**United States Department of Justice**

*United States Attorney*
*Northern District of New York*

*445 Broadway, Room 218*
*James T. Foley U.S. Courthouse*
*Albany, New York 12207-2924*

*Tel.: (518) 431-0247*
*Fax: (518) 431-0249*

August 20, 2026

**VIA CM/ECF**
Hon. Brenda K. Sannes
Chief U.S. District Judge
Federal Building and U.S. Courthouse
P.O. Box 7336
Syracuse NY 13261-7336

RE: *Vasquez Martinez v. Lyons, et al.*
Civil Action No. 9:26-cv-01528 (BKS)

Dear Chief Judge Sannes:

Respondents respectfully submit this letter in response to Petitioner's "Request for Immediate Release and/or for an Order Requiring an Evidentiary Submission," dated August 13, 2026. *See* Dkt. No. 11. For the reasons set forth below, the Court should deny Petitioner's request.

## I. Procedural History

On August 10, 2026, Petitioner filed a Petition for an Emergency Writ of Habeas Corpus Relief pursuant to 28 U.S.C. § 2241 ("Petition"). Dkt. No. 1. Petitioner sought immediate release, arguing that "immediate release is appropriate because Respondents have not—and cannot—show that they conducted an individualized determination regarding Petitioner before detaining him on August 10, 2026." *Id.* ¶ 44. Respondents responded to the Petition on August 12, 2026. *See* Dkt. No. 7.

On August 13, 2026, the Court issued a Text Order stating that it had reviewed the Petition and Response and determined that Petitioner was entitled to an individualized bond hearing under 8 U.S.C. § 1226(a) at which the Government would bear the burden of proof, and ordered that such bond hearing occur within 14 days. *See* Dkt. No. 8.

Later that day after the Court issued a decision on the Petition, *see id.*, Petitioner filed a letter request seeking immediate release or, alternatively, additional factual development concerning the timing and issuance of the Form I-200 associated with his arrest on August 10, 2026. *See* Dkt. No. 11. The Court directed Respondents to file a response to Petitioner's letter by August 21, 2026. *See* Dkt. No. 12.

On August 19, 2026, Petitioner was afforded a bond hearing as ordered by this Court. The Immigration Judge ordered Petitioner released under a $20,000 bond, finding that DHS did not

meet its burden to show—by clear and convincing evidence—that no condition or combination of conditions of release could reasonably ensure Petitioner's appearance. In reaching this determination, the Immigration Judge considered Petitioner's ability to pay and the availability of alternatives to detention. *See* Ex. A.[1]

## II. Argument

Petitioner's request for immediate release should be denied. The Court has already reviewed the Petition and Response and determined the appropriate habeas relief. *See* Dkt. No. 8. Petitioner's subsequent letter does not identify any procedural basis for the additional relief he now requests, nor is the procedural basis for his request readily inferred from the contents of the letter. *See generally* Dkt. No. 11. Indeed, the letter lacks any citation to any procedural rule or other authority that provides the standard of review for Petitioner's request.

To the extent Petitioner seeks reconsideration of the Court's Text Order dated August 13, 2026, *see* Dkt. No. 8, Petitioner has not satisfied the standard for that relief. Reconsideration is an extraordinary remedy available only where the movant demonstrates an intervening change in controlling law, newly available evidence, or the need to correct clear error or prevent manifest injustice. *See Kolel Beth Yechiel Mechil of Tartikov, Inc. v. YLL Irrevocable Tr.*, 729 F.3d 99, 104 (2d Cir. 2013). It is not a vehicle for relitigating issues, presenting a case under a new theory, securing a rehearing on the merits, or taking a "second bite at the apple." *See Analytical Surveys, Inc. v. Tonga Partners, L.P.*, 684 F.3d 36, 52 (2d Cir. 2012).

Petitioner identifies none of the circumstances warranting reconsideration. *See generally* Dkt. No. 11. He points to no intervening change in controlling law. Every district court decision cited in Petitioner's submission predates the Court's Text Order dated August 13, 2026, and none is controlling authority requiring a different result. Nor does Petitioner identify newly discovered evidence.

Petitioner likewise identifies no clear error in the Court's August 13 ruling. Nor is any such error apparent. *See, e.g.*, *Cabrera Martinez v. Newman*, No. 1:25-cv-01110 (W.D.N.Y. Oct. 31, 2025); *See* Alvarez Ortiz, 2025 WL 3085032, at *11; *see also Romero v. Hyde*, 795 F. Supp. 3d 271, 288 (D. Mass. 2025) (noting that "the appropriate remedy will usually be a bond hearing to consider the merits of release under section 1226"); *Gomes v. Hyde*, --- F. Supp. 3d ---, 2025 WL 1869299, at *9 (D. Mass. July 7, 2025) (finding that "the appropriate remedy is to order the Immigration Court to conduct a new hearing at which it considers [the petitioner's] eligibility for bond under [s]ection 1226(a)").

