

FILED^{KB}
UNITED STATES DISTRICT COURT
LAS CRUCES, NEW MEXICO

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

FEB 13 2026

MITCHELL R. ELFERS
CLERK OF COURT

HYWORTH RUTANHIRA,

Case No. 2:26-CV-00130-MLG-JMR

Petitioner,

v.

PAM BONDI, Attorney General of the United States;
KRISTI NOEM, Secretary, U.S. Department of Homeland Security;
TODD LYONS, Director, U.S. Immigration and Customs Enforcement;
MARY DE ANDA-YBARRA, ICE Field Office Director;
WARDEN, OTERO COUNTY PROCESSING CENTER,

Respondents.

**EMERGENCY MOTION TO ENFORCE ORDER TO SHOW CAUSE, SAME-DAY EXPEDITED
RULING AND IMMEDIATE RELEASE**

Petitioner Hyworth Rutanhira respectfully moves this Court on an emergency basis to enforce its January 26, 2026 Order to Show Cause and to order Petitioner's immediate release from custody. Respondents' failure to comply with a direct order of this Court has resulted in ongoing, irreparable harm through continued unlawful detention. Immediate judicial intervention is necessary.

I. EMERGENCY NATURE OF THIS MOTION

This Motion is filed on an emergency basis because Petitioner remains a civil immigration detainee deprived of his liberty each day without lawful justification. Civil detention without due process constitutes irreparable harm. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Respondents' failure to respond to the Court's Order to Show Cause has halted the normal adjudicatory process and prolonged detention solely due to government non-compliance.

II. PROCEDURAL BACKGROUND

1. Petitioner is detained at Otero County Processing Center.
2. Petitioner filed a Petition for Writ of Habeas Corpus challenging the legality of his continued detention.
3. On January 26, 2026, this Court entered an Order to Show Cause requiring Respondents to file a response within ten (10) days of receipt.
4. The Order was entered on the Court's electronic docket on January 26, 2026. Respondents, through the United States Attorney, are registered CM/ECF users and are deemed to have received the Order on that date.
5. Under Federal Rule of Civil Procedure 6(a), Respondents' response was due no later than February 5, 2026.
6. Respondents failed to file a response and failed to seek any extension of time.
7. Respondents are therefore in direct violation of a lawful order of this Court.

III. THE COURT HAS INHERENT AUTHORITY TO ENFORCE ITS ORDERS

Federal courts possess inherent authority to enforce compliance with their orders and to protect the integrity of judicial proceedings.

Chambers v. NASCO, Inc., 501 U.S. 32, 43 (1991).

When a party ignores an Order to Show Cause, the Court may:

- Treat the matter as unopposed,
- Accept un rebutted allegations as true, and
- Grant appropriate relief to remedy ongoing violations.

IV. RESPONDENTS HAVE FAILED TO JUSTIFY CONTINUED DETENTION

The government bears the burden of justifying civil immigration detention. *Zadvydas*, 533 U.S. at 690.

Respondents' silence leaves un rebutted Petitioner's claims that:

- His detention is prolonged and unreasonable;
- He has been denied meaningful process; and
- Continued confinement violates the Fifth Amendment.

Where detention continues without justification or process, it becomes punitive and unconstitutional. *Jennings v. Rodriguez*, 583 U.S. 830 (2018).

V. IMMEDIATE RELEASE IS THE ONLY ADEQUATE REMEDY

Habeas corpus exists to provide swift relief from unlawful detention.

28 U.S.C. § 2243.

Ordering additional briefing or further delay would:

- Reward Respondents' non-compliance;
- Prolong unconstitutional detention; and
- Undermine the authority of this Court.

Immediate release is necessary to remedy the constitutional violation and to enforce the Court's Order.

VI. REQUEST FOR SAME-DAY EXPEDITED RULING

Because Petitioner continues to suffer irreparable harm and because the record is complete due to Respondents' failure to respond, Petitioner respectfully requests a same-day ruling.

