

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ALESSANDRA DE FATIMA LOMEU,
Petitioner,

v.

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

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.:
2:25-cv-16589

**MOTION FOR TEMPORARY
RESTRAINING ORDER
&
AMENDED PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241**

MOTION FOR TEMPORARY RESTRAINING ORDER

Petitioner, Alessandra De Fatima Lomeu (“Ms. Lomeu”), respectfully moves before this Honorable Court for a Temporary Restraining Order and/or Preliminary Injunction, to enjoin the Respondents from continuing her unlawful detention during the pendency of her habeas corpus petition filed under 28 U.S.C. § 2241.

Since October 2, 2025, Ms. Lomeu has been detained by U.S. Immigration and Customs Enforcement (“ICE”). The corresponding habeas petition challenges her unlawful detention pending her I-130, Petition for Alien Relative, which was filed by her U.S. Citizen husband, and the unconstitutional punitive conditions endured by Ms. Lomeu while in ICE custody.

To obtain a temporary restraining order and/or injunction, a movant must demonstrate that she is likely to succeed on the merits, that she is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in her favor, and that an injunction is in the public interest." *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). *Hope v. Warden York Cnty. Prison*, 972 F.3d 310, 320 (3d Cir. 2020).

First, Ms. Lomeu is likely to succeed on the merits being that she has raised substantial constitutional and statutory claims in her habeas petition that demonstrate her continued detention violates the Fifth Amendment Due Process Clause.

Second, and absent the preliminary relief sought, Ms. Lomeu will suffer irreparable harm due the detention facility: 1. Failing to timely provide her vital blood pressure and ovarian medications resulting in an array of symptoms including constant splitting headaches, wooziness, and persistent menstrual bleeding; 2. Failing to provide her with timely and adequate meals, further exacerbating her medical symptoms; and 3. Potential transfer to a differing facility across the nation, to which there have been valid signs and concerns thereof. There are a myriad of other factors that will cause irreparable harm, however the preceding are of utmost urgency.

Third, the harm endured by Mr. Oliveria full-heartedly outweighs any minimal, or rather alleged burden on the government by continuing his unlawful detention - if anything, the government is burdening itself by fiscally detaining Ms. Lomeu and wasting judicial resources.

Fourth, the public interest is served by ensuring compliance with the Constitution and

preserving judicial review under 28 U.S.C. § 2241.

For the foregoing reasons, Petitioner respectfully requests that this Court: 1. Issue a Temporary Restraining Order enjoining Respondents from continuing Petitioner’s detainment until resolution of the habeas petition; 2. Issue a Temporary Restraining Order enjoining Respondents from transferring Petitioner; 3. Set a hearing date for a preliminary injunction; and 4. Grant any further relief the Court deems just and proper.

AMENDED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT

TO 28 U.S.C. § 2241

Petitioner, Alessandra De Fatima Lomeu, respectfully petitions this Honorable Court for a writ of habeas corpus to remedy her unlawful detention by Respondents, as follows:

INTRODUCTION

1. Petitioner Alessandra De Fatima Lomeu (“Ms. Lomeu”) is a citizen of Brazil who came to the United States (“U.S.”) in June 2005, at the age of twenty-three and has lived here ever since. Ms. Lomeu is a loving wife of eleven years to her U.S. Citizen husband, a dedicated stepmother to her U.S. Citizen daughters, a pillar of her community, and a law-abiding New Jersey resident.
2. On October 2, 2025, while attending a mandated biometric appointment, Ms. Lomeu 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), Ms. Lomeu is mandatorily detained under 8 U.S.C. § 1225(b)(2)(A) by ICE.
4. In addition, she has a pending I-130: Petition for Alien Relative, pending I-485: Application to Adjust Status, pending 42-B: Cancellation of Removal, and pending I-765: Application for

Employment Authorization. Further, Ms. Lomeu has not been afforded a bond hearing. *See, Exhibit B: I-130 Receipt Notice (“Exhibit B”); Exhibit C: I-485 Receipt Notice (“Exhibit C”); Exhibit D: 42-B Receipt Notice (“Exhibit D”); Exhibit E: I-765 Receipt Notice (“Exhibit E”).*

