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11 Attorneys for Petitioner-Plaintiff,
VARDAN GUKASIAN

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 VARDAN GUKASIAN, an individual,
15
16 Petitioner-Plaintiff,

17 v.

18 KRISTI NOEM, Acting Secretary of the
Department of Homeland Security; TODD
19 LYONS, Deputy Director and Senior Official
Performing the Duties of Director, U.S.
Immigration and Customs Enforcement;
20 KENNETH PORTER, Assistant Field Office
Director, U.S. Immigration and Customs
21 Enforcement and Removal Operations; SDDO
CLOYDE UMALI, Supervisory and Detention
22 Officer, Immigration and Customs Enforcement,
Enforcement and Removal Operations, Salt Lake
23 City Field Office, Las Vegas Sub-Office,
Detained Unit; TYLER ADAMS, Supervisory
24 and Detention Officer, Immigration and Customs
Enforcement, Enforcement and Removal
25 Operations, Salt Lake City Field Office, Las
Vegas Sub-Office, Detained Unit; and CAPTAIN
26 FRANK D'AMICO, Captain of Corrections,
Henderson Detention Center,

27 Respondents-Defendants.
28

Case No. 2:25-cv-01697

**MOTION FOR RECONSIDERATION OF
THE COURT'S ORDER DISMISSING
CIVIL-RIGHTS CLAIMS [DKT NO. 7]**

1 **MOTION FOR RECONSIDERATION OF THE COURT’S ORDER DISMISSING CIVIL-**
2 **RIGHTS CLAIMS**

3 1. Petitioner-Plaintiff Vardan Gukasian (“Mr. Gukasian” or “Petitioner-Plaintiff”) by and
4 through his attorneys of record, Reuven L. Cohen, Alyssa Bell, Daniel Natal, and Hardeep Sull, and
5 pursuant to Federal Rules of Civil Procedure 60, 54(b), and Local Rule 59-1, hereby submits this Motion
6 for Reconsideration of the Court’s Order Dismissing his Civil-Rights Claims (Dkt No. 7).

7 2. Specifically, Mr. Gukasian respectfully requests that this Court reconsider dismissal of
8 Claims I, II, and IV in his Petition-Complaint at Docket Number 1. Mr. Gukasian’s Motion is supported
9 by the foregoing memorandum of law, the paper and pleadings on file, and any other hearings,
10 argument, or evidence that the Court may consider on this Motion.

11 **INTRODUCTION**

12 3. On September 23, 2025, the Court issued an order *sua sponte* dismissing Claims I, II and
13 IV in Mr. Gukasian’s Petition-Complaint. (Dkt. No. 7 [hereinafter the “Dismissal Order”].)
14 Specifically, the Court dismissed Claim I alleging a violation of Mr. Gukasian’s due process rights,
15 Claim II alleging a violation of Mr. Gukasian’s right to be free from punitive conditions of confinement,
16 and Claim IV alleging a violation of Mr. Gukasian’s First Amendment right to communicate with his
17 attorneys. (*Id.* at 4.) The Court also ordered Respondents-Defendants to narrow any response to the
18 sole remaining claim in the Petition-Complaint. (*Id.* at 6.) In reaching this decision, the Court construed
19 Mr. Gukasian’s claims in the Petition-Complaint as alleging claims seeking only habeas relief, and did
20 not address a potential jurisdictional basis to grant injunctive or declaratory relief. (*Id.* at 2.) The Court
21 explained that because constitutional claims addressing conditions of confinement (as opposed to the
22 fact of confinement) do not sound in habeas, the Court did not have habeas jurisdiction to consider
23 Mr. Gukasian’s now-dismissed claims. (*Id.*)

24 4. But setting aside whether Mr. Gukasian’s dismissed claims sound in habeas—a ruling
25 Mr. Gukasian does not ask this Court to reconsider—this Court *does* have jurisdiction over
26 Mr. Gukasian’s civil-rights claims under its broad equitable powers to remedy violations of the
27 constitution. Indeed, Mr. Gukasian styled the pleading initiating this case as both a habeas petition and a
28 civil complaint for injunctive and declaratory relief in accordance with *Roman v. Wolf*, 977 F.3d 935

1 (9th Cir. 2020), which held that federal courts have jurisdiction over the constitutional claims of
2 immigrant detainees, including conditions of confinement claims, *even if* those claims do *not* sound in
3 habeas.