VII. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that the Court:

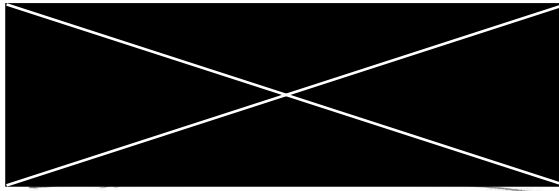
1. Enforce its January 26, 2026 Order to Show Cause;

2. Find Respondents in non-compliance;
3. Grant the Petition for Writ of Habeas Corpus as unopposed;
4. Order Petitioner's immediate release from custody; and
5. Grant such other relief as justice requires.

Respectfully submitted,

Hyworth Rutanhira, Pro Se
Petitioner A 
Otero County Processing Center
26 McGregor Range Road
Chaparral, NM 88081

Date: 2/9/2026



SUPPLEMENTAL DECLARATION REGARDING ICE'S PURPORTED CUSTODY REVIEW AND SERVICE

Petitioner submits this declaration to clarify the timing and manner in which ICE's purported custody review decision was served, and to correct the record regarding inconsistencies in ICE's documentation.

1. Actual Date, Time, and Manner of Service

On January 27, 2026, during morning count at approximately 8:50 a.m., Officer Johnson approached Petitioner Mr. Rutanhira inside the detention facility and handed him several documents.

As Officer Johnson handed over the papers, he stated:

"This is what you have been asking for."

This was the first time Petitioner received any custody review decision or written determination regarding his detention.

2. Discovery of Backdating and Inconsistent Proof of Service

After reviewing the documents, Petitioner observed that:

- The custody review decision is dated December 4, 2025
- The paperwork appears designed to suggest service within the statutory 90-day period
- The Proof of Service states that the documents were served by Officer Mendoza, not Officer Johnson

This directly contradicts what occurred on January 27, 2026, when Officer Johnson personally handed the documents to Petitioner.

Petitioner was not served by Officer Mendoza, nor did Officer Mendoza participate in service on January 27, 2026 to Petitioner's knowledge.

3. No Acknowledgment, Receipt, or Documentation of Service

At the time of service on January 27, 2026:

- Petitioner was not asked to sign any acknowledgment
- Petitioner did **not** receive a date-stamped receipt
- Petitioner did **not** receive the documents via legal mail
- The documents were **not** delivered in an envelope
- No explanation of rights accompanied service

The documents were simply handed to Petitioner during court.

4. Failure to Explain Rights or Interview Option

The custody review paperwork includes a section allowing Petitioner to request an interview in advance of a 180-day review. That section is blank.

Officer Johnson did **not**:

- Explain Petitioner's right to request an interview
- Explain the purpose of the document
- Ask Petitioner to accept or waive any rights

Petitioner did not knowingly waive any rights and was not afforded a meaningful opportunity to participate in the custody review process.

5. Contemporaneous Evidence Contradicts ICE's Claimed Timeline

Petitioner possesses email correspondence between a family friend and Officer Johnson dated between December 16, 2025 and December 31, 2025, in which:

- Officer Johnson is asked about the status of Petitioner's custody review decision
- Requests are made for a timeline or identifying information regarding who would serve Petitioner
- No indication is given that a custody review decision had already been completed or served on December 4, 2025

These contemporaneous communications are inconsistent with ICE's claim that a custody review decision had already been issued and served weeks earlier.

6. Legal Significance

An internal ICE custody review that:

- Is served on January 27, 2026,

- Is backdated to December 4, 2025,
- Lists a different officer on the proof of service than the officer who actually served the documents,
- Is unsupported by acknowledgment or receipt, and
- Is issued only after the filing of a habeas petition,

does not establish timely service, meaningful review, or compliance with due process. A post-hoc, non-neutral agency action cannot cure months of prolonged civil detention without a neutral custody determination.

Declaration

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 2/6/2026

Signature: _____

Mr. Rutanhira, Petitioner

THE FOLLOWING EMAILS
PROVE THAT THE PETITIONER
WAS NOT SERVED CUSTODY REVIEW
IN A TIMELY MANNER OR
DUE PROCESS.
*Highlighted ARE THE KEY
EVIDENCES SUPPORTING THESE
FACTS.

