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DETAINED-DELANEY HALL

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DIANA M. RIVERA ZUMBA,)	
A209-465-372)	
Petitioner,)	Civil Action No.
v.)	
)	
PAM BONDI,)	Hon.
Attorney General of the)	
United States of America, and,)	
)	
KRISTI NOEM,)	
Secretary of the Department of)	
Homeland Security, (DHS) and,)	
)	
TODD LYONS,)	
Acting Director,)	
United States Immigration and)	
Customs Enforcement (ICE), and,)	
)	
LUIS SOTO,)	
Director,)	
Delaney Hall Detention Facility,)	
Respondents.)	

VERIFIED HABEAS CORPUS PETITION

INTRODUCTION

1. The Petitioner, a 44-year-old widowed female native and citizen of Ecuador who has been detained at the Delaney Hall Detention Facility since her arrest by ICE last Friday, August 8, 2025, and is about to be removed out of the jurisdiction today, hereby petitions the U.S. District Court to declare her detention unlawful

and stay her removal outside of the New Jersey jurisdiction. The Petitioner is currently still in removal proceedings pending before the Newark Immigration Court and has a bond hearing scheduled for next Tuesday, August 19, 2025 at 1pm before the Elizabeth Immigration Court. Nonetheless, Respondents have unlawfully detained her and seek to unlawfully remove her from the U.S. Thus, Petitioner petitions this Court for an order declaring her detention unlawful.

JURISDICTION

2. This action arises under Customary International Law, the United States Constitution and the Immigration and Nationality Act, 8 U.S.C. §§ 1101 et seq.. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241 et. seq., and Art. I & 9, Clause 2 of the United States Constitution (Suspension Clause). Petitioner is detained at the Delaney Hall Detention Center (Essex County Jail), New Jersey under the authority of the United States in violation of the Constitution and laws of the United States.

VENUE

3. Venue lies in this Court because Petitioner is detained at the Delaney Hall Detention Center in Newark, New Jersey.

PARTIES

4. Petitioner is a 44-year-old widowed female, native and citizen of Ecuador who has been detained at the Delaney Hall Detention Facility since August 8, 2025. She seeks issuance of a writ of habeas corpus.
5. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States. In this capacity she is responsible for administering and

enforcing the immigration laws pursuant to 8 U.S.C. § 1103 and is the Petitioner's legal custodian.

6. Respondent Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security the agency in charge of administering and enforcing the immigration laws in New Jersey and is the Petitioner's legal custodian.
7. Respondent Todd Lyons is sued in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement (ICE) the department within the Department of Homeland Security and in this capacity he is responsible for administering and enforcing the immigration laws in New Jersey and is Petitioner's legal custodian.
8. Respondent Luis Soto is sued in his official capacity as the Director of the Delaney Hall Detention Facility and in this capacity he is the Petitioner's actual physical custodian.

FACTS

9. Petitioner, Diana M. Rivera Zumba is a 44-year-old female, native and citizen of Ecuador who entered the United States without inspection in September of 2002 and has not left.
10. A Notice to Appear in Removal Proceedings was issued to the Petitioner and her deceased husband on May 31, 2007.
11. In Removal Proceedings, the Petitioner applied for cancellation of Removal proceedings based on exceptional extremely unusual hardship to her now 18 year

old US citizen son, John Guaman, who is expected to be attending the New Jersey Institute of Technology next month. See Exhibit D. NJIT Acceptance Letter.

12. On October 30, 2019, an Immigration Judge in Newark the Respondent and her husband's cancellation of removal applications and ordered them removed to Ecuador.
13. On January 9, 2020, the Respondent's late-husband, Jorge Guaman, who was the lead applicant in removal proceedings passed away from cancer. See Exhibit C. Death Certificate of Jorge Guaman.
14. Based on these changed circumstances, the Respondent, through instant counsel, filed a motion to remand to the Board of Immigration Appeals requesting that the Respondent's case be remanded for further proceedings based on new evidence.
15. On November 13, 2023, the BIA issued the attached decision, See Attached Exhibit A. BIA Decision dated November 13, 2023 in the Matter of Jorge Guaman A209-465-371 and Diana Rivera A209-465-372. In that decision, the BIA dismissed the Respondent's deceased husband's appeal as moot. However, with regard to the Respondent's case the BIA specifically ordered that:

"FURTHER ORDER: The record I remanded to the Immigration Judge for further proceedings against the rider respondent (A209-465-372), and the entry of a new decision." Id.
16. Since, the BIA decision, the Petitioner has been waiting for a new court date at the Newark Immigration Court.