5. Ms. Lomeu’s detention is unlawful and being held without the opportunity to be heard, lack of access to sanitary conditions, lack of proper medical attention, and punitive confinement conditions violates the Due Process Clause of the Fifth and Fourteenth Amendments.
6. Ms. Lomeu respectfully requests that this Court grant her immediate release from detention, or, in the alternative, the Court should order an immediate bond hearing to ensure Ms. Lomeu’s detention bears a reasonable relation to the government’s interests.

PARTIES

7. Ms. Lomeu has been detained by Respondents since October 2, 2025, at Delaney Hall Detention Center (“Delaney”).
8. 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 Ms. Lomeu is currently 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 Ms. Lomeu.
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 Ms. Lomeu.
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 Ms. Lomeu.

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 Ms. Lomeu.

JURISDICTION

13. This Court has proper jurisdiction over Ms. Lomeu’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. Ms. Lomeu’s current detention as enforced by Respondents constitutes a “severe restraint [on her] individual liberty,” such that she 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. Ms. Lomeu is currently in ICE custody at Delaney, where a substantial part of the events giving rise to her 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 Ms. Lomeou’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. Ms. Lomeu is not required to prove exhaustion because she is advancing due process claims in the instant habeas petition.

STATEMENT OF FACTS

22. Ms. Lomeu was born on  in Itanhomi, Minas Gerais, Brazil. In pursuit of a safer and more financially stable future, she immigrated to the U.S. in June 2005. *See, Exhibit A:*

Declaration of Alessandra De Fatima Lomeu in Support of her Habeas Petition, ¶ 1 (“*Exhibit A*”).

23. In April 2013, Ms. Lomeu met her U.S. Citizen husband, Hudson Rodrigues Almeida. After a year of dating, the two became inseparable, and were married on May 24, 2014. *Id.* at ¶ 7.

24. Not only did Ms. Lomeu gain a lifelong partner, but two kind-hearted stepdaughters, [REDACTED] and [REDACTED]. Ever since meeting [REDACTED] who was ten at the time, and A [REDACTED] who was eight at the time, Ms. Lomeu has loved and cared for both girls as her own – the bond Ms. Lomeu has built with her stepdaughters is priceless to her. *Id.* at ¶ 8.

25. For over twenty years, Ms. Lomeu has built a home and family, respected the laws herein, and loved this nation for all it has permitted her to achieve.

Ms. Lomeu’s Proceedings

26. On March 14, 2025, Ms. Lomeu’s husband filed an I-130, Petition for Alien Relative, which is still pending review before USCIS. *See, Exhibit B.*

27. On June 18, 2025, Ms. Lomeu filed a I-765, Application for Employment Authorization, which is still pending review before USCIS. *See, Exhibit E.*

28. On May 6, 2025, Ms. Lomeu filed an I-485, Application to Register Permanent Residence or Adjust Status, which is still pending review before USCIS. *See Exhibit C.*

29. On May 6, 2025, Ms. Lomeu filed 42-B, Application for Cancellation of Removal, which is still pending review before USCIS. *See Exhibit D.*

Ms. Lomeu’s ICE Detention

30. On October 2, 2025, Ms. Lomeu was taken into ICE custody and detained at Delaney – Ms. Lomeu has endured an array of punitive conditions.