EXHIBIT

A



me Dec 16, 2025



to Justin ^

From Bree Howard breehoward86@gmail.com

To Johnson, Justin A
Justin.a.johnson@ice.dhs.gov

Date Dec 16, 2025 at 9:50 AM

Good morning Officer Johnson,

I am reaching out regarding Hyworth Rutanhira and his 90 day review decision. On Friday, another officer informed him that his custody review was sent out on 12/5 and that it was approved. He said he couldn't tell him if he was going home as he wasn't his DO. 2 other officers let him know that Sepulveda was not in and that you would be the one to serve him the review decision. We are just curious as to when he should be expecting that as his 90 days has passed.

I appreciate your time and assistance with this.

Thank you.

...

← Reply

→ Forward



Hyworth Rutanhira A



PJ.1



Johnson, Justin A Dec 16, 2025



to me ^

From Johnson, Justin A
Justin.a.johnson@ice.dhs.gov

To Bree Howard breehoward86@gmail.com

Date Dec 16, 2025 at 10:26 AM



Standard encryption (TLS)

[Learn more](#)

Good morning,

Today is his 93rd day. Yes, the 90 days just passed but I did not submit his review. The officer that submitted the review will be the one to give him the results.

...



me Dec 16, 2025



to Justin v

Thank you for the update. Is there any information you can provide as far as when he

← Reply

→ Forward



Hyworth Rutanhir A



pg. 2

to give him the results.

...



me Dec 16, 2025



...

to Justin ^

From Bree Howard breehoward86@gmail.com

To Johnson, Justin A
Justin.a.johnson@ice.dhs.gov

Date Dec 16, 2025 at 10:31AM

Thank you for the update. Is there any information you can provide as far as when he should be hearing something? Considering another officer told him it was approved, him & his families anxiety is pretty high waiting for an answer.

...



Johnson,... Dec 16, 2025



...

to me v

I can't give you any information on the results because I did not receive them.

...

← Reply

→ Forward



Hyworth Rutanhira A



pg. 3



me Dec 16, 2025



to Justin ^

From Bree Howard breehoward86@gmail.com

To Johnson, Justin A
Justin.a.johnson@ice.dhs.gov

Date Dec 16, 2025 at 10:37 AM

I understand as far as the results. Just curious what the timeline is for Hyworth to receive an answer.

Thank you.



me Dec 17, 2025



to Justin ^

From Bree Howard breehoward86@gmail.com

To Johnson, Justin A
Justin.a.johnson@ice.dhs.gov

Date Dec 17, 2025 at 2:36 PM

Good afternoon,

Is there anyway you can inform me who his officer is and how he can request to speak

← Reply

→ Forward



Hyworth Rutanhir A



pg. 4



me Dec 17, 2025
to Justin ^



From Bree Howard breehoward86@gmail.com

To Johnson, Justin A
Justin.a.johnson@ice.dhs.gov

Date Dec 17, 2025 at 2:36 PM

Good afternoon,

Is there anyway you can inform me who his officer is and how he can request to speak with him? Not sure what the next steps are or the timeline in which he should be getting an update. I really appreciate your help and understanding.

Thank you so very much.

...



me Dec 31, 2025
to Justin v



Good morning Officer Johnson,

I pray all is well and that you can assist me. I just wanted to follow up on our previous conversation as there has been no decision

← Reply

→ Forward



Hymwora Rutahira A

pg. 5

update. I really appreciate your help and understanding.

Thank you so very much.

...



me Dec 31, 2025



to Justin ^

From Bree Howard breehoward86@gmail.com

To Johnson, Justin A
Justin.a.johnson@ice.dhs.gov

Date Dec 31, 2025 at 9:22 AM

Good morning Officer Johnson,

I pray all is well and that you can assist me. I just wanted to follow up on our previous conversation as there has been no decision given to Mr. Rutanhira for his review. Who should we be contacting or is there something going on that is delaying the process?

I truly appreciate your time and help with this.

Thank you.

...

← Reply

→ Forward



Hunworth Rutanhira A



PA-6

Thank you.

...



Johnson, ... Dec 31, 2025
to me ^



From Johnson, Justin A
Justin.a.johnson@ice.dhs.gov

To Bree Howard breehoward86@gmail.com

Date Dec 31, 2025 at 9:28 AM

 Standard encryption (TLS)
[Learn more](#)

Good morning,

I will forward your request to the officer taking over this case.

