

Maksim Kunitskii, A 

Name and Prisoner Number/Alien Registration Number

Eloy Detention Center

Place of Confinement

1705 East Hanna Road

Mailing Address

Eloy, AZ 85131

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

☒ FILED	☐ LODGED
☐ RECEIVED	☐ COPY
MAY 29 2025	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY

IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
ARIZONA

_____,
(Full Name of Petitioner)

MAKSIM KUNITSKII

Petitioner,

v.

**FRED FIGUEROA, WARDEN AT ELOY
DETENTION CENTER, ET AL**

_____,
(Name of Warden, Jailor or authorized person
having custody of Petitioner)

Respondent.

CASE NO. **CV25-01845-PHX-DWL--JFM**

(To be supplied by the Clerk)

**PETITION UNDER 28 U.S.C. § 2241
FOR A WRIT OF HABEAS CORPUS
BY A PERSON IN FEDERAL CUSTODY**

PETITION

1. What are you challenging in this petition?

- G Immigration detention XXX
- G Bureau of Prisons sentence calculation or loss of good-time credits
- G Probation, parole or supervised release
- G Other (explain):

2. (a) Name and location of the agency or court that made the decision you are challenging: Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE)

(b) Case or opinion number: _____

(c) Decision made by the agency or court:

- i) Negative Convention Against Torture Assessment Notice for Alien Whose Entry Has Been Suspended and/or Restricted Pursuant to INA Sec. 212(f) and 212(a) and
- ii) Denial of Motion to Stay Removal pending a resolution of a Motion for a Class action in RAICES v. NOEM

3. Date of the decision: March 5, 2025
4. Did you appeal the decision to a higher agency or court?
Yes G ~~XX~~ No G

If yes, answer the following:

(a) First appeal:

- (1) Name of the agency or court: _____
- (2) Date you filed: _____
- (3) Opinion or case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(b) Second appeal:

- (1) Name of the agency or court: _____
- (2) Date you filed: _____
- (3) Opinion or case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(c) Third appeal:

- (1) Name of the agency or court: _____
- (2) Date you filed: _____
- (3) Opinion or case number: _____
- (4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

5. If you did not appeal the decision to a higher agency or court, explain why you did not: _____
I was not permitted to appeal the decision.

6. Other than the appeals listed above, have you filed any other petitions, applications or motions concerning the issues raised in this petition? **XX** Yes G No G

If yes, answer the following:

(a) Name of the agency or court: Immigration and Custom Enforcement (ICE)

(b) Date you filed: April 25, 2025

(c) Opinion or case number: none

(d) Result: Denied

(e) Date of result: May 5, 2025

(f) Issues raised: My detention is illegal as per issues raised in RAICES V NOEM, 25-CV-0036, U.S. District Court for the District of DC, see attached Motion to Stay.

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

7. For this petition, **state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States.** Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available administrative remedies on each ground on which you request action by the federal court.

GROUND ONE: I have been unlawfully detained by the Immigration and Customs Enforcement (ICE) since February 17, 2025. I have been denied due process of law, specifically, an opportunity to file an application, and to have a hearing, for Asylum, Withholding of Removal or any other relief under the Convention Against Torture in proceedings before an immigration Judge, all in violation of the federal law and U.S. Constitution.

Via the Immigration and Nationality Act (“INA”), Congress has created a comprehensive statutory system allowing noncitizens fleeing persecution or torture to seek protection in the United States. Congress has given these individuals statutory rights to apply for asylum and other protections. And it has prohibited the government from returning these individuals to places where they face persecution or torture. Congress, too, has enacted an exclusive set of procedures for removing noncitizens from the United States and adjudicating their claims for protection. In doing all this, Congress has struck a careful balance between the interest in quickly removing those who cannot qualify for protection and the need to ensure that people are not wrongfully placed at risk of persecution or torture in another country.

