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District of Hawaii

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UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IGOR MYKHAYLOVYCH
LYTVYNCHUK,

Defendant.

CASE NO. MJ 26-00439 RT

AFFIDAVIT IN SUPPORT OF
CRIMINAL COMPLAINT

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Grant Demesillo, being duly sworn telephonically, declare and state the following is true and correct to the best of my knowledge and belief:

INTRODUCTION

1. This affidavit is submitted for the purpose of establishing probable cause that on May 5, 2026, within the District of Hawaii, Igor Mykhaylovych Lytvynchuk (“LYTVYNCHUK”), the defendant, committed an illegal taking and attempted taking of an endangered species and marine mammal, namely, a Hawaiian monk seal, in violation of Title 16, United States Code, Sections 1538(a)(1)(B), 1538(g) and 1372(a)(2)(A).

2. I am a Special Agent with the United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service – Office of Law Enforcement (NOAA OLE) in the Pacific Islands Division and have been so employed since May 27, 2008. During my tenure as a Special Agent, I successfully completed 507 hours of training at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. Part of my duties include investigating violations of the Endangered Species Act (“ESA”), specifically 16 U.S.C. § 1538, and violations of the Marine Mammal Protection Act (“MMPA”), specifically 16 U.S.C. § 1372. Under the ESA, “take” means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” *See* 16 U.S.C. 1532(19). Under the MMPA, “take” means “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.” *See* 16 U.S.C. 1362(13). Under the MMPA,

the term “harassment” means any act of pursuit, torment, or annoyance which: (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering. Over the past five years, I have conducted numerous investigations regarding the illegal taking and harassment of protected species—including the Hawaiian monk seal—throughout the Hawaiian islands, including Kauai, Oahu, Molokai, Maui, and Hawaii.

3. Before my tenure as a Special Agent, I worked as an Enforcement Officer for NOAA OLE in the Pacific Islands Division. I successfully completed the Land Management and Police Training Program (LMPT-108) at FLETC in October 2011. During my ten-year tenure as an Enforcement Officer for NOAA OLE, I have investigated approximately 20 cases involving suspected illegal takings and have responded to and processed numerous potential violations, conducting field investigations of protected species throughout the Hawaiian islands.

4. The facts set forth in this affidavit are based on my personal observations, my training and experience, and information obtained from various law enforcement personnel and witnesses. This affidavit is intended to show that there is sufficient probable cause for the requested complaint and warrant and does

not purport to set forth all my knowledge of or investigation into this matter.

Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only.

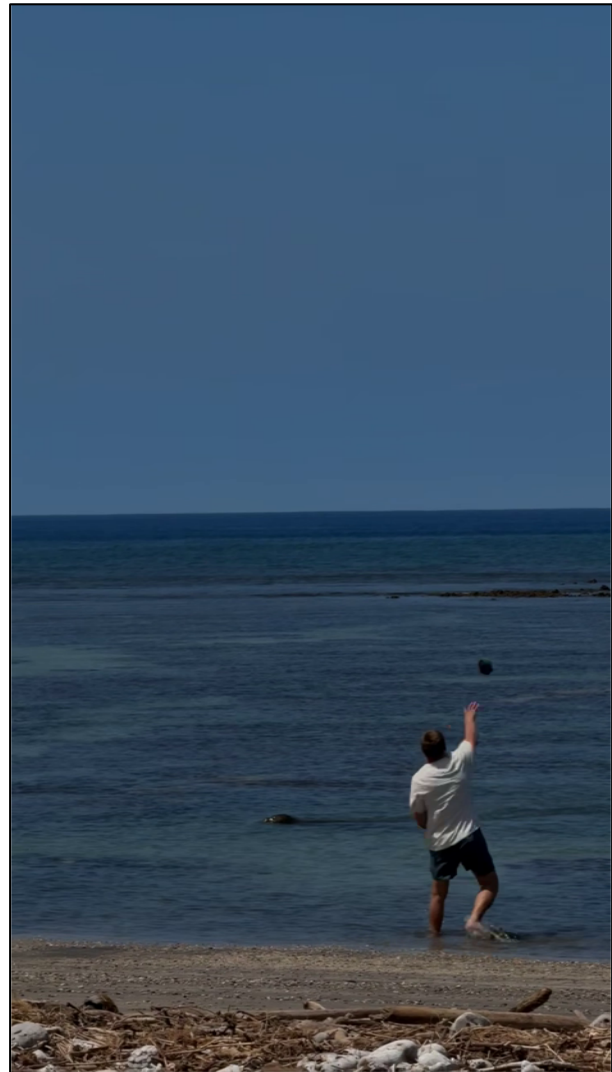
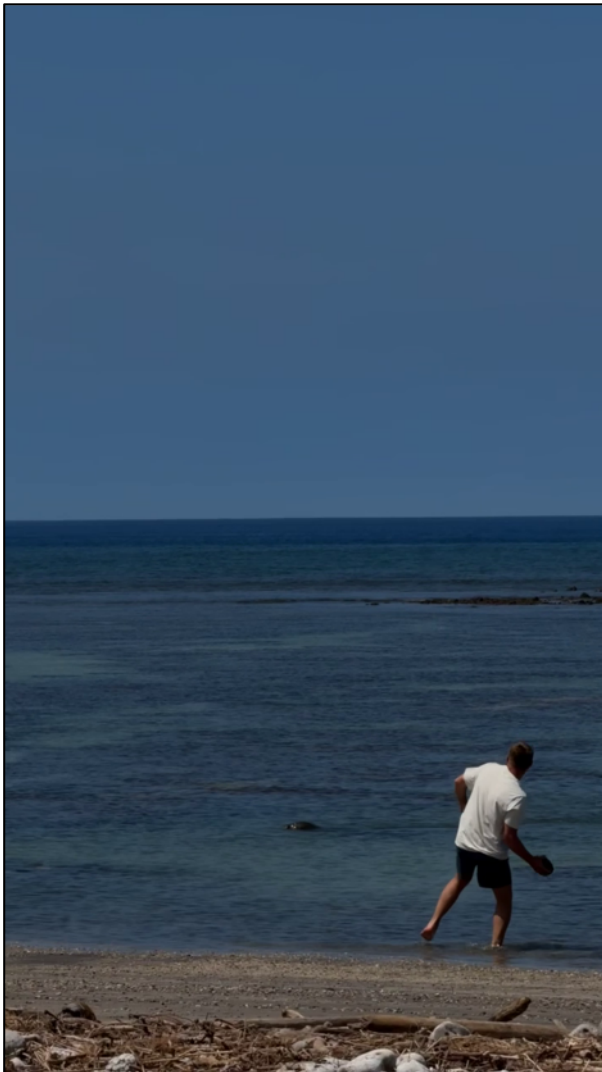
STATEMENT OF PROBABLE CAUSE

