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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MEHMET SERIF PEKPAK,

Petitioner-Plaintiff,

v.

CHRISTOPHER J. LaROSE, Warden of Otay Mesa Detention Center; **DANIEL BRIGHTMAN**, Director of the U.S. Immigration and Customs Enforcement San Diego Field Office; **DAVID VENTURELLA,** Acting Director of U.S. Immigration and Customs Enforcement; **MARKWAYNE MULLIN,** Secretary of the U.S. Department of Homeland Security; and **TODD BLANCHE,** Attorney General of the United States in their official capacities

Respondents-Defendants,

Case No. **'26CV4488 BJC MMP**
ROA #

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration; Request for Declaratory and Injunctive Relief

Petitioner MEHMET SERIF PEKPAK petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' unlawful detention of him in violation of the Due Process Clause of the Fifth Amendment and federal immigration law, and states as follows:

I. INTRODUCTION

1. Petitioner Mehmet Serif Pekpak ("Petitioner") is a citizen of Türkiye who entered the United States seeking protection from persecution and torture. Petitioner is currently detained at the Otay Mesa Detention Center ("OMDC"), where he has remained continuously confined since January 19, 2026.

2. Petitioner has applied for asylum, withholding of removal, and protection under the Convention Against Torture based upon his fear of persecution and torture if returned to Türkiye. His applications for relief remain pending before the Immigration Court.

3. Petitioner has now been continuously detained for more than seven months. Despite the extraordinary length of his detention, his removal proceedings remain pending, and there is no meaningful end to his confinement in sight.

4. Throughout these proceedings, Petitioner has diligently pursued every available form of relief. His continued detention is not the result of delay or dilatory tactics, but rather the ordinary course of the immigration proceedings. Petitioner's applications present substantial factual and legal issues concerning his claims for asylum, withholding of removal, and protection under the Convention Against Torture based upon his alleged persecution in Türkiye because of his Kurdish ethnicity and political opinion.

5. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1078-80 (9th Cir. 2006).

6. Accordingly, Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus directing Respondents to immediately release him from custody or, alternatively, order Respondents to provide a constitutionally adequate bond hearing and show cause within three days why this Petition should not be granted.

II. JURISDICTION, AND VENUE

7. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and art. I sec. 9, cl. 2 of the United States Constitution (Suspension Clause), because Petitioner is presently in the custody of the United States and challenges the constitutionality of his continued detention.

8. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. See *Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

9. Venue is proper in the Southern District of California, pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 2241 because Petitioner is detained at Otay Mesa Detention Center in San Diego, CA.

III. REQUIREMENTS OF 28 U.S.C. § 2241, 2243

10. Pursuant to 28 U.S.C. § 2243, this Court must either grant the petition for writ of habeas corpus or issue an Order to Show Cause unless it appears from the petition that Petitioner is not entitled to relief. If an Order to Show Cause is issued, Respondents must file a return within three days unless the Court, for good cause, allows additional time not exceeding twenty days. 28 U.S.C. § 2243.

11. The writ of habeas corpus has long served as the primary means of protecting individuals from unlawful executive detention. "The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). The Supreme Court has likewise recognized that "the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest." *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001).

12. Petitioner is "in custody" for the purpose of 28 U.S.C. § 2241 because he remains detained by Immigration and Customs Enforcement and subject to Respondents' legal and physical control.

13. Because Petitioner is presently detained and alleges that his continued detention

violates the Constitution and laws of the United States, this Court has jurisdiction to grant the relief requested herein.

IV. PARTIES

14. Petitioner Mehmet Serif Pekpak is a native and citizen of Türkiye who is currently detained at the Otay Mesa Detention Center in San Diego County, California. Petitioner is presently in the legal and physical custody of U.S. Immigration and Customs Enforcement ("ICE").

15. Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention Center. He is responsible for the day-to-day operations of the Otay Mesa Detention Center and for the confinement of noncitizens detained at the facility. He is the immediate physical custodian of Petitioner. As such, Mr. LaRose is a legal custodian of Mr. Pekpak. He is sued in his official capacity.

