

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

## PEDRO RODRIGUEZ.

**Plaintiff,**

V.

## OFFICER FISHER,

Defendant.

Case No. 21-cv-1443-MMA (LL)

**ORDER DENYING PETITIONER'S  
MOTION FOR TEMPORARY  
RESTRANING ORDER AND  
PRELIMINARY INJUNCTION FOR  
BAIL**

[Doc. No. 24]

On August 9, 2021, Pedro Rodriguez (“Petitioner”), preceding *pro se*, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Doc. No. 1 (“Petition”). Petitioner now moves for a temporary restraining order and preliminary injunction for bail. Doc. No. 24. Because Petitioner seeks an order directing his release from custody on bail, the Court construes it as a request for bail pending resolution of the habeas corpus proceedings.

In his motion, Petitioner asserts that he “has a strong likelihood of success on the merits . . . , equal protection of the law under Cal Const I § 32 et seq, and exigent circumstances exist as the Petitioner is continually exposed to COVID-19.” Doc. No. 24 at 1. As one means of support, Petitioner argues that new law and certain court cases

1 impact his sentence and eligibility for parole, thereby causing constitutional violations.  
2 *See generally* Petition at 16–21.

3 The Ninth Circuit has not decided whether district courts have the authority to  
4 release a habeas corpus petitioner on bail pending habeas corpus proceedings resolution.  
5 *In re Roe*, 257 F.3d 1077, 1080 (9th Cir. 2001). However, the Ninth Circuit notes that,  
6 assuming a district court does have “the authority to release a state prisoner on bail  
7 pending resolution of habeas proceedings,” it is “reserved for extraordinary cases  
8 involving special circumstances or a high probability of success.” *Id.*; *Land v. Deeds*,  
9 878 F.2d 318, 318 (9th Cir. 1989).

10 Regardless of the Court’s authority, Petitioner does not satisfy either of the Ninth  
11 Circuit’s factors. Having thoroughly reviewed the record, the Court finds Petitioner fails  
12 to meet the high burden of demonstrating a high probability of success or special  
13 circumstances warranting bail. Accordingly, the Court **DENIES** Petitioner’s motion.

14 **IT IS SO ORDERED.**

15 Dated: December 3, 2021

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18 HON. MICHAEL M. ANELLO  
United States District Judge

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