

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 0:25-cv-61845-RS

MARIO RODRIGUEZ IZQUIERDO,

Petitioner,

v.

GARRETT RIPA,
Miami Field Office,
U.S. Immigration and Customs Enforcement, *et*
al.

Respondents.

PETITIONER'S MOTION TO AMEND OR ALTER JUDGMENT

Petitioner, Mario Rodriguez Izquierdo, by and through his counsel, moves this Court for an order altering or amending the judgement entered on October 24, 2025, on the grounds that there has been a change in persuasive authority and because the judgment has resulted in manifest injustice. This motion is made pursuant to the Federal Rule of Civil Procedure 59(e) ("Rule 59") and shall be based upon this motion, the complete files and records of this action, and such other further oral or documentary evidence as may be presented at any hearing on this motion.

This 24th day of November 2025.

/s/ Felix A. Montanez
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I. STATEMENT OF FACTS

Petitioner, Mario Rodriguez Izquierdo, is a Cuban asylum seeker who entered the United States without inspection in March 2022 near San Luiz, Arizona. Petitioner was released from Respondents' custody into the United States, but was then re-detained after he dutifully appeared for a hearing at the Miami Immigration Court on June 5, 2025. On July 18, 2025, an immigration judge (IJ) ordered Petitioner's release on payment of bond in the amount of \$10,000. However, on July 21, 2025, ICE filed a Form EOIR-43, Automatic Stay Invocation with the immigration court to unlawfully continue holding Petitioner in detention without bond.

On September 16, 2025, Petitioner filed a Petition for Writ of Habeas Corpus, followed by an amended Petition for Writ of Habeas Corpus on September 23, 2025. On October 24, 2025, the District Court issued an Order on Petitioner's Petition for Writ of Habeas Corpus, denying his petition, amended petition, and motion for expedited consideration. The Court stated in its Order that an IJ does not have jurisdiction to grant bond to him as an alien purportedly detained under 8 U.S.C. § 1225(b)(2)(A), and that the Court is likewise without jurisdiction to review the decision to initiate Petitioner's removal in the first instance.

Petitioner respectfully submits that the judgment entered on October 24, 2025, should be altered, such that he is allowed to comply with the award of bond pursuant to Section 1226(a) of the U.S. Code.

II. LEGAL ARGUMENT

District courts have the power to "alter or amend" a judgment by motion. *See* FRCP 59(e). This motion is timely filed as the United States District Judge's, Rodney Smith, Order to deny Petitioner's Writ of Habeas Corpus was filed on October 24, 2025. FRCP 59(e) states: "Motion to Alter or Amend a Judgment. A motion to alter or amend a judgment must be filed no later than

28 days after the entry of the judgment.” Here, the twenty-eighth day fell on a weekend and was carried over to the following business day, the date of this motion.

Petitioner’s detention under 8 U.S.C. § 1225(b)(2)(A), is unlawful, as he is not subject to mandatory detention since he is not an arriving alien nor was he otherwise “arriving” when he was detained in the U.S. DHS itself proceeded under 8 U.S.C. § 1226 when they provided Petitioner a Notice to Appear classifying him as an alien present in the United States who has not been admitted or paroled. This classification placed the Petitioner under 8 U.S.C. § 1226. Since entry of judgment, other courts have rejected the Government’s expansive interpretation of 8 U.S.C. § 1225(b)(2)(A). *See Perez v. Parra, et. al.*, 25-24820-CV-Williams (S.D. Fla. Oct. 27, 2025) (collecting cases).

Respondents argued that the Petitioner’s detention is authorized under 8 U.S.C. § 1225(b)(2)(A). As stated above, since entry of judgment, other courts in the Southern District have continued to reject these types of arguments. *See Boffill v. Field Office Director, et. al.*, 25-cv-25179-JB (S.D.Fla. November 20, 2025.) Respondents in similar cases have argued that the Court lacks jurisdiction based upon 8 U.S.C. § 1252(e)(3), 8 U.S.C. § 1252(g) (as this Court held); and 8 U.S.C. § 1252(b)(9), but in *Boffill v. Field Office Director, et. al.*, another district court decision held that a similarly-situated habeas petitioner challenging the lawfulness of his detention was not subject to any such jurisdictional bar. *See id.* The commission of some manifest error of law or fact justifies the grant of a Rule 59(e) motion. *see Turner v. Burlington Northern Santa Fe R.R. Co.* 338 F3d 1058, 1063 (9th Cir. 2003); see also *Divane v. Krull Elec. Co., Inc.* 194 F3d 845, 848 (7th Cir. 1999) and *United States v. Metropolitan St. Louis Sewer Dist.* 440 F3d 930, 933 (8th Cir. 2006). The motion should be granted on the grounds that the court’s decision resulted in manifest injustice in that Petitioner has not been provided an opportunity to pursue release from detention

after he was awarded a \$10,000 bond by an immigration court, because no jurisdictional bar applies, and the discretionary detention statute, 1226(a) should rightly be applied.

CONCLUSION

Based on the above, the Petitioner respectfully requests that the Court alter or amend the judgment as requested herein to prevent a manifest injustice and so Petitioner can simply be afforded the opportunity to comply with a previously-awarded grant of bond, as the law favors.

This 24th day of November 2025.

/s/ Felix A. Montanez

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CERTIFICATE OF CONFERRAL

Petitioner emailed opposing counsel on this matter today November 24, 2025, but since no response has yet been received, assumes that this motion is opposed.

/s/ Felix A. Montanez

Felix A. Montanez, Esq.

Counsel for Petitioner