IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ARQUIMEDES FOORCHUE ALMONTER,	:	
Petitioner,	:	Civil Action No. 2:26-cv-00974 (Perez)
v.	:	
KRISTI NOEM, et al.,	:	
Respondents.	:	

ORDER

AND NOW, this _____ day of _____, 2026, on consideration of Respondents' Motion for Reconsideration, it is ORDERED that the motion is GRANTED.

BY THE COURT:

_____
MIA ROBERTS PEREZ
United States District Judge

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v.	:	
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Respondents.	:	

MOTION FOR RECONSIDERATION

Respondents move the Court under Local Civil Rule 7.1(g) to reconsider its Order of February 21, 2026 (ECF No. 6), to vacate that Order, and to deny the Petition for a Writ of Habeas Corpus. The reasons are set forth in the attached memorandum.

Respectfully submitted,

DAVID METCALF
United States Attorney

/s/ Susan R. Becker for GBD
GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division

/s/ Daniella D. Lees
DANIELLA D. LEES
Special Assistant United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
(215) 861-8515
daniella.lees@usdoj.gov

Dated: March 6, 2026

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MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR RECONSIDERATION

Respondents move the Court to reconsider its Order of February 21, 2026 (ECF No. 6), which granted Petitioner Arquimedes Foorchue Almonter's Petition for a Writ of Habeas Corpus, ordered his immediate release from custody, and temporarily enjoined Respondents from redetaining Petitioner for seven days following his release from custody. The government respectfully requests reconsideration because: (i) the government did not violate the Court's order prohibiting Petitioner's transfer, as demonstrated by evidence submitted with this motion; and (ii) the Petition requires substantive adjudication because it presents the novel issue of detention under 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2), as the majority of habeas petitions in this district have analyzed.

I. INTRODUCTION

Petitioner Arquimedes Foorchue Almonter filed a Petition for a Writ of Habeas Corpus on February 15, 2026, challenging his detention under the discretionary custody provisions of the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a). ECF 1. On February 17, 2026, the Court issued an Order granting in part the Petition and prohibiting Petitioner's transfer outside the Eastern District of Pennsylvania (hereinafter the "Preservation Order"). ECF 2. The

government first learned of the Petition and the Court's Preservation Order on February 17, 2026, at 5:04 p.m., in an email from Petitioner's counsel. *See* Ex. B – E-mail Correspondence (dated Feb. 17, 2026). The government had not been served with the Petition or Preservation Order prior to that time.

Upon notification of the pending Petition and Preservation Order, Immigration and Customs Enforcement (ICE) advised that it had transferred Petitioner from the Federal Detention Center (FDC) in Philadelphia, Pennsylvania to the Moshannon Valley Processing Center in Phillipsburg, Pennsylvania—outside the Eastern District of Pennsylvania—on the morning of February 17, 2026. *See* Ex. A – Declaration of Dave MacPherson (dated March 3, 2026). The government thereafter timely filed its response to the Petition on February 20, 2026. ECF 4. In its response, the government advised the Court of Petitioner's transfer to the Moshannon Valley Processing Center but clarified that such transfer did not violate the Court's Preservation Order because he was moved in the morning before the Court issued, and the government was ever made aware of, that order.

Petitioner responded the evening of February 20, 2026 at 8:16 p.m. ECF 5. The next day, on Saturday, February 21, 2026, the Court issued an Order granting the Petition and ordering Petitioner's immediate release. ECF 6. The Court in its Order declined to address the merits of the Petition, including the government's arguments as to ripeness, and instead summarily granted the Petition upon a finding that the government violated the Preservation Order. *Id.* This motion for reconsideration now follows.

II. LEGAL STANDARD

The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence. *Max's Seafood Café ex rel. Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999). They are appropriately granted based on: 1) an intervening change in controlling law; 2) the availability of

new evidence that was not available when the court ruled on the motion; or 3) the need to correct a clear error of law or fact or to prevent manifest injustice. *Id.* "[R]econsideration is the appropriate means of bringing to the court's attention to manifest errors of fact or law." *Harsco Corp. v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1985).

