

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

Case No. 2:26-cv-00002-KCD-DNF

**ROBERTO FRANCISCO FRANCO
RODRIGUEZ,**
Petitioner,

v.

KELIE WALKER, et al.

Respondents.
_____ /

PETITIONER'S MOTION TO ENFORCE JUDGMENT AND RELATED RELIEF

Petitioner, by and through undersigned counsel, respectfully moves this Court to provide relief either by setting aside its final judgment under Federal Rule of Civil Procedure 60(b)(1) -(6) for further review under 28 USC §2241, or—given the protracted length of Petitioner's detention—by directly enforcing its prior judgment and ordering Petitioner's immediate release. This motion is necessitated in part because the smoke has cleared regarding certain highly relevant factual questions that informed this Court's judgment, and because, relatedly, the government has failed to comply with the Court's judgment directing Respondents to provide Petitioner with due process and regulatory protections.

I. Relief Under 60(b) is Warranted

a. Court's Judgment Based On Factual Premises That Have Since Proved Inaccurate

Rule 60(b) relief is warranted because the Court's judgment rested on Respondents' assurances regarding future events that have not occurred. As context, on January 26, 2026, Respondents represented that Petitioner had been removed from the United States. [ECF No. 9, p. 1]. That was inaccurate, and so this Honorable Court reopened this matter on February 5, 2026.

[ECF No. 15]. Then, on February 4, 2026, Respondents, through a declaration from a deportation officer, represented that they received notification that the Cuban government “has approved Petitioner’s repatriation to Cuba” and that “Petitioner has been allocated a seat on a removal flight to Cuba scheduled in March 2026.” [ECF No. 14-2 at 2]. Those assurances have also not been borne out in actual fact. The only plane ride that Petitioner took in the month of March 2026 was from Louisiana to Florida as he was transferred between detention centers. As of the date of this filing, Petitioner remains in the United States with no prospects for removal in the reasonably foreseeable future. See Exhibit “A,” ICE Locator Result.

Respondents’ representations and assurances materially shaped the Court’s understanding of the case and the procedural posture leading up to its March 18, 2026 judgment. The Court’s decision assumed, based on those assurances, that removal was imminent when writing:

But there is an even bigger reason for the Court’s hesitation: timing. After more than two decades of diplomatic roadblocks, the Government’s efforts to deport Rodriguez are finally crossing the finish line. The Cuban government has approved his repatriation, and ICE has secured him a seat on a removal flight scheduled for this very month. Intervening to order his outright release now would scramble a removal process that has been long in the making. The Constitution requires that Rodriguez get a meaningful opportunity to be heard. It does not require the Court to upend an imminent, long-awaited deportation just as the plane is preparing for takeoff. *See* [ECF No. 19, p. 14].

Yet Petitioner remains in detention now as of the date of this motion despite the government’s assertion that he was slated for removal to Cuba in March 2026. The government has since changed tack and have now apparently abandoned attempts to remove him to Cuba entirely, instead reverting to their past failed attempts to remove him to Mexico. [ECF No. 21-1]. This collapse of multiple factual premises informing the Court’s decision demonstrates precisely the type of extraordinary circumstance that Rule 60(b)(1)-(6) are intended to address.

Allowing the judgment to stand unaltered under these circumstances would insulate the divergence between the government's assertions and what the government has carried out in actual practice—both at the time of the Court's judgment and shortly thereafter—from judicial review. Rule 60(b)(1) exists to prevent final judgments from being enforced where they were obtained or influenced by ultimately incorrect information whether due to parties' mistake, inadvertence, or surprise. It also is permitted where there is newly discovered evidence, as here, that intervening facts require revisiting a judgment.

b. Petitioner Remains in Custody at Alligator Alcatraz and Relief Is Not Moot

As of the date of this filing, Petitioner is detained at Florida Soft Side South Facility ("Alligator Alcatraz"). See Exhibit "A." The Court previously found that challenges to the conditions of confinement at a facility are moot once the detainee is transferred. [ECF No. 19, p. 19-20]. That finding, however, rested on the premise that Petitioner had been physically moved to a different detention center. As it turns out, Respondents moved Petitioner back to Alligator Alcatraz on March 14, 2026. Petitioner is again held at Alligator Alcatraz under the same conditions challenged in his initial filings.