16. Respondent Daniel Brightman is the San Diego Field Office Director of ICE Enforcement and Removal Operations, which is a division of ICE that manages and oversees the immigration detention system. As such, Mr. Brightman is a legal custodian of Mr. Pekpak. He is sued in his official capacity.

17. Respondent David Venturella is the Director of U.S. Immigration and Customs Enforcement. He is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigration detention. As such, Mr. Venturella is a legal custodian of Mr. Pekpak. He is sued in his official capacity.

18. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS), which is responsible for the administration of ICE, a subunit of DHS, and the implementation and enforcement of the immigration laws. As such, Mr. Mullin is the ultimate legal custodian of Mr. Pekpak. He is sued in his official capacity.

19. Respondent Todd Blanche is the Acting Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals and the Immigration Courts. Mr. Blanche shares responsibility for implementation and enforcement of the immigration laws with Respondent Mullin. Mr. Blanche is a legal custodian of Mr. Pekpak. He is sued in his official capacity.

V. STATEMENT OF FACTS

20. Petitioner Mehmet Serif Pekpak is a native and citizen of Türkiye. Petitioner first entered the United States in December 2023 seeking protection from persecution and torture in Türkiye. On January 19, 2026, after inadvertently crossing into Mexico and attempting to return to the United States, DHS detained Petitioner. He has remained continuously detained since that date. (See Akel Decl., Exs. 1, 4.)

21. DHS subsequently served Petitioner with a Form I-862 Notice to Appear, charging him as removable and commencing removal proceedings before the Immigration Court. (See Akel Decl., Ex. 1.)

22. Petitioner has applied for asylum, withholding of removal, and protection under the Convention Against Torture based upon his fear of persecution and torture if returned to Türkiye. In support of those applications, Petitioner alleges that he was persecuted because of [redacted]

23. Petitioner's applications for asylum, withholding of removal, and protection under the Convention Against Torture remain pending before the Immigration Court. Petitioner continues to pursue those applications in good faith.

24. Petitioner's applications raise substantial factual and legal issues concerning whether he established eligibility for asylum, withholding of removal, and protection under the Convention Against Torture based upon his alleged persecution in Türkiye because of [redacted]. (See Akel Decl., Exs. 2, 3.)

25. Petitioner has remained continuously detained since January 19, 2026, a period now exceeding seven months. Throughout his detention, Petitioner has diligently pursued his available administrative remedies and has not engaged in unnecessary delay. His continued detention is solely the result of the ordinary course of his removal proceedings. (See Akel Decl., Ex. 4.)

26. Petitioner remains detained at the Otay Mesa Detention Center while his removal proceedings are pending before the Immigration Court. There is no definite end date to his detention,

and absent intervention by this Court, his confinement is likely to continue for the duration of those proceedings.

VI. LEGAL FRAMEWORK

27. Federal courts possess jurisdiction under 28 U.S.C. § 2241 to review the legality of immigration detention. Individuals detained by federal immigration authorities may seek habeas corpus relief when their detention violates the Constitution or laws of the United States. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S. 510, 517 (2003).

28. The Due Process Clause of the Fifth Amendment protects all persons within the United States from deprivation of liberty without due process of law. Freedom from physical restraint lies at the core of the liberty interests protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690.

29. Immigration detention is civil rather than criminal in nature. Accordingly, civil detention may not become punitive and must bear a reasonable relationship to the Government's legitimate interests in ensuring a noncitizen's appearance at future proceedings and protecting the community from danger. See *Zadvydas*, 533 U.S. at 690.

30. The Ninth Circuit has repeatedly recognized that prolonged immigration detention raises serious constitutional concerns. See *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1078-80 (9th Cir. 2006).