III. ARGUMENT

The Court should grant the motion for reconsideration because: (i) the government did not violate the Preservation Order by transferring Petitioner out of the District before Respondents learned of the Preservation Order or failing to facilitate Petitioner's return to the District; and (ii) the merits of the Petition and the novel legal issues presented require analysis.

a. The government did not violate the Preservation Order

Contrary to the Court's finding, the government did not violate the Preservation Order by transferring Petitioner outside the District. Petitioner was transferred *before* the Court issued, and the government ever became aware of, the Preservation Order. ECF 4; Ex. A. The Government acknowledges the Court's observation that assertions in a brief do not constitute evidence. ECF 6 fn. 1. To that end, had the Government been apprised of the Court's specific concerns regarding the Preservation Order, it would have welcomed the opportunity to provide the necessary evidentiary support for its position." *See Hope v. Warden York County Prison*, 972 F.3d 310, 320 (3d Cir. 2020) (finding the district court erred in granting preliminary injunctive relief without giving the government notice and a reasonable opportunity to be heard). The evidence submitted here, *see* Exs. A-B, shows that it did not violate the Order.

The government also did not violate the Preservation Order by failing to facilitate Petitioner's return to the District. In reasoning to the contrary, the Court stated:

> In any event, even accepting Respondents' account of when the transfer was initiated, Respondents have had ample time after entry of the Order—and, at the latest, after receiving notice that Petitioner had been moved out of the District—to return Petitioner and cure the ongoing violation, yet they have not done so.

ECF 6 fn. 1. However, the Preservation Order did not direct the government to return Petitioner to the District as a required remedy in the event of a violation. *See Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty,* 415 U.S. 423, 444 (1975) (explaining in the context of preliminary injunctive relief that a "party must receive fair and precisely drawn notice of what the injunction actually prohibits [or requires]"); *Int'l Longshoremen's Assn. v. Philadelphia Marine Trade Assn.*, 389 U.S. 64, 76 (1967) (holding that a court must "frame its orders so that those who must obey them will know what the court intends to require and what it means to forbid"). Thus, the Court should reconsider its finding that the government violated the Preservation Order.

b. The government respectfully requests the Court to address the merits of the Petition

The government further asks the Court to reconsider its prior findings and address the merits of the Petition. The facts and legal posture in this case differ significantly from the majority of habeas petitions that the Court has recently considered.

The Petition in this matter seeks relief far beyond that requested in the majority of the over 300 immigration habeas cases that have been recently filed in this district. Most of those cases have analyzed mandatory detention under 8 U.S.C. § 1225(b)(2), while a handful have addressed mandatory detention under 8 U.S.C. § 1225(b)(1). The majority of cases have found that ICE has wrongfully denied access to the § 1226(a) bond process by misclassifying detained persons under § 1225(b)(2). But this Petitioner—whose detention ICE classified as falling under § 1226(a) and the accompanying bond process—nonetheless asks the Court to

disregard the statute. Petitioner attempts to avoid the administrative process available to him under § 1226(a) by claiming, without support, that such process would be constitutionally inadequate. However, that claim is not ripe for consideration. *See Texas v. United States*, 523 U.S. 296, 300 (1998) ("A claim is not ripe for adjudication if it rests upon 'contingent future events that may not occur as anticipated, or indeed may not occur at all.'"). Petitioner does not challenge detention under § 1225(b)(2) but instead challenges the general and core ability of the government to detain an individual under § 1226(a) and, in turn, initiate removal proceedings under § 1229a.[1]

As discussed at length in its initial briefing, as an individual who allegedly overstayed the terms of his nonimmigrant visa, Petitioner in this case is subject to detention under the discretionary custody provisions of 8 U.S.C. § 1226(a), which provides for the arrest and detention of certain aliens pending a decision on whether they are to be removed from the United States. Individuals like Petitioner who are detained under 8 U.S.C. § 1226(a), unlike individuals detained under the mandatory detention provisions of 8 U.S.C. § 1225(b), are entitled to seek their release through an established administrative process, which begins with requesting an initial bond redetermination hearing before an immigration judge and later, if appropriate, seeking review of that determination before the Board of Immigration Appeals. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. §§ 236.1(d), 1003.19.

