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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

(HON. JAMES E. SIMMONS, JR.)

FRITZNER JUNIOR AUGUSTIN,

Petitioner,

v.

CHRISTOPHER LAROSE,
WARDEN, Otay Mesa Detention
Center, et al,

Respondents.

Civil No.: 26-CV-4398-JES

**TRAVERSE IN SUPPORT OF
WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241**

INTRODUCTION

In his Amended Petition, Fritzner Junior Augustin explained that he had been inspected and paroled into the United States after he arrived from Haiti under a refugee program. He requested immediate release because (1) the government violated regulatory, statutory, and constitutional requirements due to the manner of his arrest; (2) the government arrested him without first presenting a warrant, and (3) he is statutorily eligible for a bond hearing under 8 U.S.C. § 1226(a) and immigration judges cannot be relied on to conduct a fair bond hearing. Mr. Augustin further requested that at a minimum, the Court order an immigration bond hearing under § 1226(a).

1 The government's response addresses only the warrant and § 1226(a)
2 arguments and does not address Mr. Augustin's liberty interest argument.
3 With regard to § 1226(a), the government argues the recent Ninth Circuit
4 decision in *Rodriguez Vazquez v. Bostock* is inapplicable to Mr. Augustin but
5 then acknowledges numerous decisions from this district granting bond
6 hearings in similar situations and concludes that it does "not oppose an order
7 from this Court directing a bond hearing be held pursuant to 8 U.S.C. §
8 1226(a)."

9 Given the specific facts of his case, Mr. Augustin again requests an
10 order for immediate release for three reasons: (1) the absence of required
11 process before arresting a person who retained a substantial, parole-like
12 liberty interest; (2) the insufficiency of a bond hearing to address the injury
13 already sustained, and (3) the substantial bias of immigration judges.

14 ARGUMENT

15 I.

16 IMMEDIATE RELEASE IS THE APPROPRIATE REMEDY

17 A. The Government Violated Due Process by Abruptly Revoking 18 Petitioner's Parole-Like Liberty Interest.

19 Mr. Augustin's argument regarding the impropriety of his arrest while
20 he retained a parole-like liberty interest is set forth in pages 8-13 of his
21 Amended Petition. In sum, the government explicitly permitted his legal
22 entry into the U.S. under the CHNV program when he was inspected and
23 paroled into the U.S. at the Miami airport. Presumably, his technical parole
24 expired two years after that entry while his application for Temporary
25 Protected Status (TPS) remained pending for a lengthy period. But he
26 retained a liberty interest past those two years, especially because the
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1 government knew he was living in the U.S., did not terminate his TPS
2 application, and made no attempt to arrest him prior to January 2026.

3 The government does not respond at all to this argument and Mr.
4 Augustin requests the Court treat that silence as a concession. Apart from
5 the lack of any argument to the contrary, the government provides no
6 evidence that immigration officers were attempting to locate or arrest Mr.
7 Augustin after his parole expired. Instead, the government allowed his TPS
8 application to remain pending.

9 The government determined whether Mr. Augustin was a danger or
10 flight risk prior to approving his CHNV travel authorization and then after
11 his arrival at the Miami airport. There is no indication whatsoever that any
12 changed circumstances led to a new basis for a finding of dangerousness or
13 flight and yet ICE arrested Mr. Augustin. The resulting injury – over seven
14 months of detention – is substantial and can only be remedied by immediate
15 release.

16 **B. Immediate Release is Necessary to Address the Deprivation of**
17 **Liberty that has Already Occurred and is Ongoing.**

18 The government maintains that Mr. Augustin does not fall under
19 § 1226(a) and that *Rodriguez Vazquez v. Bostock*, No. 25-6842, --- F.4th ---,
20 2026 WL 2196424 (9th Cir. July 30, 2026), is inapplicable. It does not address
21 the fact that Mr. Augustin, as a person legally inspected and paroled into the
22 U.S., has an even stronger claim to relief under § 1226(a) than a person who
23 entered entirely without inspection. But it acknowledges numerous decisions
24 from this district suggesting Mr. Augustin is properly under § 1226(a). [Ret.
25 at 2-3.]
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1 But the parties still disagree on the appropriate remedy. The
2 government does not oppose an immigration bond hearing but opposes
3 immediate release. A bond hearing does not go far enough.

