

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Juan Edelmar Alva Alva v. Polly Kaiser, et al.

Alva Alva v. Kaiser · No. 25-cv-06676-RFL · Decided December 9, 2025

SUMMARY

The United States District Court for the Northern District of California denied without prejudice Juan Edelmar Alva Alva’s motion for leave to seek reconsideration of an order clarifying a preliminary injunction. The court held that no applicable change in law or manifest failure to consider controlling arguments had been shown, and concluded that due process did not require protections beyond those available in discretionary detention proceedings under 8 U.S.C. § 1226(a).

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Rita F. Lin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	December 9, 2025
DOCKET	25-cv-06676-RFL
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought leave under Civil Local Rule 7-9(b) to file a motion for reconsideration of an order clarifying a preliminary injunction concerning detention procedures.
STANDARD OF REVIEW	A party seeking leave to file a motion for reconsideration under Civil Local Rule 7-9(b) must demonstrate reasonable diligence and one of the rule's enumerated circumstances, including an intervening change in law or a manifest failure by the Court to consider dispositive legal arguments previously presented.
PRECEDENTIAL VALUE	Unpublished district court order; persuasive value only.
PARTIES	Juan Edelmar Alva Alva v. Polly Kaiser, et al.

TOPICS

- immigration detention
- procedural due process
- motion for reconsideration
- removal proceedings
- civil procedure

PRACTICE AREAS

immigration detention

immigration

civil procedure

constitutional law

QUESTIONS PRESENTED

1. Whether petitioner satisfied Civil Local Rule 7-9(b)'s requirements for leave to file a motion for reconsideration.
2. Whether a binding, material change in law or a previously overlooked dispositive argument established that due process requires the government to bear the burden of proof by clear and convincing evidence in petitioner's pre-detention hearing.
3. Whether due process requires additional procedural protections beyond those available in 8 U.S.C. § 1226(a) discretionary detention hearings when an individual previously released is re-detained.

HOLDINGS

1. Petitioner was not entitled to leave to file a motion for reconsideration because he showed neither a qualifying change in law nor a manifest failure by the Court to consider his previously presented legal argument.
2. On the record and legal framework presented, due process did not require additional protections beyond those available in § 1226(a) discretionary detention hearings.
3. The requirement that the government show a material change in circumstances concerning flight risk or danger to the community before re-detaining an individual previously released is constitutionally sufficient under the existing § 1226(a) discretionary detention regime.

KEY QUOTATIONS

“For the reasons that follow, Alva Alva’s motion is DENIED without prejudice.” (Opinion text)

“Accordingly, here, due process does not require additional protections beyond those available in section 1226(a) discretionary detention hearings.” (Opinion text)

“That is constitutionally sufficient.” (Opinion text)

FACTUAL BACKGROUND

Petitioner was subject to immigration detention and had received a pre-detention hearing pursuant to procedural due process after the Court issued a preliminary injunction. He challenged the clarification order's conclusion that the Constitution did not require hearing procedures beyond those applicable in the discretionary detention context under 8 U.S.C. § 1226(a). The Court noted that the government must show a material change in circumstances before re-detaining an individual previously released after a bond determination.

PROCEDURAL HISTORY

The Court issued a preliminary injunction on August 21, 2025, and a clarification order on October 16, 2025. Petitioner then filed an ex parte motion for leave to seek reconsideration of the clarification order's statement

concerning the procedures constitutionally required in the 8 U.S.C. § 1226(a) discretionary detention context. The Court denied leave without prejudice.

DISPOSITION

other

CASES CITED

- Valencia Zapata v. Kaiser, No. 25-CV-07492-RFL, 2025 WL 2741654, at *13 (N.D. Cal. Sept. 26, 2025)
- Aroldo Rodriguez Diaz v. Merrick Garland, Rodriguez Diaz v. Garland, 53 F.4th 1189 (9th Cir. 2022)
- J.S.H.M. v. Wofford, No. 1:25-CV-01309 JLT SKO, 2025 WL 2938808, at *17-18 (E.D. Cal. Oct. 16, 2025)
- Ortega v. Bonnar, 415 F. Supp. 3d 963, 968 (N.D. Cal. 2019)
- Matter of Sugay, 17 I. & N. Dec. 637, 640 (B.I.A. 1981)
- Y. M. M. v. Wamsley, No. 2:25-CV-02075, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6, 2025)

OPINION

Kaiser

PER CURIAM.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JUAN EDELMAR ALVA ALVA, Case No. 25-cv-06676-RFL Petitioner,