31. The first night at Delaney, Ms. Lomeo was transferred to a small processing room with other detainees, was not directed to a facility sleeping room until two in the morning and was not provided with any food for hours on end. *Exhibit A*, ¶ 12.
32. After processing, Ms. Lomeu was placed in one of the several sleeping rooms at Delaney and is where she stays to this day. The tiny windowless room is shared with approximately seven to ten other detainees dependent on the overflow of detainees each day. *Id.*
33. Ms. Lomeu was given a bed that was as “hard as a rock” and a blanket, that falls apart upon use. *Id.* at ¶ 13. Since she was not provided a pillow, Ms. Lomeu utilizes her clothes as a cushion. Due to rigid bed and lack in pillow, Ms. Lomeu often suffers with radiating pain from her neck to her shoulder. *Id.*
34. Due to the persistent frigid temperature in the shared sleeping room, Ms. Lomeu, on multiple occasions has requested additional socks to keep warm, however guards have refused to provide so and directed Ms. Lomeu to purchase what she needs from Delaney’s inventory. *Id.* at ¶ 14.
35. Within the shared sleeping room, there is no bathroom. Therefore, during the night Ms. Lomeu must ask the guard on watch to utilize the bathroom – numerous times, Ms. Lomeu was directed to wait until the morning. *Id.* at ¶ 16. Additionally, the showers, that are riddled with pitch black mold and that are barely functional, are located outside of the shared sleeping room. *Id.* at ¶ 17.
36. Ms. Lomeu is permitted one hour of outdoor activities every other day and access to a separate lounge area that has two televisions for the female detainees. *Id.* at ¶ 18.
37. Concerning the meals at Delaney, Ms. Lomeu was served food identical to “cat food” on multiple occasions, the meals are always cold, and there is never a set time to eat. Moreover,

at times, Ms. Lomeu receives breakfast at five in the morning and then lunch at four in the afternoon. *Id.* at ¶ 19.

38. Frighteningly, Ms. Lomeu fails to timely receive her vital medications by Delaney. Ms. Lomeu suffers with very high blood pressure, which requires her to repeatedly take her blood pressure throughout the day and periodically take medication. Ms. Lomeu's blood pressure was only taken once during processing and every day she must beg the guards to give her the blood pressure medication that she desperately needs, to which the guards typically respond with "there's nothing they can do about it" and "[you'll] get the medication, when [you'll] get it." As a result of not timely receiving her medication, Ms. Lomeu suffers with persistent splitting headaches and often feels wooziness. Being that the food is also served at a whim, and she is unable to take her medications with a meal, her symptoms are exacerbated. *Id.* at 21.

39. Ms. Lomeu, also, suffers with an ovarian disorder and due to the symptoms of pain and irregular menstruation, she must take hormone/birth control medication. Similar to the blood pressure medication, Ms. Lomeu does not receive said medication in a timely manner. As a result of not timely receiving her medication, Ms. Lomeu's ovarian pain amplifies and she suffers with wildly irregular menstruation; further, Ms. Lomeu has been continually bleeding due to the irregular timing of her medications. The fact that Ms. Lomeu must ask for permission to utilize the bathroom in the middle night, and the potentiality of being denied, makes her irregular menstruation, even worse. *Id.* at 22.

40. Ms. Lomeu is deeply struggling with her mental health at Delaney – she feels defeated, depressed, and hopeless. *Id.* at 23.

41. To this day, Ms. Lomeu remains in ICE custody at Delaney.

LEGAL FRAMEWORK

I. MS. LOMEU IS LIKELY TO SUCCEED ON THE MERITS OF HER CLAIMS THAT HER DETENTION IS UNLAWFUL & VIOLATES HER DUE PROCESS RIGHTS.

42. 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 Ms. Lomeu’s 5th Amendment Due Process Rights.

43. 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.*

44. 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).
45. 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].
46. Due to the BIA's decision in *Yajure-Hurtado*, Ms. Lomeu is currently being detained under INA § 235(b)(2) without any opportunity to be heard, which is a blatant infringement on her due process rights as established by a long-line of U.S. Supreme Court decisions and the U.S. Constitution itself. For over twenty years, Ms. Lomeu has resided in this nation as a law-abiding individual, who contributes to her community. Pursuant to this nation's Supreme Court precedent and Due Process Rights of the Fifth Amendment, Ms. Lomeu respectfully

requests this Court find her detention as discretionary under INA § 236(a) and release Ms. Lomeu or, in the alternative, provide Ms. Lomeu with the opportunity to be heard, as many Federal Districts have already done across the country for individuals similarly situated.

