

**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

**REPLY TO RESPONDENTS ANSWER TO
PETITIONER’S AMENDED WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241.**

INTRODUCTION

On October 17, 2025, Respondents filed an answer to Petitioner’s, Alessandra De Fatima Lomeu (“Ms. Lomeu”), Amended Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, along with Opposition to the Motion for Temporary Restraining Order and Response to the Order to Show Cause. Within the reply, and solely addressing the habeas corpus petition, Respondents contended: 1. Ms. Lomeu’s detention is lawful under 8 U.S.C. § 1225(b) and comports with due process; 2. The Court lacks jurisdiction over conditions of confinement; and 3. Any confinement condition claim is moot due to Ms. Lomeu’s transfer to Houston Contract Detention Facility. Ms.

Lomeu respectfully resubmits that Respondents detention unlawfully violates her due process rights and that this Honorable Court does have jurisdiction to find the deadly ramifications of the punitive confinement conditions at Delaney Hall Detention Facility (“Delaney”) do not comport with Ms. Lomeu’s due process rights.

ARGUMENT

I. MS. LOMEU’S DETENTION IS UNLAWFUL & VIOLATES THE DUE PROCESS CLAUSE.

Within their Answer to the Amended Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, and specifically concerning the legality of Ms. Lomeu’s detention, Respondents allege Ms. Lomeu’s detention is lawful under 8 U.S.C. § 1225(b) and comports with due process. Respondents are far from correct.

To reiterate, the Due Process Clause of the Fifth Amendment is applicable to all individuals in the United States regardless of status or lack thereof; even further, civil detention is a severe deprivation of liberty, which requires due process protection. *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).

A. Ms. Lomeu’s mandatory detention under INA § 235, 8 U.S.C. 1225, is improper and unconstitutional.

Prior to the BIA’s unconstitutional decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), individuals who entered this nation without being admitted or paroled could quite often, and under the long standing interpretation of INA §§ 235, 8 U.S.C. 1225, and 236, 8 U.S.C. 1226, seek a bond hearing before an Immigration Judge; however, and since the instant decision, all individuals who were not admitted or paroled are subject to mandatory detention

without the opportunity to bond where the non-citizen was apprehended or **how long the non-citizen has resided in the United States.** *Id*

Respondents contend Ms. Lomeu is properly subject to mandatory detention pursuant to INA § 235, 8 U.S.C. 1225, because she satisfies the applicant for admission and applicant seeking admission prongs under INA § 235, 8 U.S.C. 1225, and in doing so, cites to an array of recent 2025 unpublished decisions— such contentions are presumptuous and incorrect. Ms. Lomeu should not be subject to mandatory detention under to INA § 235, 8 U.S.C. 1225, for a myriad of reasons. First, Ms. Lomeu has lived in this nation since June 2005 – **for twenty years.** A noncitizen with long-term residence in the U.S., such as Ms. Lomeu, is not properly considered an “applicant for admission” and “applicant seeking admission” under INA § 235(b)(2)(A) because such individuals are not affirmatively seeking to enter the country, have significant longstanding physical and social ties within the states, applying such labels circumvents due process, and in and of itself, contradicts the statute’s intent Therefore, such long term U.S. residents should not be subject to mandatory detention without bond, and instead should be eligible for a custody redetermination/bond hearing under INA § 236(a).

Second, *Matter of Yajure-Hurtado*, which is subjecting Ms. Lomeu to mandatory detention, 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). Additionally, Federal District Courts across the nation have already *Matter of Yajure-Hurtado* 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]).

Third, subjecting Ms. Lomeu to mandatory detention during her pending, and likely meritorious, petitions will inevitably result in unconstitutional prolonged detention pursuant to *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *German Santos v. Warden Pike Cty. Corr. Fac.*, 965 F.3d 203, 208 (3d Cir. 2020); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 232-33 (3d Cir. 2011); *Chavez-Alvarez v. Warden York County Prison*, 783 F.3d 469, 478 (3d Cir. 2015). Ms. Lomeu has a set Master Calendar Hearing for her 42-B, Cancellation of Removal, on January 26, 2027, at 8:30AM before Immigration Judge Nicole Lane – that, again, is only the Master Calendar Hearing and not even the Individual Merits Hearing. Even further, Ms. Lomeu **does not have a final order of removal** and risks being detained for years without an opportunity to be heard pending a decision.

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

Repeatedly throughout their brief, Respondents reiterate Ms. Lomeu’s detention, without an opportunity to be heard, and regardless of her pending petitions, as lawful and constitutional – such an allegation is wildly erroneous.

As illustrated in the amended habeas corpus petition, upon an individual evidencing a liberty or property interest, a Court must determine whether constitutionally sufficient procedures were provided by balancing the three factors set forth in *Mathews v. Eldridge*, 424

U.S. 319 (1976). Ms. Lomeu resubmits: 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; 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 by prematurely attempting to deport and confining Ms. Lomeu before USCIS may adjudicate her, very likely successful, I-130 and I-485 petitions; and 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.

Additionally, Ms. Lomeu is neither a flight risk nor a danger to the community. Ms. Lomeu has established a home in the United States for over twenty years and has no criminal record whatsoever.

