

APPLICABLE LEGAL STANDARD

A motion to reconsider a court order, other than one governed by Rules 59 or 60 of the Federal Rules of Civil Procedure, is properly granted under Local Rule 7(c) where such motion is timely filed within 14 days of the date of the subject order and “the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995); *Cressy v. Proctor*, No. 12-CV-262, 2014 WL 12729277, at *1 (D. Vt. Aug. 4, 2014); *see Cressy*, 2014 WL 12729277, at *1 n.1 (discussing Local Rule 7(c)). “[T]he major grounds justifying reconsideration are an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice.” *Virgin Atl. Airways, Ltd. v. Nat’l Mediation Bd.*, 956 F.2d 1245, 1255 (2d Cir. 1992) (quoting 18 C. Wright, A. Miller & E. Cooper, *Federal Practice & Procedure* § 4478 at 790); *Jenkins v. Miller*, No. 12-CV-184, 2018 WL 11418392, at *2 (D. Vt. Aug. 29, 2018).

ARGUMENT

Reconsideration Is Warranted Because It Was Clear Error for the Court to Not Adhere to Controlling Precedent on the Central Issue of the Post-Parole Status of an Arriving Alien.

In *Ibragimov*, the Second Circuit considered and resolved a legal issue that is central to the parties’ dispute in this case, namely, the immigration status that applies to a noncitizen who presents at a port of entry seeking admission to the United States without a valid entry document, is then and there paroled into the country under 8 U.S.C. § 1182(d)(5), and is subsequently taken back into DHS custody following the termination of their parole. 476 F.3d at 132-38. There, the Second Circuit held unequivocally that the immigration status of such an individual reverts to that of an arriving alien who is deemed to be seeking admission at the border, *see id.*, and it was thus clear error for this Court to reach a contrary holding in this case. Subject Order at 9-13.

To be sure, this Court’s stated rationale for concluding that Petitioner is not properly considered an arriving alien subject to detention under § 1225(b)(1) was squarely considered and rejected by the Second Circuit in *Ibragimov*. There, as here, the petitioner argued that he could not be considered an *arriving* alien because, among other things, he had been paroled into the country years back and had therefore “already arrived.” 476 F.3d at 136-37. In rejecting that argument, the Second Circuit held that, even if it were to accept *arguendo* that the petitioner had already “arrived” in the United States, “his status reverted to that which he held at the time he was paroled into the United States [years earlier]—namely, that of an ‘arriving alien’ seeking admission at our borders.” *Id.* at 137. That holding is binding on this Court and controlling in this case, and it was thus clear error for this Court to hold that “[Petitioner] arrived in the United States on May 2, 2024,” and, “[i]f he has arrived, he can no longer be ‘arriving.’” Subject Order at 10; *see id.* at 11 (“In sum, the court concludes that Mr. Graterol Ruiz is not subject to mandatory detention under 8 U.S.C. § 1225(b)(1), because he is not arriving in the United States.”).

It was relatedly clear error for this Court to hold that Petitioner is not subject to detention under § 1225(b)(2) because, having been physically present in this country for several years, he is not “seeking admission.” Subject Order at 13; *see id.* at 12-13. That holding is equally at odds with *Ibragimov*’s instruction that such a parolee’s status, upon the termination of parole, reverts to that which the individual held at the time he was paroled into the United States, “namely, that of an ‘arriving alien’ *seeking admission* at our borders.” 476 F.3d at 137 (emphasis added); *see also id.* at 135 n.14 (noting that, under the express terms of § 1182(d)(5)(A), DHS may parole only “alien[s] *applying* for admission to the United States,” so, insofar as the petitioner implicitly concedes that the government’s grant of parole to him was valid, he also necessarily concedes that he was an alien *applying* for admission to the United States at the time of his parole).

In reaching its erroneous holdings, this Court acknowledged *Ibragimov* and seemed to suggest that such decision no longer constitutes binding precedent because it reflects a now-outmoded exercise of *Chevron* deference to the Immigration and Naturalization Service's interpretation of the Immigration and Nationality Act ("INA"). See Subject Order at 10-11 (discussing how, under *Loper Bright*, 603 U.S. 369 (2024), "this court is not bound by an agency's statutory interpretation and must independently determine the meaning of the language in [the INA]"). This, too, was clear error because, as discussed herein, the pertinent holdings in *Ibragimov* were not borne of *Chevron* deference and, *in any event*, the Supreme Court made clear in *Loper Bright* that such decision "do[es] not call into question prior cases that relied on the *Chevron* framework." 603 U.S. at 412. *Ibragimov* thus remains good law and controls here.

