



JULIANE BACKMANN / For the Daily Journal

NEW BEGINNING — “Even if it’s my only chance, I am not going to mess it up,” Joe Fernandez said, explaining he kicked heroin after his 1994 conviction and has been clean and sober since. Fernandez, right, and Public Defender Michael Proctor, left, review documents at the offices of the Daily Journal after the INS released him from the Terminal Island immigration prison.

Salvadoran Widower Gets a Second Chance

Department Grants Immigrant’s Release, But Attorney Works to Appeal Deportation

By Susan McRae
Daily Journal Staff Writer

Joe Fernandez was happy to be stuck in traffic on the Harbor Freeway on a dreary day.

“It’s unbelievable that I’m free,” Fernandez said, sitting beside his lawyer, deputy federal Public Defender Michael Proctor, who was driving him home Tuesday in the late afternoon drizzle, after his release from Terminal Island immigration prison.

“Every once in a while [in custody], I got to watch the news on TV, and I’d see people stuck in traffic,” Fernandez continued.

Peering out at the rush-hour freeway snarl from the plush leather comfort of the Yukon XL, he said with a laugh, “Today, I thank God I’m stuck in traffic — and it’s a great car.”

Fernandez has been fighting deportation to El Salvador, contending the Immigration and Naturalization Service cannot apply the harsh 1996 changes in its laws against him, retroactively.

His surprise release, after months of letters and phone calls to the INS, came after U.S. District Judge Christine Snyder, in a hearing last week, said she would recommend that the agency consider granting bail.

The INS then went a step further and released Fernandez without bond.

It also authorized him to appear at its downtown Los Angeles office next week to pick up a work authorization permit.

As part of his federal sentencing, stemming from illegal re-entry charges, Fernandez will be required to wear an electronic home-monitoring bracelet for five months and serve three years of supervisory probation.

Meanwhile, Proctor is working on Fernandez’s appeal of his deportation order.

The release came not a moment too soon for the 45-year-old widower.

Fernandez’s mother, who had been caring for his two sons, ages 13 and 16, since his young wife unexpectedly died of cancer two years ago, became ill and lost her job.

His older son ran away twice. His younger son, who suffers from developmental disabilities, landed back in foster care for the second time after Fernandez’s mother became unable to cope with his disruptive behavior.

Lenders have threatened to foreclose on his house. Just two weeks ago, he had to sell his Jeep Cherokee to pay immediate expenses.

But on this rainy afternoon, Fernandez, his belongings in a cardboard box beside him, was upbeat and hopeful of picking up the pieces of his shattered life.

His former boss has kept his sales job open for him.

The social worker, who oversees his younger son’s care, has assured Fernandez he will be able to bring him back home again.

Fernandez’s troubles began in the early 1990s, when he became addicted to pain medication following a job-related back injury and subsequently began using heroin.

Following a string of arrests for ~~heisting store merchandise, he pleaded guilty~~ in 1994 to second-degree robbery. He did so after his attorney advised him that, because he had held a green card for 35 years, the INS was certain to avoid deportation after he served his state time.

Instead, the 1996 laws eliminated that hope. On Fernandez’s release, the INS began deportation proceedings.

During his appeal, Fernandez’s wife died. Discouraged, he canceled his appeal, and the INS deported him to El Salvador, a country he left as a child. But when he learned his young son had been placed in foster care in the United States, he returned illegally.

During the next 1½ years, he reunited his family, found a job and bought a house in a district with a school that had been recommended for children with special needs.

Then, the INS caught up with him for illegal re-entry. Last year, Snyder reduced the charges and gave him the lightest sentence possible under federal guidelines.

“I expect you to be the father [I believe] you can be, and I want to tell you this court is here, and, if for any reason you want to come in and talk about how your life is going, I am here,” Snyder said at the time.

Now, his future rests with the immigration appeals board.

“Even if it’s my only chance, I am not going to mess it up,” Fernandez said, explaining he kicked heroin after his 1994 conviction and has been clean and sober since. “Rehabilitation does work, and people have to understand that.”