

Emergency

EMERGENCY MOTION FOR RELEASE OR CONDITIONAL PAROLE

PENDING HABEAS REVIEW

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

YUDELKA MEJIA LANFRANCO,
Petitioner, as Next Friend of
YASHAEL ALMONTE MEJIA,

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
JAN 14 2026
MITCHELL R. ELFERS
CLERK

v.

TAYLOR SCOTT, Warden, Otero Processing Center;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE);
ALEJANDRO MAYORKAS, Secretary, Department of Homeland Security,
Respondents.

EMERGENCY MOTION FOR RELEASE OR CONDITIONAL PAROLE

PENDING HABEAS REVIEW

Petitioner **Yudelka Mejia Lanfranco**, as Next Friend of **Yashael Almonte Mejia**, respectfully moves this Court for an **emergency order** granting Mr. Almonte Mejia's **immediate release, or alternatively conditional parole**, pending adjudication of his **Petition for Writ of Habeas Corpus**.

I. EMERGENCY NATURE OF THE MOTION

This motion is emergent. Mr. Almonte Mejia has been detained **since May 30, 2025**, nearly eight months, **without a final order of removal**, without lawful custody determination, and without meaningful access to counsel.

ICE has informed Mr. Almonte Mejia that it intends to conduct a **credible fear interview within approximately two weeks** for the purpose of **rapid removal**. Continued detention will **irreparably harm** his constitutional and statutory rights and render this Court's habeas review ineffective.

Emergency

II. LEGAL AUTHORITY

This Court has authority under **28 U.S.C. § 2241** and its **inherent equitable powers** to order release or conditional parole where detention is likely unlawful or constitutionally infirm. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Boumediene v. Bush*, 553 U.S. 723 (2008).

Emergency release is appropriate where:

1. Serious constitutional questions are raised
2. Continued detention causes irreparable harm
3. The balance of equities favors release
4. The public interest supports relief

All factors are satisfied here.

III. ARGUMENT

A. Continued Detention Violates the Fifth Amendment Due Process Clause

Mr. Almonte Mejia's detention violates due process because:

- He was arrested by ICE without a written detention order or explanation
- His asylum case was dismissed at his first hearing without meaningful explanation
- He has been denied a constitutionally adequate custody review
- Bond was denied based on an alleged lack of jurisdiction
- He remains detained despite no final order of removal

Prolonged detention without meaningful review is unconstitutional.

B. Detention Prevents Access to Counsel for a Critical Proceeding

Credible fear interviews are **legally complex and determinative**.

Conducting such an interview while Mr. Almonte Mejia is detained and unrepresented violates:

- **INA § 292** (right to counsel at no expense to the government)
- The **Fifth Amendment** guarantees a fair proceeding

Detention makes it practically impossible to retain counsel and prepare testimony, rendering the process fundamentally unfair.

C. DHS Cannot Retroactively Impose Mandatory Detention

DHS initially **released Mr. Almonte Mejia under INA § 236 on Form I-220A**, did not conduct a credible fear interview, and did not classify him as subject to mandatory detention.

DHS cannot now retroactively:

- Reclassify him as non-paroled
- Apply **Q-L classification**
- Deny bond on that basis

This retroactive detention scheme violates due process and fundamental fairness.

D. Balance of Equities and Public Interest Favor Release

- Mr. Almonte Mejia has **no criminal history**
- DHS previously released him
- He has strong family ties
- Release allows orderly legal proceedings
- Continued detention serves no legitimate government interest

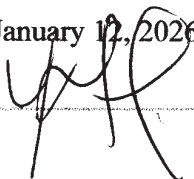
IV. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. **Order the immediate release** of Yashael Almonte Mejia, OR
2. **Order conditional parole or supervised release** under reasonable conditions
3. Grant any additional relief the Court deems just and proper

Respectfully submitted,

Date: January 12, 2026



Yashael Almonte Mejia
Petitioner next friend

PROPOSED ORDER

(District of New Mexico style – concise, directive)

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

YUDELKA MEJIA LANFRANCO,
Petitioner, as Next Friend of
YASHAEL ALMONTE MEJIA,

v.

TAYLOR SCOTT, et al.,
Respondents.

**PROPOSED ORDER GRANTING EMERGENCY MOTION FOR RELEASE OR
CONDITIONAL PAROLE**

THIS MATTER comes before the Court on Petitioner's **Emergency Motion for Release or Conditional Parole Pending Habeas Review.**

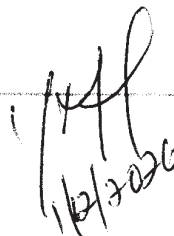
Having reviewed the motion, declarations, and the record, and finding that continued detention poses **irreparable harm** and raises **serious constitutional concerns**, the Court FINDS that emergency relief is warranted.

IT IS HEREBY ORDERED THAT:

1. **Respondents shall immediately release** Yashael Almonte Mejia from ICE custody, OR
2. In the alternative, Respondents shall grant **conditional parole or supervised release** under reasonable conditions deemed appropriate.
3. Respondents are **ENJOINED** from conducting any **credible fear interview or expedited removal action** until Mr. Almonte Mejia has a **reasonable opportunity to secure legal counsel.**
4. This Order is entered to **preserve the Court's jurisdiction** and to prevent irreparable constitutional harm.
5. This Order shall remain in effect pending further order of the Court.

SO, ORDERED.

UNITED STATES DISTRICT JUDGE
DATE: January 13, 2026

Handwritten signature and date "1/13/2026" in blue ink.