4 5. In *Roman*, immigration detainees sued the government and the warden of their private
5 detention facility, alleging that their conditions of confinement during the COVID-19 pandemic violated
6 their federal constitutional rights. In ruling in the plaintiffs’ favor, the Ninth Circuit rejected the
7 government’s argument that the district court lacked jurisdiction over the plaintiffs’ claims. The Ninth
8 Circuit deferred answering the question of whether conditions of confinement claims sound in habeas—
9 a question that remains outstanding in this Circuit—and held that the plaintiff had properly invoked
10 federal question jurisdiction over their claims by styling their petition-complaint as one seeking
11 equitable relief for violations of their constitutional rights. In this case, Mr. Gukasian’s initial pleading
12 was styled as a “Petition for Writ of Habeas Corpus *and Complaint for Injunctive and Declaratory*
13 *Relief.*” (Dkt. No. 1 at 1 (emphasis added).) In his prayer for relief, Mr. Gukasian requested a writ of
14 habeas corpus “or, alternatively, injunctive relief ordering Respondents to immediately release
15 Petitioner, on the grounds that his continued detention violates the Due Process Clause and First
16 Amendment [and]... [i]ssue a declaration that [his] conditions... in [] Henderson Detention Center”
17 violate his constitutional rights. (*Id.* ¶¶ 142-44.) Mr. Gukasian explicitly invoked federal question
18 jurisdiction, referred to himself in the master caption and in the “Parties” section as a “Petitioner-
19 Plaintiff,” and alleged claims against “Respondents-Defendants.” (*Id.* at 1; *id.* ¶¶ 23-32.) His Petition-
20 Complaint is on all fours with the petition-complaint endorsed by the Ninth Circuit in *Roman*, and
21 should be construed as invoking this Court’s equitable jurisdiction over alleged violations of his
22 constitutional rights.

23 6. In sum, this Court has jurisdiction to hear Mr. Gukasian’s conditions of confinement
24 claims as federal constitutional claims seeking injunctive and declaratory relief. Reconsideration of the
25 Court’s order dismissing his claims is merited because binding Ninth Circuit precedent establishes that
26 the Court has jurisdiction to hear his now-dismissed claims. Accordingly, the Court should reconsider
27 its Dismissal Order, revive Claims I, II, and IV in the Petition-Complaint, and order Respondents-
28 Defendants to respond to all three claims on the merits.

1 **PROCEDURAL HISTORY**

2 7. On September 9, 2025, Mr. Gukasian filed the pleading initiating this matter. (Dkt. No. 1
3 [hereinafter the “Petition-Complaint”].) The Petition-Complaint was captioned a “Petition for Writ of
4 Habeas Corpus and Complaint for Injunctive and Declaratory Relief,” and set out four claims for relief,
5 all arising under the federal constitution: Claim I alleging a violation of Mr. Gukasian’s due process rights,
6 Claim II alleging a violation of Mr. Gukasian’s right to be free from punitive conditions of confinement,
7 and Claim IV alleging a violation of Mr. Gukasian’s First Amendment right to communicate with his
8 attorneys. On September 19, 2025, Mr. Gukasian filed a Motion for a Temporary Restraining Order
9 seeking his immediate release pending adjudication of this matter. (“TRO,” Dkt. No. 5.)

10 8. On September 23, 2025, the Court *sua sponte* dismissed Claims I, II, and IV of the Petition-
11 Complaint. (See Dismissal Order at 4.) In so doing, the Court held that it lacked jurisdiction to hear any
12 habeas claims addressing Mr. Gukasian’s conditions of confinement under 28 U.S.C. § 2241. (*Id.*) The
13 Court therefore ordered Respondents-Defendants to respond only to Claim III in its response both to the
14 TRO and to the Petition-Complaint. (*Id.* at 6.) The Court’s order did not address whether it had equitable
15 jurisdiction to hear Mr. Gukasian’s dismissed claims as federal constitutional claims for injunctive and
16 declaratory relief.

17 9. On September 29, 2025, Federal Respondents-Defendants filed a response to the TRO.
18 (Dkt. No. 11.) On October 3, 2025, Mr. Gukasian filed a reply to the response by Respondents-
19 Defendants. (Dkt. No. 19.) In the reply, Mr. Gukasian indicated that he did not interpret the Court’s
20 Dismissal Order to apply to his requests for injunctive and declaratory relief, and that if the Court clarified
21 that its Dismissal Order so applied, he intended to file a motion for reconsideration. (*Id.* at 8 n.3.)

