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P.O. Box 11488
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631-332-7495
alex@rienzielaw.com

Attorneys for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. L:24-po-00893
)	
vs.)	
)	
MICHELINO SUNSERI,)	
)	
Defendant.)	
_____)	

**MOTION TO ADMIT NEW EVIDENCE AND
CONDUCT EVIDENTIARY HEARING**

Defendant Michelino Sunseri respectfully moves this Court to admit newly discovered material evidence and to conduct a post-trial evidentiary hearing to develop the full factual record surrounding the prosecution's conduct and constitutional compliance after the National Park Service (NPS) withdrew support for the case on May 19, 2025, resulting in an unauthorized prosecution by the Department of Justice (DOJ) that was not disclosed to the Defendant. See Exhibit 1.

I. NEW EVIDENCE: NPS WITHDRAWAL OF SUPPORT

1. On June 3, 2025, the defense received, via a FOIA response, an internal email from Frank Lands, Deputy Director of Operations for the NPS, dated May 19, 2025—the day before trial began. The email states that the NPS believed the charges constituted “overcriminalization” and that it was formally withdrawing support for prosecution. Exhibit 1 at 8-9.
2. DOJ Wyoming Criminal Chief Nicole Romine and assigned AUSA Ariel Calmes had access to this email before trial, but decided not to disclose it to the defense, despite its clear relevance to DOJ authorization, defense strategy and witness impeachment. *Id.*
3. Even after the DOJ was aware of NPS withdrawal of support, on the morning of trial, May 20, 2025, AUSA Calmes reiterated an offer of deferred prosecution with 1,000 hours of community service and a ban from Grand Teton National Park—entirely disproportionate to the conduct at question, particularly with the initiating agency no longer supporting prosecution. At DOJ’s corresponding invitation, defense extended a counter-offer modifying community service to 60 hours and replacing the ban with a restriction tied to alleged conduct. In a previously disregarded counter-offer dated May 12, 2025, defense counsel extended the same proposal with 100 hours of community service. On the basis of that one change from 100 to 60 hours, Wyoming Criminal Chief Romine claimed bad-faith negotiations.

4. At trial, due to failure to disclose NPS withdrawal, the defense did not call key NPS witnesses (e.g., Public Affairs Officer Emily Davis), did not expand trial strategy to challenge the institutional legitimacy of the prosecution and did not explore additional selective / vindictive prosecution theories on cross-examination—collectively undermining the fundamental fairness of Mr. Sunseri’s trial.
5. Pursuant to Local Civil Rules 7.1(b)(1), Defendant’s counsel Alexander Rienzie conferred with AUSA Calmes regarding this motion by email on June 3, 2025 and offered to discuss. On June 4, 2025, AUSA Calmes replied in opposition to this motion via email, copying Wyoming Criminal Chief Romine. Defendant’s local counsel Ed Bushnell reviewed this motion on June 4, 2025.

II. LEGAL STANDARDS

6. The government's suppression of the NPS withdrawal email was a clear violation of *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. As the Supreme Court held in *Kyles v. Whitley*, 514 U.S. 419, 434 (1995), “a showing of materiality does not require demonstration by a preponderance that disclosure of the suppressed evidence would have resulted ultimately in the defendant's acquittal,” but rather that the suppression “undermines confidence in the outcome of the trial,” including any potential post-verdict proceedings. Here, the NPS's formal withdrawal of its criminal referral—on the eve of trial—“could reasonably be taken to put the whole case in such a different light as to undermine

confidence in the verdict.” *Id.* at 435. As the DOJ Manual reiterates, “prosecutors generally must take a broad view of materiality and err on the side of disclosing exculpatory and impeaching evidence.” *Justice Manual* § 9-5.001(B)(1), U.S. Dep’t of Justice (updated Jan. 2020).