On January 20, 2025, the President issued a proclamation that purports to prohibit noncitizens “from invoking [these] provisions of the INA ... , including” the asylum statute. Proclamation 10888, § 2, *Guaranteeing the States Protection Against Invasion*, 90 Fed. Reg. 8333 (Jan. 20, 2025) (“Proclamation”). And under the Proclamation, the government is doing just what Congress by statute decreed that the United States must *not* do. It is returning asylum seekers—not just single adults, but families too—to countries where they face persecution or torture, without allowing them to invoke the protections Congress has provided.

The proclamation invokes a provision of the Immigration and Nationality Act—Section 212(f)—to “suspend the entry” of noncitizens at the U.S. southern border. The proclamation also cites Article IV, Section 4 of the U.S. Constitution to claim that the president can override immigration laws passed by Congress to protect individual states from “invasion.” Through this proclamation, President Trump is attempting to shut down access to asylum at the southern border, even though the law is clear that people seeking safety have the right to ask for protection. Seeking asylum is legal. President Trump’s illegal proclamation violates the Immigration and Nationality Act and several other laws passed by Congress, under which any noncitizen who is inside or arriving in the United States may legally apply for asylum. Additionally, under both domestic law and international treaties with which our government is obligated to comply, the United States may not return people to countries where they are likely to face persecution or torture. At a minimum, immigration officers must refer people who express a desire to seek asylum or fear of return for a screening interview with an asylum officer to determine whether they may qualify for protection.

Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):

I, Maksim KUNITSKII, A [REDACTED] and my wife, Ekaterina KUNITSKAIA A [REDACTED]

1136, are both citizens of Russia. In 2024-2025, we were awaiting our CBP-One appointment in Mexico until January 20, 2025, when the CBP-One was shut down. On or about February 17, 2025, we tried to enter the United States to seek asylum protection and expressed our fear of persecution, if we were returned to Russia. We were detained at the border. We were not placed in removal proceedings and denied an opportunity to explain our fear of returning to Russia. Since about February 17, 2025, I have been unlawfully detained at Eloy Detention Center, in Arizona, and my wife has been held at different detention facilities and is presently detained at San Luis Regional Detention Center in Arizona. I cannot return to Russia because I am of Ukrainian ethnicity, will be forced to fight in Ukraine and kill my own people. My wife and I were arrested and detained in Russia for expressing our political opinion.

On March 5, 2025, an asylum officer interviewed me and issued a negative Convention Against Torture Assessment (CAT), stating that I did not establish that it is more likely than not that I will be tortured in Russia. I was told I am ineligible for asylum under INA Sec. 212(f), cannot get a credible fear interview and will not be able to get a hearing before an immigration judge. My attorney was not allowed to be present. I was denied any opportunity to appeal or contest this determination before an Immigration Judge. Similarly, my wife, Ms. Kunitskaia, received a negative CAT determination on April 14, 2025, and was not allowed to appeal or contest it. The asylum officer denied her the right to have an attorney present. On April 13, 2025, ICE officers tried to remove me from the U.S. by trying to force me to board a commercial flight and send me back to Russia with a stopover in China. I refused to board the plane because I will be jailed and killed in Russia, if I were returned there. The ICE officers issued warnings stating that I will be sent back to Russia in chains under the supervision of ICE officers, if I continue to willfully refuse to disobey a lawful order to board a plane. I did not willfully disobey a lawful order. I was not served with any administrative or court order ordering my removal. The ICE also tried to forcefully deport my wife on or about May 6, 2025. I am at risk for imminent removal.

(a) Did you exhaust all available administrative remedies relating to Ground One?
Yes G xxxNo G

(b) If yes, did you present the issue to:
G The Board of Immigration Appeals
G The Office of General Counsel
G The Parole Commission
G Other: _____

(c) If you did not exhaust all available administrative remedies relating to Ground One,
explain why: We were denied any opportunity to contest the negative determination or
decision to deny stay or removal

GROUND TWO: Any other relief that the Court deems just and proper, including an order to stay removal pending the resolution of the class action motion and issues in *RAICES v. Noem*.

