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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

State of Arizona,  
Plaintiff,  
  
v.

Case No: 2:21-cv-00617-DWL

Alejandro Mayorkas in his official capacity as Secretary of Homeland Security; United States Department of Homeland Security; Troy Miller in his official capacity as serves as Senior Official Performing the Duties of the Commissioner of U.S. Customs and Border Protection; Tae Johnson in his official capacity as Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement; United States Department of Defense; Lloyd Austin in his official capacity as Secretary of Defense,  
  
Defendants.

**DECLARATION OF MARK NAPIER**

I, Mark Napier, declare as follows:

1. I am competent to testify as to the matters contained herein and make this declaration based on my own personal and professional knowledge, law enforcement expertise, and the information available to me in my positions in public service.
2. I currently serve as Chief/Chief of Staff to the Sheriff of Cochise County, Arizona. I previously served as Sheriff of Pima County, Arizona, from 2017-21. I have been a law enforcement officer for over 30 years.
3. Cochise County is located on the U.S.-Mexico border, and includes 83 miles of that border. This section of the border is frequently used for unlawful crossings by migrants.

1           4.       Cochise County Sheriff’s Office (“CCSO”) routinely works with the U.S.  
2 Border Patrol and other federal authorities on management of the border and on issues  
3 associated with unauthorized migration.

4           5.       Migrants cross every day, often with camouflage clothing and supplies for  
5 the journey. We know that few people (if any) cross the border unless facilitated by  
6 cartels and human smuggling groups. This is a dangerous situation for migrants leading  
7 to criminal, financial and sexual victimization.

8           6.       CCSO has recorded a twenty-year high surge in the number of individuals  
9 illegally crossing the Mexican border. CCSO detects several thousand individuals  
10 crossing the border in Cochise County region each month. These are only those that we  
11 detect through our camera system. It is reasonable to assume this is but a fraction of  
12 those actually crossing.

13           7.       In a March conference call with Department of Homeland Security  
14 (“DHS”) officials, DHS explained that the Tucson sector of the U.S.-Mexico border,  
15 which includes Cochise County, is experiencing the second highest number of crossings.  
16 The Tucson sector was behind only the Rio Grande Valley Sector in Texas.

17           8.       The current surge in crossings represents a dramatic change from the  
18 situation six months ago, when illegal crossings were much less frequent.

19           9.       CCSO has also observed a sharp increase in drug smuggling at the same  
20 time. In practice, human and drug smuggling often go hand-in-hand and are frequently  
21 conducted by the same transnational criminal organizations. Illegal drugs coming across  
22 the border in Cochise County are distributed in communities across the nation leading to  
23 addiction and overdose deaths.

24           10.      Human smuggling is also associated with many other crimes. Smugglers  
25 often commit physical and sexual assaults upon the individuals being transported.  
26 Further, they financially exploit migrants who are required to pay the cartels for passage  
27 across the border. Individuals being trafficked who cannot immediately pay we believe  
28 may be forced indentured servitude once inside the United States. Human smuggling

1 presents dangers to law enforcement as they occasionally result in vehicular pursuits and  
2 physical confrontations. Based on past experiences, it is reasonable to expect that the  
3 recent increase in illegal crossings will result in increases in most or all of these  
4 associated crimes.

5 11. After President Biden took office, all construction on the physical  
6 infrastructure of the barrier quickly ceased. This has left the barriers and infrastructure  
7 on the border in serious disarray due to halted construction. There are cables out of the  
8 ground, trenches, unfinished bridges, and incomplete roadways.

9 12. The halting of construction of the border wall in Cochise County has  
10 coincided with the historical surge in illegal crossings. It is reasonable and rational to  
11 connect the two. The number of illegal crossings has increased in areas where gaps in the  
12 border barriers exist.

