

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

James V. Franizer v. B. Birkholz

Franizer v. Birkholz · No. 2:25-cv-06955-MRA-BFM · Decided August 21, 2025

SUMMARY

The court issues an order to show cause in a federal prisoner’s 28 U.S.C. § 2241 habeas case. The petitioner challenges a firearm conviction and a career-offender sentencing enhancement, asserting actual innocence and reliance on New York State Rifle & Pistol Ass’n, Inc. v. Bruen. The court explains that the claims appear to fall under 28 U.S.C. § 2255 rather than § 2241 and, in light of Jones v. Hendrix, orders the petitioner to explain why the petition should not be dismissed without prejudice.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Brianna Fuller Mircheff
JURISDICTION	United States District Court for the Central District of California
DECIDED	August 21, 2025
DOCKET	2:25-cv-06955-MRA-BFM
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a 28 U.S.C. § 2241 habeas petition challenging his federal firearm conviction and career-offender sentencing enhancement. The magistrate judge issued an order to show cause before recommending dismissal without prejudice for lack of jurisdiction.
STANDARD OF REVIEW	Habeas-petition screening under Rule 4 of the Rules Governing Section 2254 Cases, applied to § 2241 petitions through Rule 1(b); dismissal is appropriate if it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief.
PRECEDENTIAL VALUE	Nonprecedential trial-court order; preliminary order to show cause
PARTIES	James V. Franizer v. B. Birkholz

TOPICS

- federal habeas corpus
- post-conviction relief
- subject matter jurisdiction
- successive petitions
- sentencing

PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

constitutional law

QUESTIONS PRESENTED

1. Whether Franizer's challenges to the legality of his federal conviction and sentence could be brought in a § 2241 petition rather than in a motion under § 2255.
2. Whether the § 2255(e) escape hatch remains available when successive-petition rules prevent a federal prisoner from raising a claim.
3. Whether the petition should be dismissed without prejudice for lack of jurisdiction rather than construed or transferred as a § 2255 motion.

HOLDINGS

1. Challenges to the legality of a federal conviction or sentence generally must be brought under § 2255 in the court that imposed the sentence, while § 2241 generally addresses the manner, location, or conditions of sentence execution in the district of incarceration.
2. After *Jones v. Hendrix*, the fact that successive § 2255 rules foreclose a challenge does not, by itself, make § 2255 inadequate or ineffective; the escape hatch preserves § 2241 relief only in unusual circumstances making it impossible or impracticable to seek relief in the sentencing court.
3. The petition's Bruen-based challenge to the firearm conviction could not proceed under § 2241 on the asserted ground that it could not be brought under § 2255; such constitutional claims may be raised through a § 2255 motion, and Jones independently foreclosed the asserted escape-hatch theory.

KEY QUOTATIONS

“section 2255 “provides the exclusive procedural mechanism by which a federal prisoner may test the legality of detention.”” (at 2)

“§ 2241’s escape hatch “preserves recourse to § 2241 in cases where unusual circumstances make it impossible or impracticable to seek relief in the sentencing court”” (at 3)

“Such dismissal should be without prejudice to Petitioner raising his claims using a proper vehicle in the proper forum.” (at 4)

FACTUAL BACKGROUND

James V. Franizer is serving a federal sentence and filed a § 2241 petition in the Central District of California. He alleged actual innocence of a firearm conviction and of a career-offender sentencing enhancement based on prior convictions, including a state drug conviction. He also argued that the firearm conviction should be vacated under *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, and that he could proceed under § 2241 because he lacked an unobstructed procedural opportunity to raise his claims in the sentencing court.

PROCEDURAL HISTORY

Franizer filed a § 2241 petition in the Central District of California while serving a federal sentence. He asserted actual innocence of a firearm offense and of the career-offender enhancement, and argued that § 2255 was inadequate or ineffective. The court preliminarily concluded that the claims appeared to fall outside § 2241's escape hatch after *Jones v. Hendrix* and ordered Franizer to explain why the petition should not be dismissed without prejudice; no final dismissal had yet been entered.

