

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CARLOS ALBERTO PEREZ SILVA,
Petitioner,

v.

LUIS SOTO,
in his official capacity as Director/Warden of
Delaney Hall Detention Facility;

KEITH DEVILLE,
in his official capacity as Director/Warden of Winn
Correctional Center;

JOHN TSOUKARIS,
in her official capacity as Field Office Director,
New Jersey Field Office, U.S. Immigration &
Customs Enforcement;

PAMELA BONDI,
in his official capacity as Attorney General, U.S.
Department of Justice;

KRISTI NOEM,
in his official capacity as Acting Secretary, U.S.
Department of Homeland Security; and

TODD M. LYONS,
in his official capacity as Acting Director, U.S.
Immigration & Customs Enforcement;
Respondents.

Civil Action No.:

**PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241.**

Petitioner, Carlos Alberto Perez Silva, respectfully petitions this Honorable Court for a writ of habeas corpus to remedy his unlawful detention by Respondents, as follows:

INTRODUCTION

1. Petitioner Carlos Alberto Perez Silva (“Mr. Silva”) is a citizen of the Colombia who was paroled into the United States (“U.S.”) in February 2001, at the age of twenty-five, and has lived here ever since. Mr. Silva is a dedicated father to his two U.S. Citizen sons, a loving

husband of ten years to his U.S. Citizen wife, a grandfather to his U.S. Citizen grandson, and an important member in his community.

2. On September 5, 2025, upon completion of his USCIS interview, Mr. Silva was taken into U.S. Immigration and Customs Enforcement (“ICE”) custody.
3. Presently, and pursuant to the recent BIA decision *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), Mr. Silva is mandatorily detained under 8 U.S.C. § 1225(b)(2)(A) by ICE. In addition, he has an approved I-130 receipt, a pending I-485 appeal, and an Order granting his Motion to Reopen. Further, Mr. Silva has not been afforded a bond hearing. *See, Exhibit B: I-130 Approval Receipt (“Exhibit B”); Exhibit C: I-485 Decision & Appeal (“Exhibit C”); Exhibit D: 09/05/25 Order Granting Stay of Removal Pending Motion to Reopen (“Exhibit D”); Exhibit E: Order Granting Motion to Reopen (“Exhibit E”).*
4. Mr. Silva’s detention is unlawful and being held without the opportunity to be heard, lack of access to sanitary conditions, and punitive confinement conditions violates the Due Process Clause of the Fifth Amendment.
5. Mr. Silva respectfully requests that this Court grant him immediate release from detention, or, in the alternative, the Court should order an immediate bond hearing to ensure Mr. Silva’s detention bears a reasonable relation to the government’s interests.

PARTIES

6. Mr. Silva has been detained by Respondents since September 5, 2025. From September 5, 2025, to September 9, 2025, he was detained at Delaney Hall Detention Center (“Delaney”). On September 9, 2025, he was transferred to Winn Correctional Center (“Winn”). Then, on September 14, 2025, he was transferred back to Delaney.
7. Respondent Luis Soto is named in his official capacity as the Director/Warden of Delaney. Mr.

Soto is responsible for the operation of Delaney, where Mr. Silva is currently detained.

8. Respondent Keith Deville is named in his official capacity as the Director/Warden of Winn. Mr. Deville is responsible for the operation of Winn, where Mr. Silva was previously detained.
9. Respondent John Tsoukaris is named in his official capacity as the Director of the New Jersey Field Office for ICE. Mr. Tsoukaris is responsible for arrests, processing, detention, production, transfer, and release of individuals in removal proceedings. He is a legal custodian of Mr. Silva.
10. Respondent Pamela Bondi is named in her official capacity as the U.S. Attorney General (“AG”). AG Bondi is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g) and oversees the Executive Office for Immigration Review (“EOIR”). She is a legal custodian of Mr. Silva.
11. Respondent Kristi Noem is named in her official capacity as the Acting Secretary of the U.S. Department of Homeland Security (“DHS”). Ms. Noem is responsible for the administration of immigration laws under 8 U.S.C. § 1103(a) and oversees ICE. She is a legal custodian of Mr. Silva.
12. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of ICE. Mr. Lyons is responsible for the administration of federal immigration law and the execution of detention and removal determinations. He is a legal custodian of Mr. Silva.

JURISDICTION

13. This Court has proper jurisdiction over Mr. Silva’s Petition for Writ of Habeas Corpus. As per 28 U.S.C. § 2241, this Court has the discretion to evaluate and grant the instant writ of habeas corpus. Under 28 U.S.C. § 1331, this Court has original jurisdiction over the federal issue arising in this matter. Article I, § 9, cl. 2 of the United States Constitution, the Suspension

Clause, protects the privilege of habeas corpus. The All-Writs Act, 28 U.S.C. § 1651, grants this Court with remedial authority to issue this necessary writ. The Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, specifically allows this Court to grant injunctive and declaratory relief if it sees fit.

14. Federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by DHS; as well as claims by noncitizens seeking to protect their due process rights. *See, Jennings v. Rodriguez*, 138 S. Ct. 830, 840-41 (2018).
15. Mr. Silva's current detention as enforced by Respondents constitutes a "severe restraint [on his] individual liberty," such that he is "in custody in violation of the Constitution or laws ... of the United States." *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241(c)(3).

VENUE

16. Venue is proper in the District of New Jersey. Pursuant to 28 U.S.C. § 2241(d), a writ of habeas corpus may be filed in the district where the Petitioner is held in custody. Under 28 U.S.C. § 1391 (b) (2), a proper venue is where a substantial part of the events and omissions gave rise to the claim.
17. Mr. Silva is currently in ICE custody at Delaney, where a substantial part of the events giving rise to his habeas claim occurred. Due to custody location and occurrence in events, it is proper to file in the District of New Jersey.

EXHAUSTION

18. No statutory exhaustion requirements exist as to Mr. Silva's unlawful detention claims. *Callwood v. Enos*, 230 F.3d 627, 634 (3d Cir. 2000).

19. Although exhaustion is not statutorily required when challenging detention under 28 U.S.C. §2241, many courts still require proof of exhaustion largely to the appropriate agency's benefit. *Id.*

20. There are several exceptions that courts consider when evaluating exhaustion requirements. An immigrant detainee advancing a due process claim is likely to be exempt because "the Board of Immigration Appeals ("BIA") does not have jurisdiction to adjudicate constitutional issues." *Khan v. United States AG*, 448 F.3d 226, 228 (3d Cir. 2006).

21. Mr. Silva is not required to prove exhaustion because he is advancing due process claims in the instant habeas petition.

STATEMENT OF FACTS

22. Mr. Silva was born on [REDACTED], in Pereira, Colombia. He immigrated to the U.S. in February 2001. *See, Exhibit A: Declaration of Carlos Alberto Perez Silva in Support of his Habeas Petition*, ¶ 1 ("*Exhibit A*").

23. In Colombia, Mr. Silva, along with his family, endured continual deadly threats from [REDACTED]. [REDACTED] Out of fear of being killed, Mr. Silva made the challenging decision to travel to the U.S.; upon his arrival, and based on said fear, Mr. Silva applied for asylum.

24. Shortly after his arrival, Mr. Silva was detained by ICE, for approximately two weeks, and personally served with a defective Notice to Appear resulting in a missed hearing and a removal order. *See, Exhibit D.*

25. In 2002, Mr. Silva met his U.S. Citizen wife, María Victoria Urena. After many years of dating, the two were married on August 20, 2015, and have been together ever since.

26. The parties have loved and cared for two children, one son, Kevin Castillo, being from his wife's prior relationship, and the other biological son, B [REDACTED] Kevin recently welcomed his own son, N [REDACTED] making Mr. Silva a grandfather.

27. For almost twenty-five years, Mr. Silva has lived in the United States without any criminal record; while in the U.S., he became a father, a husband, a grandfather, a business owner, and a pillar of his community.

Mr. Silva's Proceedings

28. On February 24, 2023, Mr. Silva's wife filed an I-130, Petition for Alien Relative; the I-130 application was approved on September 8, 2025. *See, Exhibit B.*

29. On May 8, 2025, Mr. Silva filed an I-485, Application to Register Permanent Residence or Adjust Status; the I-485 application was denied on September 5, 2025. *See Exhibit C.* Due to the denial, Mr. Silva filed an I-290B, Notice of Appeal, on September 24, 2025. *Id.*

30. On September 2, 2025, Mr. Silva filed a Motion to Reopen, along with a stay of removal due to the defective notice of appearance. On September 5, 2025, an Immigration Judge ("IJ") granted the stay of removal pending the motion. Thereafter, the Motion to Reopen was granted on September 19, 2025. *See Exhibit E.*

Mr. Silva's ICE Detention

31. On September 5, 2025, Mr. Silva was taken into ICE custody and detained at Delaney - Mr. Silva has endured an array of punitive conditions.

32. The first night at Delaney, Mr. Silva was transferred to an overcrowded room with approximately thirty other detainees. Upon entering, without any blanket or pillow, he was directed to find a place to sleep on the floor. As told, Mr. Silva found an area on the dirty floor between other detainees and attempted to obtain some rest – the room was so cold that

at Mr. Silva was “grateful it was overcrowded” for purposes of additional warmth. *Exhibit A*, ¶ 11.

33. The following day, Mr. Silva was placed in one of the several sleeping rooms at Delaney. The windowless twenty by fifteen-foot room was shared with approximately ten to twenty other detainees dependent on the overflow of detainees each day. *Id.* at ¶ 12-14.

34. Albeit, Mr. Silva was no longer sleeping on the floor, but the sleeping conditions in the shared room were not significantly better than his first night’s experience. Mr. Silva was given a bed that was as “hard as a rock,” a pillow, and a blanket, that falls apart upon use resulting in significant dust fibers. Due to unavoidably inhaling the dust fibers, Mr. Silva suffers with throat pain, which has required visits to the Delaney medical unit. *Id.*

35. Mr. Silva is permitted one hour of outdoor activities daily and access to a separate lounge area that has one singular television for the entire prison. *Id.* at ¶ 16.

36. On multiple occasions, Mr. Silva was served meals ridden with mold, which now requires him to inspect every meal prior to eating. *Id.* at ¶ 18.

37. On or about September 9, 2025, Mr. Silva was unexpectedly transferred to Winn. *Id.* at ¶ 19.

38. Upon being processed, Mr. Silva was directed to a small room with approximately forty other detainees. Similar to Delaney, at Winn, Mr. Silva was directed to find a place to sleep on the floor. Unlike Delaney, Mr. Silva was handed two garbage bags to sleep on. As directed, Mr. Silva found a place to sleep between all the other detainees, and laid one garbage bag down on the floor and used the other as a blanket. These inhumane sleeping conditions lasted the initial two days of detainment at Winn. Further, Mr. Silva was never given any bed, pillow, real blanket, or even place to shower, the first two nights at Winn— he wrapped himself in garbage bags and slept crammed up against other detainees on the dirty floor. *Id.* at ¶ 21.

39. After the initial two days Mr. Silva was directed to a sleeping room with approximately ninety other individuals. Along with the other ninety individuals, Mr. Silva received a small bed and only had access to a single toilet and shower. At Winn, Mr. Silva was required to utilize a toilet that was out in the open. Because approximately ninety other individuals were able to see Mr. Silva utilize the bathroom, he and other detainees hung garbage bags for purposes of privacy. *Id.* at ¶ 23.
40. After four days at Winn, on or about September 14, 2025, Mr. Silva was transferred back to Delaney. To this day, Mr. Silva remains in ICE custody at Delaney.

LEGAL FRAMEWORK

I. MR. SILVA IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIMS THAT HIS DETENTION IS UNLAWFUL & VIOLATES HIS DUE PROCESS RIGHTS.

43. The Due Process Clause of the Fifth Amendment is applicable to all individuals in the United States; moreover, every immigrant, regardless of status or lack thereof, is entitled to due process protections. *Zadvydas v Davis*, 533 US 678, 682 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003); *Reno v. Flores*, 507 U.S. 292, 3061 (1993); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Even further, individuals navigating our immigration system in pursuit of lawful status have a right to be noticed, meaningfully heard and protected from governmental constraints, which deprive them of any liberty or property interests. *Landon v. Plasencia*, 459 US 21, 34 (1982). Specifically concerning detainment, the Supreme Court has held that civil detention “for any purpose constitutes a significant deprivation of liberty that requires due process protection.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

A. The BIA’s Interpretation of INA 235(b) (2)(A), in the *Matter of Yajure-Hurtado*, Violates Mr. Silva’s 5th Amendment Due Process Rights.

44. On September 5, 2025, the BIA made the disturbingly, unconstitutional decision in the *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), which ignored decades of legal precedent, the Constitution, and stripped away the well-established due process rights for a plethora of non-citizens. Moreover, *Yajure-Hurtado* established the dangerous sweeping rule that any non-citizen present in the United States without having been inspected and admitted who is arrested with or without a warrant is subject to mandatory detention under INA § 235(b)(2), rather than the typical discretionary detention under INA § 236 (a), this is without regard of where the non-citizen was apprehended or how long the non-citizen has resided in the United States. *Id.*
45. Again, the BIA's decision directly conflicts with significant U.S. Supreme Court decisions including but not limited to *Zadvydas v. Davis*, 533 U.S. 678 (2001), *Demore v. Kim*, 538 U.S. 510 (2003), *Boumediene v. Bush*, 553 U.S. 723 (2008), *Mathews v. Eldridge*, 424 U.S. 319 (1976), and *United States v. Salerno*, 481 U.S. 739 (1987).
46. The BIA's ruling of restrictions on the Due Process Clause and mandated, unchecked detentions under INA § 235(b)(2), instead of INA § 236(a), has already been refuted by a myriad of Federal District Courts across the nation through the re-enforcement of INA § 236(a), not INA § 235(b)(2), and further, many grants in habeas petition reliefs based on the resounding due process violations set forth by *Yajure-Hurtado*. *Benitez v. Francis*, 2025 US Dist LEXIS 153952 [SDNY Aug. 8, 2025]; *Samb v. Joyce*, 2025 US Dist LEXIS 161109 [SDNY Aug. 19, 2025]; *Sampiao v. Hyde*, 2025 US Dist LEXIS 175513 [D Mass Sep. 9, 2025, No. 1:25-cv-11981-JEK]; *Leal-Hernandez v. Noem*, 2025 US Dist LEXIS 165015 [D Md Aug. 24, 2025, No. 1:25-cv-02428]; *Kostak v. Trump*, 2025 US Dist LEXIS 167280 [WD

La Aug. 27, 2025, No. 3:25-1093)]; *Zaragoza Mosqueda v. Noem*, 2025 US Dist LEXIS 174828 [CD Cal Sep. 8, 2025, No. 5:25-cv-02304]).

