

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT OWENSBORO

YULIETH GOMEZ MEJIA

PETITIONER

v.

NO. 4:25-CV-82-GNS

KRISTI NOEM, in her Official Capacity as
Secretary, Department of Homeland Security;
TODD LYONS, in his Official Capacity as
Acting Director, U.S. Immigration and
Customs Enforcement;
PAM BONDI, in her Official Capacity as
Attorney General of the United States; and
JASON WOOSLEY, in his Official Capacity as
Grayson County Jailer

RESPONDENTS

PETITIONER'S BRIEF IN SUPPORT OF PETITION FOR
WRIT OF HABEAS CORPUS

I. INTRODUCTION

The Department of Homeland Security ("Department" or "Government") abused its discretion on when they placed the Petitioner in expedited removal proceedings. The Government illegally detained Yulieth and illegally placed her in expedited removal proceedings. Yulieth is a foreign national who has a fear of returning to her country of origin; However, the expedited removal statute, 8 U.S.C. § 1225(b)(1)(A)(i), does not apply to the Petitioner.

II. LEGAL ISSUES

- i. Is the Petitioner subject to expedite removal as charged in the Notice and Order of Removal issued by the Department of Homeland Security on July 28, 2025?
 - a. The Petitioner is a non-citizen who does not meet applicability statute for expedited removal found in 8 CFR 235.3 because she was legally in the United States, and she had continuously resided in the United States for two years.
- ii. Due Process were violated when the United States illegally detained her on July 28, 2025, and illegally placed her in removal proceedings. The Department reckless and disregarded the evidence in their possession showing that was compliant with the immigration laws and continuously present in the United States for more than two years.

III. STATEMENT OF FACTS

i. December 11, 2022 to July 28, 2025

Petitioner, Yulieth, is a Columbian National. She is a native Spanish speaker. Her English is remedial at best. She cannot carry a basic conversation in English. All communications require a Spanish interpreter. She entered the United States on December 11, 2022, with her minor child. They were detained by Immigration Customs and Enforcement (ICE).

They met with an ICE officer; they were interviewed, vetted, and after reviewing her circumstance an ICE officer paroled her into the United States on December 13, 2022 pursuant to INA 212(d)(5)(A).¹ She was given oral instructions to report to ice within 30-60 days. Upon release, she reported as instructed.

Her parole expired on February 11, 2023. On or about July 31, 2023, she applied for affirmative asylum by submitting an Application for Asylum (I-589) to United States Citizenship

¹ Exhibit 1, Copy of Parole Stamp

and Immigration Services (USCIS). The application was received, processed, and accepted by USCIS. A Notice of Action was mailed out on or about July 31, 2023²; it explicitly permitted Yulieth to remain lawfully in the United States during the adjudication of her application.

About six months later, Yulieth filed for a work authorization as permitted with USCIS. She received a work authorization card permitting her to work in the United States. She remained lawfully in the United States. She did not pick up any criminal charges; she did not commit any traffic violations. She did not miss any report dates required by ICE.

On February 27, 2023, she received an email from ICE directing her to report on July 28, 2025. The email was vague. It stated the check in was for an “update.”³

ii. July 28, 2025, the Date of Yulieth’s “Check In”

At the check in, Yulieth provided alien number and identifying documents, the officers confirmed her identity. A guard asked where her husband is. She is not legally married. She was asked if there was a minor child. She said “no.” She heard the officer say “fuck” as he exited. He then returns with seven other guards. They surround her. She hears one of them say get up, we are sending you back. She was handcuffed detained and escorted into another room. She received some documents from different officers. All the documents were in English. None of the documents were read to her, translated into Spanish, or explained to her.

Instead, she was informed that her documents are no longer correct, and ICE is sending her back. The officers tried to force her to sign two documents without explanation. She did not know what she was being asked to sign, so she refused. She was informed she was going to Grayson

² Exhibit 2, Notice of Action from USCIS

³ Exhibit 3, February 27, 2023 email from ICE.

County, and she was informed that she would be permitted to call her family before she is “sent back.” She was never informed she had a deportation order or how she received one. She did not know she had a right to counsel. ICE communicated to her in Spanish and English.