DISPOSITION

other

CASES CITED

- New York State Rifle & Pistol Ass’n, Inc. v. Bruen, 597 U.S. 1 (2022)
- Bostic v. Carlson, 884 F.2d 1267, 1269-70 (9th Cir. 1989)
- Hernandez v. Campbell, 204 F.3d 861, 864-65 (9th Cir. 2000)
- Lorentsen v. Hood, 223 F.3d 950, 953 (9th Cir. 2000)
- Courtright v. Von Blanckensee, No. 20-15473, 2022 WL 522106 (9th Cir. Feb. 22, 2022)
- Allen v. Ives, 950 F.3d 1184, 1189-91 (9th Cir. 2020)
- Marrero v. Ives, 682 F.3d 1190, 1193-95 (9th Cir. 2012)
- Jones v. Hendrix, 599 U.S. 465, 475, 477-78 (2023)
- United States v. Brown, 720 F. Supp. 3d 1020 (D. Or. 2024)
- Wages v. I.R.S., 915 F.2d 1230, 1234 (9th Cir. 1990)
- Manant v. United States, 498 F. App’x 752, at *1 (9th Cir. 2012)

OPINION

James V. Franizer v. B. Birkholz

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 WESTERN DIVISION

11

12 JAMES V. FRANIZER,

No. 2:25-cv-06955-MRA-BFM 13 Petitioner,

v. ORDER TO SHOW CAUSE

14 B. BIRKHOLZ. 15

Respondent. 16 17

18 SUMMARY

19 This Order concerns a habeas petition filed under 28 U.S.C. § 2241. 20 Petitioner James V. Franizer is currently serving a sentence in federal custody. 21 He alleges he is actually innocent of

one of the counts of conviction, a firearms 22 offense, and that he is actually innocent of the career-offender guidelines 23 enhancement that increased his sentence significantly. The Supreme Court has 24 recently narrowed the range of cases that can be brought pursuant to § 2241's 25 "escape hatch," such that it would appear Petitioner's claims cannot be brought 26 via § 2241 petition. The Court therefore orders Petitioner to show cause—to 27 explain in writing—why his Petition should not be dismissed without prejudice 28 to Petitioner raising his claims in a different kind of suit.

1 FACTUAL BACKGROUND

2 Petitioner James V. Franizer, currently in federal custody, filed a Petition 3 for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. (ECF 1.) In his Petition, 4 he alleges that he is actually innocent of the career-offender sentencing 5 enhancement applied in his case. Imposition of that enhancement requires, 6 among other things, proof of two qualifying predicate prior offenses. U.S.S.G. § 7 4B1.1(a). Petitioner argues that his prior convictions are not qualifying 8 predicates for two reasons: (1) because his state drug conviction is not a 9 qualifying controlled substance offense, and (2) because he is innocent of the 10 underlying drug offense. (ECF 1 at 2.) Petitioner further alleges that his firearm 11 conviction should be vacated under New York State Rifle & Pistol Ass'n, Inc. v. 12 Bruen, 597 U.S. 1 (2022).¹ (ECF 1 at 2.) 13 Plaintiff alleges that he may bring these claims pursuant to § 2241 14 because he did not have an unobstructed procedural shot at bringing those 15 claims in the Southern District of Iowa, where he was convicted, and that § 2255 16 is therefore ineffective to test the legality of his conviction. (ECF 1 at 2.) In other 17 words, he seeks to proceed under the "escape hatch" provision of § 2255. (ECF 1 18 at 4.) 19

