

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 1:25-cv-23792 BLOOM / ELFENBEIN

PIERRE REGINALD BOULOS,

Petitioner,

vs.

DIRECTOR, U.S. Department of Homeland
Security Immigration and Customs Enforcement
Enforcement and Removal Operations
Miami Field Office; ACTING DIRECTOR,
U.S. DHS ICE; SECRETARY, DHS; U.S.
ATTORNEY GENERAL; ACTING DIRECTOR,
U.S. Department of Justice Executive Office
for Immigration Review; and U.S. SECRETARY
OF STATE,

Respondents.

**RESPONDENTS' RESPONSE TO
PETITIONER'S MOTION TO RECONSIDER ORDER DENYING MOTION FOR
TEMPORARY RESTRAINING ORDER AND FOR PRELIMINARY INJUNCTION**

Respondents, by and through their undersigned counsel, respond as follows to Petitioner PIERRE REGINALD BOULOS' Motion for Reconsideration of this Court's Order Denying his Expedited Motion for Temporary Restraining Order and Preliminary Injunction [ECF 44].

BACKGROUND

Petitioner initiated the instant habeas case on August 22, 2025 [ECF 1]. Contemporaneous with his petition, Boulos filed an emergency motion for preliminary injunction and/or temporary restraining order ("Emergency TRO Motion") [ECF 5]. Therein, Boulos sought an order preventing his transfer out of this district, arguing that he was "likely to succeed on the merits of the pending Petition/Complaint" and that because he would "suffer irreparable harm in the

absence of preliminary relief, the balance of equities tips in the Petitioner's favor, and an injunction would serve the public interest." *Id.*, p. 5. The Court denied the Emergency TRO Motion. *See* ECF 38.

On November 13, 2025, Petitioner filed an expedited motion for temporary restraining order and motion for preliminary injunction ("Expedited TRO Motion") [ECF 31]. In support of his request for an order compelling his release from immigration detention, Boulos argued that his petition was likely to succeed on the merits because (1) he is a U.S. citizen; (2) the regulation under which he was denied bond is ultra vires; (3) that he would suffer irreparable harm absent immediate relief; and (4) the balance of the equities tips in favor of granting preliminary relief. *Id.*, passim. The Court denied the Expedited TRO Motion on December 1, 2025, finding that "Boulos is not likely to prevail on his ultra vires argument" because 8 C.F.R. § 1003.19(h)(2)(i)(C) does not exceed the authority set out in § 1226(a). *See* ECF 37, p. 19.¹

Nearly two months later, Boulos now files a motion to reconsider the Court's Order ("Motion for Reconsideration") [ECF 44]. Therein, Boulos seeks to relitigate two points in his original motion: (1) that 8 C.F.R. § 1003.19(h)(2)(i)(C)—is ultra vires because it contravenes the unambiguous text of 8 U.S.C. § 1226; and (2) that he will likely suffer irreparable harm as a result of his incarceration. Neither of these arguments presents a valid basis for this Court to reconsider its prior ruling.

LEGAL STANDARD

A non-final order may be revised at any time before the entry of a final judgment. *See* Fed. R. Civ. P. 54(b) ("[A]ny order . . . that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties . . . may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities."). Motions for reconsideration, however, are disfavored,

¹ In its order, the Court disagreed with Respondents' characterization of the underlying immigration proceedings. *Id.*, p. 12, fn. 10., citing ECF 35 at p. 4 and ECF 31-4. In order to resolve any disagreement, the government would, if directed by the Court, file the complete record of the underlying immigration proceedings under seal.