Nor has Petitioner shown manifest injustice. Disagreement with the scope of the relief ordered does not permit reconsideration simply to pursue a separate theory of immediate release.

[1] Exhibit A has been provided to undersigned counsel by agency counsel for ICE.

At bottom, Petitioner's request for immediate release reveals itself as nothing more than an attempt to relitigate the scope of habeas relief granted by the Court. Tellingly, the Petition did not specifically raise the argument Petitioner now asserts in his request for immediate release: that an I-200 warrant is invalid unless generated before Petitioner was detained. *Compare* Dkt. No. 1, *with* Dkt. No. 11. However, new arguments are "not cognizable on a motion for reconsideration." Cooke v. Frank Brunckhorst Co., LLC, 734 F. Supp. 3d 206, 213 (E.D.N.Y. 2024); *see also Sequa Corp. v. GBJ Corp.*, 156 F.3d 136, 144 (2d Cir. 1998). In sum, Petitioner's attempt to relitigate old issues or present new theories should be rejected because the "fact that petitioner disagrees with the Court's decision does not warrant reconsideration thereof." *Somerville v. Senkowski*, No. 999-CV-1439 GLS RFT, 2006 WL 2528513, at *1 (N.D.N.Y. Aug. 31, 2006).

In any event, the cases on which Petitioner relies are materially different. Petitioner was served with a Notice to Appear on May 18, 2022, more than four years before his arrest on August 10, 2026. *See* Dkt. No. 7-2. Thus, unlike the petitioners in *Franco Loaeza v. Bausch*, *Meza v. Francis*, and related cases, Petitioner was already in removal proceedings when he was arrested. The governing regulation provides that "[a]t the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the alien may be arrested and taken into custody under the authority of Form I-200." 8 C.F.R. § 1236.1(b)(1). The sequence of events in those cases—where the arrest occurred before the NTA was issued or removal proceedings began—is not present here. Additionally, here, the Form I-213 states that the arrest warrant was issued and that Petitioner was thereafter transferred to the holding room in Albany. Dkt. No. 7-4 at 2 (stating Petitioner "was served an I-200 and transported to the ALB ERO office for further processing without incident").

Petitioner instead asks the Court to extend those cases to require Respondents to establish, through declarations, metadata, audit histories, and other records, the precise moment the I-200 was generated and signed in relation to the precise moment Petitioner was first restrained. The cited cases do not impose such a requirement under the circumstances presented here.

Ultimately, Petitioner has not met his burden of showing that his detention is unlawful as to warrant an immediate release. In a proceeding under 28 U.S.C. § 2241, Petitioner bears the burden of establishing by a preponderance of the evidence that his custody violates federal law. *See Skaftouros v. United States*, 667 F.3d 144, 158 (2d Cir. 2011). The record contains a Form I-200 dated August 10, 2026, the same date as Petitioner's arrest. Dkt. No. 7-5.

Additionally, Petitioner's reliance on the warrantless-arrest provisions of 8 U.S.C. § 1357(a)(2) is misplaced. Petitioner has not established that his arrest was warrantless in the first instance. The record contains an I-200 dated the same day as his arrest. Dkt. No. 7-5. The absence of a precise time on that document does not, without more, establish that the arrest occurred without a warrant.

To the extent Petitioner separately seeks immediate release based on the circumstances of his August 10 arrest, he has not established that the arrest was unlawful or that the authorities he cites require immediate release on the materially different facts presented here.

Finally, the Court previously ordered that Petitioner receive a constitutionally adequate bond hearing by August 19, 2026. Dkt. No. 8. That hearing was held on August 19, 2026, during which Petitioner's continued detention was subject to the individualized custody determination required by the Court's order. *See* Ex. A. The Immigration Judge ordered [Petitioner] released under a $20,000 bond, finding that DHS did not meet its burden to show—by clear and convincing evidence—that no condition or combination of conditions of release could reasonably ensure Petitioner's appearance. In reaching this determination, the Immigration Judge considered Petitioner's ability to pay and the availability of alternatives to detention.

Accordingly, Respondents respectfully request that the Court deny Petitioner's request for immediate release and his alternative request for expedited declarations, discovery, and further proceedings concerning the arrest on August 10, 2026.

Thank you for the Court's consideration of this matter.

Respectfully Submitted,

TODD BLANCHE
Attorney General

JOHN A. SARCONE III
First Assistant United States Attorney

By: *s/ Alexis M. Osborne*
Alexis M. Osborne
Assistant United States Attorney
Bar Roll No. 707475