While the Court stated that "a challenge to the conditions of confinement does not suddenly invalidate the legal basis for that confinement," Petitioner's claim is not about the conditions of Alligator Alcatraz. [ECF No. 19, p. 19]. Instead, the claim challenges the authority under which he is detained. [ECF No. 1, p. 18-23]. Petitioner does not seek relief because of the facility's management, staffing, or operational decisions; he seeks release because ICE lacks statutory, regulatory, and contractual authority to detain him there.

Unlike a conditions claim, which asks courts to directly assess the adequacy of supervision, safety, or hygienic or sanitary standards, Petitioner's claim targets the lawfulness of the detention

itself. 8 U.S.C. §1357(g)—the authority invoked by the government---permits delegation of specific immigration officer functions, but it does not authorize long-term detention in a facility operated by non-deputized state officers or private contractors. Likewise, no IGSA exists authorizing ICE to house detainees at Alligator Alcatraz, meaning the facility is outside federal control. These deficiencies go to the core legality of detention, not to the conditions of confinement, nor can it even be cured by improving conditions. The critical issue is whether the detention at Alligator Alcatraz, or any facility without proper statutory, regulatory, or contractual authority, is lawful. Because Petitioner remains at the facility, his claims that Alligator Alcatraz is operating in clear violation of the law are not moot and the Court, if not inclined to order immediate release, should order Petitioner's provisional transfer to another facility, such as Krome North Service Processing Center, if further proceedings are required. Petitioner's ongoing detention at Alligator Alcatraz gives the Court full authority to address his claims.

II. Enforcing the Court's Judgment

a. The Court Retains Jurisdiction and Enforcement Is Proper

A Rule 60(b) motion may not raise a new claim for relief and may not attack prior resolution of a claim on the merits. *See Pease v. United States*, No. 16-17103, 2019 WL 1568407, at * I (11th Cir. Apr. 11, 2019). The application of Rule 60(b) in a habeas context has been succinctly summarized:

Rule 60(b) allows a party to seek relief from a final judgment, and request reopening of his case, under a limited set of circumstances including fraud, mistake, and newly discovered evidence. Rule 60(b)(6), the particular provision under which petitioner brought his motion, permits reopening when the movant shows "any ... reason justifying relief from the operation of the judgment" other than the more specific circumstances set out in Rules 60(b)(1)-(5).

Gonzalez v. Crosby, 545 U.S. 524, 528-29 (2005).

The Court expressly retained jurisdiction “to enforce this Order.” [ECF No. 19, p. 22]. Respondents claim technical compliance through their Notice of Compliance filing on March 26, 2026. [ECF No. 21]. However, the process provided was not the “informal interview required by 8 C.F.R. § 241.13(i)(3)” in any meaningful or constitutional sense, as discussed *infra*. Allowing Respondents to evade the Court’s prior Order by relying on what was effectively a sham informal interview would deny Petitioner meaningful habeas review and undermine the Court’s authority. This Court has the power to enforce its own orders and to review the execution of its judgment. *See* Fed. R. Civ. P. 70; Fed. R. Civ. P. 60(b); *Citronelle-Mobile Gathering, Inc. v. Watkins*, 943 F.2d 1297, 1301 (11th Cir. 1991) (“Courts have inherent power to enforce compliance with their lawful orders through civil contempt.”); *Gall v. Scroggy*, 603 F.3d 346, 352 (6th Cir. 2010) (“[A] federal court always retains jurisdiction to enforce lawful judgments, including habeas judgments, [and] the court has the authority to see that its judgment is fully effectuated.”); *see also Harvest v. Castro*, 520 F.3d 1055 (9th Cir. 2008).

