

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

**Kerolos Gergawi v. Christopher LaRose; Sidney Aki; Todd Lyons;
Kristi Noem; Pamela Bondi; U.S. Department of Homeland Security;
and U.S. Immigration and Customs Enforcement**

Gergawi · No. 3:25-cv-3352-JES-MMP · Decided December 23, 2025

SUMMARY

The United States District Court for the Southern District of California grants Kerolos Gergawi’s petition for a writ of habeas corpus under 28 U.S.C. § 2241. The court holds that 8 U.S.C. § 1225 does not govern his detention after he was released on his own recognizance and that his re-detention without notice or an opportunity to be heard violated procedural due process. The court orders his immediate release subject to the conditions of his preexisting conditional parole and directs the parties to file a status report.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	James E. Simmons Jr.
JURISDICTION	United States District Court for the Southern District of California
DECIDED	December 23, 2025
DOCKET	3:25-cv-3352-JES-MMP
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention and the revocation of conditional parole.
STANDARD OF REVIEW	The court considered whether Petitioner was in custody in violation of the Constitution or federal law and whether habeas relief was available under 28 U.S.C. § 2241.
PRECEDENTIAL VALUE	unpublished district court opinion; precedential status unknown
PARTIES	Kerolos Gergawi v. Christopher LaRose, Sidney Aki, Todd Lyons, Kristi Noem, Pamela Bondi, U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement

TOPICS

immigration detention procedural due process due process immigration judicial review of agency action

PRACTICE AREAS

immigration immigration detention constitutional law administrative law civil procedure

QUESTIONS PRESENTED

1. Whether 8 U.S.C. § 1252 stripped the district court of jurisdiction over Gergawi's habeas claims.
2. Whether Gergawi's detention after his prior release on his own recognizance was governed by the mandatory-detention provision in 8 U.S.C. § 1225.
3. Whether Respondents violated procedural due process by revoking Gergawi's conditional parole and re-detaining him without notice or an opportunity to be heard.

HOLDINGS

1. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 did not deprive the district court of jurisdiction to hear Gergawi's detention claims through a petition for a writ of habeas corpus.
2. 8 U.S.C. § 1225 did not apply to Gergawi's re-detention and therefore did not preclude relief on the merits.
3. Respondents violated Gergawi's procedural due process rights by re-detaining him without providing notice or an opportunity to be heard concerning revocation of his conditional parole.

KEY QUOTATIONS

“The Court agrees with Petitioner that once granted parole, such parole cannot be revoked without following what is required by procedural due process.” (at 5)

“Accordingly, the Court joins these courts and finds that Respondents violated Petitioner’s due process rights when they re-detained him on June 30, 2025.” (at 5)

FACTUAL BACKGROUND

Gergawi, a native of Egypt, entered the United States in April 2024, was placed in removal proceedings, and was released on his own recognizance under an Order of Release on Recognizance. He alleges that he complied with ICE check-ins while pursuing asylum. On June 30, 2025, ICE apprehended him as he left a master calendar hearing, without providing written notice or a reason for detention, while his original removal proceedings had not yet been formally terminated. The government later placed him in expedited-removal proceedings, gave him a positive credible-fear determination, and issued a new notice to appear returning him to § 240 removal proceedings.

PROCEDURAL HISTORY

Gergawi filed a § 2241 habeas petition after ICE re-detained him immediately after an immigration-court hearing. Respondents filed a return, Gergawi filed a traverse, and the parties submitted supplemental briefing

concerning the basis for his prior release. The district court granted the petition on procedural due process grounds, ordered Gergawi immediately released subject to the conditions of his preexisting conditional parole, required a joint status report confirming release, and closed the case.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Respondents were ordered to immediately release Gergawi subject to the conditions of his preexisting conditional parole. The parties were ordered to file a joint status report by December 29, 2025, confirming his release, and the Clerk was ordered to close the case.

CASES CITED

- Hamdi v. Rumsfeld, 542 U.S. 507, 525 (2004)
- Preiser v. Rodriguez, 411 U.S. 475, 484 (1973)
- I.N.S. v. St. Cyr, 533 U.S. 289, 301 (2001)
- Zadvydas v. Davis, 533 U.S. 678, 687 (2001)
- Demore v. Kim, 538 U.S. 510, 517 (2003)
- Martinez Lopez v. Noem et al., No. 25-cv-2717-JES-AHG, 2025 WL 3030457, at *2-3 (S.D. Cal. Oct. 30, 2025)
- Beltran et al. v. Noem et al., No. 25CV2650-LL-DEB, 2025 WL 3078837, at *3-4 (S.D. Cal. Nov. 4, 2025)
- Salcedo Aceros v. Kaiser, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503, at *8 (N.D. Cal. Sept. 12, 2025)
- Sampiao v. Hyde, No. 1:25-CV-11981-JEK, 2025 WL 2607924, at *8 (D. Mass. Sept. 9, 2025)
- Lopez Benitez v. Francis, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025)
- Pinchi v. Noem, 792 F. Supp. 3d 1025, 1031, 1034-35 (N.D. Cal. 2025)
- Castellon v. Kaiser, No. 1:25-CV-00968 JLT EPG, 2025 WL 2373425, at *4, *9 (E.D. Cal. Aug. 14, 2025)
- Leiva Flores v. Albarran, No. 25-CV-09302-AMO, 2025 WL 3228306, at *4-5 (N.D. Cal. Nov. 19, 2025)
- J.S.H.M. v. Wofford, No. 1:25-CV-01309 JLT SKO, 2025 WL 2938808, at *6 (E.D. Cal. Oct. 16, 2025)
- Ortega-Cervantes v. Gonzales, 501 F.3d 1111, 1115 (9th Cir. 2007)
- Faizyan v. Casey, No. 3:25-CV-0884-RBM-JLB, 2025 WL 3208844, at *1 n.2, *7 (S.D. Cal. Nov. 17, 2025)
- Y-Z-L-H v. Bostock, 792 F. Supp. 3d 1123, 1146 (D. Or. 2025)
- Mata Velasquez v. Kurzdorfer, 794 F. Supp. 3d 128, 154 (W.D.N.Y. 2025)
- Saravia v. Sessions, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018)
- Morrissey v. Brewer, 408 U.S. 471, 482 (1972)

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