

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Fernandez Tamayo v. Warden, Otero County Processing Center

Fernandez Tamayo · No. Civ. No. 26-0752-KG-JHR; 2:26-cv-00752 · Decided March 13, 2026

SUMMARY

The United States District Court for the District of New Mexico conducts an initial review of an immigration detainee’s 28 U.S.C. § 2241 habeas petition challenging prolonged detention, the adequacy of his bond hearing, and proposed removal to a third country. The court orders the government to answer, permits an optional reply, and temporarily enjoins transfer or removal from the district while the petition remains pending.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Kenneth J. Gonzales
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	March 13, 2026
DOCKET	Civ. No. 26-0752-KG-JHR; 2:26-cv-00752
DISPOSITION	other
PROCEDURAL POSTURE	The court conducted an initial review of a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2241 and related emergency motions seeking release, a bond hearing, and an order prohibiting transfer or removal. The court ordered the government to answer, granted temporary injunctive relief prohibiting transfer or removal, and denied emergency merits relief and immediate release before briefing.
STANDARD OF REVIEW	At initial review, the court determined whether the § 2241 petition was subject to summary dismissal. For the requested temporary restraining order, the court applied the Winter standard requiring likelihood of success on the merits, likely irreparable harm absent relief, and a favorable balance of equities and public interest.
PRECEDENTIAL VALUE	Nonprecedential interlocutory district-court order
PARTIES	Amaury Fernandez Tamayo, via next friend Jose Evelio Huerta v. Warden, Otero County Processing Center, Mary De Anda-Ybarra, Todd Lyons, Current Secretary, U.S. Department of Homeland Security, Pamela Bondi

TOPICS

immigration detention

injunctions

removal proceedings

immigration

civil procedure

PRACTICE AREAS

immigration

immigration detention

federal habeas corpus

injunctive relief

QUESTIONS PRESENTED

1. Whether the § 2241 immigration-detention petition was subject to summary dismissal at initial review.
2. Whether petitioner was entitled to a temporary injunction prohibiting the government from transferring or removing him from the District of New Mexico while the petition was pending.
3. Whether petitioner was entitled to immediate release, an emergency bond hearing, or other final merits relief before respondents filed a response.

HOLDINGS

1. The petition was not subject to summary dismissal, so respondents were required to answer and show cause why the requested relief should not be granted.
2. The court granted temporary injunctive relief prohibiting the government from transferring or removing petitioner from the District of New Mexico while the petition remained pending or until further order.
3. The court denied relief to the extent the preliminary motions sought an emergency ruling on the merits, immediate release, or a bond hearing before the government responded.

KEY QUOTATIONS

“A petitioner seeking a TRO “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief,” and that the balance of equities and public interest favor relief.” (at 2)

“Temporary restraining orders cannot be not used as a mechanism to obtain a final merits disposition.” (at 2)

“preliminary injunctions...do not conclusively resolve legal disputes” (at 2)

FACTUAL BACKGROUND

Amaury Fernandez Tamayo, an immigration detainee at the Otero County Processing Center, alleged that he entered the United States in 2022, was released on his own recognizance, and was detained again sometime before May 2025. He claimed that his detention had become prolonged and that he had not received an adequate bond hearing. He also alleged that immigration officials planned to remove him to Ecuador, where he had no contacts, without adequate process.

PROCEDURAL HISTORY

Petitioner filed a § 2241 habeas petition challenging his immigration detention and alleged plans to remove him to a third country without adequate process. He also filed motions for a bond hearing, release, and orders

prohibiting transfer or removal. After initial review, the court determined that the petition was not subject to summary dismissal, ordered respondents to answer, and granted the preliminary motions in part while denying them in part.

DISPOSITION

other

CASES CITED

- Torres-Torres v. Miller, 2020 WL 4430519 (D.N.M. July 31, 2020)
- Lowmaster v. Dir., Bureau of Prisons, 2024 WL 5135970, at *1 (D. Kan. Dec. 17, 2024)
- Danderson v. Page, 2024 WL 3913051, at *2 (E.D. Okla. Aug. 20, 2024)
- Winter v. Nat. Res. Def. Council, 555 U.S. 7, 20 (2008)
- Resolution Trust v. Cruce, 972 F.2d 1195, 1198 (10th Cir. 1992)
- Lackey v. Stinnie, 604 U.S. 192, 200 (2025)
- Doe v. Trump, 2026 WL 446292, at *2 (W.D. La. Feb. 17, 2026)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO
AMAURY FERNANDEZ TAMAYO, via next friend JOSE EVELIO HUERTA Petitioner, v. Civ.
No. 26-0752-KG-JHR WARDEN, Otero County Processing Center, MARY DE ANDA-
YBARRA, Field Office Director of Enforcement and Removal Operations, El Paso Field Office,
Immigration and Customs Enforcement; TODD LYONS, Acting Director Immigration and
Customs Enforcement; CURRENT SECRETARY, U.S. Department Of Homeland Security; AND
PAMELA BONDI, U.S. Attorney General, Respondents,¹ ORDER TO ANSWER This matter is
before the Court on the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241.