She was informed that when she was improperly processed in December 2022, so she is being detained. She never received a Notice to Appear (NTA) initiating removal proceedings. She was informed, she never received a credible fear interview.⁴ The officers continued to pressure her to sign a document stating that if she signed it and left, she would “only” be barred from the US for 5 years. She did not understand and refused to sign.

She remembers that she received a bunch of paper in English. She was told that if she did not sign a specific document, her daughter would be taken by the state.⁵ She has never received a copy of what she signed. She has not received confirmation of what she signed.

iii. The Notice and Order of Expedited Removal⁶

On or about July 31, 2025, Yulieth, by and through counsel, petitioned this court. On August 8, 2025, the United States filed a response submitting a redacted copy of the Notice and Order of Expedited Removal.⁷ The document indicates that Yulieth is being placed in the expedited removal pursuant to 8 U.S.C. 1225(b)(1), and the Department found her inadmissible pursuant to section 212(a)(7)(A)(i)(I) of the Act, and therefore subject to removal.⁸ The document then lists

⁴ It is important to note, that these are counsel’s interpretation of what was told to counsel through a Spanish interpreter, these are not Yulieth’s exact words.

⁵ This is factually incorrect, the child was visiting her biological father in New York. Yulieth is the primary custodian of her child.

⁶Exhibit 4, Notice and Order of Expedited Removal.

⁷ *Id.*

⁸ *Id.*

five findings.⁹ Number 5 informs Yulieth that she is being charged under 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), specifically that she is an immigrant who,

“at the time of application for admission is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the ACT, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney general under section 211(a) of the Act.”¹⁰

The document is dated July 28, 2025.¹¹ The Department is treating July 28, 2025, as the relevant date for expedited removal. The document fails to acknowledge the fact that Yulieth was previously paroled into the United States on December 13, 2022.

IV. OVERVIEW OF EXPEDITE REMOVAL

i. Expedited Removal In General

Congress enacted expedited removal in 1996¹² to streamline and expedite the removal of certain categories of noncitizens, particularly those deemed inadmissible or involved in criminal activities, while balancing procedural safeguards. Congress’s intent was to focus on inefficiencies in the removal process and ensure the swift removal of individuals who violated immigration laws and reduce administrative burden. This permits the United States government to deport a certain alien from the United States without any judicial oversight and little due process, unless a non-citizen expresses fear of returning to his or her country of origin.

⁹ *Id.*

¹⁰ *Id.* at 2

¹¹ *Id.*

¹² Illegal Immigration and Immigrant Responsibility Act (IIRIRA).

This procedure is usually conducted by immigration officers from U.S. Customs and Border Protection (CBP), a component agency of the Department of Homeland Security (DHS), 8 U.S.C. § 1225(b)(1). The removal of the individual is paused if he or she expresses a fear of returning to their country of origin.¹³

Historically, expedited removal was utilized at ports of entry or at the United States border. It was applied to foreign nationals, who had little to no ties to the United States. Specifically, individuals who attempted to enter the United States or recently entered the United States would be detained, assessed, and removed from the United States, or detained, assessed and provided a credible fear interview. If an individual was found to have a credible fear, then he or she would release from custody¹⁴ into the United States eligible to apply for asylum. If an individual received an adverse finding, he or she could appeal it to an immigration judge for review.

Under the first Trump Administration, the Acting DHS Secretary designated additional categories of noncitizens for expedited removal to cover individuals anywhere in the United States who had been continuously present in the United States for less than two years who were inadmissible under 8 U.S.C. § 1182(a)(6)(C) or (a)(7).¹⁵ That expansion was nearly identical to the current expansion and was subject to challenge by litigation.¹⁶

In March 2022, while the litigation was ongoing, DHS rescinded the expansion designation.¹⁷ Between March 2022 and January 21, 2025, the United States limited the scope of

¹³ The regulations governing expedited removal and associated procedures include 8 C.F.R. §§ 235.3 and 235.15 (expedited removal), 8 C.F.R. §§ 208.30/1208.30. The detention of individuals in expedited removal proceedings is governed by 8 U.S.C. § 1225(b)(1)(B)(ii) and (iii)(IV) and 8 C.F.R. § 235.3(b)(2)(iii).

¹⁴ Petitioner is not addressing mandatory detention under the expedited removal statute. The Petitioner asserts that the detainment on July 28, 2025 was unlawful. The Petitioner is outside the scope of expedited removal. Placing her in the expedited removal process was an abuse of power

¹⁵ See Notice Designating Aliens for Expedited Removal, 84 Fed. Reg. 35409-01, 35409 (July 23, 2019).

