

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JONATHON REDONDO-ROSALES.

Defendant.

Case No. 2:25-cr-00679-CV

**ORDER DISMISSING  
INFORMATION WITH PREJUDICE**

**[DOC. # 91]**

Defendant Jonathon Redondo-Rosales (“Defendant”) was detained for six months pending trial on a charge arising from an incident in which he allegedly struck—with a cloth hat—a federal officer wearing riot gear. The record reflects a fast-moving encounter where the alleged victim, United States Federal Protective Service (“FPS”) Inspector Z.C., lunged toward Defendant, the alleged hat strike occurred, and Defendant was then forcibly restrained and arrested by multiple armed FPS officers wearing riot gear. Defendant has documented visible injuries he alleges were sustained during the encounter. He intended to argue at trial that his conduct constituted self-defense against the imminent use of unlawful force, following officers’ disproportionate response to Defendant dancing in front of a government vehicle during a small protest of the Government’s recent immigration enforcement activities. This trial would have been Defendant’s first opportunity to present his defense to a jury. His criminal trial will not occur, however.

1 This is because eleven days before trial, the Government moved to dismiss the  
2 charge. Doc. # 92. Generally speaking, dismissals come in two flavors: a dismissal without  
3 prejudice permits the Government to refile the charge at a later time; a dismissal with  
4 prejudice permanently bars re-prosecution. Here, the Government seeks dismissal without  
5 prejudice, which would leave the charge unresolved while affording the Government a  
6 significant tactical benefit: time to regroup and prepare for re-prosecution with the benefit  
7 of Defendant's trial strategy.

8 The Court does not accept the Government's explanation for seeking dismissal  
9 without prejudice, which is addressed in detail below. In substance, the Government now  
10 contends that dismissal is necessary so Defendant can face state proceedings—the same  
11 state proceedings that the Government previously cited as a reason that Defendant should  
12 be detained pending trial in this case. Allowing dismissal on these terms would, at least  
13 from Defendant's perspective, reward gamesmanship and invert Rule 48(a)'s purpose,  
14 transforming a protection against prosecutorial abuse into a mechanism for it.

15 The Court has already granted the Government's motion to dismiss the charge. Doc.  
16 # 93. It reserved, however, the question of whether dismissal should be with or without  
17 prejudice. *Id.* After a hearing on February 9, 2026, the answer is clear. Dismissal with  
18 prejudice is required to prevent action that would amount to prosecutorial harassment and  
19 to account for the very real cost already imposed on Defendant.

## 20 **I. BACKGROUND**

### 21 **A. Charges and Underlying Conduct**

22 On August 4, 2025, in Case No. 2:25-mj-04835, Defendant and his codefendant,  
23 Ms. Ashleigh Brown, were charged with felony violations of 18 U.S.C. § 111(a)(1). Doc.  
24 # 1. Both were arraigned on August 5, 2025. Doc. # 16. On August 15, 2025, the  
25 government filed an Information against Defendant alleging a misdemeanor violation of  
26 18 U.S.C. § 111(a)(1). Doc. # 25. The charged offense carries a maximum penalty of one  
27 year of imprisonment, a fine, or both. *See* 18 U.S.C. § 111(a).  
28

1 The charge arose out of an altercation between Defendant and federal law  
2 enforcement officers near a garage exit of the Roybal Federal Building on Alameda Street  
3 in downtown Los Angeles where some protestors had gathered. Based on the  
4 Government's submitted video evidence,<sup>1</sup> the incident appears to have unfolded as  
5 follows:

6 As a black government car was exiting the Roybal Federal Building, Defendant  
7 crossed Alameda Street and positioned himself in front of the vehicle, preventing it from  
8 turning onto the street. Video Exhibit 1 at 0:00:31–0:00:43; Video Exhibit 2 at 0:00:18–  
9 0:00:24. At the time, Defendant was wearing a khaki-colored, broad-brimmed, sun-  
10 protector-style cloth hat. *Id.*

11 The vehicle came to a stop, and Defendant appeared to dance in front of it while  
12 continuing to block its exit. Video Exhibit 1 at 0:00:43–0:00:44; Video Exhibit 2 at  
13 0:00:24–0:00:35. The vehicle then appeared to move forward slowly and made contact  
14 with Defendant. Video Exhibit 1 at 0:00:44–0:00:47; Video Exhibit 2 at 0:00:34–0:00:36.  
15 After the contact, Defendant rolled onto the hood of the vehicle and his feet lifted off the  
16 ground. Video Exhibit 1 at 0:00:47–0:00:50; Video Exhibit 2 at 0:00:36–0:00:42; *see also*,  
17 Doc. # 1 at 3; Doc. # 40 at 4.

