respondents assert the Court improperly relied on 8 C.F.R. § 235.3(b)(6) to "invent" a right to be heard regarding parole revocation. ECF 19-1 at 13. Regardless of its general application, this regulation is relevant where, as here, Respondents seek to subject someone to expedited removal proceedings—which they claim somewhat incongruously remain "pending and paused." *Id.* at 8. But before that could happen, Section 235.3(b)(6) guaranteed Petitioner "a reasonable opportunity to establish" that he was "paroled into the United States" and the ability "to present evidence or provide sufficient information [to] support the claim." This necessarily included the opportunity to contest the validity of any purported termination of parole.[3] Accordingly, the Court's reliance on that regulation—and its violation—was appropriate.

[3] Petitioner sought to invoke this regulation the same day Respondents detained him. They rebuffed his request, claiming "ICE does not litigate cases." *See* Exhibit D, Emails to ICE-ERO, ECF 1-4 at 1-2.

II. *J.G.G. v. Trump* does not bar Petitioner's APA claims.

Respondents renew their argument that Petitioner's claims under the Administrative Procedures Act (APA) should be dismissed in light of *Trump v. J.G.G.,* 145 S. Ct. 1003 (2025). ECF 19-1 at 16. This argument is unpersuasive. *J.G.G.* addresses only challenges under the Alien Enemies Act—a unique wartime statute with unique judicial review limitations. The Court's holding is explicitly cabined to the AEA: "[c]hallenges to removal *under the AEA*...must be brought in habeas." *J.G.G.*, 145 S. Ct. at 1005 (emphasis added); *see id.* at 1007 (dissent) (characterizing the majority as holding that "legal challenges to an individual's removal under the Alien Enemies Act must be brought in habeas petitions in the district where they are detained"). Accordingly, *J.G.G.* does not control the claims presented here under the Immigration & Nationality Act.

III. Release was an appropriate remedy.

Respondents' contention that the Court erred in ordering Petitioner's release lacks merit. Their claim that the Court should have "remanded the parole-termination decision to DHS," ECF 19-1 at 18, cites no controlling precedent. Instead, they cite inapposite authorities that fail to address the specific relationship between parole and detention authority. Worse, one of their cases, *Guertin v. United States*, 743 F.3d 382 (2d Cir. 2014), acknowledges that the remand principle "is not absolute." *Id.* at 388; *see also Mata Velasquez,* 2025 WL 1953796, at *18 (ordering release). Accordingly, the Court did not err in ordering Petitioner's release.

CONCLUSION

The Court should deny Respondents' motion for reconsideration.

Dated: September 8, 2025

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CERTIFICATE OF SERVICE

I, Harold A. Solis, certify that on September 8, 2025, electronically filed the attached the foregoing Petitioner's Response in Opposition to Motion for Reconsideration with the Clerk of the Court for the United States District Court for the Eastern District of New York using the CM/ECF system. Service will therefore be effected by the CM/ECF system.

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