

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA**

**Jose Pedro Ortega v. Kristi Noem, et al.**

Ortega · No. 1:25-cv-01663-DJC-CKD · Decided December 30, 2025

---

**OPINION**

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF  
CALIFORNIA 10 11 JOSE PEDRO ORTEGA, No. 1:25-cv-01663-DJC-CKD 12 Petitioner, 13 v.  
ORDER 14 KRISTI NOEM, et al., 15 Respondents. 16 17 18 Respondents Kristi Noem, et al.,  
move for reconsideration of this Court’s 19 December 23, 2025 order granting Petitioner Jose  
Ortega’s motion for a preliminary 20 injunction.

For the reasons stated below, the motion for reconsideration is denied. 21 Respondents contend  
that reconsideration is warranted because “the Court’s 22 ruling rested on an incomplete factual  
record, due to counsel’s mistaken belief that 23 the parole-violation log had been attached to  
Respondent’s response to the Order to 24 Show Cause.” (Motion (ECF No. 16).)

Respondents’ counsel acknowledges that the 25 purported violations “are not new facts and not  
newly discovered evidence[,]” but that 26 correcting the omission “is necessary to prevent clear  
error and manifest injustice.” 27 (Id.) 28 1 The Court disagrees. “Although [Federal Rule of Civil  
Procedure] 59(e) permits 2 | a district court to reconsider and amend a previous order, the rule  
offers an 3 | ‘extraordinary remedy, to be used sparingly in the interests of finality and  
conservation 4 | of judicial resources.” Kona Enters., Inc. v. Estate of Bishop, 229 F.3d 877, 890  
(9th 5 | Cir.

2000). Relevant here, “[a] Rule 59(e) motion may not be used to raise arguments 6 | or present  
evidence for the first time when they could reasonably have been raised 7 | earlier in the  
litigation.” Id. Respondents’ counsel had previous opportunities to 8 | supplement the factual  
record, particularly given that Petitioner’s Reply (ECF No. 14 at 9 | 1) noted the omission of the  
parole records from Respondents’ Response (ECF No. 10 | 13), and the failure to do so is not a  
sufficient basis to warrant reconsideration. ' 11 Even if the Court were to exercise its discretion to  
consider the parole violations 12 | log, however, it would not change the Court’s legal conclusion  
that “due process 13 | requires that assertion [of alleged violations] be tested at a hearing that  
meets 14 | constitutional requirements.” (ECF No. 11 at 5.)

The Court thus affirms its prior 15 | findings that Petitioner had a substantial liberty interest in his  
continued freedom from 16 | detention and satisfied the requirements for a preliminary injunction  
under the 17 | Winters factors. (ECF No. 15.) 18 Accordingly, Respondents’ Motion for  
Reconsideration (ECF No. 16) is denied. 19 50 IT IS SO ORDERED. 21 | Dated: \_ December 29,

2025 “Daal A CoO □□□□ Hon. Daniel alabretta 22 UNITED STATES DISTRICT JUDGE 23 24  
25 26 ' Federal Rule of Civil Procedure 60(b) does not provide a sufficient basis for  
reconsideration either.

57 | The Ninth Circuit has said that “a preliminary injunction is nota ‘final judgment, order, or  
proceeding’ that may be addressed by a motion under Rule 60(b).” Prudential Real Est. Affiliates,  
Inc. v. PPR Realty, 28 Inc., 204 F.3d 867, 880 (9th Cir. 2000) (citations omitted).

---

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/united-states-district-court-for-the-eastern-district-of-california-united-states-district-court-for/2025/jose-pedro-ortega-v-kristi-noem-et-al-6h3yjscg>