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9  
10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 MEHMET SERIF PEKPAK,

13 Petitioner,

14 v.

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

24 Respondents.

Civil Case No.: 26-cv-1831-JLS-MMP

**Amended Petition  
for a  
Writ of Habeas Corpus**


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1 INTRODUCTION

2 Mehmet Serif Pekpak is a citizen of Turkey who was released so that he  
3 could seek asylum in the United States. But despite complying with all his court  
4 dates and timely submitting his asylum application, Mr. Pekpak was arrested  
5 when he missed the last exit in San Diego before Mexico. ICE then took him into  
6 custody without any notice or explanation.

7 Respondents have revoked Mr. Pekpak’s parole in violation of the statute  
8 and regulations, which require written notification and a determination that the  
9 purposes of the parole have been served. Alternatively, the Due Process Clause of  
10 the Fifth Amendment of the Constitution requires redeprivation notice and  
11 hearing. Either way, the agency’s actions violated the Administrative Procedures  
12 Act and the Due Process Clause, and this Court should order his immediate  
13 release.

14 STATEMENT OF FACTS

15 Mr. Pekpak was born in Turkey. Exhibit A, Declaration of Mehmet Serif  
16 Pekpak, at ¶ 1. He fled his country because he was persecuted due to 

17  *Id.* at ¶ 1.

18 On December 17, 2023, Mr. Pekpak crossed into the United States in Texas  
19 and turned himself in to Border Patrol. *Id.* at ¶ 2. He was detained for about six  
20 days and then paroled into the United States to apply for asylum. *Id.* at ¶ 2.

21 Mr. Pekpak filed an asylum application with USCIS and received a work  
22 permit, a temporary Social Security number, and a driver’s license. *Id.* at ¶ 3.  
23 From 2024 to 2026, he lived in Los Angeles. *Id.* at ¶ 3.

24 On January 19, 2026, Mr. Pekpak was driving a friend down to San Diego.  
25 *Id.* at ¶ 4. He accidentally drove past the last exit and ended up in Mexico. *Id.* at ¶  
26 4. Mr. Pekpak immediately turned around and asked Border Patrol whether he  
27 could reenter the United States. *Id.* at ¶ 4. Border Patrol told him it would not be a  
28 problem and allowed him to drive through the port of entry. *Id.* at ¶ 4. However,

1 the agents then arrested Mr. Pekpak, telling him that he was not a U.S. citizen. *Id.*  
2 at ¶ 4. They did not give him any paperwork or an informal interview at which he  
3 could contest his detention. *Id.* at ¶ 4. He has been detained at Otay Mesa  
4 Detention Center ever since.

#### 5 CLAIMS FOR RELIEF

##### 6 **I. Count One: ICE failed to comply with its own regulations and the 7 Administrative Procedures Act in revoking Mr. Pekpak's parole.**

8 When ICE took Mr. Pekpak into custody on January 19, 2026, it did not say  
9 whether it was revoking his parole. Exh. A at ¶ 4. Either way, the government's  
10 actions violated the regulations and the Administrative Procedures Act.

11 Under the Administrative Procedures Act (APA), an agency action may be  
12 held unlawful and set aside if it is "arbitrary, capricious, an abuse of discretion, or  
13 otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An action is an  
14 abuse of discretion if the agency "entirely failed to consider an important aspect  
15 of the problem, offered an explanation for its decision that runs counter to the  
16 evidence before the agency, or is so implausible that it could not be ascribed to a  
17 difference in view or the product of agency expertise." *Nat'l Ass'n of Home*  
18 *Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*  
19 *Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43  
20 (1983)). For a challenged agency action to be upheld, the agency "must explain  
21 the evidence which is available, and must offer a rational connection between the  
22 facts found and the choice made." *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983)  
23 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United*  
24 *States*, 371 U.S. 156, 168 (1962)).

25 Here, regardless of whether the agency formally revoked Mr. Pekpak's  
26 parole, it violated the APA. If the agency did *not* revoke his parole, then it  
27 inexplicably violated its own parole decision by detaining Mr. Pekpak. Doing so  
28 violated the APA because the agency did not "offer a rational connection between  
the facts found and the choice made"—i.e., the fact that Mr. Pekpak was still on

1 parole, yet the agency decided to detain him. *Motor Vehicle Mfrs*, 463 U.S. at 52.  
2 And nothing suggests that there *was* a “rational” reason for this choice, given that  
3 Mr. Pekpak had filed an asylum application and complied with all the conditions  
4 or his parole. This was the epitome of an “arbitrary” and “capricious” act under  
5 the APA. 5 U.S.C. § 706(2)(A).

6 But assuming the agency *had* revoked his parole, it also violated the APA.  
7 Per ICE regulations, a person shall only be “returned to the custody from which  
8 he was paroled” when “the purposes of such parole . . . have been served.” 8  
9 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be  
10 terminated “upon accomplishment of the purpose for which parole was  
11 authorized”); *Y-Z-L-H*, 2025 WL 1898025, at \*12 (same). Alternatively, the  
12 regulations permit revocation of parole when “neither humanitarian reasons nor  
13 public benefit warrants the [noncitizen’s] continued presence.” 8 C.F.R.  
14 § 212.5(e)(2)(i). But under either scenario, parole shall only be “terminated upon  
15 written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the  
16 regulations, the agency may only revoke parole and re-detain a noncitizen when  
17 the parole’s purpose is served or no humanitarian reasons warrant it *and* the  
18 noncitizen receives written notice.