Rule 60(b) also exists to ensure that judgments and court-ordered remedies are not insulated from correction when they are based on incorrect representations or when mandated procedures are subverted. Enforcing the Court’s Order is necessary to prevent Respondents from evading their obligations and to ensure Petitioner receives the relief the Court originally intended.

b. Respondents Failed to Comply with the Court’s Order

i. *Requirements of an Informal Interview under 8 C.F.R. § 241.13(i)(3)*

An informal interview under 8 C.F.R. §241 is a procedural mechanism designed to ensure that noncitizens have a fair opportunity to contest the revocation of their release and present relevant evidence. The process must be conducted promptly, with adequate notice of the reasons for revocation, and in a manner that allows meaningful participation by the noncitizen. This

Honorable Court has emphasized the importance of these safeguards to preserve a noncitizen's due process rights. [ECF No. 19, p. 18]. Therefore, the Court ordered the Respondents to "provide Rodriguez with the informal interview required by 8 C.F.R. § 241.13(i)(3)." [ECF No. 19, p. 21].

Specifically, 8 C.F.R. §241.13(i)(3) mandates:

(3) Revocation procedures. Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.

8 C.F.R. §241.13(i)(3). In other words, the federal regulations require Immigration and Customs Enforcement ("ICE") to "afford the alien an opportunity to respond to the reasons for revocation stated in the notification." *Id.* Also, the non-citizen is afforded the opportunity to "submit any evidence or information." *Id.*

Therefore, the informal interview is intended to be substantive and interactive, not a perfunctory formality. The noncitizen must be given the opportunity to:

- (i) Respond directly to each stated reason for revocation, including providing explanations, clarifications, or contesting factual assertions;
- (ii) Submit documentary evidence or written statements demonstrating compliance with supervision conditions or mitigating circumstances that would justify continued release;
- (iii) Provide witness statements or contact information, if relevant, to corroborate their claims or challenge the asserted violations;
- (iv) Be questioned on any disputed facts, such as alleged violations of supervision, travel, reporting failures, or other behavioral issues that the Service claims justify revocation;
- (v) Receive consideration of evidence regarding the likelihood of removal in the reasonably foreseeable future, which may involve

- explaining travel restrictions, country conditions, or other factors that affect enforceability of a removal order;
- (vi) Have a meaningful opportunity to clarify inconsistencies or miscommunications, ensuring that ICE officers evaluate the alien's assertions on the merits rather than relying solely on written notices. *See id.*

In short, the informal interview under §241.13(i)(3) is a critical due process safeguard, providing the noncitizen with a meaningful opportunity to respond to revocation, present evidence, and correct any factual inaccuracies. It is not satisfied by cursory questioning, boilerplate forms, or procedural “check-the-box” exercises that occur after a decision has been made. The Court's prior order correctly recognized that Respondents had entirely failed to engage Petitioner in this meaningful process, constituting a clear violation of the regulation. [ECF No. 19, p. 18]

ii. Noncompliance with Requirements of an Informal Interview under 8 C.F.R. § 241.13(i)(3) and Due Process

Although Respondents purport to have conducted the informal interview required under 8 C.F.R. § 241.13(i)(3), the record demonstrates that no meaningful interview took place. As an initial matter, the record documents themselves reflect fundamental irregularities. *See* [ECF No. 21-1 at p. 2]. Both the Notice of Revocation of Release and the Alien Informal Interview Notice are dated March 26, 2026, the same day Respondents claim the interview occurred. *Id.* The section asking whether Petitioner provided a written statement or submitted any documents was left blank, leaving the record entirely unclear as to whether Petitioner was afforded any genuine opportunity to respond. *See id.*

Next, Petitioner's firsthand account of the interaction confirms the superficial nature of the interview. *See* Exhibit “B,” Petitioner's Affidavit. According to Petitioner's affidavit, an ICE agent approached his cell, confirmed his identity, and briefly stated that his release was being revoked because ICE intended to attempt removal to Mexico. *Id.* Petitioner indicated that ICE already attempted to remove him to Mexico and failed. *Id.* The ICE agent said that ICE is going to attempt

removal again and asked Petitioner if he would sign the documents. *Id.* That is when Petitioner expressed that he refused to sign without his attorney present. *Id.* This whole brief interaction occurred standing in the area by the door to the cell, without a table, private setting, or any environment conducive to meaningful discussion. *Id.*