...



me Dec 31, 2025
to Justin v



Thank you very much. Just to confirm, is Senulveda no longer his DO?

← Reply

→ Forward



Hyworth Rutanhiru A



pg. 7



me Dec 31, 2025



to Justin ^

From Bree Howard breehoward86@gmail.com

To Johnson, Justin A
Justin.a.johnson@ice.dhs.gov

Date Dec 31, 2025 at 9:33 AM

Thank you very much. Just to confirm, is Sepulveda no longer his DO?

Thank you.

...



Johnson,... Dec 31, 2025



to me ^

From Johnson, Justin A
Justin.a.johnson@ice.dhs.gov

To Bree Howard breehoward86@gmail.com

Date Dec 31, 2025 at 9:35 AM



Standard encryption (TLS)

[Learn more](#)

That is his current DO but he is out of the office.



Reply



Forward



Hynworth Rutanhiria A



pg. 9

From **Johnson, Justin A**
Justin.a.johnson@ice.dhs.gov

To **Bree Howard** breehoward86@gmail.com

Date **Dec 31, 2025 at 9:35 AM**

 **Standard encryption (TLS)**
[Learn more](#)

That is his current DO but he is out of the office.

...



me Dec 31, 2025



to Justin ^

From **Bree Howard** breehoward86@gmail.com

To **Johnson, Justin A**
Justin.a.johnson@ice.dhs.gov

Date **Dec 31, 2025 at 9:35 AM**

Okay I understand. That's what he was told for the last few weeks. So he should be expecting to hear from someone else at this point?

...

 Reply

 Forward



Hynworth Rutanhiria A



pg. 9

EXHIBIT

B

Office of Enforcement and Removal Operations

U.S. Department of Homeland Security
11541 Montana Avenue, Suite E
El Paso, Texas 79936



U.S. Immigration
and Customs
Enforcement

Rutanhira, Hyworth

c/o Immigration and Customs Enforcement
El Paso Field Office



Decision to Continue Detention

This letter is to inform you that your custody status has been reviewed, and it has been determined that you will not be released from the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your file, consideration of the information you submitted to ICE's reviewing officials on Dec 3, 2025 and upon review of the factors for consideration set forth at 8 C.F.R. § 241.4(e), (f), and (g).

As explained below, after such review, ICE has determined to maintain your custody because:

- ☒ You have not demonstrated that, if released, you will not: **(Check only those that apply)**
- ☒ Pose a danger to the community, to the safety of other persons, or to property.
- ☒ Pose a significant risk of flight pending your removal from the United States.

OR

- ☐ ICE is in receipt of or expects to receive the necessary travel documents to effectuate your removal, and removal is practicable, likely to occur in the reasonably foreseeable future, and in the public interest.

ICE has made such determination based upon:

You are citizen of Zimbabwe who was admitted to the United States on April 16, 1999 with an F2 Visa. You were ordered removed by the immigration judge on October 30, 2006. You have been convicted of multiple felony charges. You violated your conditions of release under order of supervision. You are currently pending a travel document from the Zimbabwe Consulate for removal. There are no other urgent humanitarian, medical or custodial issues present in your case. You have not demonstrated that if released you would not pose a significant flight risk.

Based on the above, you are to remain in ICE custody pending your removal from the United States as ICE is unable to conclude that the factors set forth at 8 C.F.R. § 241.4(e) have been satisfied. You are advised that you must demonstrate that you are making reasonable efforts to comply with the order of removal and that you are cooperating with ICE's efforts to remove you by taking whatever actions ICE requests to affect your removal. You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or

Decision to Continue Detention

Rutanhira, Hyworth

Page 2

A



obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 U.S.C. § 1253(a).

If you have not been released or removed from the United States at the expiration of the three-month period after this 90-day review, jurisdiction of the custody decision in your case will be transferred to the ICE Headquarters (ERO Removal Division), Potomac Center North, 500 12th Street SW, Washington, DC 20536. The ERO Removal Division will thereafter conduct a custody review and will make a determination regarding whether you will continue to be detained pending removal or may be released.

