

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Civil No. 25-4546 (SRN/EMB)

Hernandez Nanduca, Guillermo	)	
	)	
Petitioner,	)	
	)	<b>DECLARATION OF</b>
	)	<b>JAMES L. VAN DER VAART</b>
v.	)	
	)	
Merrick G. Garland	)	
U.S. Attorney General, et al.,	)	
	)	
Respondents.	)	

James L. Van Der Vaart, Deportation Officer, United States Immigration and Customs Enforcement (“ICE”), Department of Homeland Security, for his declaration under 28 U. S. C. § 1746 hereby states as follows:

1. The following declaration is based on a review of the Plaintiff’s alien file and statements.
2. I am and have been employed with Immigration and Customs Enforcement (ICE) since April 1, 2007. I began my career as an Immigration Enforcement Agent. On September 20, 2015, I was promoted to Deportation Officer.
3. As a Deportation Officer, my assigned duties are to identify, locate, and arrest aliens illegally present in the United States. Additionally, I am charged with the responsibility of overseeing the cases of aliens in removal proceedings. These duties include the review of alien files for sufficiency, the detention and release of aliens in ICE

custody, monitoring the progress of cases through the hearing process, and enforcement of the immigration court's decision, including the execution of removal orders. I am also responsible for presenting criminal immigration cases to the United States Attorney's Office for possible criminal prosecution.

4. On October 30, 2007, Guillermo Hernandez Nanduca ("Hernandez") entered a guilty plea for Theft-Take/Use/Transfer Movable Prop-No Consent in violation of Minn. Stat. § 609.52.2(1) in Anoka County, Minnesota. Attached as **Exhibit 1** is a true and correct copy of an October 3, 2025 Letter from the Anoka County Administrator in connection with this guilty plea. Attached as **Exhibit 2** is a true and correct copy of a Minnesota Court Records Online report generated on December 11, 2025, for Hernandez Nanduca. Hernandez was placed in the diversion program and placed on probation. *See* Exs. 1, 2.


5. Hernandez was discharged from probation on September 28, 2009. *See* Ex. 2 at 2.

6. On August 10, 2022, Hernandez submitted Form I-601A, Application for Provisional Unlawful Presence Waiver, with U.S. Citizenship and Immigration Services (USCIS). Attached as **Exhibit 3** is a true and correct copy of Petitioner's Form I-601A Denial dated June 24, 2025. USCIS issued receipt number [REDACTED] and Alien Registration Number [REDACTED]. *See id.*

7. On May 7, 2025, USCIS issued a Request for Evidence (RFE) for case number [REDACTED]. Attached as **Exhibit 4** is a true and correct copy of Petitioner's Form I-601A Request for Evidence dated May 7, 2025. USCIS noted Hernandez may be

inadmissible under INA § 212(a)(2)(A)(i)(I) based on the theft charge under Minn. Stat. § 609.52.2(1) that Hernandez did not disclose on his Form I-601A. *See id.*

8. Hernandez submitted a response to the RFE in which he admits he stole lottery tickets. *See* Exhibit 1 (Form I-601A Denial). Hernandez's response also included court documents that revealed the total value of the lottery tickets was \$2,429.00. *See* Ex. 3 at 2.

9. On June 24, 2025, USCIS sent a Denial Notice for case number . *See* Ex. 3. USCIS noted Hernandez was charged with Theft under Minn. Stat. § 609.52.2(1) and subsequently required to attend a diversion program while having a two-year probation period. (*See id.* at 2, 3-4.) As such, USCIS found Hernandez did not meet his burden to establish he is not inadmissible under INA § 212(a)(2)(A)(i)(I) -- Conviction/Commission of a Crime Involving Moral Turpitude. (*See id.*)

10. On December 6, 2025, St. Paul, MN Immigration officers encountered Hernandez during routine At-Large enforcement operations. Immigration Officers conducted record checks and determined that Hernandez was unlawfully present in the United States. Immigration Officers fingerprinted Hernandez and asked alienage and removability questions at the ICE field office. A fingerprint match was made to the application Hernandez had submitted to USCIS verifying the identity and biometrics of Hernandez. Attached as **Exhibit 5** is a true and correct copy of a Form I-200 – Warrant for Arrest of Alien for Hernandez. Attached as **Exhibit 6** is a true and correct copy of the Form I-213 for Hernandez.

11. On December 11, 2025, the respondent was served with a Notice to Appear charging him as inadmissible under INA § 212(a)(6)(A)(i). A true and correct copy of the NTA for Petitioner is attached as **Exhibit 7**.

12. Hernandez is currently awaiting his initial hearing before an Immigration Judge. Due to an issue with the immigration court scheduling system, Hernandez's initial immigration hearing is currently set for February 2027, however, ICE is actively working to obtain an earlier hearing date in January 2026.

13. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

14. Further your affiant sayeth not.

**JAMES L VAN DER** Digitally signed by JAMES L VAN  
**VAART** DER VAART  
Date: 2025.12.12 12:05:56 -06'00'

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James L. Van Der Vaart, Deportation Officer  
U.S. Immigration and Customs Enforcement