18 Defendant then rolled back off the vehicle, planted his feet on the ground in front  
19 of the vehicle, moved away from the car, and turned to face five armed, uniformed FPS  
20 officers wearing body armor and helmets with face shields, who were moving toward him.  
21 Video Exhibit 1 at 0:00:50–0:00:52; Video Exhibit 2 at 0:00:42–0:00:44. One officer  
22 attempted to grab Defendant, but Defendant backpedaled out of reach. Video Exhibit 1 at  
23 0:00:51–0:00:52; Video Exhibit 2 at 0:00:44–0:00:47. As Defendant continued moving  
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26 <sup>1</sup> On January 29, 2026, the Government lodged with the Court two video exhibits that it intended to play  
27 at trial. *See* Doc. # 85, Video Exhibit 1 is taken by a surveillance camera that appears to depict events in  
28 real time and is five minutes long. Doc. # 81 at 3, ¶ 3. Video Exhibit 2 is a bystander video taken in slow  
motion that is approximately one minute and twenty-five seconds long. *Id.* at 3, ¶ 4. The Court provides  
the timestamps for each video corresponding to its recitation of the incident in question here.

1 backward, his hat fell forward, covering his face. Video Exhibit 1 at 0:00:51–0:00:53;  
2 Video Exhibit 2 at 0:00:46–0:00:48. Still moving backwards, Defendant removed the hat  
3 from his face while a second officer—the alleged victim—quickly approached him with  
4 arms outstretched. Video Exhibit 1 at 0:00:51–0:00:53; Video Exhibit 2 at 0:00:46–  
5 0:00:48.

6 As Defendant moved backward, he swung his left hand (holding the hat) toward the  
7 alleged victim, causing the hat to make contact with the alleged victim. Video Exhibit 1  
8 at 0:00:52–0:00:53; Video Exhibit 2 at 0:00:48–0:00:49. This contact is the alleged assault  
9 in this case.<sup>2</sup>

10 After the alleged assault, Defendant fell backwards onto the ground as the arresting  
11 officers closed in. Video Exhibit 1 at 0:00:53–0:00:55; Video Exhibit 2 at 0:00:48–  
12 0:00:54. Defendant attempted to stand as the first officer and the alleged victim officer  
13 attempted to restrain him. Video Exhibit 1 at 0:00:55–0:00:57; Video Exhibit 2 at 0:00:54–  
14 0:00:57. Defendant was taken to the ground again while flailing, and several officers  
15 restrained him on the ground as other officers stood nearby. Video Exhibit 1 at 0:00:55–  
16 0:01:03; Video Exhibit 2 at 0:00:57–0:01:25. Additional officers and bystanders  
17 approached the area where Defendant was being restrained. Video Exhibit 1 at 0:01:03–  
18 0:02:00. Defendant asserts that the arresting officers sprayed him with a chemical irritant  
19 while he was pinned to the ground, and that he sustained cuts and bruises during the arrest.  
20 Doc. # 40 at 2–3, 13, ¶ 4. Defendant’s hands were restrained behind his back and one  
21 officer led him away from the street toward the federal building. Video Exhibit 1 at  
22 0:02:00–0:02:16. From the time that Defendant crossed Alameda Street to the time he is  
23 escorted from the scene is approximately one minute and forty-five seconds. *See* Video  
24 Exhibit 1 at 0:00:31–0:02:16.

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26 <sup>2</sup> *See* Doc. # 1 at 4, ¶ 4(c) (“[Defendant] intentionally struck [alleged victim] Officer Z.C. in the face with  
27 his left hand (at the time, [Defendant] had a tan, wide-brimmed hat in his left hand)”); Doc. # 33 at 4  
28 (“[D]efendant retreated from victim Z.C. and swatted with his left hand towards Z.C.’s face. Defendant  
was holding a straw hat in his left hand at time of the strike.”).

