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10 **UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF NEVADA**

12 **Yoandri Gonzales Terrero**

CASE NO. 2:25-cv-02628-CDS-BNW

13 Petitioner,

14 vs.

**MOTION FOR TEMPORARY**  
**RESTRAINING ORDER AND**  
**PRELIMINARY INJUNCTION**

15 **John Mattos, in his official capacity**  
16 **as Warden of Nevada Southern Detention**  
17 **Center;**

18 **Brian Henke in his official capacity**  
19 **as Field Office Director, ICE Las**  
20 **Vegas Office;**

21 **PAM BONDI, in her official**  
22 **capacity as Attorney General of the United**  
23 **States;**

24 **RICKISHA HIGHTOWER, in her**  
25 **official capacity as Assistant Chief Counsel**  
26 **Office of the Principal Legal**  
27 **Advisor, Las Vegas**

28 **and KRISTI NOEM, in her official**  
**capacity as Secretary of the U.S.**  
**Department of Homeland Security,**

Respondents

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**INTRODUCTION**

Petitioner, Yoandri Gonzalez Terrero, is a forty-two-year-old citizen and national of Cuba who is currently subjected to unlawful civil immigration detention by the United States Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”). Petitioner entered the United States in November 2019 after fleeing conditions in Cuba and seeking protection upon arrival. He was placed into removal proceedings under § 240 of the Immigration and Nationality Act and was released while those proceedings were pending. Since that time, Petitioner has resided continuously in the United States, has complied with all requirements imposed by immigration authorities, and has diligently pursued lawful immigration relief. He has no history of violent crime, no disciplinary infractions, and no record suggesting that he poses a danger to the community or a risk of flight.

On November 3, 2025, following removal proceedings in the Las Vegas Immigration Court, an Immigration Judge granted asylum relief to Petitioner and completed his case. No final order of removal was entered, and no stay of the Immigration Judge’s decision has been issued. Petitioner’s case was designated and litigated as an ECAS (EOIR Court & Appeals System) case, requiring that any appeal be filed electronically and served automatically through EOIR’s electronic system. Despite these requirements, DHS has continued to detain Petitioner based on an alleged appeal that does not appear in ECAS, was never electronically filed or served on Petitioner or his counsel, and has not been acknowledged by the Board of Immigration Appeals.

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1 Petitioner remains detained at the Nevada Southern Detention Center in Pahrump, Nevada,  
2 notwithstanding the absence of any lawful basis for continued custody. DHS has refused to  
3 release Petitioner and has denied him any forum in which to challenge his detention, relying  
4 instead on an undocumented and improperly noticed assertion of appellate jurisdiction. No  
5 neutral adjudicator has assessed whether detention is necessary to address danger, flight risk, or  
6 any legitimate governmental interest.  
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9 Petitioner’s continued detention—civil in name but punitive in effect—lacks statutory,  
10 constitutional, or regulatory justification. It is untethered from any pending immigration  
11 proceeding, unsupported by a final order or stay, and maintained in direct contravention of  
12 mandatory ECAS notice requirements. Each day Petitioner remains confined constitutes an  
13 ongoing deprivation of liberty that cannot be remedied through damages or later relief.

14  
15 Absent immediate judicial intervention, Petitioner faces continued unlawful detention without  
16 notice, without process, and without any meaningful opportunity to be heard. He therefore seeks  
17 emergency relief to prevent further irreparable harm and to restore the constitutional and  
18 statutory protections governing civil immigration detention.  
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21 For these reasons, Petitioner respectfully requests that this Court: (1) enjoin Respondents from  
22 transferring him outside this District while this action is pending; (2) order his immediate release  
23 from immigration custody, or in the alternative, require Respondents to demonstrate a lawful  
24 basis for continued detention supported by a properly filed and served appeal; and (3) grant such  
25 other and further relief as law and justice require.  
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**STATEMENT OF FACTS**

Petitioner repeats and incorporates by reference each Statement of Facts contained in the Petition for Writ of Habeas Corpus as if fully set forth herein.

**I. HABEAS RELIEF**

To obtain habeas corpus relief, a petitioner must demonstrate that he is "in custody in violation of the Constitution or laws or treaties of the United States." *See* 28 U.S.C. § 2241(c)(3). This Court has habeas corpus jurisdiction to consider the statutory and constitutional grounds for immigration detention that are unrelated to a final order of removal. *See Demore v. Kim*, 538 U.S. 510, 517-18 (2003).

