



STATE OF FLORIDA

**ASHLEY MOODY
ATTORNEY GENERAL**

April 11, 2023

The Honorable Kevin McCarthy
Speaker
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Washington, D.C. 20515

The Honorable Steve Scalise
Majority Leader
U.S. House of Representatives
2049 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Elise Stefanik
Republican Conference Chairman
U.S. House of Representatives
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The Honorable Tom Emmer
Majority Whip
U.S. House of Representatives
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The Honorable Gary Palmer
Republican Police Committee Chairman
U.S. House of Representatives
170 Cannon House Office Building
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Dear Speaker McCarthy, Leader Scalise, Whip Emmer,
Chairwoman Stefanik and Chairman Palmer:

I write to each of you today urging you to act to protect the American people and impeach Secretary Alejandro Mayorkas. Secretary Mayorkas is directly responsible, and his actions have caused our unprecedented border crisis. For the last fifteen months, Governor DeSantis and I have litigated numerous cases against the Biden Administration for violating federal immigration law. In one of those cases that we recently won against Secretary Mayorkas and the United States for violating federal immigration law, a federal judge recently found that: "... the evidence establishes that Defendants [including Secretary Mayorkas] have effectively turned the Southwest Border into a meaningless line in the sand" and that Secretary Mayorkas's "actions were akin to posting a

flashing ‘Come In, We’re Open’ sign on the southern border.” Secretary Mayorkas’s actions since his confirmation on February 2, 2021, have had the effect of nearly breaking our nation’s immigration system as more than 2.5 million illegal immigrants have been released or got away from the Southwest Border. 2.5 million illegal immigrants is equivalent to a population larger than the population of 15 of our states. I am imploring you to commence impeachment proceedings immediately against him for lying to Congress and the American people repeatedly, violating his oath of office, and abusing his authority. His continuation in his current role is a clear and present threat to the United States.

While his lies and evasions are continuous and systematic, I have identified several where Secretary Mayorkas has clearly, unequivocally, and intentionally lied to Congress and no fair-minded person could disagree.

- On April 28, 2022, at a House Judiciary Committee hearing, Representative Jim Jordan asked Secretary Mayorkas whether he thought the Biden Administration’s “actions” and “policies” are “encouraging migrants to come to the border.” Secretary Mayorkas responded unequivocally, “I do not.”¹ But Florida in its litigation uncovered internal DHS memorandum stating that Secretary Mayorkas’s policies do incentivize inadmissible immigrants to travel to our border and illegally enter our country.² The memo states clearly that “perceptions of favorable U.S. immigration policies” are causing border surges. And the Border Patrol Chief testified under oath that the memo was accurate.³ The only plausible conclusion from these facts is that Secretary Mayorkas lied to Congress on purpose.
- At that same hearing, Secretary Mayorkas lied under oath when he testified that DHS has “operational control” over the southwest border. Representative Roy even went so far as to show Secretary Mayorkas the statutory definition of “operational control,” so that there was no mistake and or ambiguity in what Secretary Mayorkas was being asked and still Secretary Mayorkas lied.⁴ As to that last statement, two weeks ago, Border Patrol Chief Raul Ortiz testified in front of the House’s Homeland Security Committee that the Department of Homeland Security (“DHS”) does not have “operational control” of 5 of 9 sectors of the southwest border.⁵
- On or about November 15, 2022, before the House Homeland Security Committee Secretary Mayorkas again lied under oath in response to questions from Representative Dan Bishop that the border was secure.⁶

Further, Secretary Mayorkas should also be impeached because he has violated his oath of office. Time after time, Secretary Mayorkas has deliberately refused to follow and intentionally

¹ <https://www.c-span.org/video/?c5013577/user-clip-rep-jordan-question-mayorkas-fentinal>.

² <https://www.foxnews.com/politics/florida-ag-internal-dhs-document-contradicts-mayorkas-testimony>

³ <https://www.youtube.com/watch?v=CVYH2S5RiMs>

⁴ <https://www.youtube.com/watch?v=oFyJPTm4Yh4>

⁵ <https://www.foxnews.com/politics/border-patrol-chief-says-dhs-doesnt-have-operational-control-us-border>

⁶ <https://www.foxnews.com/politics/mayorkas-maintains-border-secure-despite-record-crossings-fbi-sees-significant-criminal-threats>

violated federal immigration law. While there are numerous examples, the most egregious examples deal with mandatory detention of aliens encountered at the Southwest Border. Under existing law, as interpreted by the Supreme Court of the United States in *Jennings*,⁷ illegal immigrants encountered near the border “shall” be detained until either their asylum claims are granted or they are deported. Yet, from the beginning of the Biden Administration and Secretary Mayorkas’s service, DHS has had a non-detention policy, where illegal immigrants were not only being released, but they were being released without even having a removal proceeding begun or making an asylum claim. A federal judge found that the policy existed and that it is unlawful. A copy of the Court’s order is attached to this letter. To date, the Department of Justice has not appealed that order.