7. By withholding this document, Wyoming Criminal Chief Romine and AUSA Calmes committed a knowing violation of Mr. Sunseri’s right to a fair trial under the Fifth Amendment Due Process Clause. A federal prosecutor is not merely an adversary, but “the representative... of a sovereignty... whose interest... in a criminal prosecution is not that it shall win a case, but that justice shall be done.” *Berger v. United States*, 295 U.S. 78, 88 (1935).
8. This suppression distorted the trial record and denied the defense the ability to challenge the legitimacy of the prosecution. It is the criminal trial itself, and not the government's undisclosed deliberations, that is the “chosen forum for ascertaining the truth about criminal accusations.” *Kyles*, 514 U.S. at 439–40. In similar situations, courts have ordered broad delivery of related communications to the defense. See *U.S. v. Stevens*, 715 F.Supp.2d 1 (D. D.C. 2009) (responding to willful DOJ failure to turn over *Brady* and *Giglio* evidence).

III. REQUEST TO ADMIT AND DEVELOP EVIDENTIARY RECORD

9. Defendant respectfully moves the Court to admit the FOIA response containing NPS withdrawal (Exhibit 1) into the evidentiary record and convene an evidentiary hearing to address:

United States of America v. Sunseri
Case No. L-24-po-00893

MOTION TO ADMIT NEW EVIDENCE AND TO CONDUCT EVIDENTIARY HEARING

- a. The timeline of DOJ's receipt and internal discussion of the NPS withdrawal;
 - b. The decision-making process that led DOJ to continue prosecution without agency support;
 - c. The motivation to continue pursuing disproportionate plea terms after NPS withdrawal, indicating vindictive prosecution;
 - d. Whether the DOJ's failure to disclose this evidence violated its constitutional obligations under *Brady / Giglio* and impaired the defense's ability to present a complete and fair case;
 - e. The impact of nondisclosure on defense trial strategy, witness presentation, and factual development; and
 - f. The integrity and authorization of the prosecution itself, in light of the initiating agency withdrawing support.
10. In the spirit of fundamental fairness and due process, admission of the new evidence and an evidentiary hearing is required.

IV. CONCLUSION

For the reasons stated above, this Court should grant Defendant's motion to admit the newly obtained evidence of NPS withdrawal of support and should convene an evidentiary hearing to assess the scope and consequences of the government's suppression of this material information. The timing and content of the withheld communication raise serious constitutional questions—under *Brady*, *Giglio* and the Due Process Clause—and go directly to the integrity of the prosecution and the fairness of the trial. Only a full evidentiary

record can ensure that justice is done and that this Court's verdict, when rendered, rests on a complete and truthful foundation.

DATED this 4th day of June, 2025.

/s/Edward S. Bushnell
Edward S. Bushnell

/s/Alexander G. Rienzie
Alexander G. Rienzie

Attorneys for Defendant

CERTIFICATE OF SERVICE

THIS IS to certify that on the 4th day of June 2025, I served a true and correct copy of the foregoing document addressed as follows by the methods indicated below.

Ariel Calmes
Email: ariel.calmes@usdoj.gov

[X] via PACER E-Service

/s/Edward S. Bushnell
Edward S. Bushnell

/s/Alexander G. Rienzie
Alexander G. Rienzie

Attorneys for Defendant



Outlook

Re: [EXTERNAL] RE: EO 14292 Reviews

From Caminiti, Mariagrazia <Marigrace.Caminiti@sol.doi.gov>

Date Fri 5/16/2025 2:13 PM

To Hagan, Damon A <damon.hagan@sol.doi.gov>; Ariel.Calmes_contact <Ariel.Calmes@usdoj.gov>

Cc Romine, Nicole M. (USAWE) <Nicole.Romine@usdoj.gov>

Teams invite sent for today at 3:00pm EDT/1:00pm MDT.