First, the pertinent holdings in *Ibragimov* were not the product of *Chevron* deference; the Second Circuit relied largely on the plain wording of § 1182(d)(5)(a), Supreme Court precedent, its own precedent, and pertinent decisions of several other circuits. For example, the Second Circuit recognized that "[t]he terms of *this statute* [*i.e.*, § 1182(d)(5)(A)] reflect the well-settled principle that Congress did not intend for parole of an alien to constitute an alien's *legal entry* or admission to the United States." 476 F.3d at 134 (citing *Leng May Ma v. Barber*, 357 U.S. 185, 190 (1958), and *United States ex rel. Kordic v. Esperdy*, 386 F.2d 232, 235 (2d Cir. 1967)) (emphasis added). "Instead, parole is a means by which the government allows aliens who have arrived at a port-of-entry to temporarily remain in the United States pending the review and adjudication of their immigration status. Although paroled aliens physically enter the United States for a temporary period, *they nevertheless remain constructively detained at the border, i.e., legally unadmitted, while their status is being resolved by immigration officials.*" *Id.* (citing *Leng May Ma*, 357 U.S. at 191) (emphasis added).

Indeed, *Ibragimov* reflects the Second Circuit's dutiful adherence to the Supreme Court's forceful explanation in *Leng May Ma* that "[parole] was never intended to affect an alien's status, and to hold that petitioner's parole placed her legally 'within the United States' is inconsistent with the Congressional mandate, the administrative concept of parole, and the decisions of this Court." *Ibragimov*, 476 F.3d at 134 (quoting *Leng May Ma*, 357 U.S. at 191). *Ibragimov* thus in no way reflects mere *Chevron* deference to an agency's interpretation of § 1182(d)(5)(A); it reflects a long-standing judicial interpretation of that statute, and it was against such backdrop that the Second Circuit held that "the statutory and regulatory framework governing administrative parole support[ed] the IJ's and the BIA's conclusion that [the] petitioner was an 'arriving alien' properly subjected to a charge of inadmissibility." *Id.* at 137.¹

The Second Circuit has reiterated that same interpretation of § 1182(d)(5)(A) in several subsequent decisions, none of which reflect signs of *Chevron* deference in that particular regard. *See, e.g., United States v. Balde*, 943 F.3d 73, 84 (2d Cir. 2019) ("Parole does not change parolees' immigration status: they remain 'at the border' for the purposes of immigration law and are treated as applicants for admission into the country.") (quoting *Ibragimov*, 476 F.3d at 134); *Cruz-Miguel v. Holder*, 650 F.3d 189, 198 (2d Cir. 2011) (describing § 1182(d)(5)(A) as providing that, post parole, "[an] alien's status reverts to that which he had at the time he was inspected and paroled into [the] United States"); *see also, e.g., Ascencio-Rodriguez v. Holder*, 595 F.3d 105, 108-09 n.3 (2d Cir. 2010) (noting that aliens not lawfully admitted at the border are treated as applicants for admission and are "'deemed to be legally at the border' and bear the burden of establishing their entitlement to admission") (quoting *Ibragimov*, 476 F.3d at 131).

¹ The Second Circuit noted in *Ibragimov* that the petitioner had not argued that the pertinent regulations reflected an impermissible interpretation of the INA, so a *Chevron* analysis was not required of the Court. 476 F.3d at 137 n.17. The Court nevertheless went on to note, seemingly out of an abundance of caution, that, to the extent that the petitioner had implicitly raised a *Chevron* challenge to the pertinent regulations, that challenge lacked merit. *Id.*

Assuming for the sake of argument that the pertinent holdings in *Ibragimov* had been the product of *Chevron* deference, this Court would nevertheless remain bound by that decision notwithstanding the Supreme Court's decision in *Loper Bright*. To be sure, the Supreme Court expressly instructed there that, notwithstanding its decision to "leave *Chevron* behind," the Court "was not calling into question prior cases that relied on the *Chevron* framework." 603 U.S. at 412. "The holdings of those cases that specific agency actions are lawful . . . are still subject to statutory *stare decisis* despite our change in interpretive methodology." *Id.* As the Supreme Court explained, "[m]ere reliance on *Chevron* cannot constitute a 'special justification' for overruling such a holding, because to say a precedent relied on *Chevron* is, at best, 'just an argument that the precedent was wrongly decided.'" *Id.* (quoting *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258, 266 (2014) (internal quotation omitted). "That is not enough to justify overruling a statutory precedent." *Id.*; see also, e.g., *CBOCS W., Inc. v. Humphries*, 553 U.S. 442, 457 (2008), ("Principles of *stare decisis*, after all, demand respect for precedent whether judicial methods of interpretation change or stay the same. Were that not so, those principles would fail to achieve the legal stability that they seek and upon which the rule of law depends.").