22 10. On October 14, 2025, the Court held a hearing on Mr. Gukasian’s TRO. At the hearing,
23 the Court issued a ruling from the bench denying Mr. Gukasian relief. In its ruling, the Court did not
24 modify its previous order dismissing his civil-rights claims. Instead, the Court invited Mr. Gukasian to
25 file a motion for reconsideration if he wished for the Court to revisit its dismissal of Claims I, II, and IV.

26 **LEGAL STANDARD**

27 11. Under Federal Rule of Civil Procedure 54(b), the Court may revisit any order adjudicating
28 fewer than all the claims in an action at any time before the entry of a final judgment. Fed. R. Civ. P.

1 54(b). Likewise, “[a]s long as a district court has jurisdiction over the case, then it possesses the inherent
 2 procedural power to reconsider, rescind, or modify an interlocutory order for cause seen by it to be
 3 sufficient.” *Sessa v. Ancestry.com Operations Inc.*, 713 F. Supp. 3d 997, 1001 (D. Nev. 2024) (quoting
 4 *City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 885 (9th Cir. 2001)). “This
 5 plenary power derives from the common law and is not limited by the provisions of the Federal Rules of
 6 Civil Procedure.” *Id.* (citing *City of Los Angeles, Harbor Div.*, 254 F.3d at 886-87).

7 12. The District Court of Nevada “utilize[s] the standard for a motion to alter or amend
 8 judgment under Rule 59(e).” *Id.* at *4 (citations omitted). Motions for reconsideration should “set forth
 9 (1) a valid reason why the court should revisit its prior order; and (2) facts or law of a ‘strongly convincing
 10 nature’ in support of reversing the prior decision.” *Id.* at *4 (quoting *Frasure v. U.S.*, 256 F. Supp. 2d
 11 1180, 1183 (D. Nev. 2003)). Reconsideration is warranted “if the district court (1) is presented with newly
 12 discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there
 13 is an intervening change in controlling law.” *Id.* (citations omitted); *see also U.S. Aviation Underwriters,*
 14 *Inc. v. WesAir, LLC*, No. 208-CV-00891-PMP-LRL, 2010 WL 1462707, at *2 (D. Nev. Apr. 12, 2010)
 15 (explaining the same).

16 ARGUMENT

17 13. Reconsideration of the Court’s Dismissal Order is warranted because binding Ninth Circuit
 18 precedent conveys jurisdiction to hear Mr. Gukasian’s claims. Specifically, the Ninth Circuit’s opinion
 19 in *Roman v. Wolf*, 977 F.3d 935 (9th Cir. 2020), held that district courts have equitable jurisdiction to
 20 remedy claimed violations of the constitution, even where such claims do not sound in habeas.

21 14. In *Roman*, noncitizen detainees brought a class action lawsuit challenging their conditions
 22 of confinement in Adelanto Immigration and Customs Enforcement Processing Center amidst the
 23 COVID-19 pandemic. *Roman*, 977 F.3d at 939. The detainees sought “declaratory and injunctive relief,
 24 as well as habeas relief.” *Id.* The government attempted to defeat plaintiffs’ claims on jurisdictional
 25 grounds, arguing that “a district court on habeas review may not order... any [] injunctive relief[] to
 26 remedy unconstitutional conditions of confinement.” *Id.* at 941.

27 15. The Ninth Circuit rejected the government’s premise, holding that it “need not reach that
 28 issue to resolve th[e] appeal[.]” *Id.* Instead, the *Roman* court noted that plaintiffs “separately from their

1 habeas petition ... brought a class action complaint for declaratory and injunctive relief seeking to remedy
2 allegedly unconstitutional conditions at Adelanto[.]” *Id.* By doing so, the *Roman* panel reasoned that
3 “Plaintiffs’ due process claims [challenging the conditions of confinement] arise under the Constitution,
4 and [they] invoked 28 U.S.C. § 1331, which provides subject matter jurisdiction irrespective of the
5 accompanying habeas petition.” *Id.* The *Roman* court held that this distinct request for injunctive and
6 declaratory relief sufficed to vest the district court with “the authority [] to entertain [p]laintiffs’
7 constitutional challenges and to grant injunctive relief in response to them.” *Id.* at 942.