Mariagrazia Caminiti
Executive Assistant
Office of the Solicitor
1849 C Street, NW, 6352
Washington, DC 20240
Direct: 202-208-3111
Cell: 202-528-0486
WCell: 202-359-2949

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From: Hagan, Damon A <damon.hagan@sol.doi.gov>

Sent: Friday, May 16, 2025 2:03 PM

To: Caminiti, Mariagrazia <Marigrace.Caminiti@sol.doi.gov>; Ariel.Calmes_contact <Ariel.Calmes@usdoj.gov>

Cc: Romine, Nicole M. (USAWE) <Nicole.Romine@usdoj.gov>

Subject: Re: [EXTERNAL] RE: EO 14292 Reviews

Today 1pm MT (3pm EST) will work for me. I will have my executive assistant set up the teams meeting. Thank you for your prompt response.

Yours Truly,

Damon A. Hagan, Esq.

Advisor to the Solicitor
Office of the Solicitor
U.S. Department of the Interior
Stewart Lee Udall Department of the Interior Building
1849 C Street N.W.
Room 6345
Washington, DC 20240
385-226-7513

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From: Calmes, Ariel (USAWY) <Ariel.Calmes@usdoj.gov>
Sent: Friday, May 16, 2025 1:54 PM
To: Hagan, Damon A <damon.hagan@sol.doi.gov>
Cc: Romine, Nicole M. (USAWY) <Nicole.Romine@usdoj.gov>
Subject: [EXTERNAL] RE: EO 14292 Reviews

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Mr. Hagan,

Criminal Chief Romine and I are available for either a conference call or a TEAMS meeting today from 1:00-2:00 PM or Monday May 19, 2025 between 8:30 am and 11:00 AM.

Ariel C. Calmes
Assistant United States Attorney
District of Wyoming
Ariel.calmes@usdoj.gov
307-344-2119

From: Hagan, Damon A <damon.hagan@sol.doi.gov>
Sent: Friday, May 16, 2025 11:45 AM
To: Calmes, Ariel (USAWY) <Ariel.Calmes@usdoj.gov>
Subject: [EXTERNAL] EO 14292 Reviews

Thank you for taking my call earlier regarding the Solicitor's Office's review of our regulations for compliance with the President's May 9, 2025 Executive Order 14292 "Fighting Overcriminalization in Federal Regulations".

I look forward to further discussions with your supervisors and yourself regarding the Michelino Sunseri matter.

I remain available to you at the contact information below. Thank you in advance for your courtesies.

Yours Truly,

Damon A. Hagan, Esq.

Advisor to the Solicitor
Office of the Solicitor
U.S. Department of the Interior

Stewart Lee Udall Department of the Interior Building
1849 C Street N.W.
Room 6345
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Re: [EXTERNAL] U.S. v. Sunseri Follow-up

From Hagan, Damon A <damon.hagan@sol.doi.gov>

Date Fri 5/16/2025 4:59 PM

To Romine, Nicole M. (USAWY) <Nicole.Romine@usdoj.gov>

Cc Caminiti, Mariagrazia <Marigrace.Caminiti@sol.doi.gov>; Ariel.Calmes_contact <Ariel.Calmes@usdoj.gov>

Thank you for the offer but I will be the point of contact regarding this for the Department. I appreciate your updates in the future.

Yours Truly,

Damon A. Hagan, Esq.

Advisor to the Solicitor
Office of the Solicitor
U.S. Department of the Interior
Stewart Lee Udall Department of the Interior Building
1849 C Street N.W.
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From: Romine, Nicole M. (USAWY) <Nicole.Romine@usdoj.gov>

Sent: Friday, May 16, 2025 3:52 PM

To: Hagan, Damon A <damon.hagan@sol.doi.gov>

Cc: Caminiti, Mariagrazia <Marigrace.Caminiti@sol.doi.gov>; Ariel.Calmes_contact <Ariel.Calmes@usdoj.gov>

Subject: [EXTERNAL] U.S. v. Sunseri Follow-up

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Damon,

Thank you for the meeting today. I wanted to follow-up with an email so that you have all of my contact information, which is below. If you have any further questions, please let me know. As I indicated, I'll

share any new public filings in the case and the result of the bench trial. Given your Acting Solicitor's interest in this case, if you provide his email, I will include him on the email regarding the result of the trial. I won't inundate him with any pleadings, however,

Thank you,

Nicole M. Romine
Assistant United States Attorney
Chief, Criminal Division
U.S. Attorney's Office
District of Wyoming
Cheyenne, WY 82001
307-772-2124 (main)
307-772-2965 (direct)
307-421-6156 (cell)
307-772-2123 (fax)

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Re: EO 14292 Reviews

From Hagan, Damon A <damon.hagan@sol.doi.gov>
Date Sat 5/17/2025 11:07 AM
To Adam.Gustafson@usdoj.gov <Adam.Gustafson@usdoj.gov>

Could you give me a call regarding this EO when you have a chance? Thank you.