and should not be granted in the absence of “extraordinary circumstances,” such as an intervening change of controlling law, newly discovered evidence, or “where the initial decision was clearly erroneous and would work a manifest injustice.” *Christianson v. Colt Industries Operating Corp.*, 486 U.S. 800, 817 (1988); *Hornady v. Outokumpu Stainless USA, LLC*, 118 F.4th 1367, 1379-80 (11th Cir. 2024) (“When . . . a district court enters a non-final order, it should evaluate motions to reconsider that order under the standards inherent in Rule 54(b)—plenary authority to reconsider, revise, alter[,] or amend a non-final order before the entry of final judgment.” (quotation omitted)). But as *Hornady* explains, in this Circuit such decisions are to be guided by the following considerations:

- (1) If a movant can meet the significantly higher showing for reconsideration under Rules 59(e) or 60(b), the district court should not hesitate to revisit its prior ruling.
- (2) If a movant fails to meet those higher standards, the district court should still consider whether reconsideration is appropriate.
- (3) If a movant has simply rehashed arguments already considered and rejected, then a refusal to reconsider typically will not constitute an abuse of discretion.
- (4) The more time between a district court’s ruling and a party’s motion to reconsider, the less willing the court should be to entertain the party’s request.
- (5) In most instances — to advance the interests of finality, stability, and predictability — district courts should hesitate to revisit their earlier interlocutory orders. Parties must be able to rely on the rulings that progressively direct proceedings toward trial.

Hornady, 118 F.4th 1367, 1380-81. *Hornady* concludes, in summary, that “district courts have discretion to revisit their prior interlocutory orders, considering both the weight of the moving party’s arguments and the disruption that a change would cause in light of the time that has passed since the decision was initially made.” *Id.* at 1381.

when exercising that discretion, “[c]ommon sense, not a rigid set of rules, governs.” *See id.* at 1380-81 (quotation marks omitted).

ARGUMENT

The Expedited TRO Motion exhaustively argued both that 8 C.F.R. § 1003.19(h)(2)(i)(C) is ultra vires because it contravenes the unambiguous text of 8 U.S.C. § 1226, and that Boulos’ continued incarceration will likely cause him to suffer irreparable harm.² Here, the Motion for Reconsideration simply rehashes these arguments, which were already considered and rejected by the Court. “A motion for reconsideration cannot be used to ‘relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment.’” *Wilchombe v. TeeVee Toons, Inc.*, 555 F.3d 949, 957 (11th Cir. 2009) (quoting *Michael Linet, Inc. v. Village of Wellington, Fla.*, 408 F.3d 757, 763 (11th Cir. 2005)). As the Eleventh Circuit has explained, a party cannot use a motion for reconsideration to rehash arguments the party previously made or relitigate old matters. *See Hornady*, 118 F.4th at 1380.

CONCLUSION

Given the importance of finality, stability, and predictability of the Court’s decisions, and Boulos’ failure to provide this Court with any persuasive reason to

² Boulos now alleges that the government “has proven incapable of ensuring that Dr. Boulos timely receives the injections he needs.” Motion for Reconsideration, p. 9-10. As this Court correctly recognized, it “may not factor such medical condition into its TRO analysis. . . . An alien may not challenge the conditions of his confinement by way of a habeas petition and, instead, must bring his challenge under the appropriate civil rights statute.” ECF 37, p. 20, fn. 24. And even if the Court *were* to consider Boulos’ claims of inadequate medical care, they are based entirely upon hearsay, out-of-court statements: Petitioner’s counsel’s e-mails. *See* ECF 44-1. As the Eleventh Circuit repeatedly reminds litigators, “statements and arguments of counsel are not evidence.” *United States v. Lopez*, 590 F.3d 1238, 1256 (11th Cir. 2009) (quoting *United States v. Smith*, 918 F.2d 1551, 1562 (11th Cir. 1990)). Regardless, the government respectfully disputes Boulos’ characterization of his medical treatment, and, if requested in the appropriate proceedings, would supplement the record with Boulos’ medical records.

reconsider its ruling, the Court should not reconsider what it has already decided twice over. *See* ECF 37 and 38. The Motion for Reconsideration should be denied.

Respectfully submitted,

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