19 None of this occurred here. Because “the purpose[ ] of [Mr. Pekpak’s]  
20 parole” was to allow him to apply for asylum, that purpose has not yet “been  
21 served” because his asylum claim is still pending. 8 U.S.C. § 1182(d)(5)(A). And  
22 the humanitarian reasons for parole—to avoid unnecessary detention when an  
23 asylum seeker poses no danger or flight risk—remains the same. Put differently,  
24 “upon Petitioner’s entry into the United States, Respondents determined that  
25 Petitioner was suitable for parole. Respondents have not provided a reasoned  
26 explanation or any changed circumstances that would justify their current  
27 departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123,  
28

1 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to provide a  
2 reasoned explanation for their action,” which they will not be able to do. *Id.*

3 What’s more, Mr. Pekpak never received any written notification of a  
4 revocation under 8 C.F.R. § 212.5(e). So if the agency revoked his parole, this  
5 decision violated both the statute and the regulation and was “not in accordance  
6 with law” under the APA. 5 U.S.C. § 706(2)(A).

7 Numerous courts have released parolees on this basis. *See, e.g., Arias v.*  
8 *LaRose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at \*3 (S.D. Cal.  
9 Nov. 25, 2025); *Noori v LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149  
10 (S.D. Cal. Oct. 1, 2025); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET, 2025 WL  
11 3063629 (S.D. Cal. Nov. 3, 2025); *Perez v LaRose*, No. 25-cv-02620-RBM-JLB,  
12 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025); *Y-Z-L-H v. Bostock*, No. 25-cv-  
13 965-SI, 2025 WL 1898025, at \*13 (D. Or. July 9, 2025). Because Mr. Pekpak is  
14 in the same position as these individuals, this Court should do the same and order  
15 his immediate release.

16 **II. Count Two: The Due Process Clause required notice and a chance to**  
17 **be heard before parole was revoked.**

18 Additionally, “the revocation of [Mr. Pekpak’s] parole without justification  
19 or consideration of his individualized circumstances violates the Due Process  
20 Clause.” *Perez v. LaRose*, No. 3:25-CV-02620-RBM-JLB, 2025 WL 3171742, at  
21 \*4 (S.D. Cal. Nov. 13, 2025). Mr. Pekpak was “entitled to notice of the reasons  
22 for revocation of his parole and a hearing before an immigration judge to  
23 determine whether detention is warranted” before ICE revoked his parole. *Id.* at  
24 \*7.

25 “The Fifth Amendment guarantees that ‘[n]o person shall be ... deprived of  
26 life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL  
27 3063629, at \*3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause  
28 applies to all ‘persons’ within the United States, including aliens, whether their

1 presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,  
2 533 U.S. 678, 693 (9th Cir. 2001).

3 “Generally, due process protections depend on the situation and must  
4 account for (1) the private interest at issue, (2) the risk of erroneous deprivation of  
5 that interest through the procedures used, and (3) the Government’s interest.”  
6 *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct.  
7 1, 2025); (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). Weighing those  
8 considerations here, Respondents violated the Due Process Clause by revoking  
9 parole with no notice or hearing.

10 “First, Petitioner has a private interest in remaining free, which developed  
11 over the [months] he resided in the United States.” *Id.* at \*10. It does not matter  
12 that parole is temporary or discretionary. “For example, *Morrissey v. Brewer*, 408  
13 U.S. 471, 482 (1972)—though analyzing the criminal parole context—found that  
14 ‘the liberty of a parolee, although indeterminate, includes many of the core values  
15 of unqualified liberty and its termination inflicts a grievous loss on the parolee  
16 and often others ... [thus it] must be seen within the protection of the [Fifth]  
17 Amendment.’” *Id.*

18 “Second, the risk of an erroneous deprivation of such interest is high as  
19 Petitioner’s parole was revoked without providing [him] a reason for revocation or  
20 giving [him] an opportunity to be heard.” *Salazar*, 2025 WL 3063629, at \*4.  
21 “Civil immigration detention is permissible only to prevent flight or protect  
22 against danger to the community.” *Perez*, 2025 WL 3171742, at \*5. But here,  
23 “[s]ince DHS’s initial determination that Petitioner should be paroled because [he]  
24 posed no danger to the community and was not a flight risk, there is no evidence  
25 that these findings have changed.” *Id.*

26 “Third, the Government’s interest in detaining Petitioner without notice,  
27 reasoning, and a hearing is low.” *Salazar*, 2025 WL 3063629, at \*5 (cleaned up).  
28 “Detention for its own sake, to meet an administrative quota, or because the

1 government has not yet established constitutionally required pre-detention  
2 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.  
3 3d 1025, 1036 (N.D. Cal. 2025).

4 Thus, because Respondents did not provide “proper notice, reasoning, and a  
5 pre-deprivation hearing” before revoking parole, Mr. Pekpak’s redetention  
6 violated the Due Process Clause. *Salazar*, 2025 WL 3063629, at \*5.

7 **III. This Court must hold an evidentiary hearing on any disputed facts.**

8 Resolution of a detention-based habeas petition may require an evidentiary  
9 hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009). Mr. Reinoso  
10 Martinez hereby requests such a hearing on any material, disputed facts.

11 **IV. Prayer for relief**

12 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 13 1. Order Respondents to immediately release Petitioner from custody,  
14 subject to the conditions of his preexisting parole;
- 15 2. Order that prior to any re-detention of Petitioner, that Petitioner is  
16 entitled to notice of the reasons for revocation of his parole and a  
17 hearing before an immigration judge to determine whether detention is  
18 warranted. Respondents bear the burden of establishing, by clear and  
19 convincing evidence, that Petitioner poses a danger to the community or  
20 a risk of flight at that hearing; and
- 21 3. Order any other relief that the Court deems just and proper.

22 Respectfully submitted,

23 Dated: April 1, 2026

24 s/ Kara Hartzler

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