¹⁶ See *Make the Road New York v. McAleenan*, 405 F. Supp. 3d 1 (D.D.C. 2019) rev'd and remanded sub nom. *Make the Road New York v. Wolf*, 962 F.3d 612 (D.C. Cir. 2020).

¹⁷ See Rescission of the Notice of July 23, 2019, Designating Aliens for Expedited Removal, 87 Fed. Reg. 16022 (March 21, 2022).

expedited removal to individuals arriving at ports of entry and individuals apprehended within 100 miles of a land border who were unable to demonstrate continuous physical presence in the United States for at least 14 days. This was a revert to the pre-January 2019 use of expedited removal.¹⁸

On January 21, 2025, the then-Acting DHS Secretary designated expedited removal to apply “to the fullest extent authorized by Congress,”¹⁹ effectively broadening the scope of individuals who may be subject to the expedited removal process. An individual now may be subject to expedited removal if they are inadmissible under 8 U.S.C. § 1182(a)(6)(C) or (a)(7) *and* they either arrive at a port of entry or are apprehended less than two years after entry. The current designation is currently being challenged as unlawful pursuant to 8 U.S.C. § 1252(e)(3).²⁰

ii. The law specifically designates categories non-citizens subject to expedited removal.

The expedited removal statute does not apply to all non-citizens. The United States Code specifies who is subject to expedited removal in 8 CFR 235.3(b)(1). The section is titled “Applicability.”²¹ It specifically states that the expedited removal provisions shall apply to the following classes of aliens who are determined to be inadmissible under section...212(a)(7).²²

This regulation extends the applicability of expedited removal to aliens who are not arriving at a port of entry but are found within the United States. For such aliens, expedited removal applies if they are inadmissible under INA § 212(a)(7) and cannot affirmatively demonstrate to the

¹⁸ Designating Aliens for Expedited Removal, 69 Fed. Reg. 48877-01, 48879 (Aug. 11, 2004).

¹⁹ See Designating Aliens for Expedited Removal, 90 Fed. Reg. 8139, 8139 (Jan. 24, 2025).

²⁰ See *Make the Road New York v. Huffman*, No. 25-cv-00190 (D.D.C. filed Jan. 22, 2025).

²¹ *Id.*

²² Section 1182(a)(6)(C) renders inadmissible an individual who makes a false claim to U.S. citizenship or who seeks an immigration benefit by fraud or misrepresentation of material facts. This section is irrelevant to the Petitioner’s claim.

satisfaction of an immigration officer that they have been physically present in the United States continuously for the two-year period immediately preceding the determination of inadmissibility.²³

On January 21, 2025, the Department expanded the use of expedited removal “to the fullest extent authorized by Congress,” designating its application to individuals anywhere in the United States “who have been continuously present in the United States for less than two years” when they are apprehended.²⁴ Thus, currently, an individual may be subject to expedited removal if they: (1) are inadmissible under Section (a)(6)(C) or Section(a)(7); *and* (2) arrive at a port of entry *or* are apprehended less than two years after entry in the United States.

V. LAW & ARGUMENT

i. Yulieth was not subject to the Expedited Removal statute even if she is found to be inadmissible on July 28, 2025

On July 28, 2025, the Department abused its discretion by placing Yulieth in the expedited removal process. The Department recklessly disregard the law when they issued her an Order of Removal under section 235(b)(1) of the Act.

Yulieth was paroled, pursuant to INA 212(d)(5)(A), into the United States on December 13, 2022.²⁵ Her parole status expired on February 13, 2023.²⁶ In July 2023, she filed an affirmative asylum with United States Citizenship and Immigration Services (USCIS). She then received a

²³ 8 USCS § 1225, *Las Ams. Immigrant Advocacy Ctr. v. Wolf*, 507 F. Supp. 3d 1, *Refugee & Immigrant Ctr. for Educ. & Legal Servs. v. Noem*, 2025 U.S. Dist. LEXIS 126272, 8 CFR 235.3

²⁴ *See* Designating Aliens for Expedited Removal, 90 Fed. Reg. 8139, 8139-40 (Jan. 24, 2025).