13 13. The current effectiveness of the border wall in many sections is actually  
14 *worse* than the prior, pre-construction situation. Previously, natural barriers such as  
15 mountains and the absence of roads made illegal crossings substantially more difficult.  
16 But the construction of roadways along the intended barrier, along with leveling of  
17 difficult terrain in preparation for building barriers, has actually made it *easier* in some  
18 places to cross the border. This greater ease would not exist if the barriers themselves  
19 were completed. For example, a road behind a wall that was constructed to facilitate  
20 barrier construction could not be utilized to make human trafficking easier if the barrier  
21 had been completed. But the combined effect of (1) constructing a road to serve as  
22 access to barriers and (2) then not building the barriers themselves, can have the effect of  
23 exacerbating the number of illegal crossings.

24 14. When individuals unlawfully cross the border, they often leave trash along  
25 the way. The Arizona's Department of Environmental Quality estimates that each  
26 border-crosser leaves an average of six to eight pounds of trash behind in their journey.  
27 That trash consists of items like "plastic containers, clothing, backpacks, foodstuffs,  
28 vehicles, bicycles and paper. Human waste and medical products have also been found in

1 border trash.” *See About Arizona Border Trash*, Arizona Department of Environmental  
2 Quality, available at <https://www.azbordertrash.gov/about.html>.

3 15. Officers from CCSO frequently observe this trash firsthand. This not only  
4 degrades public lands, but also private property. This level of adverse environmental  
5 impact would not be tolerated in other parts of the country and should not be here. While  
6 the southwest deserts are a harsh environment, they are also beautiful and worthy of  
7 protection. As a long-time resident and an environmentalist, it pains me to see so much  
8 of the beautiful Sonoran Desert suffering environmental destruction due to migrant  
9 traffic. Additionally, the migrant traffic creates new trails in the deserts/mountains and is  
10 disruptive to native plants and wildlife. Finally, the need for enforcement activity and  
11 traffic in environmentally sensitive areas is also disruptive and destructive.

12 16. The termination of the Migrant Protection Protocols (“MPP”), which is  
13 commonly known as the Remain in Mexico Program, appears to have contributed  
14 substantially to unauthorized aliens being admitted into the United States. In a  
15 conference call with state and local law enforcement, DHS officials announced that the  
16 MPP cancellation would result in allowing 25,000 migrants who previously were  
17 excluded to cross into the United States.

18 17. In practice, CSCO has observed that the MPP cancellation has in  
19 appearance effectively enacted a “catch and release” policy for migrants. This is  
20 reasonably a contributing factor to this surge in migration.

21 18. CSCO has also observed that DHS has scaled back its immigration  
22 enforcement efforts in other areas as well. For example, in March Customs and Border  
23 Protection (“CBP”) suddenly shutdown multiple highway checkpoints in Arizona,  
24 including all checkpoints in Cochise County. While we understand the need for  
25 redeployment of limited resources, these were valuable tools in interdicting both human  
26 and drug trafficking and making both more difficult.

27 19. I believe we should take seriously the security of our southern border not  
28 out of animus or ill will toward anyone. No such feelings reside in my heart. To deny

1 that a humanitarian and public safety crisis exists on our southern border is to be  
2 intellectually dishonest with malice. It pains me as a humanitarian to know of the  
3 victimization of undocumented persons, most of whom are coming to our country simply  
4 for a better life. And to be aware that this victimization is the result of failed policies in  
5 our country and tacit encouragement of what is a dangerous and unsafe activity is  
6 disheartening. As a law enforcement professional, we see the impacts of addiction and  
7 overdose deaths in our communities. Intellectually we know the majority of the drugs are  
8 coming across our southern border. The drug cartels leverage human trafficking to  
9 overwhelm our resources and make easier the introduction of the blight of illegal drugs  
10 into our country. Our pristine and beautiful Sonoran Desert is as worthy of protection as  
11 any environmentally sensitive area in our country. We need to secure our border not  
12 because we hate anyone. Rather, because we are in fact humanitarians, we want to better  
13 enjoy safe communities freer from dangerous drugs and because we believe in protecting  
14 our environmentally sensitive southwest deserts.

15 I declare under penalty of perjury that the foregoing is true and correct to the best  
16 of my knowledge, and that this declaration was issued on June 21st, 2021, in Bisbee,  
17 Arizona.

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21 Mark D. Napier  
22 Chief/Chief of Staff  
23 Cochise County Sheriff's Office  
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