

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

<b>RALPH BRONSON FILS-AIME,</b>	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 1:25-cv-287-JL-TSM
	)	
<b>WARDEN, FCI-BERLIN; PATRICIA H. HYDE,</b>	)	
ACTING FIELD OFFICER DIRECTOR OF THE U.S.	)	
IMMIGRATION AND CUSTOMS ENFORCEMENT,	)	
ENFORCEMENT AND REMOVAL OPERATIONS	)	
BOSTON FIELD OFFICE; <b>TODD LYONS,</b> ACTING	)	
DIRECTOR, U.S. IMMIGRATION AND CUSTOMS	)	
ENFORCEMENT; <b>KRISTI NOEM,</b> SECRETARY OF	)	
THE DEPARTMENT OF HOMELAND SECURITY;	)	
<b>PAMELA BONDI,</b> U.S. ATTORNEY GENERAL,	)	
	)	
Respondents,	)	
	)	

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RESPONDENTS’ REPLY TO PETITIONER’S OPPOSITION TO  
MOTION TO DISMISS OR FOR SUMMARY JUDGMENT

Respondents respectfully submit two points in response to Petitioner’s Opposition (ECF No. 16) to Respondents’ Motion to Dismiss or for Summary Judgment (ECF No. 15).

First, Petitioner is correct that he has already sought release on parole, which has not been granted. P.’s Opp., at 7 (ECF No. 16). Moreover, given that Petitioner concedes that he is currently detained under 8 U.S.C. § 1225(b), Respondents agree both that he is statutorily ineligible for a bond hearing, and that the BIA would not be able to rule on a constitutional challenge to the statute under which Petitioner is held (in contrast to, for example, a challenge to the IJ’s factual findings or rulings of law when considering a specific noncitizen’s eligibility for bond). *See id.* at 6-7. Accordingly, Respondents withdraw their exhaustion argument.

Second, Petitioner errs throughout his due process argument by characterizing himself as having “already prevailed in statutory relief.” *Id.* at 7; 8 (describing himself as a noncitizen “who already prevailed in securing a statutory relief from removal”; distinguishing *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) on the basis that it involved “a person who failed to secure his protection claim at the initial screening stage, not after the person prevailed in a statutory relief through full-blown hearings”); 9 (“individuals like Petitioner, whose withholding of removal has been granted but whom Respondents attempt to terminate the protection or remove to another country, are entitled to additional protections”).

Petitioner *was* granted withholding of removal, in his original removal proceedings, but he moved to reopen removal proceedings, and the Immigration Judge granted that motion. P.’s 3d Add., Ex. 13 at 4 (ECF No. 8-1). When an Immigration Judge or the Board of Immigration Appeals reopens removal proceedings, the existing removal order is vacated. *Nken v. Holder*, 556 U.S. 418, 429 n.1 (2009). Withholding of removal necessarily depends on the existence of a removal order, and Petitioner is currently not subject to such an order. Therefore, his grant of withholding has likewise been vacated, and his claim that he is entitled to due process beyond that provided by statute because he has received statutory relief from removal necessarily fail.

Similarly, removal to a third country under 8 U.S.C. § 1231(b) also depends on a final removal order. As he is no longer subject to such an order, Petitioner cannot be removed at all, let alone to a third country. What due process third-country removal requires is irrelevant here, and appeals to that process cannot be used to magnify the rights to which Petitioner is entitled while his removal proceedings are pending.

For the above reasons, and those previously tendered in Respondents’ Motion to Dismiss or for Summary Judgment (ECF No. 15), the Petition should be denied.

Respectfully submitted,

ERIN CREEGAN  
U.S. Attorney

Dated: September 12, 2025

By: /s/Anna Dronzek

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