

LEE GELERT  
DEPUTY DIRECTOR  
IMMIGRANTS' RIGHTS PROJECT

*Via CM/ECF*

January 8, 2026

Lyle W. Cayce, Clerk of Court  
United States Court of Appeals for the Fifth Circuit  
Office of the Clerk  
F. Edward Herbert Building  
600 S. Maestri Place, Suite 115  
New Orleans, LA 70130



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**Re: *W.M.M. v. Trump*, No. 25-10534 (*en banc*)**

Dear Mr. Cayce:

The government's January 5 letter contends that Maduro's indictment shows that he and TdA were intertwined. But the indictment's allegations cannot erase the administration's own repeated assertions that the United States was in a *non-international* armed conflict with TdA to justify its boat strikes—not a conflict with a "foreign nation or government" as required by the AEA. Pet'rs' En Banc Br. 8, 31–41. At a minimum, the conflicting assertions undermine the request for deference.

Moreover, the indictment confirms that, even in the government's view, Maduro's alleged actions were not *military*, but rather criminal offenses properly handled through the justice system. Indeed, the administration stated that the Venezuelan operation was a "law enforcement" operation. Appellees' 28(j) Letter, Ex. B at 38:58–39:57.

The government also fails to address why the Proclamation's assertions are not fatally undermined by Maduro's ouster given that the Proclamation specifically says that "Maduro" and the "Maduro regime"—not Venezuela as a "foreign nation"—direct TdA. While the Proclamation's assertions never justified the claim that Maduro directed TdA

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(a claim refuted by 17 of 18 national security agencies<sup>1</sup>), there is now no longer anything to defer to given that Maduro is in a U.S. jail. Indeed, President Trump himself has declared that Maduro's capture means that “[t]here will no longer be threats” to Americans from Venezuela or TdA. *Id.* at 11:41–12:24.

Finally, the indictment undercuts the Proclamation's factual assertion that “Cártel de los Soles” is a “narco-terrorism enterprise” central to enlisting TdA to send drugs as a “weapon” against the United States. The indictment now describes Cártel de los Soles as simply a loose “patronage system” that is part of “a culture of corruption” for elites' personal enrichment—not a cartel *at all*. Appellees' 28(j) Letter, Ex. A at 8; *see Charlie Savage, Justice Dept. Drops Claim That Venezuela's 'Cartel de los Soles' Is an Actual Group, N.Y. Times, Jan. 6, 2026,* <https://www.nytimes.com/2026/01/05/us/trump-venezuela-drug-cartel-de-los-soles.html>.



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Respectfully submitted,

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<sup>1</sup> *See* Pet'rs' Mot. to Suppl. R. (attaching assessment by the 17 agencies), Dkt. 143.

## **CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing letter complies within the type-volume limitations of Fed. R. App. P. 28(j) and Fifth Circuit local rules because the body contains 333 words. This letter also complies with the typeface and type style requirements of Fed. R. App. P. 32(a)(5)(A) because this letter was prepared in a proportionally spaced typeface using Word 14-point Times New Roman.

## **CERTIFICATE OF SERVICE**

I hereby certify that on January 8, 2026, I electronically filed the foregoing with the Clerk for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the appellate CM/ECF system.

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