

TODD BLANCHE
Acting Attorney General of the United States
SIGAL CHATTAH
First Assistant United States Attorney
District of Nevada
Nevada Bar Number 8264
VIRGINIA T. TOMOVA
Assistant United States Attorney
Nevada Bar No. 12504
TAMER B. BOTROS
Assistant United States Attorney
Nevada Bar No. 12183
501 Las Vegas Blvd. So., Suite 1100
Las Vegas, Nevada 89101
Phone: (702) 388-6336
Fax: (702) 388-6787
Virginia.Tomova@usdoj.gov
Tamer.Botros@usdoj.gov

Attorneys for the Federal Respondents

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Victor Kalid JACOBO RAMIREZ; Edgar
Michel GUEVARA ALCANTAR,

Petitioners,

v.

Markwayne Mullin, *et al.*,

Respondents.

Case No. 2:25-cv-02136-RFB-MDC

**Federal Respondents' Motion for
Reconsideration of the Court's Order
Granting Partial Summary Judgment
(ECF No. 96)**

Pursuant to Fed. R. Civ. P. 59(e) and 60(b), and LR 59-1, Federal Respondents, through undersigned counsel, hereby file their Motion for Reconsideration of the Court's Order Granting Partial Summary Judgment (ECF No. 96).

I. Background

On October 30, 2025, Petitioners filed a habeas petition and class action complaint challenging the United States' interpretation of the detention provisions at § 1225(b)(2). ECF No. 1. Petitioners brought their claim on their behalf and on behalf of a putative class. *See e.g.*, ECF No. 1, ¶ 73–74, 82–85. On November 6, 2025, Petitioners moved for certification of their putative class. ECF Nos. 15, 16. On November 21, 2025, Federal Respondents responded to Petitioners' motion to certify class. ECF No. 32. On December

2, 2025, Petitioners filed their reply in support of their motion to certify class. ECF No. 38. On December 18, 2025, Petitioners filed a notice of supplemental authority to their motion to certify class. On December 19, 2025, the Court held a hearing on Petitioners' motion to certify class and their petition. ECF No. 59. On February 5, 2026, the Court granted Petitioner's motion to certify class. ECF No. 71. On February 13, 2026, Petitioners filed a motion for partial summary judgment. ECF No. 74. On March 3, 2026, Federal Respondents filed their response to Petitioners' motion for partial summary judgment. ECF No. 87. On March 5, 2026, Petitioners filed their reply in support of their motion for partial summary judgment. ECF No. 88. On March 6, 2026, at a status conference, the Court advised the parties that Petitioners' motion for partial summary judgment would be granted and that a written order was forthcoming. ECF No. 89. On March 30, 2026, the Court entered its Order granting Petitioners' motion for partial summary judgment. ECF No. 96; *see also* ECF No. 97. Federal Respondents now respectfully seek reconsideration of the Court's Order, ECF No. 97.

II. Legal Argument

A motion for reconsideration is treated as a motion to alter or amend judgment under Fed. R. Civ. P. 59(e) if it is filed within 28 days of entry of judgment or final order. "Otherwise, it is treated as a Rule 60(b) motion for relief from a judgment or order." *Am. Ironworks & Erectors, Inc. v. N. Am. Const. Corp.*, 248 F.3d 892, 899 (9th Cir. 2001); *see also Herron v. Wells Fargo Fin., Inc.*, 299 F. App'x 713, 715 (9th Cir. 2008) (noting the district court properly applied the Rule 60(b) standard due to the timing of filing of the relevant motion for reconsideration). *Speer v. Mondejar*, No. 2:21-cv-01355-RFB-MDC, 2025 WL 2772469, 2025 U.S. Dist. LEXIS 191422, at *2 (D. Nev. Sep. 26, 2025). This Court's Local Rules of Practice (LR) 59-1 on "Motions for Reconsideration of Interlocutory Orders" provides:

(a) . . . The court possesses the inherent power to reconsider an interlocutory order for cause, so long as the court retains jurisdiction. Reconsideration also may be appropriate if (1) there is newly discovered evidence that was not available when the original motion or response was filed, (2) the court

1 committed clear error or the initial decision was manifestly unjust, or (3) if
2 there is an intervening change in controlling law.

3 (b) Motions for reconsideration are disfavored. A movant must not repeat
4 arguments already presented unless (and only to the extent) necessary to
5 explain controlling, intervening law or to argue new facts . . .