5. On May 5, 2026, at approximately 10:55 A.M., an officer with the Hawaii Department of Land and Natural Resources (“DLNR”) was dispatched to 385 Front Street, Lahaina, Maui, to investigate a reported harassment of an endangered Hawaiian monk seal. The reporting witnesses provided the DLNR officer with a cellphone video recording of the incident. I reviewed the video and determined that it depicts a Hawaiian monk seal (*Neomonachus schauinslandi*) swimming in shallow water parallel to the shoreline while a Caucasian male wearing a white shirt and blue shorts watches the seal in close proximity from the beach and shallow waters of the ocean.

6. The Hawaiian monk seal has been listed as an endangered species throughout its range under the ESA since 1976. The Hawaiian monk seal is also protected under the Marine Mammal Protection Act. *See* 16 U.S.C. 1362(6) (defining “marine mammal”).

7. In the cellphone video, the man can be seen holding a large rock with one hand, aiming, and throwing it directly at the monk seal. From the video, it appears the rock landed in the water, narrowly missing the seal’s head but causing

the animal to abruptly alter its behavior, rearing the top half of its body up out of the water briefly and turning in the opposite direction. Screenshots from the video are included below. According to witness statements, the monk seal continued swimming in the water and remained in the same general area, not coming ashore to the beach following the incident.