17. However, on August 8, 2025, the ICE Fugitive Unit arrested the Petitioner at a traffic light a few blocks from her house telling her that she had a final removal order and would be removed.
18. On Monday, August 11, 2025, Petitioner, through counsel, informed the Respondent, ICE, that the Respondent's removal case was open and that her detention and potential removal were unlawful but ICE has continued to detain the Petitioner and now seeks to remove her from this jurisdiction and potentially from the U.S. See Exhibit B. Letter to ICE dated August 11, 2025 informing them of the unlawful detention and potential removal.
19. On August 12, 2025, the Petitioner filed a bond motion with the Elizabeth Detention Center and a bond hearing date has been scheduled for August 19 2025 at 1pm before Judge Nicole Lane at the Elizabeth Detention Center. See Exhibit E. Removal and Bond Proceedings EOIR Case Status Printout.
20. Nonetheless, this morning, Petitioner informed instant counsel that her account has been closed at the jail and that she is scheduled to be removed to California today.
21. The Petitioner has no criminal record.
22. The Petitioner does not have a final order of removal
23. The Petitioner's removal proceedings are pending before the Newark Immigration Court.
24. The Petitioner has no warrants or negative criminal history that would change circumstance to warrant her arrest and removal outside of the New Jersey jurisdiction.

25. Petitioner has exhausted all administrative remedies. She has notified ICE that her case is open in Newark, New Jersey and that her detention is premature and unlawful but Respondents nonetheless seek to continue to detain her and removal her from the U.S.
26. Petitioner's removal from the United States cannot be effectuated in the reasonably foreseeable future. Absent judicial review of her custody claim, Petitioner will suffer irreparable injury by being deprived of her physical liberty. She seeks the only avenue of judicial review available to her, habeas review.

COUNT I

27. The allegations contained in paragraphs 1 through 26 above are repeated and realleged as though fully set forth herein. Petitioner's continued detention violates the Due Process clause of the United States Constitution.

COUNT II

28. The allegations contained in paragraphs 1 through 26 are repeated and realleged as though fully set forth herein. Petitioner's detention is not authorized by the Immigration and Nationality Act.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court:

1. Issue a Writ of Habeas Corpus directed to Respondents requiring them to immediate release the Petitioner from custody absent a showing that she has a final order of removal or that circumstances have materially changed in her case;

2. Award Petitioner costs and attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.
3. Grant any other and further relief that this Court may deem necessary and proper.

s/ Regis Fernandez
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Attorney for Petitioner

Dated: August 14, 2025

VERIFICATION

I, Diana Marithza Rivera Zumba, declare under penalty of perjury in accordance with 28 U.S.C. § 1746 as follows:

1. I am the plaintiff-petitioner in this matter and am personally familiar with the facts of my case;
2. I have read the allegations contained in the foregoing Complaint and to the best of my knowledge, those allegations are true based upon my personal knowledge, information and belief.

Executed on August 14, 2025

s/ Diana Marithza Rivera Zumba
DIANA MARITHZA RIVERA ZUMBA

VERIFICATION BY COUNSEL

I, Regis Fernandez, declare under penalty of perjury in accordance with 28 U.S.C.

§ 1746 as follows:

1. I am the attorney for plaintiff-petitioner in this matter and am personally familiar with the facts of her case;
2. I have read the allegations contained in the foregoing Complaint and to the best of my knowledge, those allegations are true based upon my personal knowledge, information and belief.
3. I have also reviewed the documents attached to this habeas petition and confirm that they are true copies of the originals and that all the facts or allegations ascertained therein are true and correct to the best of my knowledge and experience.

Executed on August 14, 2025

s/ Regis Fernandez
REGIS FERNANDEZ, ESQ.

LIST OF EXHIBITS IN SUPPORT OF HABEAS PETITION

- A. BIA Decision dated November 13, 2024 for Petitioner;
- B. Letter to ICE Informing Them of Status of Petitioner's Case dated August 11, 2025;
- C. Death Certificate for Petitioner's late husband, Jorge Guaman;
- D. NJIT Acceptance Letter from Petitioner's son;
- E. Removal and Bonds Proceedings Printout from EOIR Case Status;