1 Defendant asserts that the arresting officers later failed to document his injuries and  
2 made false statements about the alleged assault, including that Defendant struck the  
3 alleged victim with a closed fist. *See* Doc. # 40 at 13, ¶¶ 7–8.<sup>3</sup>

4 **B. Defendant’s Pre-Trial Detention**

5 At his arraignment, Defendant was ordered detained on the Government’s motion.  
6 Doc. # 20. Defense counsel represents that, at the August 5, 2025 arraignment hearing, the  
7 Government sought detention based on Defendant’s criminal history and parole status,  
8 and that the parties discussed Defendant’s parole status, including the likelihood that  
9 Defendant would appear in San Diego County to address an alleged parole violation. Doc.  
10 # 92 at 13, ¶¶ 3–16. In an order issued the same day, the magistrate judge found that  
11 Defendant should be detained pending trial, noting Defendant’s “history of parole  
12 violations” and that he was “currently on parole.” Doc. # 20 at 3.

13 On August 28, 2025, Defendant asked the Magistrate Judge to reconsider her  
14 detention order. Doc. # 29. The Government opposed the request, and the Magistrate  
15 Judge held a hearing on September 3, 2025. *See* Doc. ## 29, 30. Defense counsel asserts  
16 that, at this hearing, Defendant advised the Court of his desire to be released in order to  
17 address the alleged parole violation in San Diego County. Doc. # 92 at 13, ¶ 17. She further  
18 asserts that the Government opposed Defendant’s release and did not argue that Defendant  
19 should be remanded to San Diego County custody to address the parole matter before  
20 proceeding in this case. *Id.* at 13, ¶ 19. The Magistrate Judge denied Defendant’s request  
21 for reconsideration. Doc. ## 29, 30.

22 Defendant therefore remained detained pending trial for approximately six months.<sup>4</sup>  
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26 <sup>3</sup> As of the date of this order, the Court has not been presented with these alleged false statements. Defense  
27 counsel has described these false statements to the Court in a sworn declaration.

28 <sup>4</sup> It is not clear why Defendant did not appeal the Magistrate Judge’s custody determination to the  
assigned District Judge.

1           **C. Proceedings in Defendant’s Co-Defendant’s Case**

2           On August 26, 2025, the Government filed a separate Information against Ms.  
3 Brown alleging a misdemeanor violation of 18 U.S.C. § 111(a)(1) in *United States v.*  
4 *Ashleigh Brown*, Case No. 2:25-cr-00701-FMO.

5           This case never went to trial. On October 27, 2025, the Government moved to  
6 dismiss the charges brought against Defendant’s co-defendant, Ms. Ashleigh Brown, with  
7 prejudice, and the request was granted the next day. The Government sought this dismissal  
8 shortly after disclosing that the alleged victim in the *Brown* case—the same alleged victim  
9 as in this case—FPS Inspector Z.C., had not previously disclosed a 2021 harassment  
10 conviction during trial-preparation discussions with prosecutors, when asked, despite  
11 disclosing older criminal history. *See* Doc. # 53-3 ¶¶ 4, 6–7. After Ms. Brown’s counsel  
12 raised the issue, the Government conducted additional inquiries, during which Inspector  
13 Z.C. acknowledged that the 2021 conviction appeared to pertain to him. *Id.* ¶¶ 6–7. The  
14 Government further reported that FPS first learned of the 2021 conviction from defense  
15 counsel and that FPS was continuing to investigate the matter. *Id.* ¶¶ 7–11.

16           **D. Pre-Trial Filings and Final Pre-Trial Conference**

17           The Court originally set this matter for jury trial on October 7, 2025. Doc. # 27. At  
18 the parties’ request, the Court (then presided over by Judge Staton) continued the trial to  
19 February 3, 2026. Doc. ## 37, 50, 52.<sup>5</sup>

20           On September 16, 2025, the Government filed three motions in limine. It sought to  
21 introduce Defendant’s prior convictions and their underlying facts to rebut any character  
22 evidence and for impeachment if Defendant testified (Doc. # 32); to preclude Defendant  
23 from arguing self-defense (Doc. # 33); and to exclude evidence concerning Defendant’s  
24 arrest and restraint immediately following the alleged assault (Doc. # 34). Defendant  
25 opposed each motion on September 26, 2025. Doc. ## 39, 40, 41.