Finally, Secretary Mayorkas has repeatedly abused the authority of his office. Secretary Mayorkas has abused his office by knowingly treating all illegal immigrants as “asylum seekers,” even though he knows that most are ineligible to make such a claim. Secretary Mayorkas also has directed and oversaw policies that have created a border, national security, and humanitarian disaster that he knows or should know put the American public in danger not only from the flood of illegal immigrants who evaded the Border Patrol, but also from unknown quantities of fentanyl, methamphetamine, nitazines, xylazine, and other deadly drugs that could not be seized by border officers because those officers were directed instead to process and release illegal immigrants into the United States. Secretary Mayorkas has handed the keys to our border to organizations that should be designated foreign terrorist organizations.⁸ These organizations are not only flooding our country with deadly fentanyl, they are also raping, abusing, and exploiting the immigrants they smuggle across the border. Many of these victims are children.

As the situation at the border has made our country less safe, Secretary Mayorkas has substantially reduced immigration detention capacity. At the same time, he has the nerve to send DHS attorneys into court to argue that DHS lacks the resources to comply with the law. As the Court put it in *Florida v. United States*, “like a child who kills his parents and then seeks pity for being an orphan, it is hard to take Defendants’ claim that they had to release more aliens into the country because of limited detention capacity seriously.” It is not surprising that federal judges have called such arguments “not in good faith.” *Texas v. United States*, 40 F.4th 205, 217 n.5 (5th Cir. 2022).

Due to Secretary Mayorkas’s policies, there have been more than 4.5 million immigrant encounters at the Southwest Border since President Biden took office.⁹ DHS has released over 1.3 million of these aliens into the interior of the country which does not include the approximately

⁷ *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018). The Court in *Jennings* unequivocally stated: “Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded. Section 1225(b)(1) aliens are detained for “further consideration of the application for asylum,” and § 1225(b)(2) aliens are in turn detained for “[removal] proceeding[s].” Once those proceedings end, detention under § 1225(b) must end as well. Until that point, however, nothing in the statutory text imposes any limit on the length of detention.” *Id.* at 842.

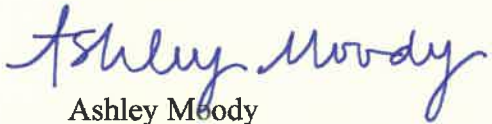
⁸ <http://myfloridalegal.com/852562220065EE67.nsf/0/BBCB5C9FB58981038525895000602981?Open&Highlight=0,fto>

⁹ <https://homeland.house.gov/factsheet-december-2022-brings-highest-monthly-encounters-at-southwest-border-ever-recorded/#:~:text=Key%20Facts%3A,in%20the%20last%20two%20years.>

1.2 million who evaded authorities entirely.¹⁰ Since February 2021, DHS seized more than 31,000 pounds of fentanyl at the Southwest border.¹¹ That is enough to kill the entire U.S. population nearly 22 times over. And in the last Fiscal Year, DHS apprehended 98 individuals from the terrorist watch-list, a 553% increase from the previous year.¹² There have been 69 such encounters since October 2022 alone.

More than a year ago, I called for Secretary Mayorkas's resignation. Since then, he has systematically sought to undermine the security of the Southwest Border, and public safety. The risks he created for U.S. Citizens and aliens alike have grown far worse. As the Border Patrol Chief agreed in a deposition that the State of Florida took in litigation against the United States, there is a "crisis at our Southern Border" and that crisis threatens "the safety of Americans and aliens alike." At recent hearings in front of the Senate, Secretary Mayorkas was unable and unwilling to agree to those statements when asked by Senator Cruz. I ask that the U.S. House of Representatives begin impeachment proceedings immediately. I will make my attorneys, trial transcripts, deposition transcripts, and case filings available to you, your staffs, or committee staff.

Sincerely,



Ashley Moody
Florida Attorney General

Enc.

.cc:

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¹⁰ <https://www.foxnews.com/us/border-agents-confirm-1-2-million-gotaway-migrants-biden-administration>

¹¹ <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>

¹² <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>

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