UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Civil Action No. 1:26-cv-312-PAB-NRN

CARLOS MARTINEZ CRUZ,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary, Department of Homeland Security,
TODD BLANCHE, Acting U.S. Attorney General;
GEORGE VALDEZ, Field Office Director, Denver Field Office, Immigration and Customs Enforcement; and
JUAN BALTAZAR, Warden of Denver Contract Detention Facility,

Respondents.

MOTION TO RECONSIDER

On March 26, 2026, an immigration judge held a bond hearing for Carlos Martinez Cruz in response to this Court's grant of the petition for habeas corpus. ECF No. 24-2. The immigration judge denied bond, finding that Mr. Martinez represented a flight risk. On March 31, 2026, Mr. Martinez filed a Motion to Enforce the habeas order, arguing that the bond hearing before the immigration judge was not constitutionally sufficient. ECF No. 24. This Court denied this motion on April 15, 2026. ECF No. 30. Because this Court did not address the constitutional exception to 8 U.S.C. § 1226(e), Mr. Martinez now seeks to have this Court reconsider this decision pursuant to Federal Rule of Civil Procedure 59(e). "Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice." *Servants of Paraclete v. Does*, 204 F.3d

1005, 1012 (10th Cir. 2000). Reconsideration is warranted under the third ground, as the Court's decision did not address Mr. Martinez's reviewable constitutional argument.

In the Motion to Enforce, Mr. Martinez argued that the immigration judge violated his due process rights by failing to provide an individualized bond hearing. "A bond hearing fails to comport with due process where the Immigration Judge relies on considerations that would lead to an automatic denial of bond in almost all cases, for such a hearing is not individualized or rationally related to whether a petitioner is a flight risk" as required by 8 U.S.C. § 1226(a).[1] *Sierra-Cerritos v. Simon*, No. 1:25-cv-2380 (RDA/LRV) (E.D. Va. March 18, 2026), ECF No. 17. And issues of constitutionality and law are fair game for the district court to consider under its habeas corpus jurisdiction, even considering 8 U.S.C. § 1226(e). *Velasco Lopez v. Decker*, 978 F.3d 842, 850 (2d Cir. 2020); *Sylvain v. Att'y Gen. of U.S.*, 714 F.3d 150, 155 (3d Cir. 2013); *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011) ("[Section 1226(e)] does not limit habeas jurisdiction over constitutional claims or questions of law."); *Al–Siddiqi v. Achim,* 531 F.3d 490, 494 (7th Cir. 2008) ("[T]his section ... does not deprive us of our authority to review statutory and constitutional challenges."); *see also Demore v. Kim*, 538 U.S. 510, 517 (2003) ("Section 1226(e) contains no explicit provision barring habeas review."); *Martinez Rodriguez v. Castro*, No. 2:25-CV-01294-KG-JFR, 2026 WL 252503, at *2 (D.N.M. Jan. 30, 2026) (holding that while § 1226(e) prevents a district court from reviewing an IJ's discretionary judgment, it does not preclude "habeas jurisdiction over constitutional claims or questions of law").

The Court noted that "§ 1226(e) does not preclude challenges to the statutory framework that permits the alien's detention with bail" but did not discuss Mr. Martinez's constitutional

[1] An unofficial transcript of the bond hearing is attached to this filing. An audio recording is available should the Court seek to listen to the hearing.

challenge. ECF No. 30 at 4. Instead, the Court misconstrued the challenge as one seeking to reweigh the evidence and dismissed the motion for lack of jurisdiction. *Id.* at 4-5. However, as Mr. Martinez argued throughout his motion and reply, he did not seek to have the Court reweigh the evidence relied upon by the immigration judge. *See* ECF No. 24, at 6-7, ECF No. 29, at 2-3. His claim focused on the lack of individualized analysis by the immigration judge where she relied upon factors inherent to any individual unlawfully in the United States to determine that Mr. Martinez presented a flight risk. The Court's failure to address Mr. Martinez's constitutional claim was an error in law and reconsideration is necessary to prevent manifest injustice. *Servants of Paraclete*, 204 F.3d at 1012.

And while Mr. Martinez maintains that release from detention is the proper remedy, a bond hearing in which the immigration judge provided reasons for the denial is also appropriate. The Court stated that "to the extent petitioner argues that the bond decision failed to apply the appropriate administrative standards, '[t]hat bond decision is appealable to the BIA.'" ECF No. 30, at 5. However, the bond denial provides no analysis of what factors the immigration judge used in determining that Mr. Martinez represents a flight risk. *See* ECF No. 24-2 (Bond Denial). Thus, the decision does not provide the necessary analysis needed to for the BIA to review how the immigration judge weighed the evidence. Moreover, the BIA is unable to review Mr. Martinez's constitutional claim. *See In Re Rodriguez-Carrillo*, 22 I. & N. Dec. 1031, 1035 (BIA 1999) ("[N]either the Immigration Judge nor this Board may rule on the constitutionality of the statutes that we administer.").

The Court should reconsider its April 14, 2026 decision and analyze the constitutional claim raised by Mr. Martinez in his motion to enforce.

Dated: April 24, 2026

Respectfully submitted,

/s/ Sarah L. Vuong
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CERTIFICATE OF COMPLIANCE

In accordance with D.C.COLO.LCivR 7.1(a), I certify that on April 23, 2026, I emailed government counsel Thomas Isler and indicated that I would be filing a motion to reconsider. Mr. Isler responded on April 24, 2026, that the government opposes this motion.

Dated: April 24, 2026

/s/ Sarah L. Vuong
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