Pursuant to a long-line of U.S. Supreme Court decisions and the Due Process Clause of the Fifth Amendment, Ms. Lomeu respectfully resubmits to this Honorable Court that she is improperly being subjected to mandatory detention under INA § 235(b)(2), that her detention should be categorized as discretionary under INA § 236(a), and further, detention pending her meritorious I-130 and I-485 petitions, without the opportunity to be heard for bond, is unlawful and violates Fifth Amendment Due Process Clause.

For the foregoing reasons, Ms. Lomeu respectfully resubmits her requests for immediate release from custody or an immediate bond hearing to ensure her detention bears a reasonable relation to the government’s interests.

II. THIS COURT DOES NOT LACK JURISDICTION TO EVALUATE THE EGREGIOUS CONFINEMENT CONDITIONS ENDURED BY MS. LOMEU, WHICH VIOLATE THE FIFTH AMENDMENT DUE PROCESS CLAUSE

Within their Answer to the Amended Petition for Writ of Habeas Corpus under 28 U.S.C.

§ 2241, and specifically concerning confinement conditions, Respondents allege this Court lacks jurisdiction over confinement condition claims, that Ms. Lomeu failed to claim the confinement conditions correlate to the fact/legality of detention, that Ms. Lomeu's punitive conditions are not "exceptional," and that the conditions of confinement are moot based Ms. Lomeu's transfer out of Delaney.

First, the U.S. Supreme Court, and further, the Third Circuit, has and continually does evaluate punitive confinement conditions, including but limited to unsanitary conditions and inadequate medical conditions, within habeas corpus petitions; to allege otherwise is clearly mistaken. *Farmer v Brennan*, 511 US 825, 828 (1994); *Helling v. McKinney*, 509 U.S. 25, 33 (1993); *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *E. D. v. Sharkey*, 928 F.3d 299, 307 (3d Cir. 2019); *Tillery v. Owens*, 907 F.2d 418, 420 (3d Cir. 1990); *Chavez-Alvarez v. Warden York County Prison*, 783 F.3d 478 (3d Cir. 2015); *Monmouth Cnty. Corr. Inst. Inmates v. Lanzaro*, 834 F.2d 326, 347 (3d Cir. 1987); *Rouse v. Plantier*, 182 F.3d 192, 198 (3d Cir. 1999); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011); *Guerrero Sanchez v. Warden York County Prison*, 905 F.3d 208 (3d Cir. 2018); *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).

Second, Ms. Lomeu certainly demonstrated the conditions of her confinement at Delaney are punitively in violation of the Fifth Amendment and are directly caused by the fact of her detention. Moreover, Ms. Lomeu contended the unsanitary conditions, inadequate medical care, and the nature of her detention being akin to criminal detention violate her due process rights. *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); *Helling v. McKinney*, 509 U.S. 25, 33 (1993);

Estelle v. Gamble, 429 U.S. 97, 104 (1976). The punitive conditions endured by Ms. Lomeu at Delaney include, but are 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.

Third, and similar to the extraordinary circumstances in *Hope v. Warden York Cnty. Prison*, 972 F.3d 310, 320 (3d Cir. 2020), the punitive conditions endured by Ms. Lomeu have been exceptional. For brevity, one of the wildly extraordinary circumstances, is the detention's facility's failure to take Ms. Lomeu's blood pressure and timely provide Ms. Lomeu with her blood pressure medication and ovarian medication. Ms. Lomeu suffers with high blood pressure and an ovarian disorder. As a result of not receiving her timely medications, Ms. Lomeu suffers with persistent splitting headaches, feelings of wooziness, amplified ovarian pain, and profuse and non-stop menstrual bleeding. Said symptoms are further exacerbated through untimely meals and not being permitted to utilize the bathroom at night further exacerbating said symptoms, etc.

The preceding symptoms, due to Ms. Lomeu's uncontrolled blood pressure, are all signs of hypertension. Iqbal AM, Jamal SF. *Essential Hypertension*. [Updated 2023 Jul 20]. In: StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2025 Jan-. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK539859/>. Common complications of uncontrolled hypertension include, but are not limited to, stroke, aneurysm, heart attack, kidney failure, and **death**. *Id.* There is, and should be no doubt, that the punitive conditions endured by Ms. Lomeu are exceptional.

Fourth, the conditions of confinement claim against Delaney are far from moot and that is regardless of the fact that Ms. Lomeu was transferred to Houston Contract Detention Facility. Habeas corpus petitions are frequently filed against multiple detention facilities for previous confinement conditions endured and just because Ms. Lomeu is currently at a differing detention facility, it does not mean her claims to due process violations against Delaney disappear – such an argument is illogical and flawed. Additionally, and as per the prior court order entered by the Honorable Evelyn Padin, U.S.D.J., Respondents were not permitted to remove Ms. Lomeu from Delaney and it is further implied, that she should be transferred back to Delaney, where she will in fact further endure such punitive conditions. It should be noted that such punitive conditions will be endured for a prolonged period should Ms. Lomeu’s detention continue during her pending petitions – her next upcoming court date is January 26, 2027.

CONCLUSION

For the foregoing reasons, the undersigned respectfully resubmits the following requests:

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 the immediate transfer back the State of New Jersey;
and
4. Order any such other relief as this Court deems just and proper.

Dated: 10/20/25

Respectfully Submitted,

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CERTIFICATE OF SERVICE

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

Dated: 10/20/25

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