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10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 United States of America, ) CR 23-54-AH  
13 )  
14 Plaintiff. ) APPLICATION OF DEFENDANT  
15 ) AMADOU DIALLO TO DISMISS  
16 vs. ) INDICTMENT; POINTS AND  
17 ) AUTHORITIES IN SUPPORT;  
18 **AMADOU DIALLO, et al.,** ) [PROPOSED] ORDER  
19 )  
20 Defendant. ) Date: TBA  
21 ) Time: TBA  
22 ) Place: Hon. Anne Hwang  
23 ) Courtroom 9C  
24 ) U.S. District Court  
25 ) 350 West First Street  
26 ) Los Angeles, CA 90012  
27 )  
28 ) Trial Date: 3/10/26  
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 )

23 TO: THE ACTING UNITED STATES ATTORNEY, ASSISTANT UNITED  
24 STATES ATTORNEY RYAN ADAMS, AND DEPARTMENT OF JUSTICE ATTORNEYS  
25 WILLIAM SCHURMANN AND ABDUS PARDESI: PLEASE TAKE NOTICE that as  
26 soon as counsel can respond and the matter may be heard, in the  
27 courtroom of the Honorable Anne Hwang, Defendant Amadou Diallo  
28 hereby applies for an order dismissing the Indictment.

1 This application is based on the Sixth Amendment to the  
2 United States Constitution, the Speedy Trial provisions of the  
3 United States Constitution and the Federal Speedy Trial Act,  
4 Federal Rule of Criminal Procedure 12 and any other applicable  
5 Rule of Criminal Procedure, the attached Memorandum of Points and  
6 Authorities, the records, papers and files in this case, and on  
7 such other evidence and argument as may be presented at the  
8 hearing on this motion.

9 January 13, 2026

Respectfully submitted,

10  
11 /s/

12 \_\_\_\_\_  
13 Stephen G. Frye  
14 Ashley Daniel  
15 Attorneys for Defendant  
16 Amadou Diallo

17 **MEMORANDUM OF POINTS AND AUTHORITIES**  
18 **IN SUPPORT OF APPLICATION TO DISMISS**

19 **I.**

20 **INTRODUCTION**

21 Recently, federal courts in at least one sister district  
22 have dismissed indictments based on deprivation of the Sixth  
23 Amendment right to counsel because the government failed to fund  
24 the defense function for an extended period. See United States  
25 v. Ortiz, CR 24-308-JAM (E.D. Ca., December 8, 2025) (a copy of  
26 which is attached as Exhibit A). This case presents the same  
27 constitutional failure that compelled dismissal in Ortiz, but  
28 in more aggravated form. Because Mr. Diallo refused to waive his

1 rights to a speedy trial under the Speedy Trial Act and the  
2 United States Constitution, those provisions, when considered in  
3 conjunction with the Sixth Amendment violation, likewise compel  
4 dismissal in this case.

5 **A. FACTUAL BACKGROUND**

6 Mr. Diallo made his initial appearance in this matter on  
7 June 1, 2023. (Docket No. 8). He was ordered detained and,  
8 despite his best efforts to obtain bond, has remained in  
9 detention since. (See Docket No. 11). Following appointment of  
10 current counsel, the Court eventually set a trial date of October  
11 30, 2025. In June 2025, the Court ran out of money with which to  
12 pay appointed counsel and ancillary defense services.

13 Mr. Diallo's court-appointed counsel went without access to  
14 investigators, experts, and other basic defense resources for an  
15 extended period. While counsel continued to work, the lack of  
16 funding affected that work, for example, by increasing the  
17 workload in other appointed cases because many CJA counsel  
18 refused to accept new cases during the funding lapse. Moreover,  
19 between the funding lapse and the corresponding increased  
20 workload from other matters, among other reasons, payment  
21 vouchers were not submitted as they otherwise would have been.  
22 Ancillary services were not available at all during the funding  
23 lapse. The deprivation has not been momentary or speculative –  
24 it has structurally disabled the defense, while the government's  
25 prosecution has proceeded unabated.

26 On September 11, 2025, the Court held a status conference  
27 regarding the October 30 trial date. At that hearing, counsel  
28 for Mr. Diallo moved to continue the trial date because of the

1 lack of funding and the corresponding inability to effectively  
2 render assistance of counsel in a timely manner by, for example,  
3 limiting the ability to hire experts, investigators, etc.

4 At that same hearing, Mr. Diallo objected to the continuance  
5 and refused to waive his Speedy Trial rights. (See Docket No.  
6 187). Over Mr. Diallo's objection, the Court continued the trial  
7 date to March 10, 2026. (Id.). He remained in detention pending  
8 trial.

9 Even after CJA funding was set to resume on October 1, 2025,  
10 funding remained frozen through an additional month because of  
11 the government shutdown. Throughout the funding lapse, the  
12 parties' positions diverged in a manner that fundamentally  
13 undermined the adversarial process. While the government  
14 continued full trial preparation without interruption, the  
15 defense was functionally unable to move forward due to the  
16 absence of funding and resources. While the defense attorneys  
17 agreed to continue to work without assurance of payment, the  
18 continued funding lapse effectively prevented the ability to  
19 consult with potential experts, hire an investigator, etc.

20 Mr. Diallo has repeatedly refused to waive his speedy trial  
21 rights on the record, including at hearings in October 2024 and  
22 September 2025.

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II.

