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

12 **KEROLOS GERAWI,**  
13  
14 Petitioner,

15 v.

16 **CHRISTOPHER LAROSE,** warden of  
17 Otay Mesa Detention Center  
18 **SIDNEY AKI,** San Diego Field Office  
19 Director, Immigration and Customs  
20 Enforcement and Removal Operations  
21 (“ICE/ERO”);  
22 **TODD LYONS,** Acting Director of  
23 Immigration Customs Enforcement  
24 (“ICE”);  
25 **KRISTI NOEM,** Secretary of the  
26 Department of Homeland Security  
27 (“DHS”);  
28 **PAMELA BONDI,** Attorney General of  
the United States,  
**U.S. DEPARTMENT OF HOMELAND  
SECURITY;**  
**U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT;**  
Respondents.

Case No.: 3:25-cv-3352-JES-MMP

**PETITIONER’S SUPPLEMENTAL  
BRIEF TO PETITION FOR  
HABEAS CORPUS**

1 The court has asked for supplemental evidence and briefing on the  
2 apprehension and release of the Petitioner.

3 The Government has filed a supplement setting out that Mr. Gergawi was  
4 release on his own recognizance. ECF-8-1 paragraph 5.

5 Counsel for the Petitioner has searched the EROP for all matters on this  
6 case and there is no copy of the I-220A issued for Mr. Gergawi on file. The  
7 petitioner is not in a position to provide this document to counsel even if he had it.  
8 A sample I-220A is attached to this supplement for the court's consideration.

9 Petitioner does not allege that he was granted humanitarian parole with a  
10 corresponding I-94 but he concedes that he was released OREC. This release is  
11 considered a form of parole and is referred to as parole in the code. 8 U.S. Code §  
12 1226(a)(2)(B).

13 Whether Mr. Gergawi was granted humanitarian parole or conditional  
14 parole the department had to make a determination that he was not a flight risk or  
15 a danger to the community. Once they made this determination, they then released  
16 him. The year Mr. Gergawi as spent in the United States he has created a  
17 substantial liberty interest. As set out in the Petition and in the Traverse, this  
18 liberty interest gives rise to his substantial rights to due process.

19 In *Pinchi v. Noem* 5:25-cv-05632-PCP (N.D. California 2025) the district  
20 court considered the same issue with a similarly situated petitioner. The court  
21 there writes:

22 "The Due Process Clause prohibits deprivations of life, liberty, and  
23 property without due process of law. U.S. Const. amend. V. It is firmly  
24 established that these protections extend to noncitizens present in the United  
25 States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("[T]he Due Process Clause  
26 applies to all 'persons' within the United States, including aliens, whether their  
27 presence here is lawful, unlawful, temporary, or permanent."); *Wong Wing v.*  
28 *United States*, 163 U.S. 228, 238 (1896) ("It must be concluded that all persons

1 within the territory of the United States are entitled to the protection guaranteed  
2 by [the Fifth Amendment], and that even aliens shall not ... be deprived of life,  
3 liberty, or property without due process of law.”); *Trump v. J. G. G.*, 145 S. Ct.  
4 1003, 1006 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)) (cleaned  
5 up) (“It is well established that the Fifth Amendment entitles aliens to due process  
6 of law in the context of removal proceedings.”).

7 “Freedom from imprisonment—from government custody, detention, or  
8 other forms of physical restraint—lies at the heart of the liberty [the Due Process  
9 Clause] protects.” *Zadvydas*, 533 U.S. at 690. Generally, the Due Process Clause  
10 “requires some kind of a hearing before the State deprives a person of liberty or  
11 property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). Even individuals who  
12 face significant constraints on their liberty or over whose liberty the government  
13 wields significant discretion retain a protected interest in their liberty. *See Ortega*  
14 *v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) (“The fact that a decision-  
15 making process involves discretion does not prevent an individual from having a  
16 protectable liberty interest.”); *Hurd v. D.C., Gov’t*, 864 F.3d 671, 683 (D.C. Cir.  
17 2017) (holding that re-detention after pre-parole conditional supervision requires a  
18 pre-deprivation hearing); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in  
19 probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in  
20 parole context). Although in some circumstances the initial decision to detain or  
21 release an individual may be within the government’s discretion, the  
22 government’s decision to release an individual from custody creates “an implicit  
23 promise,” upon which that individual may rely, that their liberty “will be revoked  
24 only if [they] fail[] to live up to the ... conditions [of release].” *Morrissey*, 408  
25 U.S. at 482. “[T]he liberty [of a person released from government custody] is  
26 valuable and must be seen as within the protection of the [Due Process Clause].”  
27 *Id.*

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**CERTIFICATE OF SERVICE**

I, Brian J. McGoldrick, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 4916 Del Mar Avenue, San Diego, CA 92107. On December 15, 2025, I served a copy of this **PETITIONER'S SUPPLEMENTAL BRIEF TO PETITION FOR HABEAS CORPUS**

by the method and to the parties listed below:

On December 15, 2025, I accessed the electronic mailing list for CM/ECF users in this case and representatives of all parties are CM/ECF users and are noticed as follows:

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