47. Due to the BIA's decision in *Yajure-Hurtado*, Mr. Silva is currently being detained INA § 235(b)(2) without any opportunity to be heard, which is a blatant infringement on his due process rights as established by a long-line of U.S. Supreme Court decisions and the U.S. Constitution itself. For over twenty-five years, Mr. Silva has resided in this nation as a law-abiding individual, who contributes to his community. Pursuant to this nation's Supreme Court precedent and Due Process Rights of the Fifth Amendment, Mr. Silva respectfully requests this Court find his detention as discretionary under INA § 236(a) and provide Mr. Silva with the opportunity to be heard, as many Federal Districts have already done across the country for individuals similarly situated to Mr. Silva.

B. Mr. Silva's unlawful detention, without a bond hearing and pending an I-485 Appeal, violates the Fifth Amendment.

48. Upon an individual evidencing a liberty or property interest, a Court must determine whether constitutionally sufficient procedures were provided by balancing: First, the private interest that will be affected by the official action; Second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural requirement would entail; and Finally, the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews*, 424 U.S. at 335.

49. Immigrants facing deportation and removal proceedings have a deep-rooted liberty interest – **“the right to stay and live and work in this land of freedom.”** *Bridges v. Wixon*, 326 U.S. 135, 154 (1945).

50. Mr. Silva is entitled to the protections of the 5th Amendment Due Process Clause. First, Mr. Silva has a significant liberty interest in remaining the United States – his loving wife, two sons, grandchild, family-owned business, and essentially all he has, is within the United States. The government has failed to evidence any reason to continue confinement: Mr. Silva is not a flight, Mr. Silva has no criminal record, and Mr. Silva is not a danger to the community.
51. Second, in light of the Constitution, the INA and its applicable regulations, Respondents have procedurally deprived and continue to risk deprivation of Mr. Silva’s due process rights. When evaluating the second *Mathews* prong “the only interest to be considered . . . is that of the detained individuals—not the government.” *Black v Director Thomas Decker*, 103 F.4th 133, 152 (2d Cir 2024). Without any regards, Respondents have violated Mr. Silva’s due process rights tenfold: As evidenced by the granted Motion to Reopen, Mr. Silva was never properly placed on notice of his removal proceedings; Mr. Silva was wrongfully detained by ICE agents on the basis of the improper notice and entry of removal order; ICE’s efforts to prematurely deport and confine Mr. Silva before USCIS may adjudicate the I-485 appeal constitutes a deprivation in his liberty interest to stay in the United States with his loved ones; and Mr. Silva was discretionarily thrown in a detention center without the opportunity to be heard for bond – upon a bond hearing, Mr. Silva would demonstrate he is neither a flight risk nor a danger to community. Due to Respondent’s unjustified arrest of Mr. Silva, an astonishing snowball effect of due process violations have occurred and will continue to occur so long as Mr. Silva is detained.
52. Third, the interest of enforcing immigration policies would be valid if the government was even following said policies – Mr. Silva was improperly detained. Regardless, any additional

or substitute procedural requirement would not burden the government whatsoever - if anything, the government is burdening itself by fiscally detaining Mr. Silva and wasting judicial resources.

53. All three Mathews factors, weigh heavily in Mr. Silva's favor. Moreover, Mr. Silva has established that Respondents violated his due process rights, which warrants his immediate release from ICE custody or in the alternative, an immediate bond hearing.

C. Mr. Silva's detention violates his right to substantive due process because he is neither a flight risk.

54. Immigration detention is civil and must "bear a reasonable relation to the purpose for which the individual [is] [detained]" so that it remains "nonpunitive in purpose and effect." *Id.* at 690. Further, and to comport with due process, there are only two legitimate regulatory purposes for immigration detention to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-691; *Diop v. ICE*, 656 F.3d 221, 233-234 (3d Cir. 2011).

55. Mr. Silva is not a flight risk and will appear at all future immigration proceedings. For almost twenty-five years, Mr. Silva has lived in the United States – this is his home. Moreover, his loving wife, two sons, grandchild, family-owned business, and essentially all he has, is within the United States. Everything he loves, owns, and works for is right here in New Jersey.

56. Mr. Silva is not a danger to the community – he has no criminal record, whatsoever. In fact, Mr. Silva is a significant member of the community and contributes thereof through his family business.

57. No legitimate interests exist as to Mr. Silva's detention, rather the government is detaining Mr. Silva along with countless others swept up in its courthouse arrests, for the understandable but illegitimate reason that he was easy to locate. At the time of his arrest, Mr. Silva was

attempting to lawfully navigate our immigration system by completing his USCIS Interview.

Due to pure accessibility, Mr. Silva was detained without any opportunity to heard.

58. Because Mr. Silva's detention has been unaccompanied by the procedural protections that such a significant deprivation of liberty requires under the Due Process Clause of the Fifth Amendment to the U.S. Constitution, his continued detention without a bond hearing is unlawful and therefore, he should be released.

59. In the alternative, the Court should order an immediate bond hearing to ensure Mr. Silva's detention bears a reasonable relation to the government's interests.

D. The conditions of Mr. Silva's confinement are punitive in violation of the Fifth Amendment.

60. The Fifth Amendment protects immigrant detainees from punitive confinement conditions. Since immigrant detainees are civilly detained, the Eighth Amendment's cruel and unusual standard is inapplicable; the idea is that immigrant detainees must not be subject to punishment at all, let alone cruel and unusual punishment. *E. D. v. Sharkey*, 928 F.3d 299, 307 (3d Cir. 2019). Conditions that violate the Eighth Amendment necessarily violate the Fifth Amendment. *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). A plethora of cases, whether applying the Eighth Amendment to criminal detainees or Fifth Amendment to immigrant detainees, evidence that Mr. Silva's confinement is highly punitive and violates the Due Process Clauses in multiple regards.

61. The totality of the circumstances test is applied to determine whether the conditions of confinement constitute cruel and unusual punishment. Relevant considerations in the immigration detention context include assessing maintenance of sanitary conditions and maintaining detention conditions that are distinct from criminal detention. *Tillery v. Owens*,

907 F.2d 418, 420 (3d Cir. 1990); *Chavez-Alvarez v. Warden York County Prison*, 783 F.3d at 478 (3d Cir. 2015).

a. Unsanitary Conditions

62. Detention facility conditions violate the Eighth Amendment when detainees are “deprived of the minimal civilized measure of life's necessities” and the facility and/or prison officials act with deliberate indifference. *Tillery*, 907 F.2d at 426. Deliberate indifference of a detainee’s health or safety means the “official knows of and disregards an excessive risk to inmate health or safety.” *Farmer v Brennan*, 511 US 825, 828 (1994).
63. Severe overcrowding and unsanitary conditions constitutes such a deprivation that amounts to cruel and unusual punishment. *Id.*
64. The egregious confinement conditions at Delaney are not only well-known to the detainees trapped behind its walls, but to the public at large including the Department of Homeland Security. As per a prior inspection report, DHS found a host of food safety and living conditions violations endured by detainees. Concerning the food served to inmates, DHS found: widespread mishandling of food ranging from service of moldy bread, “slimy, foul-smelling lunch meat,” “raw chicken leaking blood all over refrigeration units,” and service of meat “that smelt like fecal matter.” *Exhibit F: DHS 2019 Office of Inspector General Report (“Exhibit F”)*. Concerning environmental conditions, DHS found: leaking ceilings dripping directly onto detainee beds, showers laced with mold and peeling paint, dilapidated beds requiring detainees to utilize bedsheets to tie the seams of the mattress together, and lack in access to recreation space outside of their living area. *Id.*
65. As of June 2025, seemingly the disastrous infrastructure of Delaney has not improved, which is evidenced by the “escape” of four immigrant detainees. As a result of the conditions they

endured, ranging from sleeping on the floor, limited to drinking foul-tasting water for hydration, and going hours on end without food just to be served slices of bread as a meal, four detainees were able to “escape” the facility by punching through the exterior wall of the jail. *Exhibit G: Inside the Tumult That Led 4 Men to Escape From a Migrant Facility, NYTimes Article (June 2025) (“Exhibit G”)*.

66. Inhumanely, and against DHS protocols, several of these conditions still exist to this day and are endured by Mr. Silva.

67. The first night at Delaney, Mr. Silva was required to sleep on the dirty floor, along with thirty other detainees - he was not provided any blanket or pillow. The room was so cold that Mr. Silva was “grateful it was overcrowded” for purposes of additional warmth. *Exhibit A*, ¶ 11. The following day, Mr. Silva was placed in one of the several sleeping rooms at Delaney. The windowless twenty by fifteen-foot room was shared with approximately ten to twenty other detainees dependent on the overflow detainees each day. *Id.* at ¶ 12-14. In this room, Mr. Silva was given a bed that was as “hard as a rock,” a pillow, and a blanket, that falls apart upon use resulting in significant dust fibers. Due to unavoidably inhaling the dust fibers, Mr. Silva suffers with throat pain, which has required visits to the Delaney medical unit. *Id.* On multiple occasions, Mr. Silva was served meals ridden with mold, which requires him to inspect every meal prior to eating. *Id.* at ¶ 18.

68. Wildly unsanitary conditions and overcrowding continued during Mr. Silva’s detention at Winn. During the first two days at Winn, Mr. Silva was required to stay in a small room with approximately forty other detainees. Like Delaney, Mr. Silva was directed to find a place to sleep on the floor. Unlike Delaney, Mr. Silva was handed garbage bags to sleep on.

Further, and for the first two nights at Winn, Mr. Silva was never given any bed, pillow, real blanket, or a place to shower – he wrapped himself in garbage bags and slept crammed up against other detainees on the dirty floor. *Id.* at ¶ 21. After the initial two days at Winn, Mr. Silva was directed to a sleeping room with approximately ninety other individuals. Mr. Silva was required to utilize a toilet that was out in the open. Because approximately ninety other individuals were able to see Mr. Silva utilize the bathroom, he and other detainees hung garbage bags for purposes of privacy. *Id.* at ¶ 23.

69. While in Respondents’ custody, the range of egregious and unsanitary conditions endured by Mr. Silva include, but are not limited to, being directed to sleep on dirty floors with plastic garbage bags, crammed in rooms overflowing with other detainees, given moldy meals to consume, restricted from shower access, given a “blanket” that is so poorly made it falls apart and causes a sore throat/breathing problems, and so on. Respondents have deprived Mr. Silva of “minimal civilized measure of life's necessities” and both facilities have acted with deliberate indifference. *Tillery*, 907 F2d at 426.

70. This treatment breaches detainees’ rights to sanitary conditions and exposes them to health hazards, violating Mr. Silva’s Fifth Amendment rights.

b. Punitive Conditions

71. Again, immigrant detainees must not be subject to punishment at all, let alone cruel and unusual punishment and if a detained immigrant’s civil detention looks penal, the scales tilt toward finding the detention unreasonable. *E. D.*, 928 F.3d at 307; *Chavez-Alvarez v Warden York County Prison*, 783 F3d 469, 478 (3d Cir 2015).

72. At Delaney, Mr. Silva was subjected to sleeping on dirty floors with garbage bags, given a “blanket” that is so poorly made it falls apart and causes a sore throat/breathing problems,

given only one hour of outdoor activities daily with the remainder of the day being trapped in the facility, and served moldy food to consume. *Exhibit A*, ¶ 11-19.

73. At Winn, Mr. Silva spent days trapped in a tiny room with over forty other detainees, subjected to sleeping on dirty floors with garbage bags, had no access to a shower the initial two days, and was not provided an actual bathroom for use. *Id.* at ¶ 20 -24. Mr. Silva “didn’t even feel like a prisoner, [he] felt like an animal” and reasoned “[a]t least prisoner’s get a place to rest their heads and livable conditions.” *Id.*
74. Mr. Silva's immigration detention bears an uncanny resemblance to criminal confinement, in violation of his Due Process Rights.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION (SUBSTANTIVE DUE PROCESS)

1. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
2. Mr. Silva is not a flight risk nor is he a danger to the community. Respondents’ detention of Mr. Silva is therefore unjustified and unlawful. Accordingly, Mr. Silva is being detained in violation of his Constitutional right to Due Process under the Fifth Amendment.

COUNT TWO

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION (PROCEDURAL DUE PROCESS)

3. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

4. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.”
5. Mr. Silva is entitled to the protections of the 5th Amendment Due Process Clause. First, Mr. Silva has a significant liberty interest in remaining the United States. Second, in light of the Constitution, the INA and its applicable regulations, Respondents have procedurally deprived and continue to risk deprivation of Mr. Silva’s due process rights.
6. Third, any additional or substitute procedural requirement would not burden the government whatsoever - if anything, the government is burdening itself by fiscally detaining Mr. Silva and wasting judicial resources.
7. Accordingly, Mr. Silva is being detained without sufficient process in violation of his Constitutional right to Due Process under the Fifth Amendment.

COUNT THREE

THE EGREGIOUS CONFINEMENT CONDITIONS ENDURED BY MR. SILVA VIOLATES THE FIFTH AMENDMENT RIGHT TO SUBSTANTIVE DUE PROCESS

8. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
9. The Fifth Amendment protects immigrant detainees from punitive confinement conditions. Courts find the existence of punishment when confinement conditions lack a reasonable relationship to a legitimate governmental purpose.
10. The government also violates the Fifth Amendment by acting with deliberate indifference to an immigrant detainee’s health and safety.
11. Respondents have knowingly exposed Mr. Silva to a substantial risk of serious harm including, but not limited to, being directed to sleep on dirty floors with plastic garbage bags,

crammed in rooms overflowing with other detainees, given moldy meals to consume, restricted from shower access, given a “blanket” that is so poorly made it falls apart and causes a sore throat/breathing problems, and so on.

12. Accordingly, being confined with such horrendous conditions violates the Mr. Silva’s Fifth Amendment Due Process Rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over the instant matter;
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
3. Issue a Writ of Habeas Corpus ordering to immediately release Petitioner from its custody;
4. Issue a corresponding junction ordering Respondents to cease all active efforts to remove Petitioner from the United States and to release Petitioner from their custody;
5. Order any such other relief as this Court deems just and proper.