[1] 8 U.S.C. § 1252(g) deprives this Court of jurisdiction of "any cause or claim by or on behalf of any alien **arising from the decision or action by the Attorney General to commence proceedings**, adjudicate cases, or execute removal orders against any alien under this chapter." 8 U.S.C. § 1252(g) (emphasis added); *see Jennings v. Rodriguez,* 583 U.S. 281, 294, 138 S. Ct. 830, 841, 200 L. Ed. 2d 122 (2018). Unlike other petitions considered by this Court, this case is also different because Petitioner was detained at the same time he was first placed into removal proceedings.

Importantly, by transferring Petitioner outside the District, Respondents were ensuring that Petitioner would be afforded the administrative process due under the detention provisions of § 1226(a) (to a facility equipped for Petitioner to participate in a bond hearing). The Court incorrectly concluded the contrary, finding "Respondents' continued out-of-district detention directly undermines the Court's ability to ensure that any such [post-petition] process is promptly and meaningfully afforded." ECF 6 fn. 1. However, no administrative post-petition process could have been afforded to Petitioner while he remained in this District because administrative hearings, including bond hearings, cannot be held at the Federal Detention Center. *See* Ex. A. To the contrary, to provide Petitioner the process he was due under § 1226(a), including a bond hearing if requested, Petitioner needed to be transferred to a facility on the Executive Office for Immigration Review's (EOIR) "detained docket." *Id.* Moshannon Valley Processing Center is one such facility. *Id.*

In granting the Petition, the Court mistakenly concluded that the government was attempting to "defer ordinary § 1226(a) mechanisms" by transferring Petitioner outside the District. ECF 6 fn. 1. The government did not ask the Court to defer the administrative process under § 1226(a) and instead, throughout its briefing, highlighted the importance of that administrative process and the need for Petitioner to first exhaust that process prior to seeking the Court's review. Respondents' actions in this case are wholly consistent with this position, as Respondents promptly transferred Petitioner and filed his Notice to Appear with the EOIR in Elizabeth, New Jersey—the first step in initiating that administrative process. Ex. A.

In sum, Petitioner's case presents the same factual scenario as that of any person who overstayed the terms of a visa since the INA was amended in 1997. None of the recent changes in policy or statutory interpretation are implicated here,

and Petitioner remains entitled to pursue the administrative process afforded to him, and any other person detained, under § 1226(a). Therefore, the government asks the Court to grant this motion, vacate its order of February 21, 2026, and deny the Petition.

IV. CONCLUSION

For the foregoing reasons, the Court should grant Respondents' motion for reconsideration, vacate its order of February 21, 2026, and deny Petitioner's habeas petition.

Respectfully submitted,

DAVID METCALF
United States Attorney

/s/ Susan R. Becker for GBD
GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division

/s/ Daniella D. Lees
DANIELLA D. LEES
Special Assistant United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
(215) 861-8515
daniella.lees@usdoj.gov

Dated: March 6, 2026

CERTIFICATE OF SERVICE

I certify that on this date, the foregoing motion, and its attached exhibit, were filed electronically and are available for viewing and downloading from the CM/ECF system and were electronically served on counsel for petitioner.

Dated: March 6, 2026

/s/ Daniella D. Lees
DANIELLA D. LEES
Special Assistant United States Attorney

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v.	:	
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KRISTI NOEM, et al.,	:	
	:	
Respondents.	:	
	:	

EXHIBIT LIST

Exhibit A: Sworn Declaration of David J. MacPherson, dated March 3, 2026

Exhibit B: E-mail Correspondence, dated February 17, 2026

DECLARATION OF DAVID J. MACPHERSON

I hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

I am a Supervisory Detention and Deportation Office for the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), and make this declaration based upon information and belief derived from DHS and Bureau of Prison records and my own personal knowledge of Arquimedes Foorchue Almonter's case.

