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

12 **MEHMET SERIF PEKPAK,**  
13  
14 **Petitioner,**

15 **v.**

16 **MARKWAYNE MULLIN, Secretary of**  
17 **the Department of Homeland Security,**  
18 **TODD BLANCHE, Acting Attorney**  
19 **General, TODD M. LYONS, Acting**  
20 **Director, Immigration and Customs**  
21 **Enforcement, JESUS ROCHA, Acting**  
22 **Field Office Director, San Diego Field**  
23 **Office, CHRISTOPHER LAROSE,**  
24 **Warden at Otay Mesa Detention Center,**

25 **Respondents.**

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

**Traverse in**  
**Support of**  
**Petition for Writ of**  
**Habeas Corpus**

1 INTRODUCTION

2 In his habeas petition, Mr. Pekpak explained that he is a citizen of Turkey  
3 who was paroled into the United States in December 2023, so that he could seek  
4 asylum. He timely submitted an asylum application and attended all his court  
5 dates. And when Mr. Pekpak briefly drove into Mexico after accidentally missing  
6 the last exit on the I-5, he was allowed to reenter the United States and continue to  
7 apply for asylum in his removal proceedings. Nevertheless, the government  
8 revoked his parole and refused to release him from detention. In his habeas  
9 petition, he argued that this revocation of his parole violated both the regulations  
10 and due process.

11 In its return, the government first argues that this Court lacks jurisdiction to  
12 consider his claim under 8 U.S.C. § 1252(g)—an argument courts have  
13 overwhelmingly rejected. On the merits, the government then argues that  
14 Mr. Pekpak is “lawfully detained” because his parole was “terminated” when he  
15 accidentally left the country. Dkt. 7 at 4, 7.

16 But even assuming Mr. Pekpak had no right to notice of his parole  
17 revocation under the regulations, “petitioner's liberty interest did not expire along  
18 with his parole.” *Omer G. G. v. Kaiser*, No. 1:25-CV-01471-KES-SAB (HC),  
19 2025 WL 3254999, at \*5 (E.D. Cal. Nov. 22, 2025). Applying the procedural due  
20 process test under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts have  
21 repeatedly granted habeas relief for individuals whose parole has terminated.  
22 Because Mr. Pekpak showed that the *Mathews v. Eldridge* factors weigh in his  
23 favor, and the government has never argued to the contrary, this Court should  
24 grant relief.

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## ARGUMENT

**I. Courts have repeatedly granted habeas relief for individuals whose parole has terminated.**

On the merits, the government's sole argument<sup>1</sup> is that Mr. Pekpak's "previous parole was automatically terminated" under the regulations when he accidentally left the country. Dkt. 7 at 6. But the government does not deny that Mr. Pekpak was only in Mexico for approximately one hour, after which the government allowed him to return and continue with his application for asylum in the same removal proceedings. Dkt. 7 at 6. So the only thing that changed is that Mr. Pekpak was on parole before he accidentally drove into Mexico but was not on parole after he returned.

But even assuming his brief departure terminated Mr. Pekpak's parole under the regulations, it did not affect his separate due process argument. *See* Dkt. 5 at 5–7. In *Omer G. G. v. Kaiser*, No. 1:25-CV-01471-KES-SAB (HC), 2025 WL 3254999, at \*5 (E.D. Cal. Nov. 22, 2025), Respondents similarly argued that because the petitioner's parole had expired and he was in removal proceedings, Respondents were "permitted to re-detain him under the statute and its implementing regulations." But the district court noted that "petitioner's liberty interest did not expire along with his parole." *Id.* For instance, while immigration officials may have "discretion over the initial decision to detain or release petitioner," the decision to release an individual "creates an implicit promise upon which an individual may rely: that his liberty will be revoked only if he fails to live up to the conditions of release." *Id.* (quotations and alterations omitted). So "after that individual is released from custody she has a protected liberty interest in remaining out of custody." *Id.* (quoting *Pinchi v. Noem*, 792 F. Supp. 3d 1025,

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<sup>1</sup> Respondents spend significant time arguing that Mr. Pekpak's detention has not become prolonged, even though Mr. Pekpak never raised this argument in his amended habeas petition. *See* Dkt. 7-10; Dkt. 5.

1 1032 (N.D. Cal. 2025)). Applying the *Mathews v. Eldridge* factors, the district  
2 court then found that the petitioner was entitled to relief. *Id.* at \*8.

3 Numerous courts have relied on this same principle to grant habeas  
4 petitions for individuals whose parole was expired or terminated. *See Ramirez*  
5 *Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1136 (W.D. Wash. 2025) (“Contrary to  
6 Respondents’ arguments, this private interest did not expire along with  
7 Petitioner’s parole agreement.”); *Osaretin v. Warden*, No. 25-CV-3612-JES-MSB,  
8 2026 WL 280077, at \*2 (S.D. Cal. Feb. 3, 2026) (“Courts have repeatedly held  
9 that liberty interests do not expire when parole does.”); *Erkebaeva v. Noem*, No.  
10 1:25-CV-1891, 2026 WL 148562, at \*2 (W.D. Mich. Jan. 20, 2026) (holding that  
11 redetention after petitioner’s parole expired nevertheless “violates Petitioner’s  
12 Fifth Amendment due process rights”); *Faqeri v. Scott*, No. 2:26-CV-00003-JHC,  
13 2026 WL 194475, at \*4 (W.D. Wash. Jan. 26, 2026) (“[T]he expiration of  
14 Petitioner’s parole, without more, does not constitute a change in circumstances  
15 that would justify re-detention.”); *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-  
16 6065 (NJC), 2025 WL 3314420, at \*16 (E.D.N.Y. Nov. 28, 2025) (“[F]or at least  
17 some purposes, parole has ongoing legal effect even after it expires or is  
18 terminated.”); *Quiroga-Chaparro v. Warden of Golden State Annex Det. Facility*,  
19 No. 1:25-CV-1731 AC, 2025 WL 3771473, at \*5 (E.D. Cal. Dec. 31, 2025); (“On  
20 these facts, the undersigned agrees with the well-reasoned decisions by the other  
21 cited courts that petitioner’s liberty interest did not expire along with his parole.”).