Yours Truly,

Damon A. Hagan, Esq.

Advisor to the Solicitor
Office of the Solicitor
U.S. Department of the Interior
Stewart Lee Udall Department of the Interior Building
1849 C Street N.W.
Room 6345
Washington, DC 20240
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From: Hagan, Damon A
Sent: Friday, May 16, 2025 1:34:28 PM
To: Adam.Gustafson@usdoj.gov <Adam.Gustafson@usdoj.gov>
Subject: EO 14292 Reviews

Adam,

As part of our review of our regulations for compliance with the President's May 9, 2025 EO 14292 "Fighting Overcriminalization in Federal Regulations" the Michelino Sunseri matter came to our attention. This is a matter regarding a runner being prosecuted for utilizing a former trail during a run up Grand Teton and back.

I reached out to the prosecutor, AUSA Ariel Calmes, to obtain some more clarity on the matter and was informed that she would need to schedule a meeting with her supervisors and our office for follow up. If there is anything that you can do to facilitate such a meeting it would be appreciated.

My contact information is below should you wish to discuss it with me further.

Thank you in advance for your courtesies.

Yours Truly,

Damon A. Hagan, Esq.

Advisor to the Solicitor
Office of the Solicitor
U.S. Department of the Interior
Stewart Lee Udall Department of the Interior Building
1849 C Street N.W.
Room 6345
Washington, DC 20240
385-226-7513

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[EXTERNAL] Re: USA v Sunseri Case No. L:24-po-00893

From Romine, Nicole M. (USAWEY) <Nicole.Romine@usdoj.gov>

Date Mon 5/19/2025 7:16 PM

To Hagan, Damon A <damon.hagan@sol.doi.gov>; Ariel.Calmes_contact <Ariel.Calmes@usdoj.gov>

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Thank you. We're continuing with the prosecution.

Nicole Romine
DWY
Chief, Criminal Division

From: Hagan, Damon A <damon.hagan@sol.doi.gov>

Sent: Monday, May 19, 2025 4:55:38 PM

To: Romine, Nicole M. (USAWEY) <Nicole.Romine@usdoj.gov>; Calmes, Ariel (USAWEY) <Ariel.Calmes@usdoj.gov>

Subject: [EXTERNAL] USA v Sunseri Case No. L:24-po-00893

For your situational awareness my office received the below email earlier today from the Deputy Director - Operations for the National Park Service.

Yours Truly,

Damon A. Hagan, Esq.

Deputy Solicitor - General Law
Office of the Solicitor
U.S. Department of the Interior
Stewart Lee Udall Department of the Interior Building
1849 C Street N.W.
Room 6345
Washington, DC 20240
385-226-7513

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From: Lands, Frank W <frank_lands@nps.gov>

Sent: Monday, May 19, 2025 5:01 PM

To: Maiden, Dondrae N <Dondrae.Maiden@sol.doi.gov>

Cc: Bowron, Jessica <Jessica_Bowron@nps.gov>; Cuvelier, Charles J <Charles_Cuvelier@nps.gov>; Jenkins, Chip L <Chip_Jenkins@nps.gov>

Subject: criminal prosecution referral

Dondrae, After further review, the National Park Service is withdrawing its criminal prosecution referral in the Michelino Sunseri matter. Mr. Sunseri is currently charged with a misdemeanor under 36 CFR 2.1(b) and has a trial scheduled for May 20, 2025. We believe that the previously offered punishment, a five-year park ban and fine, is an overcriminalization based on the gravity of the offense. Therefore, we withdraw our support.