- (a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):

The American Civil Liberties Union, National Immigrant Justice Center, Texas Civil Rights Project, Center for Gender & Refugee Studies (CGRS), ACLU of the District of Columbia, and ACLU of Texas filed the federal lawsuit on behalf of Las Americas Immigrant Advocacy Center, the Refugee and Immigrant Center for Education and Legal Services (RAICES), and the Florence Immigrant & Refugee Rights Project. *RAICES V. NOEM*, District of Columbia, 25-cv-306. The organizations are asking the court to declare the proclamation unlawful and stop the government from implementing it, so that people seeking asylum at our borders can fairly present their claims for protection, as required under our law. They requested that the Court should certify a nationwide class of noncitizens subjected to the President's Proclamation and the implementing Guidance while in the United States. This motion is pending. The Proclamation and Guidance invent out of whole cloth an extra-statutory "repatriation" regime that abrogates the safeguards that Congress enacted to protect people fleeing persecution, including asylum and withholding of removal. All members are subject to the same unlawful Proclamation and Guidance, which prevent them all from seeking asylum and other protection under the Immigration and Nationality Act ("INA"). If the plaintiff's motion is granted, I will be protected from deportation as a member of the class.

- (b) Did you exhaust all available administrative remedies relating to Ground Two?
Yes G xx No G

- (c) If yes, did you present the issue to:
G The Board of Immigration Appeals
G The Office of General Counsel
G The Parole Commission
G Other: _____

- (d) If you did not exhaust all available administrative remedies relating to Ground Two, explain why:

We were not allowed to contest or appeal.

Please answer these additional questions about this petition:

8. Are you challenging your conviction or sentence in any of the grounds raised above? Yes G XXNo G
(Claims challenging a federal conviction or sentence may only be raised in a motion under 28 U.S.C. § 2255, unless the § 2255 motion is legally inadequate or ineffective.)

If yes, answer the following:

(a) Have you filed a motion under 28 U.S.C. § 2255? Yes G XXXNo G

If yes, answer the following:

(1) Name of court: _____

(2) Case number: _____

(3) Opinion or case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(b) Explain why the remedy under § 2255 is inadequate or ineffective: _____

9. If this case concerns immigration removal proceedings, answer the following:

(a) Date you were taken into immigration custody: February 17, 2025 _____

(b) Date of removal or reinstatement order: n/a _____

(c) Did you file an appeal with the Board of Immigration Appeals? Yes G XXNo G

(1) Date you filed: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

(d) Did you file an appeal with the federal court of appeals? Yes G XXNo G

(1) Name of the court: _____

(2) Date you filed: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

10. Petitioner asks that the Court grant the following relief:

Issuance of the Notice to Appear (NTA) and the opportunity to file my Asylum Application, seeking asylum, withholding and relief under the Convention Against Torture before an Immigration Judge; Alternatively, Stay of Removal pending resolution of Motion for Class Action Certification in Raices v. Noem;

or any other relief to which Petitioner may be entitled. (Money damages are not available in habeas corpus cases.)

I declare under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on May 27, 2025.

Signature of Petitioner



U.S. Citizenship
and Immigration
Services

Applicant: **MAKSIM KUNITSKI**
A #: [REDACTED]

Officer: **Simran Singh**
Date of Determination: **Mar 5, 2025**

0309

Convention Against Torture Assessment Notice For Alien(s) Whose Entry Has Been Suspended and/or Restricted Pursuant to INA §§ 212(f) and 212(a) (Rev. 01/31/2025)

A Number: [REDACTED]

Last Name: **KUNITSKI**

Interview Date: **2025-03-05**

First Name: **MAKSIM**

Determination Date: **2025-03-05**

You were interviewed by a DHS asylum officer to determine whether it is more likely than not that you will be tortured in **RUSSIA**. The assessment made by the DHS asylum officer, indicated below, will be considered by DHS in determining whether you may be sent to **RUSSIA**. DHS will provide you with additional information regarding how you will be processed.