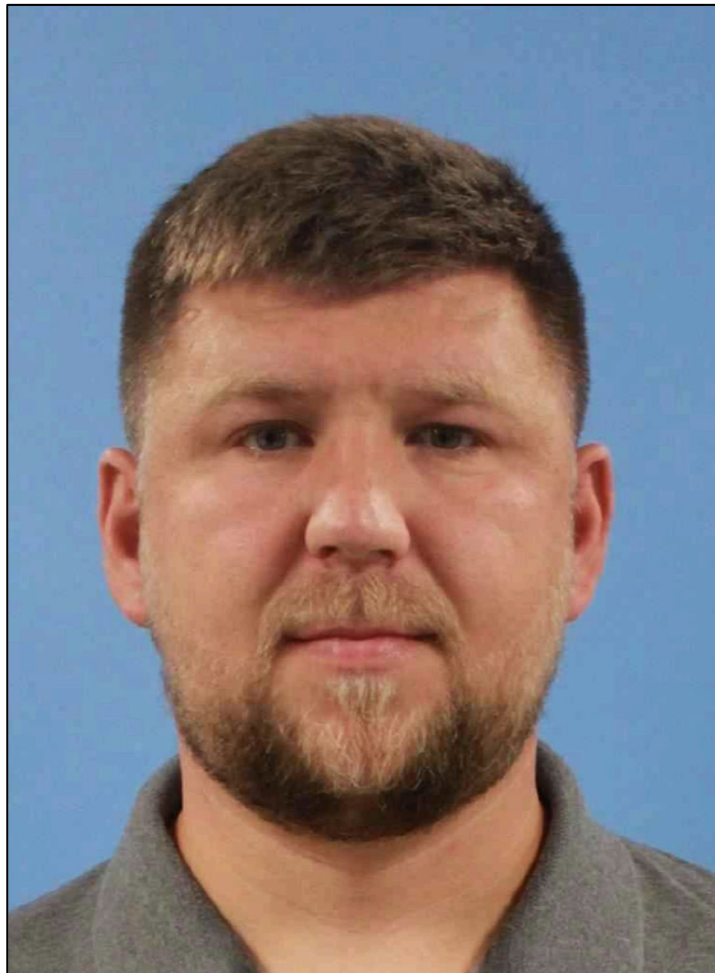
8. Witness 1 reported to the DLNR officer that on May 5, 2026, at approximately 10:39 A.M., Witness 1 was standing on land in the front yard of 385 Front Street, when she observed a man standing in close proximity to a Hawaiian monk seal that was playing with a log in the water. Witness 1 described the seal as “clearly not aggressive.” As the seal began to swim away, the individual picked up a rock “the size of a coconut” and threw it directly at the seal’s head. The seal “sprung” out of the water startled and then moved a short distance away, after

which it remained largely immobile for an “hour half.” When confronted by Witness 1, the individual walked away. Witness 1 and Witness 2 told the man that law enforcement had been contacted. The individual stated that he did not care and was “rich” enough to pay any fines.

9. Witness 2 reported to the officer that on May 5, 2026, while conducting a photoshoot, Witness 2 observed a seal known as “Lani” swimming around in the ocean and playing with a log. Witness 2 said Witness 1 began recording a video on a cellphone after observing a couple standing very close to the seal. Witness 2 observed a tall Caucasian male wearing a white shirt and blue surf shorts pick up a rock “the size of a coconut” and throw it directly toward the seal’s head. Witness 2 said the seal “jumped” and tried to swim away but ended up laying on the reef in the water and stopped playing around like before. Witness 2 said the seal did not move for a long time – so long that Witness 2 and Witness 1 became “concerned if it was even alive still.” Witness 2 reported that the individual who threw the rock walked away, stating he was “rich enough to pay the fines,” and failed to check on the welfare of the animal even though the seal “clearly seemed hurt.”

10. Following interviews with witnesses and a review of the video footage, the DLNR officer identified the individual who threw the rock at the monk seal as LYTVYNCHUK via comparison of the video footage and

Lytvynchuk's Washington State driver's license photo (see below), number *****J83B. LYTVYNCHUK was on vacation in Maui and staying at the Lahaina Shores Beach Resort, located off Front Street, Lahaina, Hawaii 96761. The officer informed LYTVYNCHUK that the investigation of the incident would be referred to federal authorities at NOAA for potential criminal enforcement action. After being read his *Miranda* rights, LYTVYNCHUK acknowledged understanding his rights, exercised his right to remain silent, and declined to provide a statement. The contact was then terminated.

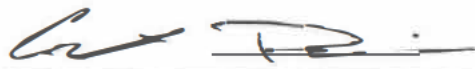


11. I reviewed photographs of LYTVYNCHUK obtained from various law enforcement agencies. I also reviewed the photographs and videos taken of LYTVYNCHUK during the incident on May 5, 2026. Based on a comparison of these records, I have determined that the individual depicted in the photographs and videos collected by the DLNR officer and the witnesses is LYTVYNCHUK.

CONCLUSION

12. Based on the foregoing, I believe there is probable cause to conclude Igor Mykhaylovych LYTVYNCHUK committed violations of Title 16, United States Code, Sections 1538(a)(1)(B), 1538(g), and 1372(a)(2)(A), for intentionally taking and attempting to take a Hawaiian Monk Seal (*Neomonachus schauinslandi*) on May 5, 2026.

Respectfully submitted,



Grant Demesillo
Special Agent
DOC NOAA NMFS OLE

This Criminal Complaint and Affidavit in support thereof were presented to, approved by, and probable cause to believe that the defendant above-named committed the charged crime(s) found to exist by the undersigned Judicial Officer at 8:26 a.m. on May 12, 2026, at Honolulu, Hawaii.

Sworn to under oath before me telephonically, and attestation acknowledged pursuant to Fed. R. Crim. P. 4.1(b)(2), this 12th day of May, 2026, at Honolulu, Hawaii.





Rom A. Trader
United States Magistrate Judge