²⁵ Exhibit 1, Copy of Parole Stamp

²⁶ *Id.*

Notice of Receipt.²⁷ The Notice of Action specifically states to the applicant, “You may remain in the U.S. until your asylum application is decided.”²⁸

Yulieth’s application for asylum was not adjudicated within 180 days, so she was eligible to apply for a work authorization. As the law permits, she applied for authorization to work in the United States. It was approved. She legally worked and lived in the United States.

On July 28, 2025, Yulieth was legally in the United States, authorized to remain in the United States and not subject to the expedited removal despite the fact her parole status expired on February 13, 2023. The expedited removal statute includes a safeguard for non-citizens seeking asylum in the United States. Specifically, INA §212(a)(7) [8 U.S.C. § 1182] does not preclude an individual from applying for asylum affirmatively if they meet the eligibility criteria under INA § 208 [8 USCS § 1158]. A non-citizen who is inadmissible under § 212(a)(7) and expresses an intention to apply for asylum or a fear of persecution must be referred for an asylum interview or removal proceedings, where their asylum claim can be adjudicated.²⁹

Yulieth procedurally bypassed the expedited removal process when she was paroled into the United States over two years ago. Her first point of contact with the U.S. Immigration process was on December 11, 2022. She was detained by U.S. Customs and Enforcement. She was held for two days. U.S. Immigration officers interviewed her, possibly questioned her about why she fled Columbia and/or by passed the expedited removal process and paroled her into the United

²⁷ Exhibit 2

²⁸ It is important to distinguish expedited removal from removal proceedings. The Notice of Action explicitly states that having a pending asylum application with USCIS does not preclude the applicant from placing him or her in Removal Proceedings. Removal Proceedings are different then Expedited Removal Proceedings. Removal Proceedings are governed by 8 U.S.C. 1229..

²⁹ 8 USCS § 1225, *Mendoza-Linares v. Garland*, 51 F.4th 1146.

States. Then she applied for affirmative asylum within one year of entering the United States as required by statute.

Expedited removal, in this context, is a fast-track process for determining if someone is prima facie eligible for asylum. Under expedited removal process, certain noncitizens arriving at the border or who have recently entered the United States without inspection maybe removed without a formal hearing or review.³⁰ However, if a non-citizen is subject to expedited removal expresses an intention to apply for asylum or a fear of persecution, the process halts, and the individual must be referred for a credible fear interview.³¹ If it is determined that the applicant has a credible fear, then they are referred to USCIS for adjudication of his or her asylum claim.³² Yulieth was beyond this procedurally.

On July 28, 2025, she had been in the United States for over two years. She had already been assessed by immigration and released into the United States. She had an open and pending asylum application with (USCIS). She was awaiting adjudication of her asylum application. The law permits her to remain in the United States for this process.

- ii. Client was able to demonstrate that she resided in the United States for over two years.

The Department has the authority to designate which groups of noncitizens are subject to expedited removal; however, this power is not absolute. The plain language of the statute is unequivocally clear. If the alien can prove that he or she have been in the United States for over two years, then the expedited removal statute does not apply. This is a limitation on the

³⁰ 8 USCS §1225.

³¹ 8 U.S.C. §1225. *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1.

³² USCIS website, Credible Fear Screening, <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/credible-fear-screenings>.

Department's power to unilaterally remove an individual from the United States without judicial oversight.

The designation provision allows the extension of expedited removal procedures as designated by the Secretary of Homeland Security to any or all who have not been admitted or paroled into the United States *and* who cannot demonstrate that they have been continuously present in the United States for two years (emphasis added).³³ It does not matter if the alien valid entry documents, it does not matter if the alien has been paroled into the United States. Yulieth fits outside the scope of the plain language the expedited removal statute.

The Department was in possession of sufficient evidence proving that Yulieth has been in the United States continuously for two years. The Department of Homeland Security admits that she was paroled into the United States on December 13, 2025. She submitted an asylum application to USCIS on or about July 31, 2023. Her address at the time was 6518 Pleasant Hill Road, Spencer, Indiana. Six months later she applied for authorization to work in the United States by submitting an application for work authorization. This application requires the disclosure of her current address to the Department of Homeland Security.³⁴ The application was approved. All the records are in the Department's possession. The Department of Homeland Security is in possession of evidence demonstrating that Yulieth has resided continuously in the United States since December 13, 2025. The Department disregard the records in their custody and recklessly detained Yulieth and illegally placed her in the expedited removal process.

iii. The Department Violated Client's Due Process Rights

³³ 8 U.S.C.S. § 1225(b)(1)(A)(iii)(I), (II). *Make the Rd. N.Y. v. Wolf*, 962 F.3d 612, § 61.05 Disposition by Immigration Officer, *Las Ams. Immigrant Advocacy Ctr. v. Wolf*, 507 F. Supp.