Dated: 10/10/25

Respectfully Submitted,



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EXHIBIT A

Declaration of Carlos Alberto Perez Silva in Support of his Habeas Petition

1. My name is Carlos Alberto Perez Silva, and I was born on [REDACTED], in Pereira, Colombia. For almost twenty-five years, I have lived in United States without any criminal record; while in the U.S., I became a father, a husband, a grandfather, and a business owner.
2. My immigration detention started on September 5, 2025. Initially, I was placed in Delaney Hall Detention Facility (“Delaney”) in Newark, New Jersey. Then, I was unexpectedly transferred to Winn Correctional Center (“Winn”) in Louisiana on September 9, 2025. On September 14, 2025, I was transferred back to Delaney.
3. I have struggled deeply with my confinement by ICE. I have received moldy, inedible food on multiple occasions, I am trapped in a prison with very limited outdoor access, I have been required to sleep on the floor with garbage bags, and I have to share one phone with approximately twenty other individuals limiting by ability to contact my attorney and family.
4. In the United States, I have built a family and home, I have respected the laws, and I have loved this country for all it has permitted me to achieve, but I am being treated as a prisoner for wanting to stay.

LIFE PRIOR TO MY IMMIGRATION DETENTION

5. Back in Colombia, my family and I faced continual [REDACTED] Out of fear of being killed, I made the challenging decision to travel to the United States in February 2001.
6. I arrived in Miami and decided to apply for asylum. Navigating my lawful status in the United States has been very difficult. Over the years, I have hired countless lawyers and paid high fees all to be led astray, however I have kept fighting for my future here.

7. In 2002, I met my wife María Victoria Urrea, who is a United States citizen. I met her in 2002 through the sister of a close friend. After years of dating, we were married on August 20, 2015, and have been together ever since.
8. My wife and I have two strong, loving and intelligent sons. Our oldest, Kevin Castillo, was from my wife's previous relationship, but I have adored him since the day we met and am honored to consider him my own child. Our youngest son, Brandon Pérez Urrea, is still only nineteen years old, but has quite the bright future lined up for him; currently, he attends the  Recently, Kevin had his own baby, N who proudly made me a grandpa.
9. My family and I run our own business KB Landscaping.
10. On August 25, 2025, I finally got in touch with a law firm, Nova Law Group, that was able to explain my immigration case to me and provide a direction to lawful status. So, I followed their lead. On September 5, 2025, I attended an USCIS interview and after that interview, ICE detained me. Since that date, I have remained in ICE's custody.

DETENTION AT DELANEY HALL

11. On September 5, 2025, the day I was taken into ICE custody, I was transferred to Delaney and processed. The first night at Delaney was a nightmare: I was thrown in a room with about thirty other people and was told to find a place on the floor to sleep; without any blanket or pillow, I tried my hardest to get some rest. It was so cold in that room that I was actually grateful it was crowded with people – the crowdedness at least made it a little warmer.
12. The next day, I was directed towards one of the facility's rooms, which is one of the same rooms I sleep in to this day.

13. I share this 20 by 15-foot windowless room with about fifteen other people. The number of people in the room ranges day by day from between ten to twenty people – as soon as soon people leave, ICE brings in more.
14. I was given a bed that was hard as a rock, a pillow, and blanket. I don't know what is worse my back pain from sleeping on the "bed" or my inability to use the blanket that falls apart resulting in dust fibers making me cough up a storm. I ended up visiting Delaney's medical facility because I cannot get rid of throat pain from quite literally inhaling fibers from the blanket.
15. In the room, we all share one phone to get in contact with family, friends, and lawyers.
16. During the day, we have access to a separate "lounge" room that we share with all other detainees – the lounge room just consists of a singular television. We also get one hour of outside activities, but other than that we are trapped in the facility.
17. Throughout the night, guards come in the room and flashlights in our eyes– I guess it's to make sure we are all there, but it wakes me up every time.
18. The food isn't so great at Delaney. Multiple times I was given meat with mold all over it. Every meal, I really have to inspect the food before taking a bite of it.
19. My first days in detention were spent at Delaney and then, on or about September 9, 2025, I was unexpectedly transferred to Winn.

DETENTION AT WINN CORRECTIONAL CENTER

20. When I got to Winn, I was so confused and didn't know why I was being transferred so far away from my family.
21. After being processed into the facility, I was directed to a small room overflowing with about forty other people. Like at Delaney, we were all directed to sleep on the floor. Unlike

Delaney, we were given two garbage bags to sleep on for two nights in a row. I grabbed my two garbage bags, found a place to sleep between all the other people, and laid one down on the floor and used the other as a blanket. Sleeping wrapped in garbage bags on the floor lasted the first two days at Winn. We weren't given any pillows or real blankets – we just slept crammed up next to each other on a dirty floor. During those two days, I had no access to a shower.

22. After the initial two days at Winn, I was directed to a sleeping room with approximately ninety other individuals. I, and the other ninety people, received a small bed and had access to a single bathroom and shower within the tiny sleeping room.

23. I, along with all other people in the room, had to use the toilet that was wide out in the open. Some of the other detainees and I tried to make some sort of privacy possible by putting up garbage bags.

24. At Winn, I didn't even feel like a prisoner, I felt like an animal. At least prisoner's get a place to rest their heads and livable conditions.

25. After four days at Winn, on or about September 14, 2025, I was transferred back to Delaney.

26. The conditions at Delaney remain the same to this day.

PLEA FOR RELEASE

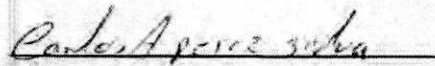
27. If released, I will cooperate with any release conditions and will continue to work with Nova Law Group on my I-485 appeal. Further, I also understand that my case will be ongoing. I intend to fully participate in the case but would like to do so while being united with my family.

28. Upon my release and if given the opportunity to remain in the U.S., I will continue to be a law abiding individual, I will continue to work at my family owned business and serve my

community in doing so, I will continue to be a loving, grateful, and proud husband, father, and grandfather, *I will continue to love and respect this country, as I have since the day I entered it.*

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DATED: 10/10/25

Handwritten signature of Carlos Alberto Perez Silva in cursive script, written over a horizontal line.

CARLOS ALBERTO PEREZ SILVA

EXHIBIT C

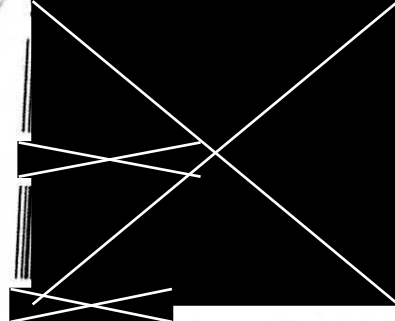
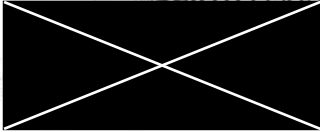
September 10, 2025

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
8 Cedar Brook Drive
Cranbury, NJ 08512



U.S. Citizenship
and Immigration

CARLOS ALBERTO PEREZ SILVA



RE: CARLOS ALBERTO PEREZ SILVA
I-485, Application to Register Permanent Residence or
Adjust Status

NOTICE OF DECISION

Dear CARLOS PEREZ SILVA:

On May 8, 2025, you filed a Form I-485, Application to Register Permanent Residence or Adjust Status, with U.S. Citizenship and Immigration Services (USCIS) under section 245 of the Immigration and Nationality Act (hereinafter referred to as INA or "the Act"), based on being the principal beneficiary of a family-based immigrant petition.

After a thorough review of your application, your testimony during your interview, and the record of evidence, we must inform you that we are denying your application.

To qualify for adjustment under INA 245, an applicant must:

- Be inspected and admitted or inspected and paroled into the United States;
- Be eligible to receive an immigrant visa;
- Be admissible to the United States for permanent residence; and
- Have an immigrant visa immediately available at the time the application is filed.

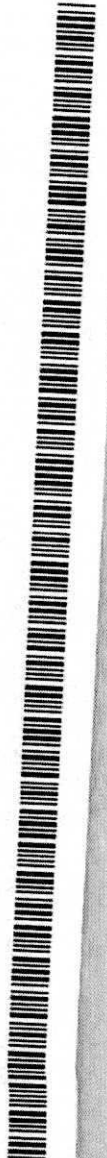
You must demonstrate that you are eligible to adjust status to a lawful permanent resident (LPR). See Title 8 Code of Federal Regulations (hereinafter referred to as 8 CFR), §245.1.

Statement of Facts and Analysis, Including Reason(s) for Denial

On September 05, 2025, you appeared for an interview to determine your eligibility for adjustment of status. During the interview and review of your application with an Immigration Services Officer, you testified that the information on your Form I-485, along with any amendments made during the adjustment interview, and supporting evidence were true and correct.

You initially submitted the following evidence in support of your application:

- Birth Certificate for Carlos Alberto Perez Silva;
- I-94 for Carlos Alberto Perez;
- Passport biographic page for Carlos Alberto Perez Silva;



- Form I-864 Affidavit of Support Under Section 213A of the INA and supporting documents;
- Birth certificate for Maria Victoria Urrea'
- Marriage Certificate for Carlos Alberto Perez and Maria Victoria Urrea;
- Notice to Appear for Carlos Alberto Perez

After reviewing the evidence and the testimony provided at the interview, USCIS records indicate that you are ineligible for the following reason(s):

USCIS reviewed your case file and determined that an Immigration Judge ordered that you be removed from the United States on August 03, 2001, but you have not yet departed under that order. It does not appear that the removal proceedings against you have been terminated. See Title 8 Code of Federal Regulations (8 CFR), sections 245.1(c)(8)(ii) and 1245.2(a)(1).

The granting of adjustment of status to that of a lawful permanent resident is a discretionary benefit. See section 245(a) of the INA. Mere eligibility is not the only factor considered in adjustment of status. Adverse factors may preclude a favorable exercise of discretion by USCIS. An applicant must demonstrate eligibility for adjustment of status as a matter of law and in the exercise of discretion. Generally, favorable factors such as family ties, hardship, and length of residence in the United States can be considered in the favorable exercise of administrative discretion.

"[T]he extraordinary discretionary relief [of adjustment] can only be granted in meritorious cases...." Matter of Blas, 15 I&N Dec. 626, 630 (BIA 1974; A.G. 1976). "Factors relevant to determining whether a favorable exercise of discretion is warranted include, but are not limited to, the existence of family ties in the United States; the length of the respondent's residence in the United States; the hardship of traveling abroad; and the respondent's immigration history, including any preconceived intent to immigrate at the time of entering as a nonimmigrant." Matter of Hashmi, 24 I&N Dec. 785, 793 (BIA 2009). Along these lines, a "preconceived intention to remain" in the United States upon entry "a serious adverse factor." Matter of Ibrahim, 18 I&N Dec. 55, 57 (BIA 1981).

Considering the totality of the circumstances, your outstanding removal order outweighs any positive factors you may have. Thus, you have not met the burden of demonstrating to USCIS that you warrant a favorable exercise of discretion. Therefore, USCIS denies your application after consideration of all the available evidence.

You may not appeal this decision. However, if you believe that the denial of your Form I-485 is in error, you may file a motion to reopen or a motion to reconsider using Form I-290B, Notice of Appeal or Motion. The grounds for a Motion to Reopen and Motion to Reconsider are explained in 8 CFR §103.5(a). You must file Form I-290B within 30 days of the date of this decision if the decision was served in person, or within 33 days if the decision was served by mailed. See Title 8 Code of Federal Regulations 8 CFR §103.5(a) and §103.8(b). Note: You must follow the most current filing instructions for Form I-290B, which can be found at www.uscis.gov.

To access Form I-290B or if you need additional information, please visit the USCIS Web site at www.uscis.gov or call the USCIS Contact Center toll free at 1-800-375-5283.

NOTE on Employment Authorization Document: Any employment authorization based upon this Form I-485 is automatically terminated if the expiration date on the employment authorization document has been reached. See Title 8 Code of Federal Regulations (8 CFR), section 274a.14(a)(1)(i). Since this Form I-485 is denied, the condition upon which your employment authorization was based no longer exists. Any unexpired employment authorization based upon this Form I-485 is revoked as of 18 days from the date of this notice, unless you submit, within 18 days,

proof that your Form I-485 remains pending. See Title 8 Code of Federal Regulations (8 CFR), section 274a.14(b)(2). The decision by the district director shall be final and no appeal shall lie from the decision to revoke the authorization. Your employment authorization document should be returned to the local USCIS office.

Any unexpired Employment Authorization Document (Form I-766) issued based on your pending Form I-485 (EAD with C09 or C09P as the eligibility category) is no longer valid and has been officially invalidated in our systems. You are required to return the invalidated EAD immediately by mail using the U.S. Postal Service (USPS) to:

USCIS
ATTN: Revocation Cards
7 Product Way
Lee's Summit, MO 64002

Failure to return the invalidated EAD according to the instructions above can lead to further adverse action.

NOTE on Advance Parole Document: Any advance parole document based upon this Form I-485 is automatically terminated if the expiration date of the time for which parole was authorized has been reached. See 8 CFR §212.5(e)(1)(ii). Since this Form I-485 is denied, the purpose for which your advance parole document was issued has been accomplished. Any unexpired advance parole document issued to you based upon this Form I-485 is terminated as of the date of this notice. See 8 CFR §212.5(e)(2)(i). Your advance parole document should be returned to the local USCIS office.

For questions about your applications or petitions filed with USCIS or if you need additional assistance, forms or filing instructions, visit our web site at www.uscis.gov. You can use our online tools at www.uscis.gov/tools, including our virtual assistant Emma for information and guidance.

Please use our Case Status Online Tool at <https://egov.uscis.gov> for status updates. You can also reach out to the USCIS Contact Center online by visiting www.uscis.gov/contactcenter. If you are not able to find the information you need online, call the USCIS Contact Center at 1-800-375-5283. If you are hearing impaired, call the USCIS Contact Center TTY at 1-800-767-1833.