First, as discussed *supra* and confirmed by the Petitioner's experience, conducting notice and interview in a cursory interaction with a pre-determined outcome does not provide a noncitizen time to consider the reasons for revocation, prepare a response, or gather supporting evidence, as the regulation mandates. Second, ICE did not afford Petitioner a genuine opportunity to contest his revocation. Instead, the agent simply asked whether Petitioner would sign the documents. The regulation requires that a noncitizen be allowed to contest the reasons for revocation, present evidence, and respond to reasons for revocation. The informal interview is intended to provide a meaningful opportunity to respond to the reasons for revocation, to explain any alleged violations, to provide evidence regarding whether removal is reasonably foreseeable, and to address matters relating to the order of supervision and the revocation of that release. Being asked to sign a pre-prepared document is neither a meaningful opportunity to respond nor a substitute for submission of any evidence or information. ICE's failure to meaningfully address these core aspects of 8 C.F.R. § 241.13(i)(3) demonstrates that the interview was nothing other than a rubberstamp denial and post-hoc box checking exercise to justify arbitrary confinement.

Third, if ICE were to claim the interview was sufficient under the regulations, Petitioner's statement that he had previously been sent to Mexico and returned, which was ignored and not documented in the interview notice, further demonstrates the pretextual nature of the proceeding. ICE failed to acknowledge or evaluate this critical evidence, highlighting that the interview was

not a genuine assessment of the circumstances but a superficial formality, and simply wrote that Petitioner refused to sign without his attorney present.

Finally, the interview was conducted while Petitioner stood in the cell doorway, without a table, private setting, or any environment permitting substantive discussion or evidence submission. This setting inherently prevented meaningful participation and illustrates that the interaction had a pre-determined outcome, failing to satisfy the regulatory requirements. Collectively, these failures show that ICE's so-called informal interview was in the nature of a sham proceeding and cannot be credited as compliant with § 241.13(i)(3), leaving Petitioner entitled to immediate relief under the Court's prior Order in the form of release.

Ultimately, the interview bore no resemblance to the procedural safeguard contemplated by § 241.13(i)(3), due process, or by this Court's Order. Petitioner was given no meaningful opportunity to respond or submit evidence, and no evaluation of contested facts occurred. The procedure cannot be deemed compliance with the Court's Order. Instead, it functioned as a guise to avoid the Court's release directive in the alternative.

c. Failure to Provide a Meaningful Informal Interview Warrants Release

Petitioner's entitlement to immediate release is underscored by ICE's failure to conduct a meaningful informal interview, as required both by 8 C.F.R. § 241.13(i)(3) and the Court's prior Order. Similarly, the Southern District of Florida recently granted release after finding that the petitioner had been detained for over seventy-five days without a meaningful opportunity to contest the basis for re-detention:

Here, Petitioner has been in custody for over seventy-five days without ever having received a meaningful opportunity to be heard or to contest the basis for his re-detention. Petitioner's initial encounter with Officer Utrera on June 23, 2025, was not a meaningful opportunity to be heard—regardless of whether it is framed as an “informal interview.” The Notice—the only indication

that he could contest his detention—indicated that he would receive an opportunity to be heard *after* he was already in custody. Petitioner would have had no inkling that his conversation with Officer Utrera would be his sole shot to contest the deprivation of his liberty until the formal review process promised approximately three months later. Nor does the faint promise of an opportunity to be heard three months down the line satisfy what due process requires. *See* 8 C.F.R. § 241.4(l)(3) (providing that the formal review process will begin “within approximately three months” only “*if the alien is not released from custody following the informal interview*”). If the eventual promise of a formal review were enough to cure a due process violation, ICE would be able to hold individuals for approximately three months after revocation with no meaningful opportunity to be heard.

The failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE’s own regulations and the Fifth Amendment Due Process Clause. This compels Petitioner’s release.