6 (c) Motions for reconsideration must be brought within a reasonable time.
7 Lack of diligence or timeliness may result in the denial of the motion.

8 While LR 59-1 does not specify a deadline for a motion for reconsideration of an
9 interlocutory order, motions for reconsideration of a final judgment under Federal Rule of
10 Civil Procedure 59(b) are due within 28 days. *Hendrix v. Progressive Direct Ins. Co.*, No. 2:20-
11 cv-01856-RFB-EJY, 2025 WL 1938648, 2025 U.S. Dist. LEXIS 134238, at *3-4 (D. Nev.
12 Jul. 14, 2025).

13 Reconsideration is appropriate under Fed. R. Civ. P. 59(e) only if the court "(1) is
14 presented with newly discovered evidence, (2) committed clear error or the initial decision
15 was manifestly unjust, or (3) if there is an intervening change in controlling law." *Sch. Dist.*
16 *No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993); *see also Kona*
17 *Enters., Inc. v. Est. of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (internal citations omitted);
18 LR 59-1(a). *Guillory v. Las Vegas Metro. Police Dep't*, No. 2:23-cv-2010-JCM-BNW, 2025 WL
19 2962779, 2025 U.S. Dist. LEXIS 204946, at *3 (D. Nev. Oct. 16, 2025). A motion for
20 reconsideration can only be properly granted in certain circumstances. *389 Orange St.*
21 *Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999) ("Under Rule 59(e), a motion for
22 reconsideration should not be granted, absent highly unusual circumstances, unless the
23 district court is presented with newly discovered evidence, committed clear error, or if there
24 is an intervening change in the controlling law."); Fed. R. Civ. P. 60(b); *see also Delay v.*
25 *Gordon*, 475 F.3d 1039, 1044 (9th Cir. 2007) *Mogan v. Airbnb, Inc.*, No. 23-55489, 2024 WL
26 3738480, 2024 U.S. App. LEXIS 20052, at *10 (9th Cir. Aug. 9, 2024).

27 In this case, on March 30, 2026, this Court granted partial summary judgment. ECF
28 No. 96. On March 31, 2026, the Ninth Circuit Court of Appeals issued an Order Staying the
29 *Bautista* district court's December 18, 2025, class certification and declaratory judgment
30 pending appeal. *See* Ninth Circuit Order in *Bautista v. U.S. Dep't of Homeland Sec.*, No. 26-
31 1044 (9th Cir.), attached as **Exhibit A**. Although the *Bautista* case involved an order

certifying a nationwide class, it involves the same issues pertaining to the application of 8 USC 1225(b)(2)(A) as in this matter. The Ninth Circuit Order concluded that the government was likely to succeed on its claim that the district court in that case lacked authority to vacate the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), because the district court's vacatur order was entered after the government had already appealed an earlier Rule 54(b) judgment.

On March 30, 2026, this Court vacated *Matter of Yajure Hurtado*, except as to Class Members, pending appeal in *Bautista v. U.S. Dep't of Homeland Sec.*, No. 26-1044 (9th Cir.) See ECF No. 96, page 58, lines 26-28, and page 95, line 1. Given that the Ninth Circuit in *Bautista* has stayed the vacatur of *Matter of Yajure Hurtado* in full, without any conditions, and ruled that the government has shown a likelihood of success on its position that the vacatur is unlawful, this Court should likewise stay its vacatur of the *Matter of Yajure Hurtado* decision in full to mirror the scope of relief that the Ninth Circuit entered in *Bautista*. This is a new decision favorable to the Respondents' position from the Ninth Circuit which directly relates to this matter, and Federal Respondents seek this court to reconsider its decision on March 30, 2026, vacating the BIA's decision in *Matter of Yajure Hurtado* given the March 31, 2026, Order from the Ninth Circuit. See **Exhibit A**.

III. Conclusion

For these reasons, Federal Respondents respectfully request that the Court grant their Motion for Reconsideration of the Order Granting Partial Summary Judgment (ECF No. 96) and stay its vacatur of the *Hurtado* decision in full to mirror the scope of relief that the Ninth Circuit entered in *Bautista*.

Respectfully submitted this 23rd day of April 2026.

TODD BLANCHE
Acting Attorney General of the United States
SIGAL CHATTAH
First Assistant United States Attorney
/s/ Tamer B. Botros
TAMER B. BOTROS
VIRGINIA T. TOMOVA
Assistant United States Attorneys
Attorneys for the Federal Respondents