Sincerely,



Ya-Mei Chen
Field Office Director





Nova Law Group LLC
Selenia Destefani Esq. – NJ Bar N. 404532022
21 Fulton Street, Newark, NJ, 07102
P: 844-844-NOVA

September 24, 2025

USCIS
Attn: AOS (Box 805887)
131 S. Dearborn, 3rd Floor
Chicago, IL 60603-5517

Re: Form I-290B — Notice of Appeal or Motion

Applicant: Carlos Alberto Perez Silva — A-Number: 

Dear Sir/Madam:

Please be advised that Nova Law Group LLC represents Carlos Alberto Perez Silva (the “Applicant”) in the above-referenced matter. USCIS denied the Applicant’s Form I-485, Application to Register Permanent Residence or Adjust Status, on September 10, 2025. Enclosed please find a Form I-290B seeking reconsideration, and in the alternative reopening, of that decision.

As explained in the accompanying brief, the Miami Immigration Court has reopened/rescinded the in-absentia removal order for lack of notice. Accordingly, the Applicant no longer has an outstanding removal order, and the sole ground USCIS cited as dispositive should not control the discretionary analysis. We respectfully request that USCIS withdraw the denial and approve the I-485, or, at minimum, re-adjudicate the application with an individualized, factor-by-factor exercise of discretion consistent with current policy.

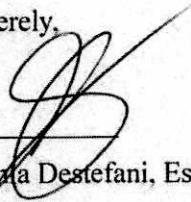
Enclosures:

1. **Form G-28**, Notice of Entry of Appearance as Attorney or Accredited Representative;
2. **Form I-290B**, Notice of Appeal or Motion;
3. **Brief in Support of Motion to Reconsider and, in the Alternative, Motion to Reopen** (with exhibits);
4. **USCIS Decision** denying Form I-485 (dated September 10, 2025);
5. **Immigration Judge’s Order** Granting Motion to Reopen/Rescind In-Absentia Removal Order (Miami Immigration Court), dated [insert date];

6. **EOIR Automated Case Information** printout reflecting reopened proceedings and Master Calendar Hearing on October 15, 2025, at 8:30 a.m.;
7. **Form I-130 Approval Notice**;
8. **Granted Stay of Removal** (dated September 5, 2025).

Please match this correspondence to the Applicant's file. Should you need anything further, kindly contact the undersigned.

Sincerely,



Selena Destefani, Esq.

EXHIBIT A

BRIEF IN SUPPORT OF I- 290B MOTION TO REOPEN/RECONSIDER USCIS DECISION DENYING I-485 APPLICATION

NOVA LAW GROUP
21 Fulton Street
Newark NJ 07102.
Phone (844)844-6682
removal@nova.law

DETAINED

**U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. CITIZENSHIP AND IMMIGRATION SERVICES**

-----X

In the Matter of:

PEREZ SILVA, Carlos Alberto
Applicant

I-485 RECEIPT #: [REDACTED]
DECISION DATE: 09/10/25
FILE NO.: [REDACTED]

-----X

**BRIEF IN SUPPORT OF I-290B MOTION TO REOPEN AND RECONSIDER OF USCIS
DENIAL OF I-485 PETITION**

**U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. CITIZENSHIP AND IMMIGRATION SERVICES**

-----X

In the Matter of:

PEREZ SILVA, Carlos Alberto
Applicant

I-485 RECEIPT #: [REDACTED]
DECISION DATE: [REDACTED]
FILE NO.: [REDACTED]

-----X

**BRIEF IN SUPPORT OF I-290B MOTION TO REOPEN/RECONSIDER USCIS
DECISION DENYING I-485 APPLICATION TO REGISTER PERMANENT
RESIDENCE OR ADJUST STATUS**

Applicant, **Carlos Alberto Silva Perez**, (hereinafter “Applicant”) through undersigned counsel, hereby motion the Department of Homeland Security, United Citizenship and Immigration Services (hereinafter “USCIS”), to reopen and reconsider its final decision dated **September 10, 2025**, denying Applicant’s I-485, Application to Register Permanent Residency or Adjust Status. *See Exhibit A: G-28; See Exhibit B: USCIS Notice Decision (“Exhibit B”)*. This motion is timely and supported by (1) new and material evidence, (2) a change in circumstances, and (3) clear legal errors that affected the outcome of USCIS’s decision.

I. INTRODUCTION & IMMEDIATE RELIEF REQUESTED

As indicated in USCIS’s decision, Applicant’s request to adjust status was solely, and improperly, denied as a matter of discretion by declaring that Applicant’s “outstanding order of removal outweighs ANY positive factor” – USCIS failed to engage in a case-specific weighing of equities. *Exhibit B*. Moreover, the instant approach, and **decisive premise** for Applicant’s denial, was legally erroneous under USCIS’s own policy requiring the balance of present favorable factors against the existence of any adverse factors. A grant in adjustment of status is generally warranted in the absence of adverse factors and presence of favorable factors; however, and should adverse factors exist, an applicant may submit evidence establishing mitigating equities. *Matter of Arai*, 13 I&N Dec. 494, 496 (BIA 1970); *Matter of Patel*, 17 I&N Dec. 597,601 (BIA 1980); 8 C.F.R. § 245.24(d)(11). As illustrated in the USCIS Policy Manual E.8(C)(2), along with preceding case

law, favorable factors range from length in the United States, family unity, good moral character, employment, and so on. *Id.*

Regardless of the fact USCIS neglected to apply the proper standard during its decision, the decisive factor in denying Applicant's request to adjust status no longer exists. On September 19, 2025, a Miami Immigration Judge reopened, and further rescinded, the *in absentia* removal order for lack of proper notice: **Applicant no longer has an outstanding removal order.** *Exhibit C: 09/19/25 IJ Order ("Exhibit C")*. Therefore, USCIS should immediately withdraw and reconsider the September 10th denial decision and thereafter approve Applicant's I-485 or, at the very least, re-adjudicate the I-485 application with a proper equity analysis. 8 C.F.R. § 103.5(a)(3).

In the alternative, and due to the fact the Miami Immigration Judge's order is new evidence arising after the USCIS's decision, USCIS should grant reopening pursuant to 8 C.F.R. § 103.5(a)(2), accept *Exhibit C*, and approve or re-adjudicate the I-485 with the proper standard that time around.

II. PROCEDURAL HISTORY

On February 24, 2023, Applicant's U.S. Citizen wife filed an I-130, Petition for Alien Relative; the I-130 application was approved on September 8, 2025. *See Exhibit D: I-130 Approval Receipt (Exhibit D)*.

On May 8, 2025, Applicant filed an I-485, Application to Register Permanent Residence or Adjust Status. On September 10, 2025, USCIS denied the I-485, in discretion, stating in substance that the outstanding order of removal outweighed "any positive factor" with no individualized balancing. *See Exhibit B*.

On September 2, 2025, Applicant filed a Motion to Reopen, along with a stay of removal because he did not receive notice of the hearing in which he was ordered removed *in absentia*. On September 5, 2025, an Immigration Judge ("IJ") granted the stay of removal pending the motion. *See Exhibit E: Stay of Removal Pending Motion*.

Subsequently, on September 19, 2025, the Miami Immigration Judge granted the Motion to Reopen, and further, rescinded the *in absentia* order, based on lack of notice, eliminating the order's finality. *See* 8 U.S.C. § 1229a(b)(5)(C)(ii) (rescission for lack of notice "at any time"). *Exhibit C*.

III. LEGAL ARGUMENT

A. USCIS's Denial Misapplied Discretion by Using an Arbitrary Categorical Rule Instead of an Equities Analysis Warranting Reconsideration based on Legal Error

USCIS policy itself, along with an array of legal precedent, requires officers to weigh all favorable factors present in a particular case against any existing adverse factors and to **not** exercise discretion arbitrarily or by categorical shortcuts. *Matter of Arai*, 13 I&N Dec. at 496; *Matter of Patel*, 17 I&N Dec. at 601; 8 C.F.R. § 245.24(d)(11). Even further, categorical approaches untethered to the policy's purpose are wildly arbitrary and capricious – agency discretion must be reasoned and case-specific. *Judulang v. Holder*, 565 U.S. 42, 52–56 (2011) (rejecting the Board's categorical "comparative-grounds" rule); USCIS-PM 1.E.8; 7.A.10.

Here, on September 10, 2025, USCIS failed to abide by controlling policy procedures and legal precedent by deciding that an "outstanding order of removal" "outweighs ANY positive factor." In doing so, USCIS disregarded Applicant's significant favorable equities, including nearly twenty-five years of residence in the United States, a clean criminal record, consistent tax-filing as a business owner, and a close-knit U.S. citizen family: a wife of ten years, two sons, and a grandson. USCIS categorically—and in an arbitrary and capricious manner—denied Applicant's I-485, rather than adequately weighing the individual record. *Exhibit B*.

B. The Sole Adverse Premise Has Been Eliminated: The IJ Reopened/Rescinded the In Absentia Order

Pursuant to 8 U.S.C. § 1229a(b)(5)(C)(ii), Congress expressly permits recession of an order at any time due to lack of notice. Upon reopening and rescission of an order, the final *in absentia* order no longer exists and cannot be given dispositive weight in a discretionary balance. *Id*.

Here again, USCIS erroneously treated Applicant's then-outstanding removal order as the decisive basis for denying the I-485 application. Because that denial rested entirely on a premise

that has since been vacated, USCIS should withdraw and reconsider its September 10 decision and either approve the I-485 or, at minimum, re-adjudicate the application with a proper equity analysis.

C. Procedural Vehicle

Pursuant to 8 C.F.R. § 103.5(a)(2) and given that the Miami Immigration Judge's order is new evidence arising after the USCIS's decision, reopening is independently warranted based on outcome-determinative evidence. Even further, and if USCIS prefers to correct the legal error directly, reconsideration under 8 C.F.R. § 103.5(a)(3) is equally appropriate.


IV. CONCLUSION

For the foregoing reasons, Applicant respectfully requests:

- USCIS reopen and/or reconsider the denial of the Form I-485, vacate the denial, and adjudicate the application on its merits or hold it in abeyance pending final adjudication.

Should USCIS require further evidence, we stand ready to provide it.

Respectfully submitted,



Selenia Destefani, Esq.
Nova Law Group
21 Fulton Street
Newark, NJ 07102
P: 844-844-6682
E: sdestefani@nova.law

EXHIBIT B

USCIS NOTICE DENYING APPLICANT'S I-485

September 10, 2025

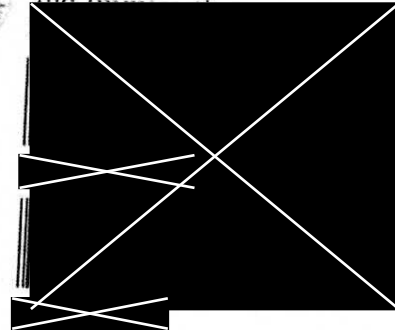
CARLOS ALBERTO PEREZ SILVA
62 NORTH STREET
APT A
MADISON, NJ 07940

RE: CARLOS ALBERTO PEREZ SILVA
I-485, Application to Register Permanent Residence or
Adjust Status

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
8 Cedar Brook Drive
Cranbury, NJ 08512



U.S. Citizenship
and Immigration Services



NOTICE OF DECISION

Dear CARLOS PEREZ SILVA:

On May 8, 2025, you filed a Form I-485, Application to Register Permanent Residence or Adjust Status, with U.S. Citizenship and Immigration Services (USCIS) under section 245 of the Immigration and Nationality Act (hereinafter referred to as INA or "the Act"), based on being the principal beneficiary of a family-based immigrant petition.

After a thorough review of your application, your testimony during your interview, and the record of evidence, we must inform you that we are denying your application.

To qualify for adjustment under INA 245, an applicant must:

- Be inspected and admitted or inspected and paroled into the United States;
- Be eligible to receive an immigrant visa;
- Be admissible to the United States for permanent residence; and
- Have an immigrant visa immediately available at the time the application is filed.

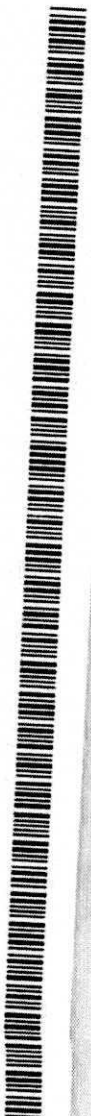
You must demonstrate that you are eligible to adjust status to a lawful permanent resident (LPR). See Title 8 Code of Federal Regulations (hereinafter referred to as 8 CFR), §245.1.

Statement of Facts and Analysis, Including Reason(s) for Denial

On September 05, 2025, you appeared for an interview to determine your eligibility for adjustment of status. During the interview and review of your application with an Immigration Services Officer, you testified that the information on your Form I-485, along with any amendments made during the adjustment interview, and supporting evidence were true and correct.

You initially submitted the following evidence in support of your application:

- Birth Certificate for Carlos Alberto Perez Silva;
- I-94 for Carlos Alberto Perez;
- Passport biographic page for Carlos Alberto Perez Silva;



- Form I-864 Affidavit of Support Under Section 213A of the INA and supporting documents;
- Birth certificate for Maria Victoria Urrea'
- Marriage Certificate for Carlos Alberto Perez and Maria Victoria Urrea;
- Notice to Appear for Carlos Alberto Perez

After reviewing the evidence and the testimony provided at the interview, USCIS records indicate that you are ineligible for the following reason(s):

USCIS reviewed your case file and determined that an Immigration Judge ordered that you be removed from the United States on August 03, 2001, but you have not yet departed under that order. It does not appear that the removal proceedings against you have been terminated. See Title 8 Code of Federal Regulations (8 CFR), sections 245.1(c)(8)(ii) and 1245.2(a)(1).

The granting of adjustment of status to that of a lawful permanent resident is a discretionary benefit. See section 245(a) of the INA. Mere eligibility is not the only factor considered in adjustment of status. Adverse factors may preclude a favorable exercise of discretion by USCIS. An applicant must demonstrate eligibility for adjustment of status as a matter of law and in the exercise of discretion. Generally, favorable factors such as family ties, hardship, and length of residence in the United States can be considered in the favorable exercise of administrative discretion.

"[T]he extraordinary discretionary relief [of adjustment] can only be granted in meritorious cases...." Matter of Blas, 15 I&N Dec. 626, 630 (BIA 1974; A.G. 1976). "Factors relevant to determining whether a favorable exercise of discretion is warranted include, but are not limited to, the existence of family ties in the United States; the length of the respondent's residence in the United States; the hardship of traveling abroad; and the respondent's immigration history, including any preconceived intent to immigrate at the time of entering as a nonimmigrant." Matter of Hashmi, 24 I&N Dec. 785, 793 (BIA 2009). Along these lines, a "preconceived intention to remain" in the United States upon entry "a serious adverse factor." Matter of Ibrahim, 18 I&N Dec. 55, 57 (BIA 1981).