- ☐ You **established** it is more likely than not that you will be tortured in **RUSSIA**
☒ You **did not establish** it is more likely than not that you will be tortured in **RUSSIA**

Enforcement and Removal Operations

U.S. Department of Homeland Security
Eloy Detention Center
1705 E. Hanna Road
Eloy, AZ 85131



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

MAY 05 2025

Alexandra Tseitlin, Esq.
Tseitlin Law Firm P.C.
110 E. 59th Street, Floor 22
New York, NY 10022

Re: Request for Stay of Deportation or Removal for KUNITSKI, Maksim; A 

Dear Ms. Tseitlin,

U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), Phoenix Field Office received your correspondence in which you filed an Application for a Stay of Deportation or Removal, Form I-246, on behalf of your client, KUNITSKI, Maksim.

ICE ERO carefully reviewed all of the information you provided. However, after completing this review, I find the totality of circumstances do not support a favorable exercise of discretionary authority in this case; therefore, your request for a Stay of Deportation or Removal is denied.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Ciliberti".

Jason A. Ciliberti
Deputy Field Office Director
Eloy Detention Center



CUSTOMER'S RECEIPT

SEE BACK OF THIS RECEIPT
FOR IMPORTANT CLAIM
INFORMATION

**NOT
NEGOTIABLE**

Pay to

Address

Department of Homeland Security

KEEP THIS
RECEIPT FOR
YOUR RECORDS

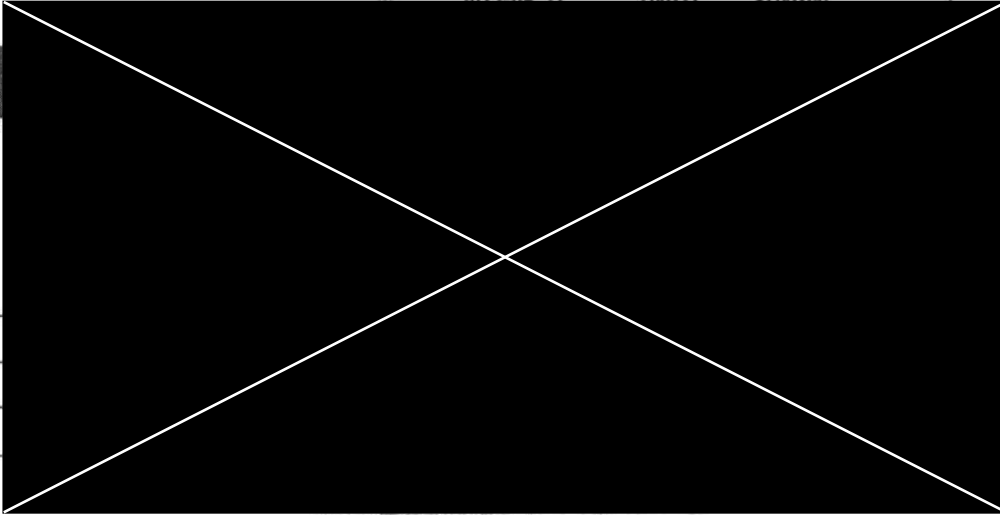
Serial Number

Year, Month, Day
2025-06-22

Post Office
100221

Amount
\$155.00

Clerk
9



DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs EnforcementOMB No. 1653-0021
Expires: 10/31/2027