Since the Supreme Court decided *Loper Bright* less than 20 months ago, the Second Circuit has repeatedly reaffirmed the continuing vitality of its pre-*Loper Bright* decisions in the immigration context while expressly rejecting the notion that, under *Loper Bright*, such decisions are no longer binding precedent. See, e.g., *Hinds v. Bondi*, No. 24-1878, 2026 WL 122480, at *1 (2d Cir. Jan. 16, 2026); *Mohamedv. Bondi*, No. 24-1544, 2026 WL 41091, at *2 n.1 (2d Cir. Jan. 7, 2026); *Rahman v. Bondi*, No. 24-103, 2025 WL 3085594, at *2 (2d Cir. Nov. 5, 2025); *Garcia Pinach v. Bondi*, 147 F.4th 117, 120–21 (2d Cir. 2025); *Jimenez v. Bondi*, No. 23-6005, 2025 WL 1077492, at *2 n.3 (2d Cir. Apr. 10, 2025).

In *Hinds*, for example, the Second Circuit explained that panels of that Court are bound by the decisions of prior panels until such time as they are overruled either by an en-banc panel of that Court or by the Supreme Court, and, “[a]lthough a panel may overrule a prior decision if there has been an intervening Supreme Court decision that casts doubt on [] controlling precedent, the Supreme Court explained in *Loper Bright* that its decision did not call into question prior cases that relied on the *Chevron* framework,” so the Second Circuit “thus remain[s] bound by [such decisions].” 2026 WL 122480, at *1 (internal quotations omitted).

It stands to reason that, if panels of the Second Circuit remain bound by pre-*Loper Bright* decisions of prior panels of that Court, this Court (and other district courts within this Circuit) likewise remains bound by such decisions. See, e.g., *Salazar v. Nat'l Basketball Ass'n*, No. 22-CV-7935, 2025 WL 2830939, at *4 (S.D.N.Y. Oct. 6, 2025) (“[T]his Court – like all district courts within the Second Circuit – is bound by *stare decisis* ‘to follow decisions of the Second Circuit until that court says otherwise.’”) (quoting *Rappaport v. Guardian Life Ins. Co. of Am.*, No. 22-CV-8100, 2024 WL 4872736, at *12 (S.D.N.Y. Nov. 22, 2024); *Kramer v. Bessent*, No. 21-CV-3295, 2025 WL 2576482, at *19 n.19 (E.D.N.Y. Sept. 4, 2025) (“[B]ecause *Loper Bright* was not meant to call into question prior cases deferring to agency interpretations of statutes[,] and because such cases are still subject to statutory *stare decisis* despite the law’s change in interpretive methodology, the Second Circuit’s prior cases interpreting [the subject statute] remain binding on the analysis here.”) (cleaned up and internal quotations omitted).

This Court (Reiss, C.J.) accepted as much in *Walizada v. Trump*, 25-CV-768, 2025 WL 3551972, at *15 (D. Vt. Dec. 11, 2025), which, like this case, concerned the post-parole immigration status of an individual who had been paroled into the country as an arriving alien. There, the Court made no secret of that fact that, if “[f]aced with a blank slate,” it would have ruled

in a fashion inconsistent with *Ibragimov*, yet the Court properly concluded that is was bound by *Ibragimov*, under which “parolees return to their status as ‘arriving aliens’ upon expiration or termination of parole.” *Id.* For the reasons discussed above, this Court was likewise required to adhere to *Ibragimov* in deciding this case, and it was clear error for the Court to have not done so.²

To borrow the words of another district court within this Circuit:

Were this Court writing on a blank slate or not bound by Second Circuit precedent, it might well [rule differently]. But . . . the Second Circuit has spoken directly to the issue presented by this case, and this Court is required to follow that decision unless and until it is overruled in a precedential opinion by the Second Circuit itself or unless a subsequent decision of the Supreme Court so undermines it that it will almost inevitably be overruled by the Second Circuit.

United States v. Diaz, 122 F. Supp. 3d 165, 179 (S.D.N.Y. 2015) (internal quotations omitted), *aff'd*, 854 F.3d 197 (2d Cir. 2017).

CONCLUSION

For the reasons discussed above, Federal Respondents respectfully request that the Court reconsider its Opinion and Order of February 6, 2026 (ECF Doc No. 16) to the extent that the such decision is at odds with the Second Circuit’s decision in *Ibragimov*, including, without limitation, the Court’s holding that, assuming the valid revocation of Petitioner’s parole, he is not subject to detention under § 1225(b)(1) because he is not currently an *arriving* alien, and he is not subject to detention under § 1225(b)(2) because he is not currently *seeking* admission. Federal Respondents respectfully submit that, under *Ibragimov*, the status of an individual who was an arriving alien seeking admission at the border at the time of parole reverts, upon the termination of their parole, to that of an arriving alien who is deemed to be seeking admission at the border.

² In the Subject Order, this Court did not endeavor to distinguish or to otherwise address *Walizada* in this particular respect. The Court cited *Walizada* only in the context of observing that “all other judges in the District of Vermont have rejected *Matter of Yajure Hurtado*’s interpretation of 8 U.S.C. § 1225(b).” Subject Order at 8.

Dated at Burlington, in the District of Vermont, this 20th day of February, 2026.

Respectfully submitted,

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