ARGUMENT

**A. The Court Must Dismiss the Indictment Because the Five Month Lapse in Funding Deprived Mr. Diallo of his Sixth Amendment Right to Counsel and his Constitutional and Statutory Rights to a Speedy Trial.**

The Sixth Amendment guarantees not only counsel, but effective assistance of counsel, which necessarily includes adequate resources. Strickland v. Washington, 466 U.S. 668, 685-86 (1984); Wilbur v. City of Mount Vernon, 989 F. Supp. 2d 1122, 1131 (9th Cir. 2013). The Sixth Amendment guarantees access to the “basic tools of an adequate defense,” without which effective assistance is impossible. Ake v. Oklahoma, 470 U.S. 68, 77 (1985). “A criminal trial is fundamentally unfair if the [government] proceeds against an indigent defendant without making certain that he has access to the raw materials integral to the building of an effective defense.” Id.

District courts possess inherent supervisory authority to dismiss indictments in order to remedy constitutional violations, preserve the integrity of the judicial process, and ensure that convictions rest on lawful and appropriate procedures. United States v. Chapman, 524 F.3d 1073, 1087 (9th Cir. 2008); United States v. Matta-Ballesteros, 71 F.3d 754, 763 (9th Cir. 1995). Exercise of that authority is warranted where a defendant has suffered substantial prejudice and no lesser remedial action is available to cure the constitutional harm. Under such circumstances, dismissal is not punitive, but remedial, and serves to restore fairness to the criminal process.

1 Courts recently have dismissed indictments, without  
2 prejudice, because of the five-month lapse in funding the defense  
3 function. In Ortiz, the defendant was indicted in November 2024  
4 for possession with intent to distribute methamphetamine. He was  
5 detained and CJA counsel was appointed to represent him. CJA  
6 funding lapsed in June 2025, but defense counsel apparently  
7 continued to work on the case.

8 On August 5, 2025, with the parties' agreement, the district  
9 court set a trial date of January 26, 2026, and entered an order  
10 excluding time under the Speedy Trial Act. (See United States v.  
11 Ortiz, CR 24-302-JAM (E.D. Ca. August 5, 2025) (Docket No. 21).  
12 On October 4, 2025, defendant moved to dismiss the indictment  
13 citing the ongoing lapse in CJA funding. (Id. at Docket Nos. 22  
14 and 23). The government opposed the motion, eventually arguing  
15 that CJA funding had been restored and that a continuance of the  
16 trial date would suffice to cure the constitutional violation.

17 The Court granted the motion to dismiss and released the  
18 defendant forthwith. The court declined "to penalize Defendant  
19 by extending his pretrial detention time and jeopardizing his  
20 speedy trial rights." Ortiz, at p. 2, attached hereto as Exhibit  
21 A. The court observed that circumstances of this nature create  
22 an "unprecedented and glaring imbalance in the criminal justice  
23 system." Id. at p. 4. "Time cannot be excluded for trial  
24 preparation when the government created a situation that  
25 essentially denied counsel the ability to prepare." Id. at p. 6.  
26 "Although CJA funding is now in place, ... the restoration of  
27 funding has done nothing to cure the constitutional injury  
28 already suffered by Defendant due to Congress's intentional

1 decision not to provide constitutionally mandated funding for  
2 over five months.” Id. at pp. 5-6; accord, United States v.  
3 Castro, No. 2:24-cr-00074-JAM, 2025 WL 3467795 (E.D. Cal. Dec. 3,  
4 2025) (finding Sixth Amendment violation due to CJA-funding lapse  
5 but granting a continuance rather than ordering dismissal given  
6 the lack of a set trial date); but see United States v.  
7 Evanovich, CR00079-DJC, 2025 WL 3208308 (E.D. Cal. Nov. 17, 2025)  
8 (finding Sixth Amendment violation but denying dismissal and  
9 granting a continuance).

10 In this case, like Ortiz, the defense function was crippled  
11 for more than five months because of the lapse in CJA funding.  
12 Like the Court in Ortiz, this court, at counsel’s request,  
13 continued the trial date during the ongoing lapse in CJA funding.  
14 Unlike the defendant in Ortiz, however, Mr. Diallo did not waive  
15 his rights to a Speedy Trial. The continuance from the previous  
16 October 30, 2025, trial date to the current March 10, 2026, trial  
17 date, over Mr. Diallo’s objection, has prejudiced Mr. Diallo by  
18 forcing his continued detention, without trial, by over four  
19 additional months. Moreover, the current resumption of CJA  
20 funding as of late November 2025, has caused a further delay in  
21 effective preparation for trial. Mr. Diallo refuses to consent  
22 to any further continuance. The Court should dismiss the case  
23 because of the defense function lapse.

24 **III.**

25 **CONCLUSION**

26 Dismissal represents the narrowest remedy sufficient to cure  
27 the constitutional violation in this case. It preserves the  
28 Government’s discretion to seek reindictment, restores

1 fundamental fairness to the adversarial process, and protects the  
2 integrity of the judicial system by ensuring that prosecutions do  
3 not proceed on the back of structural constitutional defects.  
4 This is precisely why the court in Ortiz dismissed that case even  
5 after funding was restored: once the constitutional harm has  
6 occurred and cannot be undone, dismissal is the only remedy that  
7 adequately vindicates the defendant's rights. The case should be  
8 dismissed, and Mr. Diallo should be released forthwith.

9 Dated: January 13, 2026                      Respectfully submitted,

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/s/ \_\_\_\_\_  
Stephen G. Frye  
Ashley Daniel  
Attorneys for Defendant  
Amadou Diallo