Frank Lands

National Park Service | Deputy Director - Operations

202.354.1870

415.793.8478 (cell)



Fw: criminal prosecution referral

From Hagan, Damon A <damon.hagan@sol.doi.gov>
Date Mon 5/19/2025 5:39 PM
To Adam.Gustafson@usdoj.gov <adam.gustafson@usdoj.gov>

It is my understanding that NPS has informed all parties involved that they are no longer in support of this action. Below is written confirmation of the same.

Yours Truly,

Damon A. Hagan, Esq.

Deputy Solicitor - General Law
Office of the Solicitor
U.S. Department of the Interior
Stewart Lee Udall Department of the Interior Building
1849 C Street N.W.
Room 6345
Washington, DC 20240
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From: Maiden, Dondrae N <Dondrae.Maiden@sol.doi.gov>
Sent: Monday, May 19, 2025 5:34 PM
To: Hagan, Damon A <damon.hagan@sol.doi.gov>
Subject: Fw: criminal prosecution referral

Damon,

Here is the email I received from NPS leadership. The local park staff has also been informed of this message.

Please let me know if you need anything else.

Dondrae N. Maiden
Associate Solicitor, Division of Parks and Wildlife
Office of the Solicitor

United States Department of the Interior
1849 C. Street, NW, MS 6311
Washington, DC 20240
Phone: (202) 208-6996
Mobile Phone: (202) 603-7482
Fax: (202) 219-0444

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From: Lands, Frank W <frank_lands@nps.gov>
Sent: Monday, May 19, 2025 5:01 PM
To: Maiden, Dondrae N <Dondrae.Maiden@sol.doi.gov>
Cc: Bowron, Jessica <Jessica_Bowron@nps.gov>; Cuvelier, Charles J <Charles_Cuvelier@nps.gov>; Jenkins, Chip L <Chip_Jenkins@nps.gov>
Subject: criminal prosecution referral

Dondrae, After further review, the National Park Service is withdrawing its criminal prosecution referral in the Michelino Sunseri matter. Mr. Sunseri is currently charged with a misdemeanor under 36 CFR 2.1(b) and has a trial scheduled for May 20, 2025. We believe that the previously offered punishment, a five-year park ban and fine, is an overcriminalization based on the gravity of the offense. Therefore, we withdraw our support.

Frank Lands

National Park Service | Deputy Director - Operations
202.354.1870
415.793.8478 (cell)




Fw: DOI Solicitor: EO 14292 Reviews of DOJ Case Sunseri vs US (GRTE)

From Maiden, Dondrae N <Dondrae.Maiden@sol.doi.gov>

Date Tue 5/20/2025 7:06 AM

To Hagan, Damon A <damon.hagan@sol.doi.gov>

 1 attachment (23 KB)

GRTE Sunseri vs US Briefing Statement May 2025.docx;

Good morning, Damon. Please see this morning's update from NPS. It looks like the AUSA issued subpoenas to the Park Rangers.

Dondrae N. Maiden
Associate Solicitor, Division of Parks and Wildlife
Office of the Solicitor
United States Department of the Interior
1849 C. Street, NW, MS 6311
Washington, DC 20240
Phone: (202) 208-6996
Mobile Phone: (202) 603-7482
Fax: (202) 219-0444

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From: Lands, Frank W <frank_lands@nps.gov>

Sent: Tuesday, May 20, 2025 7:01 AM

To: Maiden, Dondrae N <Dondrae.Maiden@sol.doi.gov>; Bowron, Jessica <Jessica_Bowron@nps.gov>

Subject: Fw: DOI Solicitor: EO 14292 Reviews of DOJ Case Sunseri vs US (GRTE)

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From: Jenkins, Chip L <Chip_Jenkins@nps.gov>
Sent: Monday, May 19, 2025 9:04:47 PM
To: Lands, Frank W <frank_lands@nps.gov>
Subject: Fw: DOI Solicitor: EO 14292 Reviews of DOJ Case Sunseri vs US (GRTE)

Frank

I had a call from Nicole Romine, Chief Criminal Division, DOJ, WY District.