To assist in the ERO Removal Division custody review, you will be afforded a personal interview. You and your representative who has filed a Form G-28, Notice of Entry of Appearance, if any, will be notified of the date and time of the interview approximately 30 days prior to the scheduled interview date. This interview may be in person or through a video teleconference. If ERO needs to change the date of the interview, ERO will provide notice to you and your representative who has filed a Form G-28, Notice of Entry of Appearance, if any.

You may be accompanied during the interview by a person of your choice, subject to security requirements at the detention facility, as long as this person is able to attend the interview at the scheduled time.

You may submit any additional documentation in English you wish to be considered in support of your release at the time of the interview or via mail service up to five business days prior to the scheduled time of your interview to the following address:

26 McGregor Range Rd, Chaparral, New Mexico 88081

Such documentation should contain a cover letter indicating that the material is submitted in support of your Post Order Custody Review personal interview. An attorney or other person may submit materials on your behalf.

You are required to complete the below information.

I do _____ do not _____ want a personal interview.

If you do want an interview, please check the appropriate box(es) below:

☐

Check this box if you need an interpreter for your interview.

Language/Dialect: _____

☐

I will be assisted at this interview by a representative of my own choosing.

Name: _____

Decision to Continue Detention

Rutanhira, Hyworth

Page 3



If your representative has not filed a G-28, Notice of Entry of Appearance, on your behalf, you are responsible for notifying any other person you have selected to assist you of the date, time, and location of the interview. The representative must be at least 18 years of age.

You will be sent a separate Notice to Alien of Interview for Review of Custody Status approximately 30 days before the interview is scheduled. If you wish to request additional time to prepare for the interview, you must notify your deportation officer within five business days of receipt of the Notice of Interview. If ERO agrees to postpone the interview at your request, you will be deemed to have waived its completion prior to jurisdiction over your case transferring to the ERO Removal Division.

You will be notified of the decision in your case when the custody review has been concluded by the ERO Removal Division.

ADAM J
MOLINA

Digitally signed by ADAM
J MOLINA
Date: 2025.12.04
18:12:13 -06'00'

December 4, 2025

El Paso (A) Deputy Field Office Director

Date

PROOF OF SERVICE

(Officer to complete both (a) and (b) below.)

(a) I Omar Mendoza, Deportation Officer,
Name of ICE Officer Title

certify that I served Rutanhira, Hyworth with a copy of
Name of detainee
this document at Otero County Processing Center on _____, at _____
Institution Date Time

(b) I certify that I served the custodian _____,
Name of Official

_____, at _____, on _____
Title Institution
_____ with a copy of this document.
Date

Detainee Signature: _____ Date: _____

- () cc: Attorney of Record or Designated Representative
() cc: A-File

THIS ENVELOPE WAS
IMMEDIATELY SEALED AS
SOON AS AGENT JOHNSON
SERVED ME THE LATE
CUSTODY REVIEW
AT 8:50 AM
JAN 27
(NOT AGENT OMAR MENDOZA)

FROM DECEMBER 16 TO
DECEMBER 31ST
THEY'RE EMAILS BETWEEN
MY FRIEND & D/O JOHNSON
WITH HIM ADMITTING TO
ME NOT BEING SERVED.

ENCLOSED IS A LATE
SERVED CUSTODY REVIEW

PLEASE OPEN

Office of Enforcement and Removal Operations

U.S. Department of Homeland Security
11541 Montana Avenue, Suite E
El Paso, Texas 79936



**U.S. Immigration
and Customs
Enforcement**

Rutanhira, Hyworth
c/o Immigration and Customs Enforcement
El Paso Field Office



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This letter is to inform you that your custody status has been reviewed, and it has been determined that you will not be released from the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your file, consideration of the information you submitted to ICE's reviewing officials on Dec 3, 2025 and upon review of the factors for consideration set forth at 8 C.F.R. § 241.4(e), (f), and (g).

As explained below, after such review, ICE has determined to maintain your custody because:

- ☒ You have not demonstrated that, if released, you will not: **(Check only those that apply)**
- ☒ Pose a danger to the community, to the safety of other persons, or to property.
- ☒ Pose a significant risk of flight pending your removal from the United States.

OR

- ☐ ICE is in receipt of or expects to receive the necessary travel documents to effectuate your removal, and removal is practicable, likely to occur in the reasonably foreseeable future, and in the public interest.