ORDER DENYING MOTION FOR

v. LEAVE TO FILE MOTION FOR

RECONSIDERATION

POLLY KAISER, et al., Re: Dkt. No. 20 Respondents. Before the Court is Petitioner Juan Edelmar Alva Alva's ex parte motion for leave to file a motion for reconsideration of the Court's October 16, 2025 order clarifying the preliminary injunction it issued on August 21, 2025. (Dkt. No. 20.) Specifically, Alva Alva seeks leave to file a motion to reconsider the portion of the clarification order stating that "[t]he Constitution does not require hearing procedures beyond those applicable in the 8 U.S.C. § 1226(a) discretionary detention context." (See Dkt. No. 19 at 1.)¹ For the reasons that follow, Alva Alva's motion is DENIED without prejudice. This order assumes the parties' familiarity with the facts of this case, the applicable legal standards, and both sides' arguments. Under Civil Local Rule 7-9(b), a party seeking leave to file a motion for reconsideration must show reasonable diligence in the motion and one of three enumerated circumstances including, as relevant here, (a) the emergence of a change of law after the issuing of the order to be reconsidered and (b) a manifest failure by the Court to consider dispositive legal arguments presented before the order was issued. See Civ. L. R. 7-9(b)(2)–(3). Neither of these requirements is satisfied. ¹ All references to page numbers refer to ECF pagination. As Alva Alva concedes, he raised this legal argument, and it was considered in the original clarification order, which incorporated the

reasoning from *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2741654, at *13 (N.D. Cal. Sept. 26, 2025). (Dkt. No. 20 at 4, 7.) Moreover, following the Court’s clarification order, there has been no binding, material change of law suggesting that the Constitution requires placing the burden of proof, by clear and convincing evidence, on the government in this context. As *Valencia Zapata* explained, due process requires that the government bear the burden of proof by clear and convincing evidence in assessing prolonged detention of non-citizens subject to section 1226(c)’s mandatory detention regime. *Id.* However, *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022), confirmed that those procedures are not constitutionally required when assessing prolonged detention in section 1226(a)’s discretionary detention regime, absent an additional factual showing that the particular circumstances of the case required them. *Id.* at 1213–14. In so holding, the Ninth Circuit relied on the fact that section 1226(a) involves other statutory protections unavailable under section 1226(c). See *id.* at 1203. *Rodriguez Diaz* does not control the outcome in this case because, here, Petitioner’s “pre-detention hearing[]” is “not technically [a] proceeding[] under section 1226(a)” but has instead been ordered as a matter of procedural due process. *Valencia Zapata*, 2025 WL 2741654, at *13. However, the “reason for requiring [a] pre-detention hearing[] in this case mirrors the reason for having section 1226(a) hearings: that is, Petitioner[] should be treated, and [has] been treated, as [an] individual[] who [is] subject to discretionary, not mandatory, detention.” *Id.* Accordingly, here, due process does not require additional protections beyond those available in section 1226(a) discretionary detention hearings. That law has not changed. To be sure, other district courts in the Ninth Circuit have offered sensible reasons for placing such a burden on the government when it changes its mind about re-detaining someone. See, e.g., *J.S.H.M v. Wofford*, No. 1:25-CV-01309 JLT SKO, 2025 WL 2938808, at *17–18 (E.D. Cal. Oct. 16, 2025). However, in the existing section 1226(a) discretionary detention regime, the government is already required to show a material change in circumstances as to flight risk or danger to the community in order to re-detain an individual after previously releasing them. E.g., *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 968 (N.D. Cal. 2019) (“[W]here a previous bond determination has been made by an immigration judge, no change should be made by [the DHS] absent a change of circumstance.” (quoting *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (B.L.A. 1981))); *Y. MM. v. Wamsley*, No. 2:25-CV-02075, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6, 2025). That is constitutionally sufficient. Accordingly, the motion for leave is denied. Denial is without prejudice to re-raising the issue if the government takes the position that no material change in circumstances is required or if the Board of Immigration Appeals overturns *Matter of Sugay*, 17 I. & N. Dec. 637 (B.L.A. 1981). If that occurs, due process may indeed require additional procedural safeguards in order to avoid the risk of an erroneous deprivation of a fundamental liberty interest when someone previously determined to not be a flight risk or danger to the community is re-detained. IT IS SO ORDERED. Dated: December 9, 2025

RITA F. LIN

United States District Judge

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