20 ANALYSIS

21 The court is required to screen all habeas petitions upon filing, and to 22 summarily dismiss "[i]f it plainly appears from the petition and any attached 23 exhibits that the petitioner is not entitled to relief in the district court." Rule 4, 24 Rules Governing Section 2254 Cases. Petitions brought pursuant to Section 25 2241 are subject to the same screening requirements. See Rule 1(b), Rules 26 Governing Section 2254 Cases (a district court may "apply any or all of these 27 1 The Petition erroneously refers to this case as "U.S. v. Bruen." (ECF 1 at 28 2.) 1 rules" to any habeas petition); see also *Bostic v. Carlson*, 884 F.2d 1267, 1269- 2 70 (9th Cir. 1989) (affirming district court's dismissal of a Section 2241 petition 3 under Habeas Rules 1(b) and 4). 4 When reviewing a petition filed pursuant to § 2241, the Court must first 5 consider whether the claims are properly brought via § 2241 petition or whether 6 the claims would be more properly brought in a motion filed pursuant to § 2255. 7 This question is "critical to the determination of district court jurisdiction," 8 because "the proper district for filing a habeas petition depends upon whether 9 the petition is filed pursuant to § 2241 or § 2255." *Hernandez v. Campbell*, 204 10 F.3d 861, 865 (9th Cir. 2000). Challenges to the legality of a sentence must be 11 brought via § 2255 motion and must be filed in the court that imposed sentence.

12 *Id.* at 864. By contrast, challenges to the manner, location, or conditions of a

13 sentence’s execution must be brought in a § 2241 petition, which must be filed 14 in the district in which the individual is incarcerated. *Id.* Generally speaking, 15 all challenges to the lawfulness of a conviction must be channeled into a motion 16 brought under § 2255; section 2255 “provides the exclusive procedural 17 mechanism by which a federal prisoner may test the legality of detention.” 18 *Loretsen v. Hood*, 223 F.3d 950, 953 (9th Cir. 2000) (emphasis added). 19 Notwithstanding that general rule, § 2255(e) describes a narrow sliver of 20 challenges to a conviction that can be brought via § 2241: it permits an 21 application for a writ of habeas corpus where the “remedy by motion is 22 inadequate or ineffective to test the legality of [petitioner’s] detention.” 28 23 U.S.C. § 2255(e). It is this provision, often called the “escape hatch” provision, 24 to which Petitioner attempts to lay claim. He argues that a motion brought 25 pursuant to § 2255 is inadequate or ineffective to test the legality of his 26 detention, and that he should therefore be permitted to proceed under § 2241. 27 Plaintiff cites cases that permitted certain challenges to federal sentences 28 to proceed through the escape hatch if they were claims that sounded in actual 1 innocence and could not be brought in a § 2255 motion. (See ECF 1 at 4 (citing 2 *Courtright v. Von Blanckensee*, No. 20-15473, 2022 WL 522106 (9th Cir. Feb. 22, 3 2022) (finding that claim that petitioner was actually innocent of mandatory life 4 sentence imposed pursuant to § 3559(e) could be brought via § 2241 petition 5 where claim could not be brought under § 2255)).) Courts like *Courtright* 6 reasoned that § 2255 was inadequate to test the legality of detention—and thus 7 the escape hatch was available—as to claims of actual innocence of an offense 8 or a mandatory sentencing enhancement where § 2255’s rules against 9 successive petitions would close off any other means of bringing the challenge. 10 See, e.g., *Allen v. Ives*, 950 F.3d 1184, 1191 (9th Cir. 2020). 11 Even at its broadest reading, however, the scope of § 2241’s escape hatch 12 always excluded challenges to career-offender enhancements, so long as the 13 petitioner was sentenced at a time when the Sentencing Guidelines were 14 advisory. See *Marrero v. Ives*, 682 F.3d 1190, 1193-95 (9th Cir. 2012); see also 15 *Allen*, 950 F.3d at 1189-90 (limiting *Marrero* to claims concerning career- 16 offender challenges to sentences imposed under the advisory guidelines, and not 17 to those sentences imposed before 2005 under the mandatory guidelines). 18 Moreover, even the narrow opening through which claims like *Courtright* 19 and *Allen* passed has since been closed. In 2023, the Supreme Court held that § 20 2255 was not inadequate or ineffective to test the legality of detention simply 21 because the rules against second or successive § 2255 motions foreclosed a 22 challenge. *Jones v. Hendrix*, 599 U.S. 465, 477-78 (2023). Instead, § 2241’s 23 escape hatch “preserves recourse to § 2241 in cases where unusual 24 circumstances make it impossible or impracticable to seek relief in the 25 sentencing court” *Id.* at 478; see also *id.* at 475 (identifying, as examples of 26 such cases, situations where a court no longer exists). *Jones v. Hendrix* thus 27 forecloses “escape hatch” challenges to federal sentences—if not entirely, at 28 least of the kind presented in this Petition. 1 As to Petitioner’s Bruen challenge to his firearm conviction, he is wrong 2 that that challenge cannot be brought via § 2255. Such claims are routinely 3 brought via § 2255. See, e.g., *United States v.*