ICE has made such determination based upon:

You are citizen of Zimbabwe who was admitted to the United States on April 16, 1999 with an F2 Visa. You were ordered removed by the immigration judge on October 30, 2006. You have been convicted of multiple felony charges. You violated your conditions of release under order of supervision. You are currently pending a travel document from the Zimbabwe Consulate for removal. There are no other urgent humanitarian, medical or custodial issues present in your case. You have not demonstrated that if released you would not pose a significant flight risk.

Based on the above, you are to remain in ICE custody pending your removal from the United States as ICE is unable to conclude that the factors set forth at 8 C.F.R. § 241.4(e) have been satisfied. You are advised that you must demonstrate that you are making reasonable efforts to comply with the order of removal and that you are cooperating with ICE's efforts to remove you by taking whatever actions ICE requests to affect your removal. You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or

Decision to Continue Detention

Rutanhira, Hyworth

Page 2

A



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To assist in the ERO Removal Division custody review, you will be afforded a personal interview. You and your representative who has filed a Form G-28, Notice of Entry of Appearance, if any, will be notified of the date and time of the interview approximately 30 days prior to the scheduled interview date. This interview may be in person or through a video teleconference. If ERO needs to change the date of the interview, ERO will provide notice to you and your representative who has filed a Form G-28, Notice of Entry of Appearance, if any.

You may be accompanied during the interview by a person of your choice, subject to security requirements at the detention facility, as long as this person is able to attend the interview at the scheduled time.

You may submit any additional documentation in English you wish to be considered in support of your release at the time of the interview or via mail service up to five business days prior to the scheduled time of your interview to the following address:

26 McGregor Range Rd, Chaparral, New Mexico 88081

Such documentation should contain a cover letter indicating that the material is submitted in support of your Post Order Custody Review personal interview. An attorney or other person may submit materials on your behalf.

You are required to complete the below information.

I do _____ do not _____ want a personal interview.

If you do want an interview, please check the appropriate box(es) below:

☐

Check this box if you need an interpreter for your interview.
Language/Dialect: _____

☐

I will be assisted at this interview by a representative of my own choosing.

Name: _____

Decision to Continue Detention

Rutanhira, Hyworth

Page 3

A 

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You will be notified of the decision in your case when the custody review has been concluded by the ERO Removal Division.

ADAM J
MOLINA

Digitally signed by ADAM
J MOLINA
Date: 2025.12.04
18:12:13 -06'00'

December 4, 2025

El Paso (A)Deputy Field Office Director

Date

PROOF OF SERVICE

(Officer to complete both (a) and (b) below.)

(a) I Omar Mendoza, Deportation Officer,
Name of ICE Officer Title
certify that I served Rutanhira, Hyworth with a copy of
Name of detainee
this document at Otero County Processing Center on _____, at _____.
Institution Date Time

(b) I certify that I served the custodian _____,
Name of Official
_____, at _____, on _____,
Title Institution
_____ with a copy of this document.
Date

Detainee Signature: _____ Date: _____

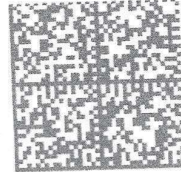
() cc: Attorney of Record or Designated Representative

() cc: A-File

HYWORTH RUTANH? RA
26 McGregor Range Rd
Chaparral, NM 88081

LA
80

PRESS FIRMLY



quadrant
PRIORITY MAIL
IMI
\$011.95⁰
02/11/2026 ZIP 88081
043M30286478

US POSTAGE

FROM:

RUTANHIRA HYUNORTH

Otero County Processing Center
26 McGregor Range Rd.
Chaparral, NM 88081



RECEIVED
UNITED STATES DISTRICT COURT
LAS CRUCES, NEW MEXICO

FEB 13 2026

MITCHELL R. ELLERS
CLERK OF COURT

SCREENED BY CSO

FEB 13 2026



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LAB400R Aug. 2013
7690-17-000-0669

TO:
U.S DISTRICT COURT
District of New Mexico
office of the CLERK
100^N CHURCH ST
SUITE 280
LAS CRUCES, New Mexico
88001

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1/2