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27           <sup>5</sup> The Government did not object to the requested continuances and did not note any concern about the  
28 delay affecting any state court proceeding. *See* Doc. ## 36, 49, 51.

1 On September 30, 2025, Defendant filed two motions in limine: one to exclude a  
2 video of the alleged assault on authentication and foundation grounds (Doc. # 42), and  
3 another to compel disclosure of any grand jury proceedings and witness testimony (Doc.  
4 # 43). The Government opposed both motions. Doc. ## 45, 46.

5 On January 9, 2026, Defendant moved to compel additional discovery, including  
6 materials relating to alleged false statements by the alleged victim, Inspector Z.C., in the  
7 Brown case, as well as personal records and use-of-force reports for Z.C. and other  
8 arresting officers. Doc. # 53. The Government opposed the motion and stated that it did  
9 not intend to call Z.C. as a witness, and that Defendant should not be permitted to call him  
10 either. Doc. # 58 at 8–10.

11 The case was reassigned to the undersigned Judge on January 22, 2026. Doc. # 61.  
12 The final pretrial conference was continued from January 23 to January 28, 2026. Doc. #  
13 62.

14 At the January 28, 2026 pretrial conference, the Court heard extensive argument on  
15 the six pending pretrial motions, proposed jury instructions, and related filings. To assist  
16 the parties in preparing for the imminent February 3, 2026 trial, the Court addressed  
17 several unresolved issues while it worked to resolve the remaining disputes. Among other  
18 matters, the Court explained that the parties' proposed self-defense instruction did not  
19 align with Defendant's theory and indicated that Ninth Circuit Model Criminal Instruction  
20 No. 5.10 would be given if self-defense were permitted.<sup>6</sup> The Court also noted that, if the  
21 Government were allowed to present Video Exhibit 2 over Defendant's objection, the rule  
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23 <sup>6</sup> This change was significant. The proffered jury instruction, modeled on Ninth Circuit Model Criminal  
24 Instruction 8.3, would have required Defendant to prove that he was unaware that the alleged victim,  
25 Officer F.C., was a federal officer at the time of the alleged assault. *See* Doc. # 68 at 50. The Ninth Circuit  
26 has made clear, however, that such an instruction is inappropriate where the defendant's self-defense  
27 theory rests on alleged excessive force by law enforcement. *United States v. Span*, 970 F.2d 573, 577  
28 (9th Cir. 1992). At the January 28, 2026 final pretrial conference, counsel for both parties agreed that  
Model Criminal Instruction 5.10 was the appropriate instruction for this case when the Court pointed this  
out. Defense counsel further explained that the inclusion of Instruction 8.3 in the joint proposed jury  
instructions was an oversight.

1 of completeness would likely require the entire video to be played, including footage  
2 depicting Defendant's restraint and arrest immediately after the alleged assault. The Court  
3 further directed the Government to prepare materials responsive to Defendant's motion to  
4 compel to avoid delaying trial if the motion were granted.

5 Following the pretrial conference, the Court ordered additional briefing and  
6 submissions. Doc. ## 77, 80, 83, 84. The parties complied. Doc. ## 78, 79, 81, 82, 85, 89,  
7 90. On January 29, 2026, the Court ordered the Government to lodge its video exhibits  
8 and provide the TMAX date – the last day that Defendant could be tried pursuant to the  
9 Speedy Trial Act. The Government responded that the applicable TMAX date was  
10 February 20, 2026, and lodged its video exhibits. Doc. # 86. Although the Court did not  
11 request counsel's availability, the Government also advised that both assigned prosecutors  
12 had preplanned leave beginning February 10 and 11, 2026. *Id.* at 3, ¶ 9. The Government's  
13 notice did not mention any state court proceedings, Defendant's parole status, or any other  
14 concern that continuing Defendant's trial date would conflict with any state court interests.