APPLICATION FOR A STAY OF DEPORTATION OR REMOVAL

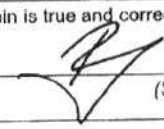
Action Block - For ICE Use Only ☐ GRANTED ☐ One Year ☐ Six Months ☐ Three Months ☐ Other: _____ ☐ DENIED ☐ Denial letter attached. ☐ REJECTED ☐ Incorrect Fee ☐ Application was not submitted in person ☐ Other: _____ ☐ Additional information attached. Date: _____ Decision made by: _____ (Printed Name/Title) Deciding Official Signature: _____ Office: _____ (Sign in ink):		Fee/Date Stamp
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A-File Number [REDACTED]	Date: 04/18/2025	If you are currently detained by ICE, provide the name of the detention facility: Eloy Detention Center	
Last Name: Kunitskii	First Name: Maksim	Middle Name:	
Address (Number and Street): [REDACTED]		Country of Citizenship: Russia	Passport No.: [REDACTED] Expiration Date: [REDACTED]
Apartment Number:		Length of stay requested: ☐ One year ☐ Six months ☐ Three months ☐ Other:	
Town/City: Eloy	State: AZ	Zip Code: [REDACTED]	
Telephone Number: [REDACTED]	Cell Telephone Number:	Arrested by police or other law enforcement agency (other than for immigration reasons) ☐ Yes - Documents attached ☒ No	

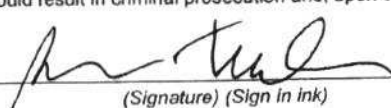
REASON(S) FOR REQUESTING A STAY OF DEPORTATION OR REMOVAL:

See Attached statement made part hereof -

EVIDENCE SUBMITTED (attached):

☐ Medical ☐ Brief ☒ Other (specify): CAT determination; reference letter
I certify under penalty of perjury that the information provided and contained herein is true and correct to the best of my knowledge and belief: Maksim Kunitskii (Printed Name)
 (Signature) (Sign in ink)

INFORMATION IF FORM PREPARED BY OTHER THAN APPLICANT:

I declare under penalty of law that this document was prepared by me at the request of the applicant and is based on all information of which I have knowledge. I understand that providing false information on behalf of the applicant could result in criminal prosecution and, upon conviction, a fine or imprisonment or both.			
Tseitlin Law Firm P.C. - Alexandra Vera Tseitlin (Printed Name)		 (Signature) (Sign in ink)	
212-944-7434 (Telephone Number)	110 East 59th Street, Floor 22 (Street Address)	New York (City)	NY 10022 (State) (Zip Code)



U.S. Citizenship
and Immigration
Services

Applicant: **MAKSIM KUNITSKI**

A #:

Officer: **Simran Singh**

Date of Determination: **Mar 5, 2025**

D309

Convention Against Torture Assessment Notice For Alien(s) Whose Entry Has Been Suspended and/or Restricted Pursuant to INA §§ 212(f) and 212(a) (Rev. 01/31/2025)

A Number:

Last Name: **KUNITSKI**

Interview Date: **2025-03-05**

First Name: **MAKSIM**

Determination Date: **2025-03-05**

You were interviewed by a DHS asylum officer to determine whether it is more likely than not that you will be tortured in **RUSSIA**. The assessment made by the DHS asylum officer, indicated below, will be considered by DHS in determining whether you may be sent to **RUSSIA**. DHS will provide you with additional information regarding how you will be processed.

- ☐ You **established** it is more likely than not that you will be tortured in **RUSSIA**
☒ You **did not establish** it is more likely than not that you will be tortured in **RUSSIA**

Re: Maksim KUNITSKII A [REDACTED] and Ekaterina KUNITSKAIA A [REDACTED]

On or about February 17, Mr. Kunitskii and Ekaterina Kunitskaia, his wife, both citizens of Russia, entered the United States and expressed fear of persecution, if they were returned to Russia. They were awaiting their CBP One appointment in Mexico until January 20, 2025. They were detained at the border. Mr. Kunitskii is of Ukrainian ethnicity, will be forced to fight in Ukraine and kill his own people. Both were arrested in Russia for expressing their political opinion. Mr. Kunitskii was interviewed and issued a negative Convention Against Torture Assessment (CAT) on March 5, 2025, and Ms. Kunitskaia received a negative determination on April 14, 2025. Both spouses are at risk of removal. Mr. Kunitskii was scheduled to be removed to Russia on April 13, 2025. He did not board the plane.