Considering the totality of the circumstances, your outstanding removal order outweighs any positive factors you may have. Thus, you have not met the burden of demonstrating to USCIS that you warrant a favorable exercise of discretion. Therefore, USCIS denies your application after consideration of all the available evidence.

You may not appeal this decision. However, if you believe that the denial of your Form I-485 is in error, you may file a motion to reopen or a motion to reconsider using Form I-290B, Notice of Appeal or Motion. The grounds for a Motion to Reopen and Motion to Reconsider are explained in 8 CFR §103.5(a). You must file Form I-290B within 30 days of the date of this decision if the decision was served in person, or within 33 days if the decision was served by mailed. See Title 8 Code of Federal Regulations 8 CFR §103.5(a) and §103.8(b). Note: You must follow the most current filing instructions for Form I-290B, which can be found at www.uscis.gov.

To access Form I-290B or if you need additional information, please visit the USCIS Web site at www.uscis.gov or call the USCIS Contact Center toll free at 1-800-375-5283.

NOTE on Employment Authorization Document: Any employment authorization based upon this Form I-485 is automatically terminated if the expiration date on the employment authorization document has been reached. See Title 8 Code of Federal Regulations (8 CFR), section 274a.14(a)(1)(i). Since this Form I-485 is denied, the condition upon which your employment authorization was based no longer exists. Any unexpired employment authorization based upon this Form I-485 is revoked as of 18 days from the date of this notice, unless you submit, within 18 days,

proof that your Form I-485 remains pending. See Title 8 Code of Federal Regulations (8 CFR), section 274a.14(b)(2). The decision by the district director shall be final and no appeal shall lie from the decision to revoke the authorization. Your employment authorization document should be returned to the local USCIS office.

Any unexpired Employment Authorization Document (Form I-766) issued based on your pending Form I-485 (EAD with C09 or C09P as the eligibility category) is no longer valid and has been officially invalidated in our systems. You are required to return the invalidated EAD immediately by mail using the U.S. Postal Service (USPS) to:

USCIS
ATTN: Revocation Cards
7 Product Way
Lee's Summit, MO 64002

Failure to return the invalidated EAD according to the instructions above can lead to further adverse action.

NOTE on Advance Parole Document: Any advance parole document based upon this Form I-485 is automatically terminated if the expiration date of the time for which parole was authorized has been reached. See 8 CFR §212.5(e)(1)(ii). Since this Form I-485 is denied, the purpose for which your advance parole document was issued has been accomplished. Any unexpired advance parole document issued to you based upon this Form I-485 is terminated as of the date of this notice. See 8 CFR §212.5(e)(2)(i). Your advance parole document should be returned to the local USCIS office.

For questions about your applications or petitions filed with USCIS or if you need additional assistance, forms or filing instructions, visit our web site at www.uscis.gov. You can use our online tools at www.uscis.gov/tools, including our virtual assistant Emma for information and guidance.

Please use our Case Status Online Tool at <https://egov.uscis.gov> for status updates. You can also reach out to the USCIS Contact Center online by visiting www.uscis.gov/contactcenter. If you are not able to find the information you need online, call the USCIS Contact Center at 1-800-375-5283. If you are hearing impaired, call the USCIS Contact Center TTY at 1-800-767-1833.

Sincerely,



Ya-Mei Chen
Field Office Director



EXHIBIT C

AUTOMATED CASE INFORMATION

[Home](#) > PEREZ, CARLOS ALBERTO ([REDACTED])



Automated Case Information

Name: PEREZ, CARLOS ALBERTO | A-Number: [REDACTED]

Next Hearing Information

Your upcoming **MASTER** hearing is on **October 15, 2025 at 8:30 AM.**

JUDGE

Neumann, Monica

COURT ADDRESS

333 SOUTH MIAMI AVE., STE.700
MIAMI, FL 33130

Court Decision and Motion Information

This case is pending.

EXHIBIT D

I-130 APPROVAL NOTICE

EXHIBIT E

STAY OF REMOVAL PENDING MOTION



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
MIAMI IMMIGRATION COURT**

Respondent Name:

PEREZ, CARLOS ALBERTO

To:

Velez, Philip John
21 Fulton Street
Newark, NJ 07102

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:



ORDER OF THE IMMIGRATION JUDGE

Respondent has applied for a stay of removal in connection with a Motion to Reopen or Motion to Reconsider.

Upon consideration of the representations and submissions made by and on behalf of Respondent and the Department of Homeland Security, it is hereby ordered that the application for a stay of removal:

be granted, to be effective until determination of the motion.

Respondent is detained at:
Delaney Hall Detention Facility
451 Doremus Avenue
Newark, NJ 07105

be denied.



Immigration Judge: Maingot, Anthony 09/05/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved


Appeal Due:

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [M] Alien atty/rep. | [M] DHS

Respondent Name : PEREZ, CARLOS ALBERTO | A-Number : 

Riders:

Date: 09/05/2025 By: SCOTT, LORENA, Court Staff

EXHIBIT D



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
MIAMI IMMIGRATION COURT**

Respondent Name:

PEREZ, CARLOS ALBERTO

To:

Velez, Philip John
21 Fulton Street
Newark, NJ 07102

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

09/05/2025

ORDER OF THE IMMIGRATION JUDGE

Respondent has applied for a stay of removal in connection with a Motion to Reopen or Motion to Reconsider.

Upon consideration of the representations and submissions made by and on behalf of Respondent and the Department of Homeland Security, it is hereby ordered that the application for a stay of removal:

be granted, to be effective until determination of the motion.

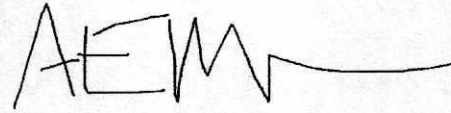
Respondent is detained at:

Delaney Hall Detention Facility

451 Doremus Avenue

Newark, NJ 07105

be denied.



Immigration Judge: Maingot, Anthony 09/05/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved


Appeal Due:

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [M] Alien atty/rep. | [M] DHS

Respondent Name : PEREZ, CARLOS ALBERTO | A-Number : 

Riders:

Date: 09/05/2025 By: SCOTT, LORENA, Court Staff

EXHIBIT E

EXHIBIT F

OFFICE OF INSPECTOR GENERAL

**Issues Requiring Action
at the Essex County
Correctional Facility in
Newark, New Jersey**



Homeland
Security

**February 13, 2019
OIG-19-20**



DHS OIG HIGHLIGHTS

Issues Requiring Action at the Essex County Correctional Facility in Newark, New Jersey

February 13, 2019

Why We Did This Inspection

This inspection is part of an ongoing review of ICE detention facilities. While conducting an unannounced visit to the Essex County Correctional Facility using ICE's 2011 *Performance-Based National Detention Standards*, we identified serious violations.

What We Recommend

We recommend that ICE conduct a full review of the Essex County Correctional Facility and Essex County Department of Corrections' management of the facility immediately to ensure compliance with ICE's 2011 *Performance-Based National Detention Standards*. As part of this assessment, ICE must ensure compliance with the standards addressing reporting incidents involving detainees and facility conditions.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

During our July 2018 unannounced inspection of the Essex County Correctional Facility in Newark, New Jersey, we identified a number of serious issues that violate U.S. Immigration and Customs Enforcement's (ICE) 2011 *Performance-Based National Detention Standards* and pose significant health and safety risks at the facility. Specifically, we are concerned about the following issues:

- Unreported Security Incidents
- Food Safety Issues
- Facility Conditions

ICE must ensure the Essex County Correctional Facility complies with detention standards to establish an environment that protects the safety, rights, and health of detainees, including more closely scrutinizing the facility's process for reporting incidents involving detainees, the handling of perishable foods, and the detainees' living conditions. Mitigation and resolution of these issues require ICE's immediate attention and increased engagement with the facility and its operations.

ICE Response

ICE concurred with the report recommendation and described corrective actions to address the issues identified in this report. We consider the recommendation resolved and open.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

February 13, 2019

MEMORANDUM FOR: Ronald D. Vitiello
Senior Official Performing the Duties of the Director
U.S. Immigration and Customs Enforcement

FROM: John V. Kelly 
Senior Official Performing the
Duties of the Inspector General

SUBJECT: *Issues Requiring Action at the Essex County
Correctional Facility in Newark, New Jersey*

For your action is our final report, *Issues Requiring Action at the Essex County Correctional Facility in Newark, New Jersey*. We incorporated the formal comments provided by your office.

The report contains one recommendation aimed at improving ICE detention operations. Your office concurred with the recommendation. Based on information provided in your response to the draft report, we consider the recommendation open and resolved.

Once your office has fully implemented the recommendation, please submit a formal closeout letter to us within 30 days so that we may close the recommendation. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions. Please send your response or closure request to OIGSREFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination

Please call me with any questions, or your staff may contact Jennifer L. Costello, Deputy Inspector General, or John D. Shiffer, Chief Inspector, at (202) 981-6000.



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Department of Homeland Security

Background

The Essex County Correctional Facility in Newark, New Jersey, is owned and operated by the Essex County Department of Corrections, and can house up to 928 male U.S. Immigration and Customs Enforcement (ICE) detainees through an Intergovernmental Service Agreement (IGSA) between the Essex County Department of Corrections and ICE. Based on this agreement, the Essex County Correctional Facility must comply with ICE's 2011 *Performance-Based National Detention Standards*, as revised in December 2016. These detention standards establish requirements for areas such as:

- environmental health and safety: e.g., cleanliness, sanitation, security, admission into facilities, classification, detainee searches, segregation¹ (Special Management Units), and disciplinary system;
- detainee care: e.g., food service, medical care, and personal hygiene;
- activities: e.g., religious practices, telephone access, and visitation; and
- grievance system.

In July 2018, we visited the Essex County Correctional Facility as part of our latest round of unannounced spot inspections. At the time, approximately 216 Essex County Department of Corrections' guards oversaw 797 male detainees. At the facility, detainees with prior criminal history are held in 1 of 7 housing units with up to 64 cells holding 2 detainees per cell. Detainees with no criminal history are held in 1 of 7 open bay dormitories, each holding up to 60 detainees. Finally, the Special Management Unit contained eight cells, in a corridor physically separated from inmates, for segregated detainees who had violated facility rules or requested to be separated from other detainees for their safety. While at the facility, we identified serious issues relating to safety, security, and environmental health that require ICE's immediate attention. These issues not only constitute violations of ICE detention standards but also represent significant threats to detainee health and safety.

Failure to Report Guard's Unsecured Loaded Firearm Reflects Ongoing Problem

According to the ICE Standards,² Essex County Correctional Facility must report to ICE any incidents involving detainees. However, the facility failed to

¹ Segregation is the process of separating certain detainees from the general population for administrative, disciplinary, or protective reasons.

² ICE, *Performance-Based National Detention Standards, 2011*, Section 2.4, Facility Security and Control (Revised Dec. 2016). The pertinent part of this standard requires facility administrators to ensure the ICE field office director "is promptly notified of any incident or allegation of staff misconduct if that misconduct relates to treatment of ICE detainees, to the security or safety of



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do so following a detainee's discovery and reporting of a guard's loaded handgun left in a facility staff bathroom that the detainee was cleaning. This marks the fourth time in less than a year that the facility failed to notify ICE of incidents involving detainees and raises serious concerns about the facility's ability to handle security issues.

Interviews with detainees and facility management revealed that an Essex County Department of Corrections guard left a loaded handgun in the facility staff bathroom stall in April 2018. Facility leadership confirmed the incident occurred in a staff bathroom, which detainees clean as part of their job duties. A detainee on a cleaning crew reported discovering the loaded weapon and notifying guards. ICE Standards³ mandate that officers store all weapons in individual lockers before entering the facility. The guard in question admitted to leaving the loaded handgun in the bathroom and was given a 90-day suspension, which was later reduced in a settlement to a 45-day suspension.

Facility leadership completed a review of the incident, but did not interview the detainee who found the weapon. Rather, facility leadership reported to us that they told the detainee not to discuss the matter with anyone else. The review documented by the facility does not mention that the detainee found and reported the loaded weapon.

Facility records also do not indicate that ICE was notified of the incident, as required by ICE Standards. ICE confirmed it was never notified, despite previously citing the facility for failure to report issues involving detainees, including detainee fights and hospitalization for mental illness. Although the Essex facility initiated new procedures in response to the previous citation, facility management confirmed they did not contact ICE or report the incident even after the facility completed its review.

During our site visit, we notified ICE of the incident and, in August 2018, ICE issued a Contract Discrepancy Report. The report outlined this incident as the fourth time in less than a year that the Essex Facility had failed to notify ICE of detainee-related incidents. The penalty for this discrepancy report can be a fine up to a 5 percent reduction of invoiced amounts. The penalty is pending final review and issuance by ICE.

the facility, or to compliance with detention standards or the provisions of the facility's contract with ICE."

³ ICE, *Performance-Based National Detention Standards, 2011*, Section 2.7, Key and Lock Control (Revised Dec. 2016). The pertinent part of this standard requires that "all firearms shall be stored in secure gun lockers before their carriers enter the facility."



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Not only does this specific incident pose significant security and safety risks, but so does the facility's pattern of failing to report such incidents involving detainees. Consequently, ICE must more closely scrutinize and oversee the facility's process for reporting incidents involving detainees, and administer penalties as appropriate.

Food Safety Issues Endanger Detainee Health

During our visit to the Essex County Correctional Facility, we identified a host of food safety problems that could endanger the health of detainees. ICE standards⁴ obligate the Essex Facility to ensure sound safety and sanitation practices in all aspects of food service. However, when inspecting the refrigeration units, we found mishandling of meats and storage of moldy bread, which has led to potentially contaminated food being served to detainees. The food handling, in general, was so substandard that ICE and facility leadership had the kitchen manager replaced during our inspection. Overall, our inspection validated media reports⁵ of concerns about food, particularly meat, which was raw, spoiled, or expired.

We observed open packages of raw chicken leaking blood all over refrigeration units (see figure 1) and identified slimy, foul-smelling lunch meat, which appeared to be spoiled, held in the refrigeration unit. Although this mishandling of meats can spread salmonella, listeria, and E. coli, leading to serious foodborne illness, we observed facility staff serving this potentially spoiled meat to detainees.