Brown, 720 F. Supp. 3d 1020 (D.

4 Ore. 2024) (evaluating Second Amendment claim brought via § 2255 motion). In

5 any event, Jones v. Hendrix is fatal to that claim as well. 6 In short, it appears that neither of
Petitioner’s claims are ones that can 7 be brought under § 2241. The Court thus believes it lacks
jurisdiction over the 8 Petition. 9 Where an action is filed in a district that lacks jurisdiction, a
court must 10 either dismiss, or, “if it be in the interest of justice,” may transfer the case “to 11 any
district or division in which it could have been brought.” 28 U.S.C. § 1406(a). 12 The Court has
thus considered whether the construed § 2255 Motion should be 13 transferred to the Southern
District of Iowa. It is inclined not to make that 14 recommendation. It appears Petitioner may still
be within the one-year period 15 for filing a § 2255 motion in the Southern District of Iowa. And,
because strict 16 limitations apply to all but the first § 2255 motion, see 28 U.S.C. § 2255(h), 17
converting this Petition to a § 2255 motion might make it more difficult for 18 Petitioner to
present other claims he might want to bring. 19 For these reasons, the Court believes it is
appropriate to recommend 20 dismissal of this Petition. Such dismissal should be without
prejudice to 21 Petitioner raising his claims using a proper vehicle in the proper forum. *Wages* 22
v. I.R.S., 915 F.2d 1230, 1234 (9th Cir. 1990) (“A jurisdictional dismissal is not 23 a judgment on
the merits.”); *Manant v. United States*, 498 F. App’x 752, at *1 24 (9th Cir. 2012) (dismissal
without prejudice “was proper because the district 25 court lacked jurisdiction”). Petitioner could
then decide whether he wishes to 26 raise any version of these claims—and any other he might
have—via § 2255 27 motion filed before the sentencing judge. Before the Court makes that 28 1 ||
recommendation to the District Judge presiding in his case, however, the Court 2 || will give
Petitioner an opportunity to address these concerns. 3 Accordingly, by no later that September 19,
2025, Petitioner shall file 4 || a response addressing the concerns raised in this Order and explaining
why his 5 || Petition should not be dismissed. If Petitioner no longer wishes to pursue 6 || this
action, he may request a voluntary dismissal of the action pursuant 7 || to Federal Rule of Civil
Procedure 41(a). Doing so will not prejudice him 8 || raising his claims in a properly filed suit. 9
Plaintiff is warned that, if he does not respond to this Order within the 10 || deadline set by the
Court (or seek an extension of that deadline, if he has a good 11 || reason to do so), the Court will
reomend to the assigned District Judge 12 || that the action be dismissed without further leave to
amend. 13 14 || DATED: August 21, 2025 Teun 15 □

BRIANNA FULLER MIRCHEFF

16 UNITED STATES MAGISTRATE JUDGE

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