22 Here, as in these cases, “[Mr. Pekpak’s] liberty interest did not expire along  
23 with his parole.” *Quiroga-Chaparro*, 2025 WL 3771473, at \*5. In his amended  
24 petition, Mr. Pekpak thus argued that the government’s decision to terminate his  
25 parole because he accidentally drove into Mexico for an hour violated due process  
26 under the *Mathews v. Eldridge* factors. *See* Dkt. 5 at 5–7. Respondents never  
27 address this argument and never apply the *Mathews v. Eldridge* factors to argue to  
28 the contrary. Thus, procedural due process requires Mr. Pekpak’s release.

1 **II. Section 1252(g) does not deprive this Court of jurisdiction.**

2 Contrary to the government's arguments, § 1252(g) does not bar review of  
3 "all claims arising from deportation proceedings." *Reno v. Am -Arab Anti-*  
4 *Discrimination Comm.*, 525 U.S. 471, 482 (1999). Instead, courts "have  
5 jurisdiction to decide a purely legal question that does not challenge the Attorney  
6 General's discretionary authority." *Ibarra-Perez v. United States*, 154 F.4th 989,  
7 996 (9th Cir. Aug. 27, 2025) (quotations omitted).

8 In *Ibarra-Perez*, the Ninth Circuit squarely held that § 1252(g) does not  
9 prohibit immigrants from asserting a "right to meaningful notice and an  
10 opportunity to present a fear-based claim before [they] [are] removed," *id.* at  
11 997<sup>2</sup>—the same claim that Mr. Pekpak raises here with respect to third-country  
12 removals. The Court reasoned that "§ 1252(g) does not prohibit challenges to  
13 unlawful practices merely because they are in some fashion connected to removal  
14 orders." *Id.* Instead, § 1252(g) is "limited . . . to actions challenging the Attorney  
15 General's discretionary decisions to initiate proceedings, adjudicate cases, and  
16 execute removal orders." *Arce v United States*, 899 F.3d 796, 800 (9th Cir. 2018).  
17 It does not apply to arguments that the government "entirely lacked the authority,  
18 and therefore the discretion," to carry out a particular action. *Id.* at 800. Thus,  
19 § 1252(g) applies to "discretionary decisions that [the Secretary] actually has the  
20 power to make, as compared to the violation of his mandatory duties." *Ibarra-*  
21 *Perez*, 154 F.4th at 999.

22 The same logic applies to Mr. Pekpak's claim because he challenges only  
23 violations of ICE's mandatory duties under the Constitution. Accordingly,  
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25 <sup>2</sup> Mr. Ibarra-Perez raised this claim in a post-removal Federal Tort Claims Act  
26 ("FTCA") case, *id.* at \*2, while this is a pre-removal habeas petition. But the  
27 analysis under § 1252(g) remains the same, because both Mr. Ibarra-Perez and  
28 Mr. Pekpak are challenging the same kind of agency action. *See Kong*, 62 F.4th at  
616–17 (explaining that a decision about § 1252(g) in an FTCA case would also  
affect habeas jurisdiction).

1 “[t]hough 8 U.S.C § 1252(g), precludes this Court from exercising jurisdiction  
2 over the executive's decision to ‘commence proceedings, adjudicate cases, or  
3 execute removal orders against any alien,’ this Court has habeas jurisdiction over  
4 the issues raised here, namely the lawfulness of [Mr. Pekpak’s] continued  
5 detention and the process required in relation to third country removal.” *Y.T.D.*,  
6 2025 WL 2675760, at \*5. Many courts agree.<sup>3</sup> Thus, this Court has jurisdiction to  
7 consider Mr. Pekpak’s claim.

8 **Conclusion**

9 For these reasons, this Court should grant the petition and order  
10 Mr. Pekpak’s immediate release.

11 Respectfully submitted,

12 Dated: April 8, 2026

*s/ Kara Hartzler*

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22 <sup>3</sup> See, e.g., *Kong*, 62 F.4th at 617 (“§ 1252(g) does not bar judicial review of  
23 Kong's challenge to the lawfulness of his detention,” including ICE’s “fail[ure] to  
24 abide by its own regulations”); *Cardoso v Reno*, 216 F.3d 512, 516 (5th Cir.  
2000) (“[S]ection 1252(g) does not bar courts from reviewing an alien detention  
25 order[.]”); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (1252(g) did not  
26 apply to a “claim concern[ing] detention”); *J.R. v Bostock*, No. 2:25-CV-01161-  
27 JNW, 2025 WL 1810210, at \*3 (W.D. Wash. June 30, 2025) (1252(g) did not  
28 apply to claims that ICE was “failing to carry out non-discretionary statutory  
duties and provide due process”); *D.V.D. v. U.S. Dep’t of Homeland Sec.*, 778 F.  
Supp. 3d 355, 377–78 (D. Mass. 2025) (§ 1252(g) did not bar review of “the  
purely legal question of whether the Constitution and relevant statutes require  
notice and an opportunity to be heard prior to removal of an alien to a third  
country”).