**II. DETENTION AUTHORITY UNDER THE INA**

The Immigration and Nationality Act ("INA") establishes three principal statutory bases for the detention of noncitizens in removal proceedings. First, 8 U.S.C. § 1226(a) authorizes the discretionary detention of noncitizens placed in standard removal proceedings under 8 U.S.C. § 1229a. Individuals detained under § 1226(a) are entitled to an individualized custody determination before an Immigration Judge and may seek release on bond or conditional parole. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). By contrast, noncitizens falling within certain enumerated criminal categories are subject to mandatory detention under § 1226(c).

Second, the INA authorizes mandatory detention of certain arriving or recently arrived noncitizens placed in expedited removal or other admission-related proceedings under 8 U.S.C. § 1225(b). Individuals encountered at or near the border are deemed "applicants for admission," 8 U.S.C. § 1225(a)(1), and must demonstrate that they are "clearly and beyond a doubt" entitled

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1 to be admitted. Id. § 1225(b)(2)(A). Those who cannot make such a showing “shall be detained”  
2 pending resolution of their cases, unless temporarily paroled under § 1182(d)(5)(A).

3  
4 Third, individuals subject to a final order of removal fall under the post-order detention scheme  
5 set forth in 8 U.S.C. § 1231(a)–(b), which authorizes detention only for a period reasonably  
6 necessary to effectuate removal. Sections 1226(a) and 1225(b)(2) were enacted through the  
7 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), while §  
8 1226(c) was most recently amended by the Laken Riley Act in 2025.

9  
10 Under this statutory framework, Petitioner’s custody arises under § 1226(a). He is in standard §  
11 240 removal proceedings before the Las Vegas Immigration Court, has no criminal history, and  
12 is not subject to any final order of removal. DHS issued him a Form I-200 Warrant for Arrest,  
13 placing him squarely within the discretionary custody authority of § 1226(a), not mandatory  
14 detention. Nothing in § 1226(a) authorizes prolonged or indefinite detention of a noncitizen who  
15 poses no danger or flight risk; civil detention must remain reasonably related to the government’s  
16 limited purposes of ensuring appearance and protecting public safety. See *Jennings v. Rodriguez*,  
17 138 S. Ct. 830 (2018); *Demore v. Kim*, 538 U.S. 510, 528–31 (2003).

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20 Despite this statutory scheme, DHS has invoked the Board of Immigration Appeals’ decision in  
21 *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), to argue that Immigration Judges lack jurisdiction  
22 to conduct bond hearings for individuals who DHS asserts were apprehended “shortly after  
23 entry.” Relying on that interpretation, the Immigration Judge declined to hear Petitioner’s bond  
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1 request, despite his placement in § 240 proceedings, his service of a Form I-200 warrant, and his  
2 eligibility for custody redetermination under 8 C.F.R. §§ 1003.19(a), 1236.1(d).

3  
4 This position effectively deprives Petitioner—and similarly situated individuals—of the  
5 statutory and regulatory protections that Congress and the Executive have long provided to  
6 noncitizens in § 240 proceedings. It results in prolonged detention with no individualized  
7 assessment of necessity, contrary to the INA’s structure and purpose and inconsistent with  
8 constitutional limits on civil confinement. Accordingly, Petitioner’s continued detention falls  
9 outside the narrow detention authority conferred by the INA, which requires individualized  
10 custody review and prohibits arbitrary or indefinite detention—protections that Petitioner has  
11 been categorically denied.  
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16 **STANDARD OF REVIEW**

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18 Temporary restraining orders and preliminary injunctions are evaluated under the same standard  
19 in the Ninth Circuit. Under the framework established by the Supreme Court in *Winter v. Natural*  
20 *Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008), a movant must demonstrate a likelihood  
21 of success on the merits, a likelihood of suffering irreparable harm in the absence of preliminary  
22 relief, that the balance of equities tips in the movant’s favor, and that an injunction is in the  
23 public interest. The Ninth Circuit also recognizes a complementary “sliding scale” approach  
24 under which a movant may obtain relief by raising serious questions going to the merits and  
25 demonstrating that the balance of hardships tips sharply in her favor, so long as the remaining  
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1 *Winter* factors are met. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th  
2 Cir. 2011). A TRO is warranted where, as here, the petitioner faces ongoing constitutional  
3 violations and unlawful detention that threaten immediate, irreparable injury for which no  
4 adequate remedy exists at law.  
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7 **ARGUMENTS**  
8