⁴ ICE, *Performance-Based National Detention Standards, 2011*, Section 4.1, Food Service (Revised Dec. 2016). The pertinent part of this standard requires that "[d]etainees, staff and others shall be protected from injury and illness by adequate food service training and the application of sound safety and sanitation practices in all aspects of food service and dining room operations."

⁵ *Ailing Justice: New Jersey, Inadequate Healthcare, Indifference, and Indefinite Confinement in Immigration Detention*, Human Rights First (February 2018), <https://www.humanrightsfirst.org/sites/default/files/Ailing-Justice-NJ.pdf>.



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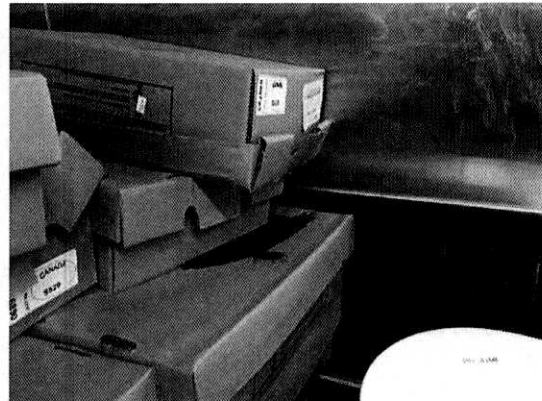


Figure 1. Refrigerator with blood leaking from open boxes containing raw chicken. Observed by the Office of Inspector General (OIG) at the Essex Facility on July 24, 2018. *Source:* OIG

Detainees also reported being repeatedly served meat that smelled and tasted bad. During dinner service, we observed facility staff serving detainees hamburgers that were foul smelling and unrecognizable (see figure 2).

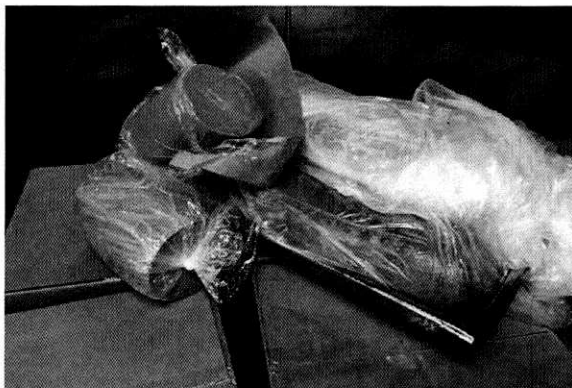


Figure 2. Slimy and discolored lunch meat stored without any labels (at left). Hamburger patty served to detainees that was foul smelling and unrecognizable (at right). Observed by OIG at the Essex Facility on July 24, 2018. *Source:* OIG

In addition, we observed expired and moldy bread in the facility refrigerator despite U.S. Department of Agriculture guidance⁶ to discard bread with mold. Kitchen staff reported placing all unused bread from food service into large trash bags and trash cans to be used for making bread pudding once every 2–3 weeks. Furthermore, kitchen management posted a sign prohibiting the disposal of any bread (see figure 3). According to the U.S. Department of Agriculture, such practices put the health of staff and detainees at risk as mold

⁶ United States Department of Agriculture: *Molds On Food: Are They Dangerous?*
https://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/safe-food-handling/molds-on-food-are-they-dangerous/_ct_index



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can cause allergic reactions and respiratory problems, and some molds, in the right conditions, can produce poisonous substances that can cause illnesses.

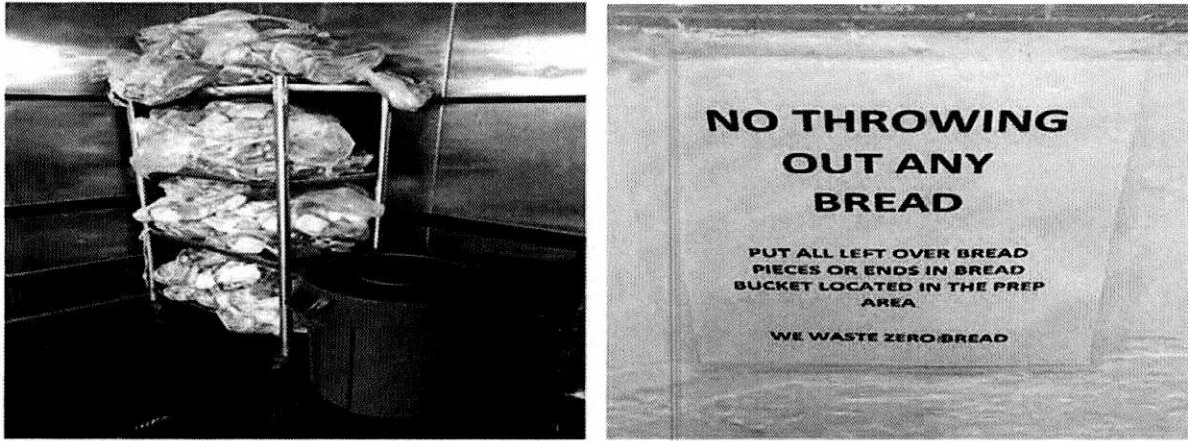


Figure 3. Undated moldy bread held in the refrigeration unit for indefinite periods. Signage posted in the kitchen to direct staff not to discard any bread. Observed by OIG at the Essex Facility on July 24, 2018. *Source:* OIG

Our interviews with detainees and review of grievances corroborated concerns regarding food safety at the Essex Facility. Detainees stated the food was of low quality and consuming it caused vomiting and diarrhea, common symptoms of food poisoning. Detainees also stated most of them now purchase their food through the commissary, which generally does not offer fresh meat and produce. From January 2018 to July 2018, detainees filed approximately 200 kitchen-related grievances (about 12 percent of all grievances filed) with comments such as:

- “For dinner, we were served meatballs that smell like fecal matter. The food was rotten.”
- “The food that we received has been complete garbage, it’s becoming impossible to eat it. It gets worse every day. It literally looks like it came from the garbage dumpster; I have a stomach infection because of it and the nurse herself told me it was caused by the food.”

Further, a detainee in segregation said the food was so bad that he had started a liquid only diet and was considering a full hunger strike.

Based on the substandard food safety and sanitation practices we observed, ICE cannot ensure detainee health at the Essex Facility. Although ICE standards require the protection of detainees from illness through adequate food service, the Essex Facility has risked the spread of foodborne illness by knowingly serving detainees potentially contaminated meat and bread. As a result, ICE must more closely scrutinize and oversee the facility’s management



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of food processing, preparation, and storage to ensure it complies with required standards.

Facility Conditions Present Risks to Detainee Health and Safety

ICE standards⁷ require the facility to conduct preventive maintenance and regular inspections to ensure timely repairs. Despite these standards, we observed environmental conditions at the Essex Facility that pose serious health and safety risks for detainees, including leaking ceilings in detainee living areas, showers laced with mold and peeling paint, and dilapidated beds. Detainees also lack access to recreation space outside of their living area.

During our inspection, we found ongoing leaks in every housing unit holding detainees (see figure 4). We observed two of the leaks dripping directly onto detainee beds. We also witnessed trash cans placed around the facility to catch water leaking from the ceiling. These leaks can cause mold and mildew growth, which can spread throughout the facility leading to serious health issues for detainees, including allergic reactions and persistent illnesses.

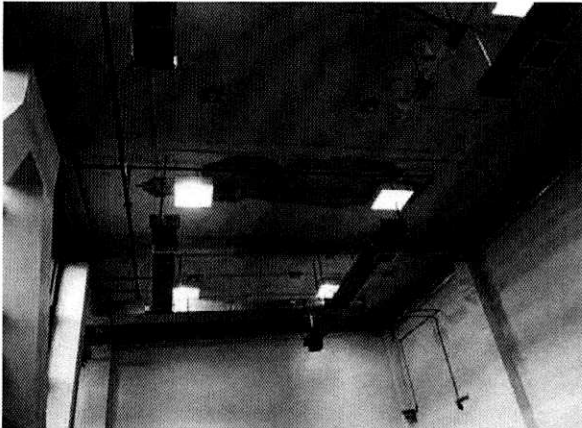


Figure 4. Roof leaks found in every housing unit.

Observed by OIG at the Essex Facility on July 24, 2018. *Source:* OIG

Facility conditions in the showers also revealed serious concerns about basic maintenance and upkeep. Although the facility reported that it rotates maintenance and painting for detainee living areas, in six of the seven detainee

⁷ ICE, *Performance-Based National Detention Standards, 2011*, Section 1.2, Environmental Health and Safety (Revised Dec. 2016). The pertinent part of this standard requires that “[p]reventive maintenance and regular inspections shall be performed to ensure timely emergency repairs or replacement and to prevent dangerous and life-threatening situations.”



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dormitories and all seven detainee housing units, shower stalls⁸ were unsanitary as evidenced by mildew, mold, and peeling paint. Mold in the showers extended into the hallways leading to the showers (see figure 5).

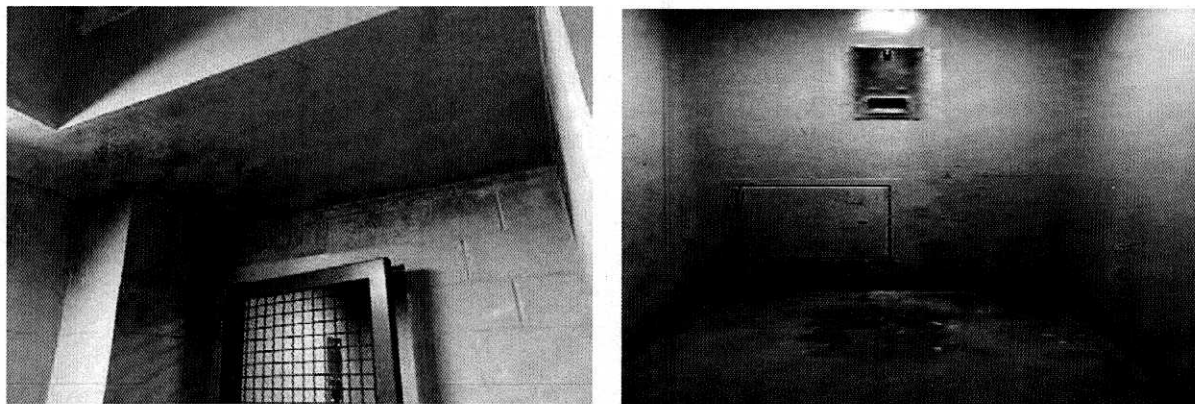


Figure 5. Hallway leading to shower filled with mold and shower stall with mold, mildew, and peeling paint. Observed by OIG at the Essex Facility on July 24, 2018. *Source:* OIG

In addition, we found housing unit mattresses⁹ in such poor condition that detainees were using bed sheets to tie the seams of mattresses together so the filling did not come out (see figure 6). The facility does not provide pillows, but rather has them built into the mattresses, which were completely flat and dilapidated. Facility staff stated that guards are responsible for inspecting and replacing old mattresses. However, guards in the housing units said they wait for detainees to complain about old bedding before requesting new mattresses.

⁸ ICE, *Performance-Based National Detention Standards, 2011*, Section 1.2, Environmental Health and Safety (Revised Dec. 2016). The pertinent part of this standard requires that the facility administrator shall ensure that staff and detainees maintain a high standard of facility sanitation and general cleanliness.

⁹ ICE, *Performance-Based National Detention Standards, 2011*, Section 4.5, Personal Hygiene (Revised Dec. 2016). The pertinent part of this standard requires that all detainees shall be issued clean bedding, linens, and a towel and be held accountable for those items.



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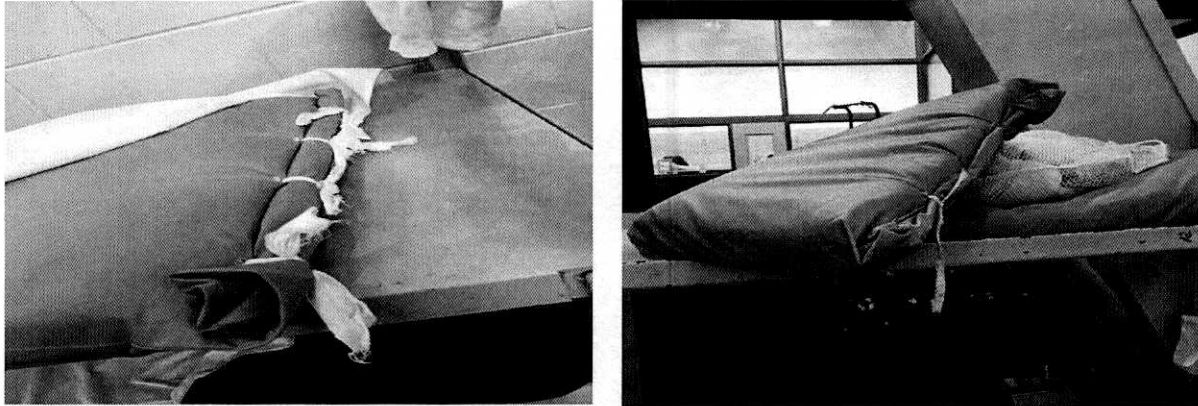


Figure 6. Detainee mattresses being held together with tied sheets. Observed by OIG at the Essex Facility on July 24, 2018. *Source:* OIG

ICE standards¹⁰ require that all detainees be allowed outdoor recreation time outside their living area. However, the Essex Facility lacks outdoor space, and recreation for detainees was located within housing units. We observed large glass enclosures inside detainee living areas with mesh cages at the top to allow in outside air (see figure 7). Facility staff indicated that ICE was going to build a soccer field for outdoor recreation when the facility began housing detainees in 2010, but ICE never completed the project. ICE records indicate discussions had taken place regarding outdoor recreation, but no agreements were made between ICE and the facility. Based on our review of the contract and ICE inspection records, ICE officials have never documented concerns regarding outdoor recreation in their weekly inspections or cited the facility for failure to meet this detention standard since it began housing detainees.

¹⁰ ICE, *Performance-Based National Detention Standards, 2011*, Section 5.4, Recreation (Revised Dec. 2016). The pertinent part of this standard requires that “[d]etainees shall have access to exercise opportunities and equipment at a reasonable time of day, including at least one hour daily of physical exercise outside the living area, and outdoors when practicable. Facilities lacking formal outdoor recreation areas are encouraged to explore other, secure outdoor areas on facility grounds for recreational use. Daily indoor recreation shall also be available.”