B. Ms. Lomeu’s unlawful detention, without a bond hearing and pending I-130 & I-485 Petitions violates the Fifth Amendment.

47. 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.
48. 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).
49. Ms. Lomeu is entitled to the protections of the 5th Amendment Due Process Clause. First, Ms. Lomeu has a significant liberty interest in remaining the United States – her right to stay in the United States with her loving husband of eleven years and two stepdaughters. The government has failed to evidence any reason to continue confinement: Ms. Lomeu is not a flight risk, Ms. Lomeu has no criminal record, and Ms. Lomeu is not a danger to the community.
50. Second, in light of the Constitution, the INA and its applicable regulations, Respondents have procedurally deprived and continue to risk deprivation of Ms. Lomeu’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 Ms. Lomeu’s due process rights tenfold: While attempting to lawfully comply with her immigration application, Ms. Lomeu was wrongfully detained by ICE agents at her second mandated biometrics appointment; ICE’s efforts to prematurely deport and confine Ms. Lomeu before USCIS may adjudicate her, very likely successful, I-130 and I-485 petitions constitutes a deprivation in her liberty interest to stay in the United States with her loved ones; and Ms. Lomeu was discretionarily thrown in a detention center without the opportunity to be heard for bond – upon a bond hearing, Ms. Lomeu would demonstrate she is neither a flight risk nor a danger to community. Due to Respondent’s unjustified arrest of Ms. Lomeu, an astonishing snowball effect of due process violations have occurred and will continue to occur so long as Ms. Lomeu is detained.

51. Third, the interest of enforcing immigration policies would be valid if the government was even following said policies – Ms. Lomeu was improperly detained while following the procedural requirements to obtain lawful status. Regardless, any additional or substitute procedural requirement would not burden the government whatsoever - if anything, the government is burdening itself by fiscally detaining Ms. Lomeu and wasting judicial resources.
52. All three *Mathews* factors, weigh heavily in Ms. Lomeu’s favor. Moreover, Ms. Lomeu has established that Respondents violated her due process rights, which warrants her immediate release from ICE custody or in the alternative, an immediate bond hearing.

C. Ms. Lomeu’s detention violates her right to substantive due process because she is neither a flight risk.

53. 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).

54. Ms. Lomeu is not a flight risk and will appear at all future immigration proceedings. For over twenty years, Ms. Lomeu has lived in the United States – this is her home. Moreover, her loving husband, stepdaughters, friends, and essentially all she has, is within the United States.

55. Ms. Lomeu is not a danger to the community – she has no criminal record, whatsoever.

56. No legitimate interests exist as to Ms. Lomeu’s detention, rather the government is detaining Ms. Lomeu along with countless others swept up in its courthouse and USCIS arrests, for the understandable but illegitimate reason that she was easy to locate. At the time of her arrest, Ms. Lomeu was attempting to lawfully navigate our immigration system by completing her second biometrics appointment. Due to pure accessibility, Ms. Lomeu was detained without any opportunity to heard.

57. Because Ms. Lomeu’s detention has been unaccompanied by the procedural protections that are, without a doubt, required by the Due Process Clause of the Fifth Amendment to the U.S. Constitution, her continued detention without a bond hearing is unlawful and therefore, she should be released.

58. In the alternative, the Court should order an immediate bond hearing to ensure Ms. Lomeu’s detention bears a reasonable relation to the government’s interests.

D. The conditions of Ms. Lomeu’s confinement are punitive in violation of the Fifth Amendment.

59. 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 Ms. Lomeu’s confinement is highly punitive and violates the Due Process Clauses in multiple regards.

60. 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

61. 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).

62. Severe overcrowding and unsanitary conditions constitutes such a deprivation that amounts to cruel and unusual punishment. *Id.*
63. 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 DHS. 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 G: 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.*
64. 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 H: Inside the Tumult That Led 4 Men to Escape From a Migrant Facility, NYTimes Article (June 2025) (“Exhibit G”)*.
65. Inhumanely, and against DHS protocols, several of these conditions still exist to this day and are endured by Ms. Lomeu.