(Doc. 1) (Petition). Also before the Court are Petitioner’s Motions for Bond Hearing; Release; and
Order Prohibiting Transfer. (Docs. 3, 4, 5, 6) (together, the “Preliminary Motions”). Petitioner is
an immigration detainee at the Otero County Processing Center and is proceeding pro se.

The Petition states he entered the United States in 2022; was released on his own recognizance;
and was re-detained sometime before May of 2025. (Doc. 1) at 2. Petitioner argues he is subject to
prolonged detention; he did not receive an adequate bond hearing; and immigration officials plan
to remove him to a third country without adequate process. Id. at 3-4.

Petitioner seeks a release from custody or, alternatively, an adequate bond hearing. Id. at 3. ¹ The
Court will substitute or add the above-mentioned parties as Respondents. See Torres-Torres v.
Miller, 2020 WL 4430519 (D.N.M. July 31, 2020) (discussing the respondents in an immigration
habeas case); Lowmaster v. Dir., Bureau of Prisons, 2024 WL 5135970, at *1 (D.

Kan. Dec. 17, 2024) (“the Court notes that it routinely substitutes the” proper parties as “respondent in habeas cases”); *Danderson v. Page*, 2024 WL 3913051, at *2 (E.D. Okla. Aug. 20, 2024) (substituting the proper party respondent in a habeas case).

Having conducted an initial review of the claims, the Court finds the Petition is not subject to summary dismissal. The Clerk’s Office has electronically served Respondents - including the Respondents added in this Order - by Notice of Electronic Filing (NEF) using the Case Management and Electronic Case Filing (CM/ECF) system. (Doc. 8).

The Court will set a briefing schedule on the Petition, as set forth below. With respect to the Preliminary Motions, relief will be granted in part. The Preliminary Motions appear to seek a temporary restraining order: (1) enjoining immigration officials from transferring/removing Petitioner out of this District while the case is pending; (2) and granting all relief requested in the Petition (i.e., a bond hearing or release) before briefing is complete.

(Docs. 3, 4, 5, 6). A petitioner seeking a TRO “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief,” and that the balance of equities and public interest favor relief. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008).

The filings allege Petitioner has been in custody since at least May of 2025 and that immigration officials plan to remove Petitioner to Ecuador - where he has no contacts - without due process. The Court agrees that an injunction on transfer or removal is necessary to preserve the status quo while the claims are briefed. See *Resolution Trust v. Cruce*, 972 F.2d 1195, 1198 (10th Cir.

1992) (a TRO is meant to “preserve the status quo” before a final decision on the merits). To the extent the Preliminary Motions seek an emergency ruling on the merits and/or a release from custody before the response is filed, relief will be denied. Temporary restraining orders cannot be not used as a mechanism to obtain a final merits disposition. See *Lackey v. Stinnie*, 604 U.S. 192, 200 (2025) (reminding lower courts that “[p]reliminary injunctions...do not conclusively resolve legal disputes”); *Doe v. Trump*, 2026 WL 446292, at *2 (W.D.

La. Feb. 17, 2026) (temporary 2 restraining orders “should not be used to rule on the final merits question”). Expedited relief on the merits is also unnecessary, as this Court reviews Section 2241 immigration petitions immediately and rules on them as soon as possible.

The Preliminary Motions will therefore be granted in part and denied in part, as set forth above. IT IS ORDERED that: 1. The USAO must answer the Petition within ten (10) business days of entry of this Order and show cause why the requested relief should not be granted. 2. If Petitioner wishes to file an optional reply, he must do so within seven (7) business days after the response is filed.

3. The Emergency Motion for Bond Hearing and Release (Doc. 3); Emergency Motion for Release (Doc. 4); Motion to Temporarily Prohibit Removal to A Third Country (Doc. 5); and Emergency Motion for Order Prohibiting Transfer (Doc. 6) are granted in part, to the extent Petitioner seeks a temporary injunction prohibiting transfer/removal, and denied in part. 4.

The Government is enjoined from transferring or removing Petitioner Amaury Fernandez Tamayo from the District of New Mexico while the Petition (Doc. 1) remains pending or until further Order by the Court. /s/Kenneth J. Gonzales_____ CHIEF UNITED STATES DISTRICT JUDGE • Please note that this document has been electronically filed.

To verify its authenticity, please refer to the Digital File Stamp on the NEF (Notice of Electronic Filing) accompanying this document. Electronically filed documents can be found on the Court's PACER public access system. 3