

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Juan Pablo Herrera Cordoba,

Petitioner,

v.

Pamela Bondi, *in her official capacity as*
United States Attorney General, *et. al.*,

Respondents.

Civil Action No. 1:26-cv-00238-ADA-SH

RESPONSE TO MOTION FOR RECONSIDERATION

Federal Respondents¹ provide the following response to Petitioner's motion for reconsideration. Petitioner is not entitled to the post-judgment relief he seeks. The Court correctly decided the issues raised in the petition for a writ of habeas corpus. The Court should deny Petitioner's motion for reconsideration.

AUTHORITY FOR REQUEST FOR RECONSIDERATION

As a preliminary matter, Petitioner does not plead the authority under which he filed his motion. The Federal Rules of Civil procedure do not specifically recognize a "motion for reconsideration." *Lavespere v. Niagara Mach. & Tool Works, Inc.*, 910 F.2d 167, 173 (5th Cir. 1990), *abrogated on other grounds by Little v. Liquid Air Corp.*, 37 F.3d 1069 (5th Cir. 1994). In the Fifth Circuit, a motion for reconsideration, provided it challenges the prior judgment on the merits, will be treated as either a motion "to alter or amend" under Rule 59(e) or a motion for "relief from judgment" under Rule 60(b). *Id.* The purpose of Rule 59(e) motions for

¹ The Department of Justice represents only federal employees in this action.

reconsideration is “to correct manifest errors of law or fact or to present newly discovered evidence.” *Waltman v. International Paper Co.*, 875 F.2d 468, 473 (5th Cir. 1989) (quoting *Keene Corp. v. International Fidelity Insurance Co.*, 561 F.Supp. 656, 665 (N.D. Ill. 1982), *aff’d*, 735 F.2d 1367 (7th Cir.1984)).

Under Rule 60(b), a district court may relieve a party from the effects of a final judgment, order, or proceeding for the following reasons: “(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence, that with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.” Fed. R. Civ. P. 60(b).

In this case, Petitioner has failed to establish a legitimate basis for his motion. Other than alleging the Fifth Circuit wrongly decided *Buenrostro-Mendez v. Bondi*,² Petitioner does not purport to identify any errors of law or newly discovered facts (Rule 59(b)), nor does Petitioner specifically allege any of the Rule 60(b) factors exist. *See* ECF No. 9. As such, the Court may deny the motion for a lack of jurisdiction.

To the extent the Court decides to rule on the merits of the motion, as discussed *infra*, the motion should be denied.

² Petitioner states, “[T]he Fifth Circuit in *Buenrostro v. Bondi* . . . has incorrectly found that any noncitizen who entered the United States without inspection or admission is subject to mandatory detention.” ECF No. 9, pg. 2.

DUE PROCESS CLAIMS

Petitioner relies heavily on the argument that his continued detention his right to due process. ECF No. 9 pgs 3-9. In this case, there is no dispute that Petitioner falls within the scope of 8 U.S.C. § 1225(b)(2)(A). Petitioner is an alien who is “present in the United States” and “ha[d] not been admitted,” and so Petitioner is an applicant for admission. 8 U.S.C. § 1225(a)(1). Petitioner has not established that Petitioner is “clearly and beyond a doubt entitled to be admitted.” *Id.* § 1225(b)(2)(A). Therefore, as the Fifth Circuit held in *Buenrostro-Mendez* (166 F.4th 494, 498 (5th Cir. 2006)), Petitioner is subject to mandatory detention under § 1225(b)(2)(A).

The Supreme Court recognizes a “longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings[.]” *Demore v. Kim*, 538 U.S. 510, 526 (2003) 538 U.S. 510, 526, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003). Petitioner has an individual immigration hearing scheduled on March 30, 2026, at 1:00 p.m. *See* Executive Office of Immigration Review Automated Case Information System (<https://acis.eoir.justice.gov/en/caseInformation>) (last accessed March 12, 2026). Thus, since Petitioner is still within the limited period necessary for his removal proceedings, he is constitutionally detained. *Demore*, 538 U.S. at 526.

Substantive due process protects “only ‘those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition.’ ” *Dep't of State v. Muñoz*, 602 U.S. 899, 910, 144 S.Ct. 1812, 219 L.Ed.2d 507 (2024) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720–21, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997)). Petitioner’s detention without a bond hearing during the pendency of removal proceedings does not implicate any fundamental rights. “[P]rior to 1907 there was no provision permitting bail for any aliens during the pendency of their deportation proceedings,” *Demore*, 538 U.S. at 523 n.7, so such a right cannot possibly be “objectively, deeply rooted in this Nation’s history and tradition.” *Muñoz*, 602 U.S. at 910

(quoting *Washington*, 521 U.S. at 720-21). Accordingly, rational-basis review is the appropriate standard for analyzing respondents' substantive-due-process claims. *Glucksberg*, 521 U.S. at 728. Under that standard, detention under § 1225(b)(2) is constitutionally permissible, as long as it is "rationally related to legitimate government interests."

Section 1225 clears the rational basis bar. In *Demore*, the Supreme Court considered a "substantive due process" challenge to detention under § 1226(c). 538 U.S. at 515. Like Petitioner here, Hyung Joon Kim "argued that his detention under § 1226(c) violated due process because the [government] had made no determination that he posed either a danger to society or a flight risk." *Id.* at 514. The Court rejected that claim, explaining that its cases had long "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process," because "deportation proceedings 'would be vain if those accused could not be held in custody pending the inquiry into their true character.'" *Id.* at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)); see also *id.* at 526 (reiterating the "Court's longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings"). Therefore, because "[d]etention during removal proceedings is a constitutionally permissible part of that process," the Court held that the alien's substantive due process "claim must fail." *Id.* at 531.

Petitioner in this case has not established that his detention during removal proceedings violates due process.

APPLICATION OF BAUTISTA

Petitioner invokes the December 18, 2025, partial final judgment in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92.³ See ECF No. 9 pg 3. Petitioner states, “This decision declares that Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). Nonetheless, in the Fifth Circuit immigration judges have received instruction that this order is not binding.” *Id.* However, *Bautista* is neither binding nor applicable here and presents no basis for granting the petition. On March 6, 2026, the Ninth Circuit issued an administrative stay of *Bautista* and limited its holding to the Central District of California. See Exh. B (Stay Order). Since Petitioner is not detained in the Central District of California, *Bautista* is irrelevant. In addition, *Bautista* stands in direct conflict with the Fifth Circuit’s decision on the underlying issue raised in *Bautista*. See *Buenrostro-Mendez*, 166 F.4th at 507-508.

CONCLUSION

The Petitioner has not pled any legitimate bases on which to have filed his motion for reconsideration. Additionally, he has not demonstrated that his detention violates due process. Finally, contrary to Petitioner’s implication, *Bautista* is neither binding nor applicable and thus provides no basis for relief. Respondents respectfully request that the Court deny this motion.

Dated: March 12, 2026

Respectfully submitted,

Justin R. Simmons
United States Attorney

³ Petitioner cites this case as *Maldonado Bautista v. Satacruz* (Case No. 5:25-cv-1873). ECF No. 9 pg 3.

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