

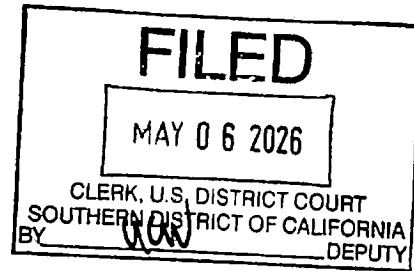
1 **Sergio Delgado Escobar**

2 A#: [REDACTED]

3 OTAY MESA DETENTION CENTER

4 7488 Calzada de la Fuente

5 San Diego, CA 92154



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7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 Sergio Delgado Escobar,

11 Petitioner,

12 v.

13 KRISTI NOEM, Secretary of
14 the Department of Homeland
15 Security, PAMELA JO BONDI,
16 Attorney General, TODD M.
17 LYONS, Acting Director,
18 Immigration and Customs
19 Enforcement, JESUS ROCHA,
20 Acting Field Office
21 Director, San Diego Field
22 Office, CHRISTOPHER LAROSE,
23 Warden at Otay Mesa
24 Detention Center,

25 Respondents.

Case No.: '26CV2893 CAB VET

**Amended Petition for
Writ of
Habeas Corpus**

1 INTRODUCTION

2 The government violated my due process rights when
3 they detained me after I was lawfully paroled into the
4 country. I should be released.

5 In 2015, I was allowed to reenter the United
6 States as part of the Lopez-Venegas v. Johnson class
7 action. The government approved my membership as part
8 of the class. On November 17, 2015, I walked across the
9 border with an ACLU lawyer. I was released with
10 conditions, as the attached form shows.

11 I got a Social Security card. I had appointments
12 at the GPS office. In 2019, I was ordered removed, but
13 my case is on appeal to the Ninth Circuit. The Ninth
14 Circuit stopped my removal while the appeal is ongoing.

15 In February 2026, I got pulled over because I was
16 swerving while eating tacos. I was released because
17 there were no charges to file. After I was released, I
18 was told to check in with ICE. I was worried I would be
19 detained, but I was told it wouldn't be a problem.

20 When I went to see ICE, they detained me, and I am
21 still detained. I seek my release or appointment of a
22 lawyer because I cannot afford one.

23 ARGUMENT

24 **I. Courts have granted habeas relief for people**
25 **who are detained without warning or a chance to**
26 **respond after they are paroled into the country.**

27 The Fifth Amendment's "Due Process Clause protects
28 petitioner, a person inside the United States, from

1 unlawful detention." *Omer G. G. v. Kaiser*, No. 1:25-CV-
2 01471-KES-SAB (HC), 2025 WL 3254999, at *4 (E.D. Cal.
3 Nov. 22, 2025) (citing *Zadvydas*, 533 U.S. at 693). That
4 is because people like Petitioner have "[a] protected
5 liberty interest [that] may arise from a conditional
6 release from physical restraint." *Id.* at *5 (citing
7 *Young v. Harper*, 520 U.S. 143, 147-49 (1997)). And
8 "[e]ven when a statute allows the government to arrest
9 and detain an individual, a protected liberty interest
10 under the Due Process Clause may entitle the individual
11 to procedural protections not found in the statute." *Id.*

12 Numerous courts have found that such is the case
13 with immigrants paroled into the country. Courts across
14 the Ninth "[C]ircuit have found that the 'government's
15 subsequent release of [an] individual from detention
16 creates an implicit promise that the individual's
17 liberty will be revoked only if they fail to abide by
18 the conditions of their release." *Ramirez Tesara v.*
19 *Wamsley*, 800 F. Supp. 3d 1130, 1136 (W.D. Wash. 2025)
20 (quoting *Calderon v. Kaiser*, No. 25-CV-06695-AMO, 2025
21 WL 2430609, at *2 (N.D. Cal. Aug. 22, 2025)). And that
22 remains the case even if the immigrant's original term
23 of parole, has expired as immigration proceedings slowly
24 move forward. See, e.g., *Omer G. G.*, 2025 WL 3254999, at
25 *5; *Ramirez Tesara*, 800 F. Supp. 3d at 1136 (holding
26 that "this private interest did not expire along with
27 Petitioner's parole agreement."); *Osaretin v. Warden*,
28 No. 25-CV-3612-JES-MSB, 2026 WL 280077, at *2 (S.D. Cal.