4 Some courts – including courts in this district – have held that
5 immediate release, rather than a bond hearing, is the most appropriate
6 remedy. That is because “a post-deprivation hearing cannot serve as an
7 adequate procedural safeguard [when] it is after the fact and cannot prevent
8 an erroneous deprivation of liberty.” *Gonzalez Valencia v. Warden*, 26-CV-
9 4284-RBM-GC, 2026 WL 2297958, at *2 (S.D. Cal. Aug. 10, 2026) (quoting
10 *E.A. T.-B. v. Wamsley*, 795 F.Supp. 3d 1316, 1324 (W.D. Wash. 2025));
11 *Truong v. Mullin*, 26-CV-4204-RBM-MMP, 2026 WL 2280773, at *2 (S.D. Cal.
12 Aug. 7, 2026) (same); *Garibay v. Mullin*, 26-CV-3786-JO-AHG, ECF 9 (S.D.
13 Cal. July 24, 2026) (“While § 1226 ordinarily provides for a bond hearing
14 after detention, a pre-deprivation hearing is the more appropriate remedy for
15 individuals like Petitioner who have already been subjected to
16 unconstitutional detention.”); *Lepe v. Andrews*, 801 F.Supp. 3d 1104 (E.D.
17 Cal. 2025) (finding petitioner was wrongfully denied a bond hearing under
18 § 1226(a), granting a preliminary injunction, and ordering release); *Jorge*
19 *M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021) (determining
20 that the process provided to a petitioner post-detention does not cure the
21 detention that has already occurred).

22 Here, as in the cases cited, a post-detention immigration bond hearing
23 is insufficient to remedy the injury resulting from the deprivation of liberty
24 because it necessarily occurs after the impact of the injury has already been
25 felt. Given that the Court cannot order the immigration court to travel back
26 in time, immediate release is the most appropriate remedy available.

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1 **C. There is Sufficient Evidence of the Erosion of Immigration**
2 **Judge Neutrality to the Extent that it Warrants Immediate**
3 **Release.**

4 In his Amended Petition, Mr. Augustin provided several statistics and
5 articles showing that the Administration's attacks on IJ independence have
6 severely comprised the ability of an immigration petitioner to receive a fair
7 bond hearing. [Amend. Pet. at 16-19.] Some of those articles included quotes
8 from former IJs who were fired under the current administration, with one
9 stating, "We were told to facilitate deportation... Due process is dead in
10 immigration courts." Isabela Dias, *"Fired for No Reason": Former*
11 *Immigration Judges Speak Out Against Trump's Assault on the Courts*,
Mother Jones (Oct. 9, 2025), <https://tinyurl.com/yevhp32h>.

12 The government simply states that Mr. Augustin "presents insufficient
13 evidence that all Immigration Judges' neutrality has been compromised such
14 that immediate release or additional safeguards are necessary." [Ret. at 3.]
15 But the Court should not require that Mr. Augustin show that 100% of IJs
16 would not provide adequate process at a bond hearing. The evidence offered
17 is sufficient to show a high degree of likelihood that the granting of a bond
18 hearing will be a pyrrhic victory for Mr. Augustin in light of the continued
19 and increasing pressure on IJs to simply push through immigration cases in
20 a way that facilitates a high percentage of deportations. Mr. Augustin
21 respectfully requests immediate release against this backdrop.

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CONCLUSION

For the reasons set forth in his Amended Petition and in this Traverse, Petitioner Fritzner Junior Augustin respectfully requests the Court grant the relief outlined in the Amended Petition.

Dated: August 21, 2026

Respectfully submitted,

By: s/ Adam F. Doyle
ADAM F. DOYLE
Attorney for Mr. Augustin