9 **I. PETITIONER HAS ESTABLISHED A LIKELIHOOD OF SUCCESS ON THE**  
10 **STATUTORY DETENTION**

11 A. Petitioner’s Continued Detention Is Unlawful Under the Immigration and Nationality Act

12  
13 The Immigration and Nationality Act (“INA”) authorizes civil immigration detention only when  
14 it serves a legitimate statutory purpose—namely, ensuring appearance at future proceedings or  
15 protecting public safety. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Clark v. Martinez*, 543  
16 U.S. 371, 381 (2005). When detention is no longer reasonably related to those purposes, or when  
17 it continues without statutory authorization, it exceeds the Government’s lawful authority.  
18

19 Petitioner’s detention no longer serves any legitimate statutory purpose. On November 3, 2025,  
20 an Immigration Judge granted relief to Petitioner and completed his removal proceedings. No  
21 final order of removal was entered, and no stay of the Immigration Judge’s decision has been  
22 issued. As a result, there is no statutory basis for continued detention under either the pre-  
23 removal or post-removal detention provisions of the INA.  
24

25 Petitioner has no criminal history involving violence, no disciplinary infractions during  
26 detention, and no record suggesting that he poses a danger to the community or a risk of flight.  
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1 Nothing in the record supports continued confinement as necessary to ensure compliance with  
2 immigration proceedings that have already concluded.

3  
4 Nevertheless, DHS has continued to detain Petitioner based solely on its assertion that it filed an  
5 appeal of the Immigration Judge’s decision. That assertion is unsupported by the administrative  
6 record. No appeal appears in EOIR’s electronic case system, no Notice of Appeal was  
7 electronically filed or served on Petitioner or his counsel as required, and the Board of  
8 Immigration Appeals has confirmed that it has no record of any appeal in this case.

9  
10 Detention based on an undocumented and improperly noticed assertion of appellate jurisdiction  
11 falls outside the narrow detention authority conferred by the INA. Because Petitioner’s  
12 confinement is untethered from any pending proceeding, imminent removal, or lawful statutory  
13 basis, he is likely to succeed on his claim that his continued detention is unlawful.  
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18 **B. DHS’s Reliance on an Alleged Appeal That Was Never Properly Filed or Served**  
19 **Cannot Justify Continued Detention**

20 Petitioner’s removal proceedings were litigated as an ECAS case under EOIR’s mandatory  
21 electronic filing and service system. In ECAS-designated cases, all filings—including Notices  
22 of Appeal—must be submitted electronically and are automatically served on the parties through  
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1 the system. Proper electronic filing and service are not optional; they are required to confer notice  
2 and trigger appellate jurisdiction.

3  
4 Despite these requirements, DHS has claimed—without producing any documentation—that it  
5 mailed an appeal in an apparent attempt to initiate appellate deadlines outside the electronic  
6 system. No appeal has been docketed electronically, no service has been effected through ECAS,  
7 and no proof of filing has been provided. As a result, Petitioner has received no notice sufficient  
8 to satisfy statutory, regulatory, or constitutional requirements.

9  
10 DHS’s reliance on a phantom appeal through a process that is not permitted to justify continued  
11 detention is arbitrary and unlawful. An appeal that is not properly filed and not properly served  
12 cannot operate to stay an Immigration Judge’s decision or to authorize continued detention. The  
13 Government may not deprive an individual of liberty based on an appeal that does not exist in  
14 the official record and has never been disclosed to the affected party.

15  
16 By continuing to detain Petitioner based on an undocumented and procedurally defective  
17 assertion of appellate jurisdiction, DHS has deprived him of any mechanism to challenge his  
18 detention and has exceeded the detention authority granted by Congress. This failure alone  
19 establishes a strong likelihood of success on the merits.  
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24 C. Continued Detention Violates Petitioner’s Fifth Amendment Right to Due Process

25 The Fifth Amendment guarantees that no person shall be deprived of liberty without due process  
26 of law. These protections extend to all persons physically present in the United States, regardless  
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1 of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Landon v. Plasencia*, 459  
2 U.S. 21, 32 (1982).

3  
4 Petitioner’s continued detention—without notice of a valid appeal, without a final order, without  
5 a stay, and without any opportunity to contest the basis for his confinement—violates  
6 fundamental due process principles. Freedom from physical restraint lies at the core of the liberty  
7 protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690 (quoting *Foucha v. Louisiana*,  
8 504 U.S. 71, 80 (1992)).