1 Feb. 3, 2026) ("Courts have repeatedly held that liberty
2 interests do not expire when parole does."); *Erkebaeva*
3 *v. Noem*, No. 1:25-CV-1891, 2026 WL 148562, at *2 (W.D.
4 Mich. Jan. 20, 2026) (holding that redetention after
5 petitioner's parole expired nevertheless "violates
6 Petitioner's Fifth Amendment due process rights");
7 *Fageri v. Scott*, No. 2:26-CV-00003-JHC, 2026 WL 194475,
8 at *4 (W.D. Wash. Jan. 26, 2026) ("[T]he expiration of
9 Petitioner's parole, without more, does not constitute
10 a change in circumstances that would justify re-
11 detention."); *Rodriguez-Acurio v. Almodovar*, No. 2:25-
12 CV-6065 (NJC), 2025 WL 3314420, at *16 (E.D.N.Y. Nov.
13 28, 2025) ("[F]or at least some purposes, parole has
14 ongoing legal effect even after it expires or is
15 terminated."); *Quiroga-Chaparro v. Warden of Golden*
16 *State Annex Det. Facility*, No. 1:25-CV-1731 AC, 2025 WL
17 3771473, at *5 (E.D. Cal. Dec. 31, 2025); ("On these
18 facts, the undersigned agrees with the well-reasoned
19 decisions by the other cited courts that petitioner's
20 liberty interest did not expire along with his parole.").

21 These courts and others use a balancing test to
22 assess if an immigrant's right to due process has been
23 violated:

24 First, the private interest that will be
25 affected by the official action; second, the
26 risk of an erroneous deprivation of such
27 interest through the procedures used, and the
28 probable value, if any, of additional or
substitute procedural safeguards; and finally,
the Government's interest, including the

1 function involved and the fiscal and
2 administrative burdens that the additional or
3 substitute procedural requirement would entail.

4 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

5 Courts repeatedly have found that those factors
6 favor petitioners like Petitioner. First, the private
7 interest is Petitioner's "freedom, which is 'the most
8 elemental of liberty interests[.]'" *Omer G. G.*, 2025 WL
9 3254999, at *5 (quoting *Hamdi v. Rumsfeld*, 542 U.S.
10 507, 529 (2004)). It does not matter that parole is
11 temporary and can lapse as Petitioner pursues
12 immigration relief. "[T]he liberty of a parolee,
13 although indeterminate, includes many of the core
14 values of unqualified liberty and its termination
15 inflicts a grievous loss on the parolee and often
16 others . . . [thus it] must be seen within the
17 protection of the [Fifth] Amendment." *Noori v. LaRose*,
18 807 F. Supp. 3d 1146, 1164 (S.D. Cal. 2025) (quoting
19 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). Because
20 "[f]or over a year, it allowed [Petitioner] to
21 establish ties in the community He ultimately
22 received employment authorization, was gainfully
23 employed, and supported his family. He and his wife
24 raised their [child] and attended church." *Omer G. G.*,
25 2025 WL 3254999, at *5. All what was "made possible by
26 petitioner's freedom." *Id.*

27 "Second, 'the risk of an erroneous deprivation [of
28 liberty] is high' where, as here, '[the petitioner] has

1 not received any bond or custody redetermination
2 hearing.'" *Omer G. G.*, 2025 WL 3254999, at *7 (quoting
3 *A.E. v. Andrews*, No. 1:25-cv-00107-KES-SKO, 2025 WL
4 1424382, at *5 (E.D. Cal. May 16, 2025)).

5 "Third, the Government's interest in detaining
6 Petitioner without notice, reasoning, and a hearing is
7 'low.'" *Salazar v. Casey*, No. 25-CV-2784 JLS (VET), 2025
8 WL 3063629, at *5 (S.D. Cal. Nov. 3, 2025) (collecting
9 cases). "Detention for its own sake, to meet an
10 administrative quota, or because the government has not
11 yet established constitutionally required pre-detention
12 procedures is not a legitimate government interest."
13 *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1036 (N.D. Cal.
14 2025). Rather, "[i]f the government wishes to re-arrest
15 [Petitioner] at any point, it has the power to take steps
16 toward doing so; but its interest in doing so without a
17 hearing is low." *Ortega v. Bonnar*, 415 F. Supp. 3d 963,
18 970 (N.D. Cal. 2019).

19 Thus, as in *Omer G. G.*, the *Mathews* balancing
20 factors show that Petitioner's due process rights were
21 violated. Despite releasing him for more than a year to
22 pursue his asylum claim on parole, the government
23 arrested him without warning, a chance to be heard, or
24 an explanation of why he was detained. That was unlawful.
25 Petitioner must be released.

26 **CLAIM AND PRAYER FOR RELIEF**

27 For these reasons, this Court should grant the
28 Petition and