8 16. *Roman* is binding precedent and the Ninth Circuit has followed its directives in subsequent
9 decisions. For example, less than a year after *Roman* was decided, the Ninth Circuit dismissed an identical
10 challenge to a district court’s jurisdiction over noncitizen detainees’ conditions of confinement claims,
11 reaffirming “that the Due Process Clause of the Fifth Amendment provides civil immigration detainees
12 an implied cause of action to seek equitable relief from unconstitutional conditions of confinement.”
13 *Zepeda Rivas v. Jennings*, 845 F. App’x 530, 534 (9th Cir. 2021). The *Zepeda Rivas* panel thus affirmed
14 that the district court “possess[ed] broad equitable authority to remedy a likely constitutional violation”
15 in response to a petition-complaint invoking claims for both habeas and injunctive relief. *Id.* at 535.

16 17. More recently, district courts have relied on *Roman* in adjudicating constitutional
17 challenges to conditions of confinement that would otherwise lie outside the scope of habeas jurisdiction.
18 *See Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 2243616, at *3 (N.D. Cal. Aug. 6, 2025) (finding
19 that even if civil-rights claims did not sound in habeas, the court still had jurisdiction to hear claims
20 because plaintiff had pleaded federal question jurisdiction); *see also Romero-Lorenzo v. Koehn*, No. CV-
21 20-00901-PHX-DJH (DMF), 2021 WL 12299041, at *3 (D. Ariz. Feb. 19, 2021) (same).

22 18. *Romero-Lorenzo* is particularly relevant to this case. There, the government argued that
23 petitioner-plaintiffs—all of whom were criminal detainees or prisoners—had alleged civil-rights claims
24 that should have been dismissed for lack of subject matter jurisdiction because habeas relief was only
25 available to challenge the legality or duration of confinement. *Romero-Lorenzo*, 2021 WL 12299041, at
26 *3. The district court, much like the Ninth Circuit in *Roman*, deferred ruling as to whether § 2241
27 conferred jurisdiction over the plaintiffs’ claims. *Id.* at *5. Instead, the district court held that “even if
28 the Court lacks jurisdiction under § 2241, Plaintiffs-Petitioners’ claims for injunctive relief remain

1 cognizable for review because [they] ha[ve] alternatively pleaded a cause of action under the Fifth [and
2 Eighth] Amendment[s] for injunctive and declaratory relief, over which the Court would have jurisdiction
3 under 28 U.S.C. § 1331, as an equitable cause of action under the Constitution.” *Id.* at *6 (internal
4 quotations and citation omitted).

5 19. This case is on all fours. Mr. Gukasian filed a Petition-Complaint that is virtually
6 indistinguishable from the petition-complaint at issue in *Roman*. The Petition-Complaint was styled as a
7 “Petition for Writ of Habeas Corpus *and Complaint for Injunctive and Declaratory Relief*.” (Petition-
8 Complaint at 1 (emphasis added).) Mr. Gukasian referred to himself in the caption and body of the
9 document as a “Petitioner-Plaintiff,” and alleged claims against “Respondents-Defendants.” (*Id.* at 1; *id.*
10 ¶¶ 23-32.) Mr. Gukasian alleged ongoing violations of his constitutional rights by federal and state
11 officials, and brought claims for injunctive and declaratory relief to remedy those constitutional violations.
12 (*Id.* at 26-30; *id.* ¶ 32 (citing *Ex Parte Young*, 209 U.S. 123 (1907)).) He cited § 1331 as a jurisdictional
13 basis for the Petition-Complaint, explicitly pleading federal question jurisdiction. (*Id.* ¶ 32.) In his prayer
14 for relief, Mr. Gukasian requested a writ of habeas corpus “or, alternatively, injunctive relief ordering
15 Respondents to immediately release Petitioner, on the grounds that his continued detention violates the
16 Due Process Clause and First Amendment [and]... [i]ssue a declaration that [his] conditions... in []
17 Henderson Detention Center” violate his constitutional rights. (*Id.* ¶¶ 142-44.) His Petition-Complaint is
18 essentially identical to the petition-complaint held to confer federal question jurisdiction by the Ninth
19 Circuit in *Roman*, and should be construed as invoking this Court’s equitable jurisdiction to remedy
20 alleged violations of the constitution.

21 20. Put simply, this Court has subject matter jurisdiction over Mr. Gukasian’s civil-rights
22 claims because he styled the claims as federal constitutional claims for injunctive and declaratory relief.
23 His Petition-Complaint properly invoked federal question jurisdiction and alleged ongoing violations of
24 the federal constitution that this Court has broad equitable powers to remedy.

25 21. Because this Court retains federal question jurisdiction over Claims I, II, and IV, it should
26 revive those claims in the Petition-Complaint and order Respondents-Defendants to respond to those
27 claims on the merits.