On January 20, 2025, President Trump issued several executive orders concerning immigration enforcement in the interior of the United States and at the border, including a proclamation titled "Guaranteeing the States Protection Against Invasion." The proclamation invokes a provision of the Immigration and Nationality Act—Section 212(f)—to "suspend the entry" of noncitizens at the U.S. southern border. The proclamation also cites Article IV, Section 4 of the U.S. Constitution to claim that the president can override immigration laws passed by Congress to protect individual states from "invasion." Through this proclamation, President Trump is attempting to shut down access to asylum at the southern border, even though the law is clear that people seeking safety have the right to ask for protection. Seeking asylum is legal. President Trump's illegal proclamation violates the Immigration and Nationality Act and several other laws passed by Congress, under which any noncitizen who is inside or arriving in the United States may legally apply for asylum. Additionally, under both domestic law and international treaties with which our government is obligated to comply, the United States may not return people to countries where they are likely to face persecution or torture. At a minimum, immigration officers must refer people who express a desire to seek asylum or fear of return for a screening interview with an asylum officer to determine whether they may qualify for protection.

*The American Civil Liberties Union, National Immigrant Justice Center, Texas Civil Rights Project, Center for Gender & Refugee Studies (CGRS), ACLU of the District of Columbia, and ACLU of Texas filed the **federal lawsuit** on behalf of Las Americas Immigrant Advocacy Center, the Refugee and Immigrant Center for Education and Legal Services (RAICES), and the Florence Immigrant & Refugee Rights Project. RAICES V. NOEM, District of Columbia, 25-cv-306*

The organizations are asking the court to declare the proclamation unlawful and stop the government from implementing it, so that people seeking asylum at our borders can fairly present their claims for protection, as required under our law.

They requested that the Court should certify a nationwide class of noncitizens subjected to the President's Proclamation and the implementing Guidance while in the United States. This motion is pending. The Proclamation and Guidance invent out of whole cloth an extra-statutory "repatriation" regime that abrogates the safeguards that Congress enacted to protect people fleeing persecution, including asylum and withholding of removal. All members are subject to the same unlawful Proclamation and Guidance, which prevent them all from seeking asylum and other protection under the Immigration and Nationality Act ("INA").

The next hearing is set for April 29, 2025. If the plaintiff's motion is granted, Mrs. Kunitskaia and Mr. Kunitskii will be protected from deportation as a member of the class.

As a result, we are requesting that his removal be stayed pending the resolution of the lawsuit in RAICES v. Noem for a period of no longer than one year.

Ruslan Huahua

Greenwood Village, CO

To Whom It May Concern,

My name is Ruslan Huahua. I was born in Russia on [REDACTED], I am a naturalized U.S. citizen residing at [REDACTED].

I am writing to express my full support to Ekaterina Kunitskaia (Date of Birth: [REDACTED]) currently detained in ICE custody at the Imperial Regional Detention Facility and Maksim Kunitski (Date of Birth: [REDACTED]) currently in ICE custody at Eloy Detention Center.

I am confirming my ability and willingness to support Ekaterina Kunitskaia and Maksim Kunitski. I have known Ekaterina since her childhood, as I have been good friends with her mother, Evgenia Vdovichenko. I learned that they fled Russia due to government persecution for their opposition and anti-war activities, and I immediately expressed my willingness to support them. Maksim is ethnically Ukrainian, which would make him a target for persecution in Ukraine.

Ekaterina and Maksim possess strong personal qualities—they are reliable, responsible, law-abiding, and committed to their principles. I take full responsibility for providing for them and ensuring that they attend all court hearings as required.

I certify that the above statements are true and correct.

Sincerely,

Ruslan Huahua



State of Colorado

County of Adams

The foregoing instrument was acknowledged before me this 22 day of April 2025 by Ruslan Huahua

Notary Public