15 On January 30, 2026, the Court continued trial from February 3 to February 17,  
16 2026, to allow further consideration of the pending motions and recent submissions. Doc.  
17 # 88. Given that Defendant was in custody, the Court did not adjust the trial date to  
18 accommodate the Government's proffered leave schedules, nor did it request defense  
19 counsel's availability.

20 **E. The Government's Contested Rule 48(a) Motion to Dismiss Without**  
21 **Prejudice**

22 On February 6, 2026—eleven days before trial—the Government filed the instant  
23 motion to dismiss the Information without prejudice under Federal Rule of Criminal  
24 Procedure 48(a). Doc. # 91. In its five-page motion, the Government asserted that “it is in  
25 the interests of justice to dismiss the information in this case so that the defendant can be  
26 remanded to the state of California for further proceedings on his alleged parole violation  
27 from his 2023 felony conviction,” and that “[a]s such, there is no need for the extreme  
28 remedy of dismissal with prejudice.” *Id.* at 5. The Government represented that Defendant

1 agreed the Information should be dismissed but objected to dismissal without prejudice.  
2 *Id.* at 3–4. The Government requested a hearing on February 9, 2026. *Id.*

3 Based on the Government’s representation that the parties agreed dismissal was  
4 appropriate but disputed whether the Government should be permitted to refile the charge,  
5 and mindful that Defendant had been detained for six months and counting, the Court  
6 issued a short order that same day. The Court granted the motion to the extent it sought  
7 dismissal of the Information, reserved the question whether dismissal should be with or  
8 without prejudice, set a hearing on that issue for February 9, 2026, and ordered  
9 Defendant’s immediate release. Doc. # 93.

10 Also on February 6, 2026, Defendant filed an opposition to the Government’s  
11 motion. Doc. # 92.<sup>7</sup> In that filing, Defendant asserted that the Government’s motion  
12 misstated the record and that its stated reason for dismissal was pretextual. *Id.* at 2.  
13 Defendant contended that the Government had been aware of the alleged parole violation  
14 since his initial detention on August 5, 2025, had relied on that violation to argue for  
15 continued detention, and had opposed Defendant’s request to be released to address the  
16 parole matter. *Id.*

17 Defense counsel Katherine McBroom submitted a declaration providing additional  
18 context for the parties’ communications preceding the motion. Doc. # 92-1. She attached  
19 a February 4, 2026 email to Government counsel expressing concern that the Government  
20 sought dismissal without prejudice to permit trial counsel to take leave and later refile the  
21 case. *Id.* She also attached a February 5, 2026 response from the Government’s counsel,  
22 who stated:

23  
24 **“The government is concerned that defendant is using his federal**  
25 **misdeemeanor case to shield himself from the pending parole violation**  
26 **proceedings related to his 2023 state felony conviction for stalking in**

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27 <sup>7</sup> Although the opposition was filed before the Court’s order was docketed, the Court had not received or  
28 reviewed it before issuing the order.

1 violation of California Penal Code 646.9(b). The government believes that it  
 2 is in the interests of justice for the state matter to proceed first, which is why  
 3 we are seeking a dismissal without prejudice.”

4 Doc. # 92-2 (emphasis added).

5 **II. LEGAL STANDARD**

6 “At common law a prosecutor had unrestricted authority to enter a nolle prosequi  
 7 without the consent of the court.” *United States v. Gonzalez*, 58 F.3d 459, 460 (9th Cir.  
 8 1995). Federal Rule of Criminal Procedure 48(a) “represents a departure from the common  
 9 law,” providing instead that “the Government may file a dismissal of an indictment,  
 10 information, or complaint ‘by leave of court.’” *United States v. Garcia-Valenzuela*, 232  
 11 F.3d 1003, 1007 (9th Cir. 2000). The rule’s primary purpose is “to protect a defendant  
 12 against prosecutorial harassment, e.g., charging, dismissing, and recharging, when the  
 13 Government moves to dismiss an indictment over the defendant’s objection.” *Rinaldi v.*  
 14 *United States*, 434 U.S. 22, 29 n.15 (1977); *see also Gonzalez*, 58 F.3d at 461 (“The  
 15 primary purpose of the requirement that leave of court be obtained is to grant judges  
 16 discretion to prevent the government from using its discretionary power to dismiss  
 17 indictments for purposes of harassment.”).<sup>8</sup>

