

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Jose Monteroso Agustin v. Fereti Semaia, et al.

Agustin · No. 5:25-cv-02788-SRM-JDE · Decided November 25, 2025

SUMMARY

The United States District Court for the Central District of California ordered the petitioner to show cause why his habeas action should not be dismissed as moot after he received an individualized bond hearing under 8 U.S.C. § 1226(a). The court denied the request for a preliminary injunction as moot and noted that challenges to the immigration judge’s bond determination generally must first be appealed to the Board of Immigration Appeals. The court set deadlines for the parties’ responses regarding dismissal.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Serena R. Murillo
JURISDICTION	United States District Court for the Central District of California
DECIDED	November 25, 2025
DOCKET	5:25-cv-02788-SRM-JDE
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought habeas relief, a temporary restraining order, and a preliminary injunction concerning his immigration detention and bond hearing. After the Court ordered an individualized bond hearing under 8 U.S.C. § 1226(a), Respondents reported that the hearing had occurred. The Court denied the preliminary-injunction request as moot and ordered Petitioner to show cause why the action should not be dismissed in its entirety.
STANDARD OF REVIEW	The Court considered whether a present controversy remained for which effective relief could be granted and whether administrative exhaustion should be excused before habeas review of the Immigration Judge's bond determination.
PRECEDENTIAL VALUE	Unknown; interlocutory district-court order
PARTIES	Jose Monteroso Agustin v. Fereti Semaia, et al.

TOPICS

immigration detention

removal proceedings

exhaustion of remedies

injunctions

administrative law

PRACTICE AREAS

immigration law

federal habeas corpus

administrative law

civil procedure

constitutional law

QUESTIONS PRESENTED

1. Whether Petitioner's request for a preliminary injunction became moot after he received the individualized bond hearing ordered by the Court.
2. Whether Petitioner was required to exhaust administrative remedies by appealing the Immigration Judge's bond determination to the Board of Immigration Appeals before seeking habeas review.
3. Whether the circumstances warranted excusing or waiving the administrative-exhaustion requirement.

HOLDINGS

1. After receiving an Immigration Judge's bond hearing, a detainee ordinarily must pursue the available administrative appeal to the Board of Immigration Appeals before seeking habeas review of the bond determination.
2. The Court did not find circumstances at that juncture warranting waiver of administrative exhaustion.
3. The request for a preliminary injunction was moot because Petitioner received the individualized § 1226(a) bond hearing that was the principal relief sought at that stage.

KEY QUOTATIONS

“Because of this established procedure, habeas review of an IJ's bond determination prior to appealing to the BIA would in most circumstances be improper.” (at 2)

“Whether a matter is moot depends on if “there is a present controversy as to which effective relief can be granted.”” (at 3)

“Courts may excuse, or rather, waive the exhaustion requirement when “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.”” (at 3)

FACTUAL BACKGROUND

Petitioner was detained in immigration custody and initially claimed that he was subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) even though he was entitled to an individualized bond hearing under § 1226(a). The Court ordered Respondents to provide a § 1226(a) bond hearing and to refrain from transferring, relocating, or removing Petitioner outside the Central District of California pending resolution of the case. Petitioner received the hearing, but the Immigration Judge denied a change in custody status after finding that Petitioner had not demonstrated that he was not a flight risk. Petitioner had not shown that he appealed the bond determination to the Board of Immigration Appeals.

PROCEDURAL HISTORY

The Court previously granted in part Petitioner's ex parte application for a temporary restraining order, ordered a § 1226(a) bond hearing, and enjoined transfer or removal outside the Central District of California pending final resolution. Respondents reported that Petitioner received the ordered bond hearing, but an Immigration Judge denied a change in custody status. Petitioner challenged the adequacy of that hearing, while Respondents argued that he was required to appeal to the Board of Immigration Appeals before seeking habeas review. The Court concluded that the preliminary-injunction request was moot and issued an order to show cause regarding dismissal of the action.

DISPOSITION

other

CASES CITED

- Singh v. Holder, 638 F.3d 1196, 1203-04 (9th Cir. 2011)
- Aroldo Rodriguez Diaz v. Merrick Garland, Rodriguez Diaz v. Garland, 53 F.4th 1189, 1199 (9th Cir. 2022)
- Leonardo v. Crawford, 646 F.3d 1157, 1159-60 (9th Cir. 2011)
- Puga v. Chertoff, 488 F.3d 812, 814-15 (9th Cir. 2007)
- Laing v. Ashcroft, 370 F.3d 994, 1000 (9th Cir. 2004)
- Nw. Env't Def. Ctr. v. Gordon, 849 F.2d 1241, 1244 (9th Cir. 1988)
- United States v. Alder Creek Water Co., 823 F.2d 343, 345 (9th Cir. 1987)

OPINION

Jose Monteroso Agustin v. Fereti Semaia, et al.

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 Case No. 5:25-cv-02788-SRM-JDE

11 JOSE MONTEROSO AGUSTIN,

12 ORDER TO SHOW CAUSE AS TO

Petitioner, WHY THIS ACTION SHOULD NOT

13 BE DISMISSED AS MOOT IN ITS

14 v. ENTIRETY

15 FERETI SEMAIA, et al., 16 Respondents. 17 18 19 On November 10, 2025, the Court granted in part Petitioner’s Ex Parte Application 20 for a Temporary Restraining Order and directed Respondents to provide Petitioner with a 21 bond hearing pursuant to 8 U.S.C. Section 1226(a), and among other actions, enjoined 22 Respondents from transferring, relocating, or removing Petitioner outside of the Central 23 District of California pending final resolution of this case. Dkt.

