

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

STATE OF FLORIDA,

Plaintiff,

v.

Case No. 3:23-cv-9962-TWK-ZCB

ALEJANDRO MAYORKAS;

et. al,

Defendants.

**DEFENDANTS' FURTHER
RESPONSE TO ORDER TO SHOW CAUSE**

In accordance with the Court's May 16, 2023 Order, ECF No. 31, Defendants submit the attached declaration and provide an update to Defendants' May 15 Response to the Order to Show Cause, ECF No. 26 ("Response"). As explained in the attached declaration, U.S. Customs and Border Protection ("CBP") conducted a manual review of the 167 files discussed in the May 15 Response. *See* Declaration of David S. BeMiller ("BeMiller Decl."), attached hereto, at ¶ 4. That review confirmed that all 167 individuals were fully processed for Parole with Conditions prior to 11:59 p.m. Eastern Time (ET) on May 11, when the TRO took effect. *See id.*

Additionally, in conjunction with that review, Defendants conducted a second check of their data to ensure that the Court was provided the most accurate and up-

to-date numbers available. *Id.* at ¶ 5. The data provided in the May 15 Response reflected individuals coded as “Parole with Conditions,” which was the fastest and most straightforward way to run the search in a short timeframe. *Id.* For the updated check, CBP took the additional step of pulling all data with the processing disposition of “Parole” and the inclusion of a Form I-385, the form utilized for Parole with Conditions processing. *Id.* This data analysis method took more time; however, this method better accounts for any possible coding errors at the time of entry. *Id.* Parole with Conditions was the only processing pathway that utilized a Form I-385. *Id.* Thus, this search method provided a helpful authentication on the original data analysis. *Id.*

The updated data check shows that there were a total of 8,807 cases processed as Parole with Conditions during the brief period Parole with Conditions was operational. *Id.* at ¶ 8. Within this 8,807, there were 2,572 individuals who were recorded as released from CBP custody after May 11, 2023 at 11:59 p.m. ET. *Id.* And, there were 173 records in the system that had a processing completion time that was missing or marked after 11:59 p.m. ET on May 11, 2023. *Id.* at ¶ 9. Manual review of the files for those 173 individuals showed that each of them was fully processed under Parole with Conditions before 11:59 p.m. ET on May 11, 2023. *Id.*

Accordingly, consistent with Defendants’ May 15 Response and the Court’s Order, Defendants respectfully submit that to the best of their knowledge there were

no individuals who were processed for Parole with Conditions after 11:59 p.m. ET on May 11, 2023. Defendants will comply with the Court's Order by providing reporting on the schedule ordered by the Court on all of the individuals reflected in the data as having been released on Parole with Conditions after 11:59 p.m. ET on May 11, 2023.

Date: May 19, 2023

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Respectfully submitted,

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/s/ Sarah B. Fabian

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Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 19, 2023, I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which provided an electronic notice and electronic link of the same to all attorneys of record.

By: /s/ Sarah B. Fabian
SARAH B. FABIAN
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