30. The first night at Delaney, Ms. Lomeu was thrown in a small processing room with many other detainees and was not directed to a facility sleeping room until two in the morning. *Exhibit A*, ¶ 12. After processing, Ms. Lomeu was placed in one of the several sleeping rooms at Delaney and is where she stays to this day. The tiny windowless room is shared with approximately seven to ten other detainees dependent on the overflow of detainees each day. *Id.*

66. On multiple occasions, Ms. Lomeu was served meals identical to “cat food” and have seemingly been left out due to how ice cold the food is. *Id.* at ¶ 19.

67. Additionally, the showers are riddled with pitch black mold and are barely functional. *Id.* at ¶ 17

68. While in Respondents’ custody, the range of egregious and unsanitary conditions endured by Ms. Lomeu include but are not limited to rooms overflowing with other detainees, meals akin to “cat food” for consumption, having to shower in stalls embedded with thick black mold, and so on. Respondents have deprived Ms. Lomeu of “minimal civilized measure of life's necessities” and both facilities have acted with deliberate indifference. *Tillery*, 907 F2d at 426.

69. This treatment breaches detainees’ rights to sanitary conditions and exposes them to health hazards, violating Ms. Lomeu’s Fifth Amendment rights.

b. Access to Medication

70. The Supreme Court has held that States have an obligation to provide “adequate” medical care to civil detainees, deeming deliberate indifference to their medical needs unconstitutional. *Helling v. McKinney*, 509 U.S. 25, 33 (1993); *Estelle v. Gamble*, 429 U.S. 97, 104 (1976).

71. To establish an inadequate medical care claim, a detained individual must show “(1) a serious medical need, and (2) acts or omissions by prison officials that indicate deliberate indifference to that need.” *Umarbaev v. Lowe*, 453 F. Supp. 3d 698, 708 (M.D. Pa. 2020). Under the first prong, a serious medical need is a condition “that has been diagnosed by a physician as requiring treatment.” *Monmouth Cnty. Corr. Inst. Inmates v. Lanzaro*, 834 F.2d 326, 347 (3d Cir. 1987). Under the second prong, deliberate indifference means “to recklessly disregard a substantial risk of serious harm.” *Harvey v. Chertoff*, 263 Fed. Appx. 188, 191 (3d Cir. 2008). The Third Circuit Court of Appeals has found deliberate indifference in many contexts including where “necessary medical treatment is delayed for non-medical reasons.” *Pearson v. Prison Health Serv.*, 850 F.3d 526, 538 (3d Cir. 2017); *Natale v. Camden County Correctional Facility*, 318 F.3d 575, 582 (3d Cir. 2003) (finding failure to establish a policy for detainees addressing immediate medication needs combined with knowledge of the risk of harm, could be deliberate indifference); *Rouse v. Plantier*, 182 F.3d 192, 198 (3d Cir. 1999) (finding failing to provide medication in a timely manner, failing to conduct sufficient blood sugar testing, and failing to provide an adequate diet are all factors to consider in determining deliberate indifference towards detainees).

72. Frighteningly, Ms. Lomeu fails to timely receive her vital medications by Delaney. Ms. Lomeu suffers with very high blood pressure, which requires her to repeatedly take her blood pressure throughout the day and periodically take medication. Ms. Lomeu’s blood pressure was only taken once during her time at Delaney and every day she must beg the guards to give her the blood pressure medication that she desperately needs, to which the guards typically respond with “there’s nothing they can do about it” and “[you’ll] get the medication, when [you’ll] get it.” As a result of not timely receiving her medication, Ms. Lomeu suffers

with persistent splitting headaches and often feels wooziness. Being that the food is also served at a whim, and she is unable to take her medications with a meal, her symptoms are exacerbated. *Id.* at 19, 21.