10. In addition, the Court 24 required Respondents to show cause as to why the Court should not issue a preliminary 25 injunction in this case. Id. 26 Thereafter, Respondents filed a status report in response to the Court's Order on 27 November 17, 2025, that states Petitioner received a bond hearing pursuant to Section 28 1226(a) on this same date. Dkt. 11. Included with Respondents' status report is the Order of the Immigration Judge reflecting Petitioner's hearing and request for a change in 1 2 custody status, which was denied based on Petitioner "not demonstrate[ing] that he is not 3 a flight risk." Dkt. 11-1. Because Petitioner received the bond hearing pursuant to Section 4 1226(a), Respondents argue the habeas petition is moot and therefore dismissal is 5 appropriate. Dkt. 11 at 2-3. 6 In response, Petitioner contends the Immigration Judge used an incorrect burden of 7 proof to determine whether he should be released on bond that did not afford him Due 8 Process, citing *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011), and *Rodriguez 9 Diaz v. Garland*, 53 F.4th 1189, 1199 (9th Cir. 2022), as support. Dkt. 12 at 3. In other 10 words, Petitioner claims that the hearing did not satisfy Section 1226(a) nor the Court's 11 TRO and he remains detained pursuant to an unlawful adjudication and that constitutional 12 violations remain. Id. at 9-10. Petitioner further states that as the habeas petition is still 13 active, the TRO's other protections remain and meaningful relief in the form of 14 immediate release or a constitutionally adequate Section 1226(a) hearing remain 15 available. Id. at 5. For this reason, Petitioner requests the Court reaffirm that the TRO has 16 not been satisfied and rule on the preliminary injunction or enforce the Section 1226(a) 17 process as required under the Fifth Amendment. Id. at 10. 18 19 In turn, Respondents filed a reply as directed by the Court in which they assert the 20 proper procedure would be to appeal to the Board of Immigration Appeals (BIA) as 21 regards any error in the Immigration Judge's determination. Dkt. 13 at 2-3. Respondents 22 allege Petitioner must first exhaust his administrative remedies in appealing the 23 Immigration Judge's Order as to his bond status prior to seeking habeas review of that 24 claim. Id. at 4-5. 25 As a general matter, when a detainee has received a bond hearing before an 26 Immigration Judge, the petitioner may appeal that IJ's decision to the BIA if not satisfied 27 with the outcome. See *Leonardo v. Crawford*, 646 F.3d 1157, 1159 (9th Cir. 2011). Then, 28 if the detainee disagrees with the BIA's decision, he or she may challenge the continued detention by filing a habeas petition. See *id.* And upon an adverse ruling by the district 1 2 court, a decision on a habeas petition may be appealed to the Ninth Circuit. See *id.* 3 Because of this established procedure, habeas review of an IJ's bond determination prior 4 to appealing to the BIA would in most circumstances be improper. See *id.* at 1160. 5 Mainly, the Immigration and Nationality Act contains an administrative exhaustion 6 requirement that has been applied to habeas petitions. See, e.g., *Puga v. Chertoff*, 488 7 F.3d 812, 814-15 (9th Cir. 2007) (citation omitted). "When a petitioner does not exhaust 8 administrative remedies, a district court ordinarily should either dismiss the petition 9 without prejudice or stay the proceedings until the petitioner has exhausted remedies, 10 unless exhaustion is excused." *Leonardo*, 646 F.3d at 1160 (citations omitted). 11 Courts may excuse, or rather, waive the exhaustion requirement when 12 "administrative remedies are inadequate or not efficacious,

pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” See *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 15 2004) (citation omitted); see also *Puga*, 488 F.3d at 815 (listing factors a court may 16 consider in determining if the exhaustion of administrative remedies should be waived). 17 Whether a matter is moot depends on if “there is a present controversy as to which 18 19 effective relief can be granted.” See *Nw. Env’t Def. Ctr. v. Gordon*, 849 F.2d 1241, 1244 20 (9th Cir. 1988). Actions in this Circuit have been deemed to be moot “when interim relief 21 or events have deprived the court of the ability to redress the party’s injuries.” See *United 22 States v. Alder Creek Water Co.*, 823 F.2d 343, 345 (9th Cir. 1987). 23 Here, the crux of the Petition is that Petitioner was wrongly subjected to mandatory 24 detention under 8 U.S.C. Section 1225(b)(2) (A), which applies to noncitizens seeking 25 admission into the country, when he should have been granted an individualized bond 26 hearing under 8 U.S.C. Section 1226(a), which applies to noncitizens already in the 27 country pending the outcome of removal proceedings. Dkt. 1 at 9. Petitioner received an 28 individualized bond hearing pursuant to Section 1226(a). Dkt. 11-1. Based on what is 1 before the Court, Petitioner has not sought a stay of proceedings to pursue an appeal to 2 ||the BIA of the Immigration Judge’s determination nor does the Court conclude 3 || circumstances favor waiver of administrative exhaustion at this juncture. Accordingly, 4 ||the Court deems it appropriate to deny Petitioner’s request for a preliminary injunction 5 || and will instead direct the parties to show cause as to why this action should not be 6 || dismissed in its entirety. 7 Upon consideration, the Court Orders as follows: 8 1. The Court DENIES as MOOT Petitioner’s request for preliminary injunction. ? 2. The Court ORDERS Petitioner to show cause in writing as to why the case in its '0 entirety should not be dismissed as moot on or before December 1, 2025. Respondents shall respond on or before December 8, 2025. Petitioner shall file any reply on or before

12 December 16, 2025.

13 IT IS SO ORDERED. 15

16 Dated: November 25, 2025 Wel2

V7 HON. SERENA R. MURILLO

18 UNITED STATES DISTRICT JUDGE

19 20 21 22 23 24 25 26 27 28