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Department of Homeland Security



Figure 7. Mesh cages added to glass enclosure inside housing areas to provide “outdoor” recreation for detainees. Observed by OIG at the Essex Facility on July 24, 2018. *Source:* OIG

Recommendation

Recommendation: We recommend ICE conduct an immediate, full review of the Essex County Correctional Facility and the Essex County Department of Corrections’ management of the facility to ensure compliance with ICE’s 2011 *Performance-Based National Detention Standards*. As part of this assessment, ICE must review and ensure compliance with those standards addressing:

1. Unreported security incidents;
2. Food safety; and
3. Facility conditions that include ceiling leaks, unsanitary shower stalls, bedding, and outdoor recreation areas.

Management Comments and OIG Analysis

We obtained management comments to the draft report from ICE. We included a copy of those comments, in their entirety, in appendix A. We also made other revisions, where appropriate, to address separate technical comments ICE provided. We consider the recommendation resolved and open. A summary of ICE’s response and our analysis follows.

ICE Response: Concur. ICE immediately initiated a follow-up review process. All areas of the OIG inspection results were thoroughly examined, and necessary actions were initiated to ensure facility compliance with the PBNDS [*Performance-Based National Detention Standards*].



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

ICE took action to address unreported security incidents including interviewing the detainee who claimed to have found the firearm and reviewing facility documentation on the firearm incident. Ultimately, ICE issued the facility a Contract Discrepancy Report for failure to report the incident to ICE as required under the facility contract.

In reference to the food safety issues, ERO [Enforcement and Removal Operations] Newark management and staff took the following specific actions: ICE officers observed an immediate, thorough on-the-spot response by Essex County Correctional Facility Food Service staff to remedy the food storage concerns. Food storage inventory was properly dated, documented, and packaged in compliance with the ICE PBNDS 2011 Standard for Food Service. Additionally, the facility food services manager was immediately replaced by the food service contractor with a corporate, management-level, food services professional. ERO Newark officers and the facility's ICE Detention Service Manager conduct daily inspections of the food services area to ensure continuity of compliance measures. The food service contractor was also issued a Contract Discrepancy Report for the deficiencies in food management. Facility management and the ICE Quality Assurance Coordinator have been assigned to conduct spot audits of the food service kitchen on a weekly basis to ensure compliance.

In reference to the facility conditions, ERO Newark management and staff took the following specific actions: ICE officers observed an immediate response by facility operational staff to remedy the facility concerns. On a scheduled rotation, all ICE detainee housing units were emptied and thoroughly cleaned and disinfected using steam pressure-washers. Repairs, reconditioning, and painting of walls and ceilings, and hardware were completed throughout the housing units. All detainee mattresses that had signs of wear were replaced. Facility management staff has incorporated a new maintenance schedule to prevent reoccurrence. In addition, the facility was given another Contract Discrepancy Report for the poor facility conditions.

To ensure ongoing compliance with ICE's 2011 PBNDS at the Essex facility, ICE will schedule quarterly meetings with respective stakeholders. In addition, ERO will conduct a detailed follow-up inspection within the next 6 months to ensure corrective measures have been completed. Lastly, ERO will initiate discussions with the Essex County Correctional Facility management staff to determine whether a dedicated outdoor recreation area is feasible. Estimated Completion Date: June 30, 2019.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation confirming the completion of the follow-up inspection and modifications made for outdoor recreation.

Scope and Methodology

We visited the Essex County Correctional Facility as part of our larger effort to inspect ICE detention facilities. We used ICE's 2011 *Performance-Based National Detention Standards* to conduct our inspection, as these are the standards under which the facility reported currently operating. These standards, developed in coordination with component stakeholders, prescribe the expected outcomes of each standard and the expected practices required to achieve them. ICE detention standards were designed to improve safety, security, and conditions of confinement for detainees.

During our inspection, we interviewed the following ICE staff members: ICE Assistant Field Office Director, Supervisory Detention and Deportation Officer, and Detention Services Manager. We interviewed employees of the Essex County Department of Corrections, including the Director, Compliance Officer, Grievance Coordinator, Classification Officer, Segregation Supervisor, and Assistant Health Services Administrator. We also interviewed detainees held in the general population and segregation. We reviewed documentation from previous ICE inspections, facility documents, detainee records, and documentation of grievances.

As part of our inspection, we toured the following areas of the facility:

- General medical unit for detainees
- Kitchen
- Special Management Unit (segregation)
- Modular housing units, including individual cells, and open bay dormitories
- Facility intake
- Control room

We also reviewed ICE and Essex County Department of Corrections documentation related to facility violations, contract modifications and penalties, and repairs.

We conducted this review from July 2018 to September 2018 under the authority of the *Inspector General Act 1978*, as amended, and in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency. Major contributors to this



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report are John D. Shiffer, Chief Inspector; Stephanie Christian, Lead Inspector; Ryan Nelson, Senior Inspector; and Adam Brown, Independent Reference Reviewer.



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Appendix A ICE Response to the Draft Management Alert

Office of the Chief Financial Officer

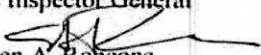
U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

December 19, 2018

MEMORANDUM FOR: John V. Kelly
Senior Official Performing the Duties
of the Inspector General

FROM: 
Stephen A. Rohcone
Chief Financial Officer and
Senior Component Accountable Official

SUBJECT: Management Response to OIG Draft Report: "Issues
Requiring Action at the Essex County Correctional Facility in
Newark, New Jersey" (Project No. 17-123-ISP-ICE (Essex))

Thank you for the opportunity to review and comment on this draft report. U.S. Immigration and Customs Enforcement (ICE) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

ICE is committed to continually enhancing the safety, rights, and health of detainees in ICE's care. In its prior work, the OIG acknowledged ICE's collaboration with stakeholders for more than a decade to improve the safety, security, and conditions of confinement for detainees. ICE utilizes a layered approach to monitor detention conditions at facilities, with processes in place to implement corrective actions if it finds that facilities are not in compliance with ICE detention standards. ICE's detention operations are governed by national detention standards and are overseen by field office personnel, inspections by ICE's Office of Professional Responsibility, and other programmatic oversight and inspections by ICE's Office of Enforcement and Removal Operations (ERO). ICE works daily to ensure that facilities comply with ICE detention standards or take the necessary corrective action to address problems and concerns.

In alignment with its approach to monitoring detention conditions, ICE has completed multiple inspections of the Essex County Correctional Facility (ECCF) in recent years. For example, ICE has completed its annual contract inspections, and the ICE Office of Detention Oversight performed a facility review in April 2016. When deficiencies were identified, the facility proposed a Uniform Corrective Action Plan, and ICE ensured corrections were completed. ICE will continue these efforts as it addresses the OIG's findings, and will work to gain compliance of its performance standards at the facility.

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The draft report contained one recommendation with which ICE concurs. Attached find our detailed response to the recommendation. Technical comments were previously provided under separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact us if you have any questions. We look forward to working with you again in the future.

Attachment

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Attachment: Management Response to Recommendation Contained in 17-123-ISP-ICE (Essex)

Recommendation: We recommend ICE conduct an immediate, full review of the Essex County Correctional Facility and the Essex County Department of Corrections' management of the facility to ensure compliance with ICE's 2011 *Performance-Based National Detention Standards* [PBNDs]. As part of this assessment, ICE must review and ensure compliance with those standards addressing:

1. Unreported security incidents
2. Food safety
3. Facility conditions that include ceiling leaks, unsanitary shower stalls, bedding, and outdoor recreation areas.

Response: Concur. ICE ERO Newark discussed the OIG's findings with the auditors at the conclusion of the inspection, and immediately initiated a follow-up review process. All areas of the OIG inspection results were thoroughly examined, and necessary actions were initiated to ensure ECCF compliance with the PBNDs.

1. In reference to the unreported security incidents, ERO Newark management and staff took the following specific actions:

On July 30, 2018, ERO Newark officers conducted a personal interview with the detainee claiming to have located the firearm. The detainee repeated his assertion to the OIG auditors that he was the one who found the weapon; however, he could not provide information about anyone else who could corroborate his story and no other supportive evidence was discovered to substantiate his claim. ERO Newark officers confirmed that there are no surveillance cameras that would provide video evidence of activity in the area of the found weapon.

ERO Newark received a copy of the complete investigation conducted by ECCF officials. The report clearly states an ECCF officer located the firearm, which was reportedly left in the bathroom stall by an officer prior to departing the facility at the end of his shift. ECCF also included the disciplinary actions that were taken on the officer that left his gun in the officers' bathroom. A copy of the complete report was provided to the DHS OIG auditors prior to the completion of their inspection.

ERO Newark received no previous notification from ECCF about the found firearm, nor did the detainee witness previously come forward with his claim of finding the weapon to the ERO Newark officers or Detention Services Manager (DSM) who are assigned to tour the ECCF housing units daily. ERO Newark was unable to confirm the validity of either the ICE detainee's description, or the ECCF official report description of the incident.

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The ECCF incident report and follow up inquiries by ERO Newark were reviewed by ERO Newark management, and ECCF was ultimately cited for failing to report the incident as addressed in ERO Newark Contract Discrepancy Report (CDR) 24, dated August 2, 2018. The CDR noted that ECCF, as per the contract (Article 21. Incident Reporting: Incident Reporting shall be in accordance with Attachment (6), Performance Work Statement, Section IIL A, 6-7), is required to immediately report any violations or attempted violations of employee standards of conduct related incidents, which are out of the ordinary or non-routine.

2. In reference to the food safety issues, ERO Newark management and staff took the following specific actions:

On July 24, 2018, ERO Newark officers observed an immediate, thorough on-the-spot response by ECCF Food Service staff to remedy the food storage concerns. Food storage inventory was properly dated, documented, and packaged in compliance with the ICE PBNDS 2011 Standard for Food Service. Additionally, the ECCF food services manager was immediately replaced by the food service contractor with a corporate, management-level, food services professional. ERO Newark officers and the ECCF ICE DSM conduct daily inspections of the food services area to ensure continuity of compliance measures.

The OIG auditor findings and follow up inquiries by ERO Newark were reviewed by ERO Newark management, and ECCF was ultimately cited for the food service deficiencies addressed in ERO Newark CDR 25, dated August 27, 2018. As a result, ECCF management and the Quality Assurance Coordinator have been assigned to conduct spot audits of the food service kitchen on a weekly basis.

3. In reference to the facility conditions, ERO Newark management and staff took the following specific actions:

On July 24, 2018, ERO Newark officers observed an immediate response by ECCF operational staff to remedy the facility concerns. On a scheduled rotation, all ICE detainee housing units were emptied and thoroughly cleaned and disinfected using steam pressure-washers. Repairs, reconditioning, and painting of walls and ceilings, and hardware were completed throughout the housing units. All detainee mattresses that had signs of wear were replaced. ECCF management staff has incorporated a new maintenance schedule to prevent reoccurrence.

The OIG auditor findings and follow up inquiries by ERO Newark were reviewed by ERO Newark management, and ECCF was ultimately cited for the facility conditions addressed in ERO Newark CDR 25, dated August 27, 2018. As a result, ECCF

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supervisory and management staff and the Quality Assurance Coordinator have been assigned to maintain daily on-the-spot corrections of facility conditions.

ICE ERO is evaluating the responses to the CDRs and will determine necessary contract penalties. To ensure ongoing compliance with ICE's 2011 PBNDS at ECCF, ICE ERO will schedule quarterly meetings with respective stakeholders. In addition, ERO will conduct a detailed follow-up inspection within the next six months to ensure corrective measures have been completed. Lastly, ERO will initiate discussions with the ECCF management staff to determine if a dedicated outdoor recreation area is feasible. Estimated Completion Date: June 30, 2019.



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Appendix B Report Distribution

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EXHIBIT G

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Inside the Tumult That Led 4 Men to Escape From a Migrant Facility - NewsBreak

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Inside the Tumult That Led 4 Men to Escape From a Migrant Facility

By Tracey Tully, Luis Ferré-Sadurní and Raúl Vilchis, 2025-06-14



Law enforcement officers drag and push protesters away from a gated entrance to Delaney Hall, a privately run immigration detention center in Newark, N.J., June 13, 2025. The reported escape of four detainees here has raised urgent questions about living conditions inside the facility and others like it across the country, now holding about 51,000 migrants nationwide. (Dakota Santiago/The New York Times)

Conditions had been disintegrating for days inside a huge immigration detention center in an industrial corner of Newark, New Jersey.

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Meals had been erratic at the privately run facility that last month began holding migrants facing deportation. Some detainees were sleeping on floors. And the water available from faucets was sometimes scalding or foul-tasting.

Several dozen men in Unit 5, on an upper floor of the jailhouse known as Delaney Hall, had grown frustrated. And after returning Thursday afternoon from a first-floor cafeteria where they said they had been given slices of bread in place of a meal, they began covering security cameras and smashing at walls and windows.

Two security guards stationed in the unit retreated, and some of the detainees pushed the door closed.

By the time the disruption was over, four men had escaped.

This account of events before and after the escape is based on interviews with several immigration lawyers who spoke to clients at Delaney Hall during the melee and more than a dozen people who had conversations with loved ones who called from inside the jail, pleading for help. On Friday, Sen. Andy Kim and Rep. Rob Menendez, both Democrats from New Jersey, offered additional details after touring the facility and speaking with federal officials and representatives from GEO Group, the private company that runs the 1,000-bed jail.

The tumult raised urgent questions about the living conditions inside the detention facility and others like it across the country as President Donald Trump ramps up immigration arrests, filling to capacity many detention centers that, together, are holding about 51,000 migrants nationwide.

The breakout also prompted scrutiny of GEO Group and the measures it took as it converted a facility that had been dormant for about a year into a detention center after winning a 15-year, \$1 billion contract from the Trump administration in February. Local officials have for months raised concerns that Delaney Hall had not been properly inspected leading the mayor of Newark, Ras J. Baraka, to sue GEO Group as he sought to force the company to reapply for a new certificate of occupancy.

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The men who escaped had punched a hole through an exterior wall of the jail that Kim described as crude – “essentially just drywall with some mesh inside.”