Grigorian v. Bondi, No. 25-CV-22914-RAR, 2025 WL 2604573, at *18 (S.D. Fla. Sept. 9, 2025) (internal citations, alterations, and quotation marks omitted).

The Southern District of Florida explained that a perfunctory “single shot” encounter with an officer, in which the petitioner had no notice that it would constitute his sole opportunity to challenge the deprivation of liberty, did not satisfy either ICE regulations or due process. *See id.* Similarly here, Petitioner was never given a genuine opportunity to contest his detention. The brief standing interaction, accompanied only by documents that are incomplete and inconsistent with the record, was entirely pretextual and falls far short of what 8 C.F.R. § 241.13(i)(3) requires. Just as in *Grigorian*, ICE cannot rely on a perfunctory encounter as a substitute for a substantive review. Under these circumstances, enforcement of the Court’s order is not only appropriate but necessary, and Petitioner is entitled to immediate release. Courts sitting in habeas have exercised their authority to ensure compliance with their orders in the context of constitutionally deficient bond hearings. *Chavez Ochoa & Nunez Lopez v. Mason*, case 2 :26-cv-00130 at 3-4 (S.D. W. Va. Feb.

26, 2026) (“The Respondents presented no evidence that an individualized determination regarding whether the Petitioners should be detained or released pending immigration proceedings was ever made, and the documents do not reflect any inquiry into their history, family relationships, risk of nonappearance, or living situation.”); *see also Picado v. Hyde et al.*, case 1:26-cv-00065-JJM-PAS (D.R.I. Feb. 9, 2025) (noting that “dangerousness is a finding based on the application of a statutory legal standard to an established set of facts, it is not a ‘discretionary judgment’ barred by Section 1226(e) and is also reviewable by this Court as a ‘question of law.’”) Courts have also considered whether bond hearings show evidence of having a predetermined outcome. *See, e.g., Lozhkina v. Noem*, case 6:26-cv-03001-MDH (W.D. Miss. Feb. 10, 2026) (noting a lack of factual explanation, and that the “IJ’s reason for setting bond was fear of flight but no fact cited in the order supports flight... The IJ’s determination regarding flight risk is clearly untethered by the facts and any logical conclusion to be determined from the facts”). Similarly here, this Court should note the evidence of pre-determined outcome.

The Court’s prior Order expressly recognized the alternative relief of release. [ECF No. 19, p. 22]. The Order provided that, if Respondents failed to provide the informal interview by the Court’s deadline, Petitioner was to be released. *Id.* The events of March 26, 2026, *inter alia*, show that ICE did not conduct the meaningful review required by the regulation, due process, or this Court’s order and therefore the alternative relief of release is now fully triggered.

WHEREFORE, Petitioner respectfully requests that the Court:

- i. Enforce its prior Order and find that Respondents failed to comply with the requirement to provide an informal interview within the meaning of 8 C.F.R. § 241.13(i)(3) and the Fifth Amendment and order Petitioner’s immediate release

from custody, as mandated by the Court's prior judgment, because Respondents were given the opportunity to comply and did not satisfy the Court's directive;

ii. Alternatively, grant relief under Federal Rule of Civil Procedure 60(b)(1) and 60(b)(6), vacate the Final Judgment, and reopen the § 2241 proceedings, on the grounds that:

a. Respondents' assurances to the Court that Petitioner was scheduled for a March 2026 flight to Cuba, and the expectation that they would comply with the Court's order and provide a meaningful opportunity to be heard; can no longer form the basis of this Court's judgment;

b. Petitioner remains detained at Alligator Alcatraz such that judicial resolution is necessary to determine the legality of detention itself, independent of any facility conditions; and Petitioner should either be released or be provisionally moved to another facility, such as the Krome North Service Processing Center, if further proceedings are deemed necessary;

iii. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: April 16, 2026

s/ Felix A. Montanez

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LOCAL RULE 3.01(g) CERTIFICATION

Pursuant to Local Rule 3.01(g), the undersigned hereby certifies that counsel for the Petitioner conferred with counsel for the Respondents and this motion is opposed.

Respectfully submitted,

Dated: April 16, 2026

s/ Felix A. Montanez

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