31. There is no bright-line rule establishing when immigration detention becomes constitutionally excessive. Rather, courts evaluate the totality of the circumstances, including: (1) the total length of detention; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays attributable to the detainee; (5) delays attributable to the Government; and (6) the likelihood that the removal proceedings will result in a final order of removal. *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117-18 (W.D. Wash. 2019).

32. As detention becomes prolonged, due process requires an individualized determination regarding whether continued detention remains reasonably necessary to serve the Government's legitimate regulatory interests. Where continued detention no longer bears a reasonable relationship to those interests, habeas corpus provides the appropriate mechanism for judicial review and relief.

33. If continued detention is found to violate the Due Process Clause, this Court possesses authority to order Petitioner's release or, alternatively, to require Respondents to provide Petitioner with a constitutionally adequate bond hearing before an Immigration Judge.

VII. ARGUMENT

34. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment. Petitioner has remained continuously detained since January 19, 2026, a period now exceeding seven months. During that time, Petitioner has diligently pursued his applications for asylum, withholding of removal, and protection under the Convention Against Torture. His removal proceedings remain pending before the Immigration Court, and his continued detention is solely the result of the ordinary course of those proceedings.

35. Under the totality of the circumstances, Petitioner's continued detention has become unreasonably prolonged. The first and most significant factor identified in *Banda v. McAleenan* strongly favors Petitioner. Petitioner has now remained in civil immigration detention for more than seven months, and that period continues to increase each day.

36. The remaining *Banda* factors likewise support Petitioner's release or, at a minimum, an individualized bond hearing. Petitioner's removal proceedings remain pending before the Immigration Court, and there is no definite end to his detention. His continued confinement therefore is likely to extend for many additional months while the administrative process runs its course.

37. Petitioner has not caused any unreasonable delay in these proceedings. Rather, he has diligently pursued the relief afforded to him under the Immigration and Nationality Act by timely applying for asylum, withholding of removal, and protection under the Convention Against Torture. The exercise of these statutory rights cannot justify indefinite or prolonged civil detention.

38. Petitioner's applications present substantial factual and legal issues concerning his claims for protection from persecution and torture in Türkiye. His continued pursuit of those claims is neither frivolous nor dilatory, but instead reflects a good-faith effort to obtain relief expressly authorized under the Immigration and Nationality Act.

39. Moreover, Petitioner's continued detention is not justified by any demonstrated public safety concerns. DHS's own records reflect that Petitioner has no known criminal history, no

outstanding warrants, and no identified gang affiliation. Under these circumstances, Petitioner's continued civil detention no longer bears a reasonable relationship to the Government's legitimate regulatory interests and has become constitutionally excessive in violation of the Due Process Clause of the Fifth Amendment.

40. Accordingly, Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus directing Respondents to immediately release him from custody or, alternatively, order Respondents to provide a constitutionally adequate bond hearing and show cause within three days why this Petition should not be granted.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside the Southern District of California during the pendency of this action;
3. Issue an Order to Show Cause, pursuant to 28 U.S.C. § 2243, directing Respondents to show cause within three (3) days why the Petition should not be granted;
4. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from immigration detention;
5. Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment to the United States Constitution;
6. Order Respondents to provide Petitioner with a constitutionally adequate bond hearing before an Immigration Judge within fourteen (14) days, at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents either a danger to the community or a risk of flight;
7. Order that, if Respondents fail to provide such a hearing within the time prescribed by the Court, Petitioner shall be immediately released from immigration detention under appropriate conditions of supervision, if any; and

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8. Grant any further relief this Court deems just and proper.

Respectfully submitted,

Areeg Akel

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Pro Bono Counsel for Petitioner

Dated: August 5, 2026

VERIFICATION BY ATTORNEY ACTING ON MR. MEHMET SERIF PEKPAK'S BEHALF PURSUANT TO 28 U.S.C § 2242

I am submitting this verification on behalf of Mr. Mehmet Serif Pekpak because I am his attorney. As Mr. Mehmet Serif Pepkak's attorney, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: August 5, 2026 *s/Areeg Akel*