She informed me that DOJ leadership has directed her to proceed to trial with the case tomorrow.

DOJ has issued subpoena's to the NPS employees that are scheduled to be called as witnesses and expect them to be at the court in the morning.

Chip

Chip Jenkins
Superintendent
Grand Teton National Park
John D. Rockefeller, Jr. Memorial Parkway
(360) 770-8882

From: Jenkins, Chip L <Chip_Jenkins@nps.gov>
Sent: Friday, May 16, 2025 5:47 PM
To: Lands, Frank W <frank_lands@nps.gov>
Cc: Carlstrom, Brian <Brian_Carlstrom@nps.gov>
Subject: DOI Solicitor: EO 14292 Reviews of DOJ Case Sunseri vs US (GRTE)

Frank;

This evening I received a phone call from :

Nicole Romine
Chief, Criminal Division
District of Wyoming
U.S. Department of Justice.

She said she had received two emails and a phone call from:

Daman Hagan
Advisor to the Solicitor
Solicitor's Office
DOI

Nicole said Mr. Hagan questioned her about the Sunseri vs US case that is scheduled to go to trial next week on May 20th.

She added that to her knowledge and experience it was unprecedented to have received such a call from another agency. She called me to inquire if I had received any communications from DOI on this case. I told her I had not.

I'm forwarding you the email's Mr. Hagan's sent to Nicole (she, in turn forwarded these to me and these are below.)

I'm also attaching a briefing statement on the topic.

When you and I had a bi-weekly check in last Thursday, I mentioned this case to see if this had been brought to your attention and I understood it had not.

We will continue to coordinate with DOJ and IMR/NPS Communications on public communications for this case.

Let me know if we should be doing anything else.

Thanks,

Chip

Chip Jenkins
Superintendent
Grand Teton National Park
John D. Rockefeller, Jr. Memorial Parkway
(360) 770-8882

From: Romine, Nicole M. (USAWE) <Nicole.Romine@usdoj.gov>

Sent: Friday, May 16, 2025 4:07 PM

To: Jenkins, Chip L <Chip_Jenkins@nps.gov>

Subject: Fw: [EXTERNAL] U.S. v. Sunseri Follow-up

Per our phone call, please see this email exchange from DOI's Office of the Solicitor. If you need further information, please let me know. I'll be forwarding one more email.

Nicole Romine
DWY
Chief, Criminal Division

From: Hagan, Damon A <damon.hagan@sol.doi.gov>

Sent: Friday, May 16, 2025 2:59 PM

To: Romine, Nicole M. (USAWE) <Nicole.Romine@usdoj.gov>

Cc: Caminiti, Mariagrazia <Marigrace.Caminiti@sol.doi.gov>; Calmes, Ariel (USAWY) <Ariel.Calmes@usdoj.gov>
Subject: Re: [EXTERNAL] U.S. v. Sunseri Follow-up

Thank you for the offer but I will be the point of contact regarding this for the Department. I appreciate your updates in the future.

Yours Truly,

Damon A. Hagan, Esq.

Advisor to the Solicitor
Office of the Solicitor
U.S. Department of the Interior
Stewart Lee Udall Department of the Interior Building
1849 C Street N.W.
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Sent: Friday, May 16, 2025 3:52 PM
To: Hagan, Damon A <damon.hagan@sol.doi.gov>
Cc: Caminiti, Mariagrazia <Marigrace.Caminiti@sol.doi.gov>; Ariel.Calmes_contact <Ariel.Calmes@usdoj.gov>
Subject: [EXTERNAL] U.S. v. Sunseri Follow-up

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Damon,

Thank you for the meeting today. I wanted to follow-up with an email so that you have all of my contact information, which is below. If you have any further questions, please let me know. As I indicated, I'll share any new public filings in the case and the result of the bench trial. Given your Acting Solicitor's interest in this case, if you provide his email, I will include him on the email regarding the result of the trial. I won't inundate him with any pleadings, however,

Thank you,

Nicole M. Romine
Assistant United States Attorney
Chief, Criminal Division
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From: Romine, Nicole M. (USAWY)<Nicole.Romine@usdoj.gov>

To:

Jenkins, Chip L

Fri 5/16/2025 4:11 PM

As promised here's the first email we received from DOI - Office of the Solicitor.

