

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

RAUL PEREZ,

Petitioner,

Case No. 2:26-cv-9-SPC-DNF

v.

KELIE WALKER, et al.,

Respondents.

**TIME-SENSITIVE MOTION FOR
RECONSIDERATION OF JANUARY 19, 2026, ORDER**

Pursuant to Federal Rule of Civil Procedure 60(b), Respondents move for reconsideration of this Court's January 19, 2026, order directing Respondents to release Petitioner Raul Perez from custody within 24 hours of the Court's order. The present motion is captioned as time sensitive, as the Court's January 19, 2026, order directs Respondents to release Petitioner Raul Perez within 24 hours. Because the undersigned was not receiving email ECF notifications at the time the Court issued its January 19, 2026, order, Respondents have not presently ascertained the beginning of the 24-hour period from which the Court's order directs release. Pursuant to Local Rule 3.01(f), Respondents request a ruling prior to the expiration of the 24-hour period on January 20, 2026. Alternatively, Respondents request a stay of the Court's January 19, 2026, release order, while the Court considers the present motion for reconsideration.

BACKGROUND

Raul Perez is a 66-year-old national and citizen of Cuba who was paroled into the United States on or about June 13, 1980, in Key West, Florida. (Composite Exhibit, Ex. 1 at 1, 6.) His has a criminal history of cocaine possession, burglary, and theft. *Id.* at 6. On November 2, 2010, he was ordered removed from the United States. *Id.* at 7. He was placed under an Order of Supervision on November 5, 2010. *Id.* On November 10, 2025, his Order of Supervision was revoked, and Perez was taken into ICE custody. *Id.* at 9-10. He is detained at Florida Soft Side South. *Id.* at 13. U.S. Immigration and Customs Enforcement is pursuing Perez's removal to Mexico. *Id.* at 12.

On January 2, 2026, the Perez filed a petition for writ of habeas corpus. (Doc. 1.) This Court issued an order on January 3, 2026, directing Respondents to file a response and show cause why the petition should not be granted on or before January 6, 2026. (Doc. 3.) Counsel attempted to file a response on January 13, 2026,¹ but acknowledges the filing was not submitted as evidenced by a lack of activity on the Court's docket. Counsel realized the omission on January 19, 2026, and filed a response. Following the response's filing, undersigned reviewed the docket to ensure the response had been submitted and discovered the Court's January 19, 2026, order

¹ The undersigned has ECF internet history recorded at or about the time he recollects filing a response at 9:14 p.m. on January 13, 2026. *See* Exhibit 2. Of course, without a confirmation email, undersigned acknowledges he cannot represent the outcome of any filing process.

had been entered in the interim.

LEGAL STANDARD

“Rule 60(b) provides for relief from judgments on the grounds of ‘mistake, inadvertence, surprise, or excusable neglect’ or ‘newly discovered evidence.’” *Saito v. Lewis*, No. 2:23-CV-506-SPC-KCD, 2023 WL 5526667, at *1 (M.D. Fla. Aug. 28, 2023). This Court has explained, “The decision to reconsider is committed to the sound discretion of the district judge. They are granted sparingly, and neither a Rule 59(e) motion nor a Rule 60(b) motion can be used as a vehicle through which to relitigate old matters.” *Id.* (cleaned up).

ARGUMENT

Respondents respectfully submit they meet the standard for reconsideration under Rule 60(b). Due to the inadvertence of counsel in failing to ensure Respondents’ filing was submitted on January 13, 2026, Respondents were unable to present to the Court evidence and argument demonstrating that revocation of Perez’s Order of Supervision compiles with agency regulations.

As discussed in Respondents’ opposition, the Cuban Review Plan sets forth regulations for when parole can be withdrawn or revoked for a Mariel Cuban. 8 C.F.R. § 212.12(e), (h). That authority confers broad discretion on the government. *See, e.g., id.* § 212.12(e) (providing that the authorized official may, “in his or her discretion, withdraw approval for parole of any detainee prior to release when, in his

or her opinion, the conduct of the detainee, *or any other circumstance*, indicates that parole would no longer be appropriate” (emphasis added)). The regulations also establish procedures for periodic review, after a parole revocation, of a Mariel Cuban’s continued detention. *Id.* § 212.12(g) (providing that such review “will *ordinarily* be expected to occur within *approximately* three months after parole is revoked”) (emphasis added)).

Perez’s argument that ICE should not have revoked his parole and should have reviewed his detention by under § 212.12 fails for multiple reasons. First, Perez has not shown a regulatory violation. Section 212.12 grants the government broad discretion granted to the government to revoke parole. Perez has not shown that there is no circumstance at all that warrants his detention, especially given ICE’s efforts to effectuate his removal. Nor has Perez shown that any timing of a file review violates § 212.12. Section 212.12(g) provides, “The review process will commence with a scheduling of a file review, which will ordinarily be expected to occur within approximately three months after parole is revoked.” Because Perez’s Order of Supervision of was revoked on November 10, 2025, his petition is premature.

Second, Perez has not shown that any deviation from the procedures set forth in 8 C.F.R. § 212.12 amounts to a due process violation. Perez relies on *United States ex rel. Accardi v. Shaughnessy*, where the Supreme Court established a doctrine—now known as the “*Accardi* doctrine”—that generally requires an agency to follow its regulations. *See* 347 U.S. 260 (1954). But the Supreme Court in *Accardi* did not

determine the sweeping principle that agencies violate due process any time they fail to follow some regulation in a way that affects a party's rights. As the Supreme Court has clarified, *Accardi* "enunciates[s] principles of federal administrative law rather than of constitutional law." *Bd. of Curators of Univ. of Missouri v. Horowitz*, 435 U.S. 78, 92 n.8 (1978). "*Accardi* is based on administrative law principles, not constitutional due process requirements." *C.G.B. v. Wolf*, 464 F. Supp. 3d 174, 212 (D.D.C. 2020) (explaining limits on the *Accardi* doctrine). Here, Perez has not shown that any arguable violations of the regulatory provisions at issue amount to a due process violation, since he has not shown that he will be denied any notice and opportunity to be heard on the basis for his parole revocation.

Third, the proper remedy for lack of procedural due process is additional process, not immediate release. A procedural due process claim concerns the procedures that are required by the Constitution, not the substance of an individual's detention. Indeed, in *Accardi* the Supreme Court did not order substantive relief (there, the suspension of deportation) but rather ordered the agency to afford the process provided in its regulations. *See Accardi*, 347 U.S. at 268 (ruling that if the petitioner were to succeed in proving BIA's failure to comply with its regulations, "he should receive a new hearing before the Board").

CONCLUSION

Respondents respectfully request reconsideration of the Court's January 19, 2026, order.

Local Rule 3.01(g) Certification

Pursuant Local Rule 3.01(g) Counsel for Respondents conferred with Counsel for Petitioners via telephone on January 19, 2026. Counsel for Petitioners opposes the present motion.

DATED this 19th day of January, 2026.

Respectfully submitted,

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