1. On February 13, 2026, Mr. Foorchue Almonter was detained at the Federal Detention Center in Philadelphia, Pennsylvania.
2. Further, on February 13, 2026, ERO personally served Mr. Foorchue Almonter with a Notice to Appear (NTA).
3. For Mr. Foorchue Almonter to have been able to attend his immigration court hearings, he must have been detained within a facility on the "detained docket" under the Executive Office for Immigration Review (EOIR).
4. The Federal Detention Center is not a facility on the "detained docket" under the EOIR, and according to ERO's agreement with the Federal Detention Center, virtual hearings are not permitted from those facilities.
5. On February 16, 2026, a manifest was generated containing twelve individuals to be transferred from the Federal Detention Center to the Moshannon Valley Processing Center in Phillipsburg, Pennsylvania. The transfer of these twelve individuals was scheduled for February 17, 2026 at 10:00 a.m.
6. Pickups from the Federal Detention Center are scheduled during the week for 10:00 a.m.

7. On Tuesday, February 17, 2026, Mr. Foorchue Almonter was transferred from the Federal Detention Center to the Moshannon Valley Processing Center via van that left the Federal Detention Center at 10:05 a.m.
8. Further, on February 17, 2026, ERO filed Mr. Foorchue Almonter's NTA with the EOIR based in Elizabeth, New Jersey.
9. On February 18, 2026, the EOIR in Elizabeth, New Jersey scheduled Mr. Foorchue Almonter for an initial master calendar hearing on February 26, 2026.
10. On February 21, 2026, Mr. Foorchue Almonter was released from the Moshannon Valley Processing Center.
11. Mr. Foorchue Almonter is now currently in removal proceedings before the EOIR based in Philadelphia, Pennsylvania, following his release from ICE custody on February 21, 2026.

Dated:



Digitally signed by
DAVID J MACPHERSON
Date: 2026.03.03
15:37:59 -05'00'

David J. MacPherson,
Supervisory Detention and Deportation Officer
U.S. Immigration and Customs Enforcement
Enforcement and Removal Operations
Philadelphia, Pennsylvania

Thanks,
Eric

From: Becker, Susan (USAPAE) <Susan.Becker@usdoj.gov>
Sent: Tuesday, February 17, 2026 5:21 PM
To: Eric Rosenfeld <eric@rglegalsolutions.com>; Wilkins, Desiree (USAPAE) <Desiree.Wilkins@usdoj.gov>; StJoseph, Anthony (USAPAE) <Anthony.StJoseph@usdoj.gov>; David, Gregory (USAPAE) <Gregory.David@usdoj.gov>
Subject: Re: Transfer in apparent violation of court order - 2:26-cv-00974-MRP

Hi Eric, your email is the first we have heard of this case or the Court's order. We have not been served with the habeas petition and ICE had no notice of the Court's order. Please email us with the petition (in addition to completing proper service under FRCP 4(i)). As soon as get the petition and the information necessary to respond, we will assign an AUSA who will be in touch. Thanks, Susan

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From: Eric Rosenfeld <eric@rglegalsolutions.com>
Sent: Tuesday, February 17, 2026 5:04 PM
To: Wilkins, Desiree (USAPAE) <Desiree.Wilkins@usdoj.gov>; StJoseph, Anthony (USAPAE) <Anthony.StJoseph@usdoj.gov>; Becker, Susan (USAPAE) <Susan.Becker@usdoj.gov>; David, Gregory (USAPAE) <Gregory.David@usdoj.gov>
Subject: [EXTERNAL] Transfer in apparent violation of court order - 2:26-cv-00974-MRP

Good afternoon,

Attached please find Judge Perez' Order requiring Petitioner to remain in EPDA and Respondent to file a response by 5pm Feb 20 (this Friday).

Based upon our communications with the Petitioner (Arquimedes Foorchue Almonter A[redacted]), it appears he was removed from EDPA after the Order was issued. Can you please confirm when he will be transported back to EDPA?

Thanks,
Eric

Eric Rosenfeld, Esq.
215.779.6443