Federal law enforcement officers from various agencies after demonstrators blocked a bus outside of Delaney Hall in Newark, N.J., June 13, 2025. Four men escaped from the privately run immigration detention center in Newark during a disturbance on Thursday after days of unrest over conditions, according to a law enforcement official in New Jersey, a federal spokeswoman and other detainees' lawyers. (Dakota Santiago/The New York Times)

“It shows just how shoddy construction was,” he said, and highlights what can happen when for-profit prisons “try to pocket” as much money as possible.

On Friday afternoon, representatives from GEO Group pushed back on that claim, noting all the services offered to the detainees, including medical care, family visitations and opportunities to exercise religious faiths.

“Contrary to current reporting, there has been no widespread unrest at the facility,” Christopher Ferreira, a GEO Group spokesperson, said in an email.

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Still, on Friday night, guards began loading migrants into large white vans and appeared to be evacuating at least part of the facility as officials from the Department of Homeland Security, which oversees the Immigration and Customs Enforcement agency, rushed to contain the fallout.

Trouble had been brewing at Delaney Hall for days.

Detainees had complained to their lawyers and to relatives about increasingly cramped quarters and paltry meals served at irregular hours.

The cafeteria was being used to accommodate migrants who had been moved out of other parts of the facility to address crowding, Kim said. That disrupted the delivery of the already small portions of food, he said.

At about 4:30 p.m. Thursday, the tension hit a tipping point.

“Guards — they lost control,” said Mustafa Cetin, a New Jersey immigration lawyer who spent 11 minutes on the phone Thursday night with a Turkish client who huddled during the chaos with others in Unit 5.

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Protesters who had linked arms to block a gated entrance to Delaney Hall are dragged by law enforcement officers away from the privately run immigration detention center in Newark, N.J., June 13, 2025. The reported escape of four detainees here has raised urgent questions about living conditions inside the facility and others like it across the country, now holding about 51,000 migrants nationwide. (Dakota Santiago/The New York Times)

The Turkish man, a father of three who lives in South Jersey, told Cetin that after a hole was punched through the wall, the men who escaped used bedsheets to lower themselves to the ground.

Kim said that the fleeing men wound up in an adjacent parking lot and then climbed a fence behind the facility to escape.

A woman whose brother, José, was being held at the facility, said she got a call from him at 5:44 p.m. Thursday. A Salvadoran construction worker in New Jersey, he had been there for several weeks after being detained when he showed up for a court hearing.

“He told me he was scared and didn’t know what would happen to him,” said the woman who asked to be identified only by her first name, Cecilia, because she fears retaliation. “People were desperate, breaking doors, banging on walls.”

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The unit was also very hot, she said, with air conditioning that was either broken or not working well. Temperatures on Thursday in Newark were unseasonably high, hitting 91 degrees in the late afternoon.

(BEGIN OPTIONAL TRIM.)

At around the same time, another detainee called a staffer at DIRE, an emergency immigration hotline in New Jersey.

“We could hear screaming and yelling in the background,” said Ellen Whitt, a volunteer who works at DIRE.

(END OPTIONAL TRIM.)

People who had been scheduled to visit detainees Thursday afternoon were turned away. Many were still gathered outside when a fire truck showed up, followed by squad cars from the Newark Police Department and the Essex County Sheriff’s Department.

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Protesters drag plastic barricades to the main gate at Delaney Hall, a private immigration detention facility in Newark, N.J., in an attempt to block entry by federal agents on Thursday night, June 12, 2025. Dozens of law enforcement officials from several policing agencies responded on Thursday to Delaney Hall after reports of a disturbance inside. (Victor J. Blue/The New York Times)

Soon after, vans filled with masked federal agents wearing vests labeled ICE and ERO, an ICE division known as the Enforcement Removal Operation, began arriving and entered through the locked gated perimeter of the facility, according to several videos taken by immigrant rights activists and relatives of detainees.

One van that entered held two gray vats of material labeled “toxic” and “flammable,” according to photos taken by a witness and shared with The New York Times.

As guards attempted to restore order, a pungent odor filled Unit 5, Cetin said, and his client doused fabric with water and placed it under a door in a dormitory-style room to keep a strong smell of gas from seeping in.

Over in Unit 4, a guard entered and asked a Mexican detainee if the “gas” that had been fired to quell unrest in another part of the building had reached his dormitory, according to Rosalinda Ortega, 35, the detainee’s wife.

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“He’s the only one who speaks English in his room, and he told me that an official asked him if they were fine, because they had thrown gas to control the other people, and they wanted to check because the windows were sealed,” Ortega said, relaying a phone conversation she had with her husband Friday.

Delaney Hall has for weeks been the site of protests against the Trump administration’s immigration arrests. As news of the disturbance began to spread Thursday night, so did the size of the crowd outside.

At nightfall, a K-9 unit and agents with the FBI arrived.

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A New Jersey law enforcement official who was briefed on the details of the escape said that the number of people who were believed to be missing fluctuated throughout the night, from five to nine and then to four.



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Law enforcement agents outside Delaney Hall, a private immigration detention facility, in Newark, N.J., as protesters rally on Thursday night, June 2025. Dozens of law enforcement officials from several policing agencies responded on Thursday to Delaney Hall after reports of a disturbance inside. (Victor J. Blue/The New York Times)

(END OPTIONAL TRIM.)

Federal authorities continued to search late Friday for the missing men, who, according to the Department of Homeland Security, were from Colombia and Honduras and all had criminal records. The men had crossed the border illegally in recent years or had overstayed their visas, the agency said. They had all been arrested in New Jersey or New York for crimes that included weapons possession, burglary, aggravated assault and terroristic threats.

Officials announced a \$10,000 reward for information about their whereabouts.

(STORY CAN END HERE. OPTIONAL MATERIAL FOLLOWS.)

Worried families showed up at Delaney Hall early Friday, hoping to get a glimpse of their loved ones.

Ortega, the wife of the Mexican detainee, said she drove 13 hours from Gainesville, Georgia, with her three young daughters, hoping to pick up her husband, who had been scheduled to be released Friday.

She worried that the breakout would delay or derail their reunion.

She and her daughters watched Friday evening as van after van filled with migrants exited the facility, wondering aloud if their husband and father was inside one of them and where he might be going next.

This article originally appeared in The New York Times.

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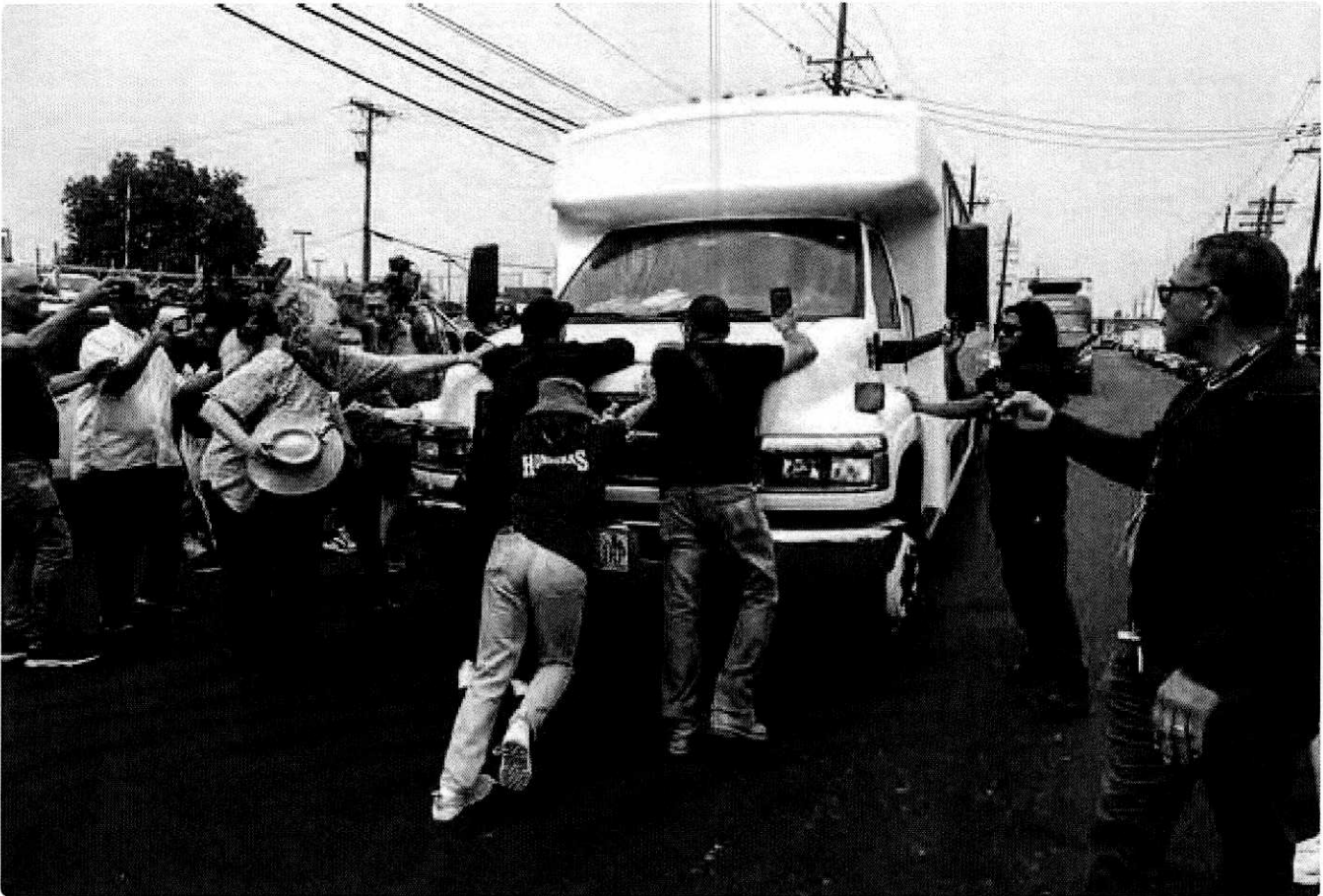
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A protester douses a fellow demonstrator's eyes with water after she was doused with pepper spray outside Delaney Hall, a private immigration detention facility, in Newark, N.J., on Thursday night, June 12, 2025. Dozens of law enforcement officials from several policing agencies responded to Delaney Hall after reports of a disturbance inside. (Bryan Anselm/The New York Times)

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Protesters try to block a bus that continued moving until federal law enforcement removed them from the front outside of Delaney Hall in Newark, N.J., June 13, 2025. Four men escaped from the privately run immigration detention center in Newark during a disturbance on Thursday after days of unrest over conditions, according to a law enforcement official in New Jersey, a federal spokeswoman and other detainees' lawyers. (Dakota Santiago/The New York Times)

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A masked law enforcement officer speaks to demonstrators through fencing at Delaney Hall, a privately run immigration detention center in New Jersey, June 13, 2025. The reported escape of four detainees here has raised urgent questions about living conditions inside the facility and others like it across the country, now holding about 51,000 migrants nationwide. (Dakota Santiago/The New York Times)

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Federal agents inside the gates as protesters rally outside Delaney Hall, a private immigration detention facility, in Newark, N.J., on Thursday night June 12, 2025. Dozens of law enforcement officials from several policing agencies responded on Thursday to Delaney Hall after reports of a disturbance inside. (Victor J. Blue/The New York Times)

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Law enforcement officers confront protesters at a gated entrance to Delaney Hall, a privately run immigration detention center in Newark, N.J., July 13, 2025. The reported escape of four detainees here has raised urgent questions about living conditions inside the facility and others like it across the country, now holding about 51,000 migrants nationwide. (Dakota Santiago/The New York Times)

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A U.S. Immigration and Customs Enforcement (ICE) officer pushes back against demonstrators outside Delaney Hall, a private immigration detainment facility, in Newark, N.J., on Thursday night, June 12, 2025. Dozens of law enforcement officials from several policing agencies responded on Thursday to Delaney Hall after reports of a disturbance inside. (Bryan Anselm/The New York Times)

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Protesters outside a gated entrance to Delaney Hall, a privately run immigration detention center in Newark, N.J., June 13, 2025. The reported escape of four detainees here has raised urgent questions about living conditions inside the facility and others like it across the country, now holding about 51,000 migrants nationwide. (Dakota Santiago/The New York Times)

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Delaney Hall, a private immigration detention center in Newark, N.J., as protesters gather outside the building on Thursday, June 12, 2025. Delaney Hall was also the scene of a clash last month that led the Justice Department to charge Rep. LaMonica McIver (D-N.J.) with assault. McIver, who has maintained her innocence, is scheduled to be arraigned on Monday, June 16, 2025. (Bryan Anselm/The New York Times)

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Protesters link arms to block a gated entrance to Delaney Hall, a privately run immigration detention center in Newark, N.J., June 13, 2025. The reported escape of four detainees here has raised urgent questions about living conditions inside the facility and others like it across the country, not holding about 51,000 migrants nationwide. (Dakota Santiago/The New York Times)

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Rep. Andy Kim (D-N.J.) speaks to reporters in front of demonstrators outside of Delaney Hall in Newark, N.J., June 13, 2025. Four men escaped from the privately run immigration detention center in Newark during a disturbance on Thursday after days of unrest over conditions, according to a law enforcement official in New Jersey, a federal spokeswoman and other detainees' lawyers. (Dakota Santiago/The New York Times)

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Law enforcement officers from a variety of agencies deployed at Delaney Hall, a privately run immigration detention center in Newark, N.J., June 1 2025. The reported escape of four detainees here has raised urgent questions about living conditions inside the facility and others like it across the country, now holding about 51,000 migrants nationwide. (Dakota Santiago/The New York Times)

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A man wearing a T-shirt in support of President Donald Trump speaks with demonstrators outside of Delaney Hall in Newark, N.J., June 13, 2025. Four men escaped from the privately run immigration detention center in Newark during a disturbance on Thursday after days of unrest over conditions, according to a law enforcement official in New Jersey, a federal spokeswoman and other detainees' lawyers. (Dakota Santiago/The New York Times)

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Inside the Tumult That Led 4 Men to Escape From a Migrant Facility - NewsBreak



Federal law enforcement officers remove protesters blocking the path of a bus outside of Delaney Hall in Newark, N.J., June 13, 2025. Four men escaped from the privately run immigration detention center in Newark during a disturbance on Thursday after days of unrest over conditions, according to a law enforcement official in New Jersey, a federal spokeswoman and other detainees' lawyers. (Dakota Santiago/The New York Times)

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