9  
10 Applying the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976),  
11 Petitioner’s due process claim is compelling. First, the private interest at stake—freedom from  
12 prolonged civil confinement—is of the highest constitutional order. Second, the risk of erroneous  
13 deprivation is extreme, as DHS has unilaterally asserted the existence of an appeal outside proper  
14 channels while denying Petitioner any notice, documentation, or forum to challenge that  
15 assertion. Third, the Government’s interest in continued detention is minimal, where Petitioner  
16 poses no danger, presents no flight risk, and has already been granted relief by an Immigration  
17 Judge.  
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20 At a minimum, due process requires a meaningful opportunity to be heard before liberty may be  
21 restrained. Here, Petitioner has been afforded no such opportunity. His continued detention  
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1 therefore violates the Due Process Clause, further establishing a likelihood of success on the  
2 merits.

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5 **II. PETITIONER WILL SUFFER IRREPARABLE HARM UNLESS THE COURT**  
6 **ISSUES A TEMPORARY RESTRAINING ORDER**

7 Under *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008), a petitioner must  
8 demonstrate that he is likely to suffer irreparable harm in the absence of immediate injunctive  
9 relief. In the context of civil immigration detention, courts have consistently recognized that the  
10 ongoing, unlawful deprivation of physical liberty constitutes irreparable harm as a matter of law.  
11 See *Rodriguez v. Robbins*, 804 F.3d 1060, 1080–81 (9th Cir. 2015), rev'd on other grounds sub  
12 nom. *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018); *R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 191  
13 (D.D.C. 2015) (“the deprivation of physical liberty for even one day constitutes irreparable  
14 harm”).

15  
16  
17 Petitioner remains confined at the Nevada Southern Detention Center despite the absence of any  
18 final order of removal, stay, or properly filed and served appeal. His continued detention is  
19 therefore not merely prolonged but wholly unauthorized. Each additional day of confinement  
20 deepens the constitutional injury resulting from detention without lawful authority, notice, or  
21 any meaningful opportunity to challenge the basis for custody.

22  
23 Petitioner is detained in restrictive, penal-like conditions that severely curtail his freedom of  
24 movement, subject him to constant institutional control, and separate him from his family and  
25 community. He is deprived of the ability to work, care for his family, and maintain the stability  
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1 he enjoyed prior to detention. These harms are immediate, ongoing, and incapable of remediation  
2 through later relief.

3  
4 Courts have repeatedly recognized that prolonged civil detention without individualized review  
5 or lawful justification inflicts irreparable injury. See *Sajous v. Decker*, 2018 WL 2357266, at  
6 \*12 (S.D.N.Y. May 23, 2018) (“[p]rolonged detention without an individualized determination  
7 of dangerousness or flight risk inflicts irreparable injury”); see also *Hernandez v. Sessions*, 872  
8 F.3d 976, 994 (9th Cir. 2017) (“every day of detention is another day of lost liberty that cannot  
9 be recovered”).  
10

11 Petitioner’s irreparable harm is exacerbated by the Government’s failure to provide proper notice  
12 of any alleged appeal in this ECAS-designated case. By asserting the existence of an appeal that  
13 was never electronically filed or served, DHS has deprived Petitioner of any forum—  
14 administrative or judicial—in which to contest the legality of his detention. This procedural  
15 breakdown leaves Petitioner trapped in custody with no mechanism for relief absent immediate  
16 court intervention.  
17

18  
19 The public interest likewise favors issuance of a temporary restraining order. Preventing  
20 unlawful detention and ensuring compliance with constitutional and statutory safeguards is  
21 always in the public interest. See *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).  
22 Allowing the Government to continue detaining an individual without lawful authority, proper  
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1 notice, or meaningful review undermines confidence in the immigration system and the rule of  
2 law.

3  
4 Accordingly, Petitioner has demonstrated irreparable harm of the highest order. Without  
5 immediate injunctive relief, he will continue to suffer an ongoing and unlawful deprivation of  
6 liberty that cannot be remedied after the fact. A temporary restraining order is therefore  
7 necessary to prevent further constitutional injury while this Court considers the merits of  
8 Petitioner’s habeas claims.

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11 **III. THE BALANCE OF HARMS WEIGHS IN FAVOR OF PETITIONER**

12 The final two Winter factors—the balance of equities and the public interest—strongly favor  
13 injunctive relief. Where, as here, the government is a party, these factors merge. *Nken v. Holder*,  
14 556 U.S. 418, 435 (2009). The Court must therefore assess whether the harm to Petitioner from  
15 continued detention outweighs any harm to the Government arising from Petitioner’s release or  
16 from requiring compliance with constitutional and statutory limits on detention.