³⁴ Exhibit 5, Example Application for Work Authorization (I765).

The Department unlawfully detained Yulieth on January 28, 2025. They failed to adequately inform of her right to counsel, her rights under the expedited removal statute, they failed to follow the procedures and protocol for the expedited removal process. They were reckless and completely disregarded the law.

The procedures established by Congress for expedited removal comport with due process under the fifth amendment. Congress specifically set forth a list of conditions the establish the scope, purpose and process of expedited removal.³⁵ This process affords the individual notice of the process, a right to retain counsel, aliens may express fear of returning to their home country, they are interviewed, and any adverse finding may be reviewed by an administrative process.³⁶

The Department recklessly disregarded every right afforded to her under the United States Constitution. The Department dissected the statute piecing together the sections effectively turning the rule of law into Frankenstein's monster. This is demonstrated in the affidavit of Declaration of Deportation Officer Christopher Wiet.³⁷ He acknowledges she was paroled on December 11, 2022. He states that her parole expired. He indicates that her child no longer lives with her, which is not factually accurate. He ignores the fact she had been in the United States for over two years at this point. He ignores the fact she submitted an asylum application with USCIS. He ignores the fact that her asylum application was and is pending adjudication. He ignores the fact that she is permitted to remain in the United States during the adjudication of her asylum application.

He ignores the function and the purpose of the law. On December 13, 2022, Yulieth received humanitarian parole, pursuant to 8 U.S.C. § 1182(d)(5). This was given at the discretion

³⁵ 8 CFR 235.3

³⁶ *Id.*

³⁷ Exhibit 6, Declaration of Deportation Officer Christopher Wiet.

of the Department of Homeland Security. Humanitarian parole is a discretionary measure that allows noncitizens to enter or remain in the United States temporarily for "urgent humanitarian reasons" or "significant public benefit." Even though it does not constitute an admission into the United States. It is granted on a case-by-case basis.³⁸ Humanitarian parole permits the alien to enter the United States and apply for another status.³⁹ Instead, the Department abused its discretion by ignoring the information in their possession. They illegally detained Yulieth, illegally placed her in removal proceedings, and to this day continue to violate the rights afforded to her under the United States Constitution.

IV. REQUESTS

WHEREFORE NOW, the Petitioner, Yulieth Gomez Mejia, requests this Court to:

1. Set this matter for an evidentiary hearing, so the Petitioner may be present and testify. The Petitioner will require a Spanish interpreter.
2. Compel the Department of Homeland Security to provide any and all documents relevant to the Petitioner's status in the United States. this includes, but is not limited to, documents relevant to expedited removal, such as Form I-867A, Form I-867B; a copy of any and all documents instructing the detention and removal of the Petitioner, any documents and

³⁸ Humanitarian parole, pursuant to 8 U.S.C. § 1182(d)(5), is typically used in situations such as medical emergencies, family reunification, or to address specific public interest needs. For example, programs like Operation Allies Welcome and Uniting for Ukraine have utilized humanitarian parole to assist individuals fleeing crises in Afghanistan and Ukraine, respectively. If the Court permits the Department's interpretation and abuse of humanitarian parole, then it will open pandora's box of detainment and expedited removal.

³⁹ Once an applicant for admissions is paroled into the United States, he or she does not remain in that status indefinitely. Typically, the applicant applies for Temporary Protective Statue, Application to Adjust Status ("Permanent Residency"), asylum, etc. If the parole is not extended and expires with no other attempts to apply for legal status are made, then the applicant losses status.

memorandums used in assessing that the Petitioner was subject to expedited removal on July 28, 2025.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

A true and accurate copy of this Brief and all of the exhibits were served upon opposing counsel through electronic filing on August 19, 2025 at about 2:00 a.m.



Rania A. Attum