73. Ms. Lomeu, also, suffers with an ovarian disorder and due to the symptoms of pain and irregular menstruation, she must take hormone/birth control medication. Similar to the blood pressure medication, Ms. Lomeu does not receive said medication in a timely manner. As a result of not timely receiving her medication, Ms. Lomeu's ovarian pain amplifies and she suffers with wildly irregular menstruation; further, Ms. Lomeu has been continually bleeding due to the irregular timing of her medications. The fact that Ms. Lomeu must ask for permission to utilize the bathroom in the middle night, and the potentiality of being denied, makes her irregular menstruation, even worse. *Id.* at 22.

74. Moreover, first, Ms. Lomeu suffers from two very serious medical conditions including severe high blood pressure and an ovarian disorder. Second, Delaney's failure to promptly provide vital medications in a timely fashion, failure to take Ms. Lomeu's blood pressure, failure to properly feed Ms. Lomeu, and failure to permit Ms. Lomeu to utilize the bathroom during the night amounts to deliberate indifference.

c. Punitive Conditions

75. 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).

76. Ms. Lomeu has endured an array of punitive conditions that very much unconstitutionally mimic, or rather are akin, to criminal detention. At Delaney, Ms. Lomeu was given a bed that was as "hard as a rock" and a blanket, that falls apart upon use. *Exhibit A*, ¶ 13. Since she was

not provided a pillow, Ms. Lomeu utilizes her clothes as a cushion. Due to rigid bed and lack in pillow, Ms. Lomeu often suffers with radiating pain from her neck to her shoulder. *Id.*

77. Due to the persistent frigid temperature in the shared sleeping room, Ms. Lomeu, on multiple occasions has requested additional socks to keep warm, however guards have refused to provide so and directed Ms. Lomeu to purchase what she needs from Delaney’s inventory. *Id.* at ¶ 14.

78. Within the shared sleeping room, there is no bathroom. Therefore, during the night Ms. Lomeu must ask the guard on watch to utilize the bathroom – numerous times, Ms. Lomeu was directed to wait until the morning. *Id.* at ¶ 16

79. Other than the one hour of outdoor activities every other day, Ms. Lomeu is trapped in the walls of the facility. *Id.* at ¶ 18.

80. Furthermore, Ms. Lomeu is subjected to sleep on a rigid bed, given a “blanket” that is so poorly made it falls apart, only permitted one hour of outdoor activities every other day with the remainder of the day being trapped in the facility and served meals that look like “cat food” to consume. *Exhibit A*, ¶ 11-19.

81. Ms. Lomeu’s immigration detention bears an uncanny resemblance to criminal confinement, in violation of her 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. Ms. Lomeu is not a flight risk nor is she a danger to the community. Respondents' detention of Ms. Lomeu is therefore unjustified and unlawful. Accordingly, Ms. Lomeu is being detained in violation of her 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. Ms. Lomeu is entitled to the protections of the 5th Amendment Due Process Clause. First, Ms. Lomeu 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 Ms. Lomeu'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 Ms. Lomeu and wasting judicial resources.
7. Accordingly, Ms. Lomeu is being detained without sufficient process in violation of her Constitutional right to Due Process under the Fifth Amendment.

COUNT THREE

**THE EGREGIOUS CONFINEMENT CONDITIONS ENDURED BY MS. LOMEU
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 Ms. Lomeu to a substantial risk of serious harm including, but not limited to, failing to timely provide her with vital medications, failing to provide her with timely and adequate meals, failing to provide adequate sleeping necessities, failing to allow Ms. Lomeu to utilize the bathroom, requiring Ms. Lomeu to shower in stalls ridden with black mold, cramming Ms. Lomeu in an overcrowded room with other female detainees, and so on.
12. Accordingly, being confined with such horrendous conditions violates the Ms. Lomeu'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 a Writ of Habeas Corpus ordering the immediate release of Petitioner from Respondents custody;
3. In the alternative, grant a Writ of Habeas Corpus ordering an immediate bond hearing to ensure Petitioner's detention bears a reasonable relation to the government's interests; and
4. Order any such other relief as this Court deems just and proper.

Dated: 10/15/25

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the PACER system.

Dated: 10/15/25

Respectfully Submitted,

Alexandra Minogue

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