Nicole Romine
DWY
Chief, Criminal Division

From: Calmes, Ariel (USAWY) <Ariel.Calmes@usdoj.gov>
Sent: Friday, May 16, 2025 11:45:41 AM
To: Romine, Nicole M. (USAWY) <Nicole.Romine@usdoj.gov>; Martens, Christyne (USAWY) <Christyne.Martens@usdoj.gov>
Subject: FW: EO 14292 Reviews

Ariel C. Calmes
Assistant United States Attorney
District of Wyoming
Ariel.calmes@usdoj.gov
307-344-2119

From: Hagan, Damon A <damon.hagan@sol.doi.gov>
Sent: Friday, May 16, 2025 11:45 AM

To: Calmes, Ariel (USAWY) <Ariel.Calmes@usdoj.gov>

Subject: [EXTERNAL] EO 14292 Reviews

Thank you for taking my call earlier regarding the Solicitor's Office's review of our regulations for compliance with the President's May 9, 2025 Executive Order 14292 "Fighting Overcriminalization in Federal Regulations".

I look forward to further discussions with your supervisors and yourself regarding the Michelino Sunseri matter.

I remain available to you at the contact information below. Thank you in advance for your courtesies.

Yours Truly,

Damon A. Hagan, Esq.

Advisor to the Solicitor
Office of the Solicitor
U.S. Department of the Interior
Stewart Lee Udall Department of the Interior Building
1849 C Street N.W.
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Washington, DC 20240
385-226-7513

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. L:24-po-00893
)	
vs.)	
)	
MICHELINO SUNSERI,)	
)	
Defendant.)	
)	

**ORDER GRANTING DEFENDANT'S MOTION TO ADMIT NEW EVIDENCE
AND TO CONDUCT EVIDENTIARY HEARING**

THIS MATTER comes before the Court on Defendant Michelino Sunseri's Motion to Admit New Evidence and to Conduct an Evidentiary Hearing, filed June 4, 2025. The Court, having reviewed the motion and exhibits, and being fully advised in the premises, finds that good cause exists to grant the requested relief.

THE COURT FINDS that the email from National Park Service (NPS) Deputy Director Frank Lands, dated May 19, 2025, and disclosed via FOIA response on June 3, 2025, constitutes newly discovered material evidence indicating that the NPS formally withdrew its referral and support for prosecution prior to the commencement of trial.

THE COURT FURTHER FINDS that this evidence was in the possession of the Department of Justice prior to trial, was not disclosed to the defense and is relevant to prosecutorial authorization, witness credibility, plea negotiations and constitutional obligations under *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972).

IT IS HEREBY ORDERED that the FOIA response containing NPS withdrawal (Exhibit 1) is admitted into the evidentiary record; and the Court will convene an evidentiary hearing to determine:

- a. The timeline of DOJ's receipt and internal discussion of the NPS withdrawal;
- b. The decision-making process that led DOJ to continue prosecution without agency support;
- c. The motivation to continue pursuing disproportionate plea terms after NPS withdrawal, indicating vindictive prosecution;
- d. Whether the DOJ's failure to disclose this evidence violated its constitutional obligations under *Brady / Giglio* and impaired the defense's ability to present a complete and fair case;
- e. The impact of nondisclosure on defense trial strategy, witness presentation and factual development; and
- f. The integrity and authorization of the prosecution itself, in light of the initiating agency withdrawing support.

The evidentiary hearing shall be scheduled on a date to be set by the Court in coordination with counsel.

DATED this ____ day of June, 2025.

HON. STEPHANIE A. HAMBRICK
UNITED STATES MAGISTRATE JUDGE