17  
18 The equities weigh decisively in Petitioner’s favor. Each additional day of confinement results  
19 in a profound and irreparable deprivation of liberty. Petitioner remains detained despite having  
20 been granted relief by an Immigration Judge, despite the absence of any final order of removal  
21 or stay, and despite the Government’s failure to properly file or serve any appeal in this ECAS-  
22 designated case. His continued detention inflicts ongoing constitutional harm wholly  
23 disproportionate to any legitimate governmental interest.

24  
25 Petitioner poses no danger to the community and no risk of flight. He has no history of violent  
26 crime, no disciplinary infractions during detention, and has consistently complied with  
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1 immigration authorities. His detention is not tied to any imminent removal or pending  
2 proceeding and serves no lawful purpose under the Immigration and Nationality Act. The harm  
3 to Petitioner from continued detention therefore far outweighs any speculative concern asserted  
4 by the Government.

5  
6 By contrast, the Government faces minimal—if any—harm if relief is granted. Releasing  
7 Petitioner under reasonable supervision, or requiring the Government to demonstrate a lawful  
8 basis for continued detention, does not impede any legitimate enforcement objective. As courts  
9 have recognized, “[t]he government suffers no harm when it is required to comply with the  
10 Constitution.” *O’Donnell v. Harris County*, 892 F.3d 147, 155 (5th Cir. 2018). Administrative  
11 convenience or procedural shortcuts cannot justify continued confinement without lawful  
12 authority.

13  
14  
15 The public interest likewise favors immediate relief. The public has a compelling interest in  
16 ensuring that civil immigration detention is carried out in accordance with statutory authority,  
17 due process, and fundamental constitutional safeguards. See *Zadvydas v. Davis*, 533 U.S. 678,  
18 690 (2001). Allowing the Government to detain an individual based on an undocumented and  
19 improperly noticed appeal undermines confidence in the integrity of the immigration system and  
20 the rule of law.

21  
22 Balancing these considerations, both the equities and the public interest weigh strongly in favor  
23 of Petitioner. Granting temporary injunctive relief will prevent further irreparable harm, ensure  
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adherence to constitutional and statutory limits on detention, and serve the public’s interest in lawful and accountable government action.

**CONCLUSION**

For the reasons set forth above, Petitioner Yoandri Gonzalez Terrero has demonstrated a strong likelihood of success on the merits of his claims, will suffer irreparable harm in the absence of immediate relief, and has shown that the balance of equities and the public interest decisively favor issuance of a temporary restraining order. Petitioner’s continued detention—without a final order of removal, without a stay, without proper notice of any appeal, and without any lawful basis for continued custody—violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

Accordingly, Petitioner respectfully requests that this Court:

1. Enjoin Respondents and their agents from transferring Petitioner outside the jurisdiction of this Court while this matter is pending;
2. Order Petitioner’s immediate release from immigration custody, or, in the alternative, require Respondents to demonstrate a lawful basis for continued detention supported by a properly filed and served appeal; and
3. Grant such other and further relief as the Court deems just and proper.

*/S/Hardeep Sull*

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**PROOF OF SERVICE**

I hereby certify that on Thursday, January 22, 2026, I caused to be served a true and correct copy of the foregoing **Plaintiffs Reply Motion for Reconsideration to Compel Subpoena and Deposition of Dr. David S. Lee** on the following persons as follows:

\_\_\_\_\_ by placing the same for mailing in the United States Mail, in a sealed envelope on which first class postage was prepaid in Las Vegas, Nevada and/or

X By CM/ECF Filing-Pursuant to FRCP 5(b)(3) and LR 5-1, the above - referenced document was electronically filed and served upon the parties listed below through the Court’s Case Management and Electronic Case Filing (CM/ECF) system:

Virginia T. Tomov  
Assistant United States Attorney  
501 Las Vegas Blvd. So., Suite 1100  
Las Vegas, Nevada 89101  
[Virginia.Tomova@usdoj.gov](mailto:Virginia.Tomova@usdoj.gov)

I declare under the penalty of perjury that the foregoing is true and correct. Executed on January 22, 2026, at Las Vegas, Nevada.

/s/Hardeep Sull  
HARDEEP SULL, ESQ