18 At the same time, “a district court is limited in its ability to second-guess the  
 19 government’s decisions on whether and what to prosecute.” *García-Valenzuela*, 232 F.3d  
 20 at 1007. “The decision to dismiss an indictment implicates concerns that the Executive is  
 21 uniquely suited to evaluate, and a district court should be reluctant to deny its request.”  
 22 *Gonzalez*, 58 F.3d at 462. That deference has limits. When, as here, “the defendant  
 23 contests a Rule 48(a) motion, the motion raises concerns that are not present when the  
 24 court considers an uncontested motion to dismiss: the district judge . . . must be careful to

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 26 <sup>8</sup> *But see*, Thomas Ward Frampton, *Why Do Rule 48(a) Dismissals Require “Leave of Court”?*, 73 *Stan.*  
 27 *L. Rev. Online* (2020), [https://review.law.stanford.edu/wp-content/uploads/sites/3/2020/06/73-Stan.-L.-](https://review.law.stanford.edu/wp-content/uploads/sites/3/2020/06/73-Stan.-L.-Rev.-Online-Frampton.pdf)  
 28 *Rev.-Online-Frampton.pdf* (last visited Feb. 9, 2026) (analyzing the legislative history of Rule 48,  
 concluding that the primary purpose was to protect against dismissals motivated by corrupt purposes).

1 safeguard [the defendant’s] rights.” *Id.* In such circumstances, if dismissal without  
2 prejudice would permit harassment or undermine the public interest, the Court “might  
3 rightly condition dismissal on its being with prejudice.” *In re U.S.*, 345 F.3d 450, 452–53  
4 (7th Cir. 2003); *see, e.g., United States v. Poindexter*, 719 F. Supp. 6, 10 (D.D.C. 1989)  
5 (dismissing charges with prejudice where dismissal without prejudice would “allow the  
6 prosecutor to dismiss charges but nevertheless to keep them in abeyance for an indefinite  
7 period of time” in the hope of gaining a tactical advantage with the passage of time);  
8 *United States v. Erickson*, No. 3:19-CR-0053-003, 2024 WL 81290, at \*9 (D.V.I. Jan. 8,  
9 2024) (dismissing indictment with prejudice because the Government’s stated reason was  
10 pretextual and the true reason was to obtain a tactical advantage).

### 11 **III. DISCUSSION**

#### 12 **A. The Government’s Stated Rationale Is Pretextual**

13 “A fundamental consideration in assessing the propriety of a prosecutor’s dismissal  
14 motion is whether the motion is made in ‘good faith.’” *Wallace*, 848 F.2d at 1468. The  
15 Ninth Circuit has explained that when the Government’s stated reason for seeking  
16 dismissal without prejudice is a “sham,” and the true purpose is to gain a tactical advantage  
17 by choosing a more favorable time to re-charge a defendant, the motion is considered to  
18 have been brought in bad faith. *Id.* In such circumstances, granting dismissal without  
19 prejudice would constitute an abuse of discretion. *Cf. id.* (upholding dismissal without  
20 prejudice where the Government’s stated reason—investigating potential tax charges—  
21 was not a sham, the defendant consented to dismissal, and no clear tactical advantage was  
22 obtained).

23 The Court finds that the Government’s stated reason for seeking dismissal without  
24 prejudice is pretextual and advanced in bad faith. In its Motion, the Government’s asserted  
25 reason for the dismissal was because “the Superior Court of California, County of San  
26 Diego, has a pending arrest warrant for defendant for an alleged parole violation.” Doc. #  
27 91 at 3–4.

1 The Motion did not identify the nature of the alleged violation,<sup>9</sup> when it occurred,  
2 or when the Government became aware of it. Nor did it explain why, if the Government  
3 had known of the state proceedings for months, state authorities could not have sought  
4 Defendant’s temporary presence through a writ of habeas corpus under 28 U.S.C. § 2241.  
5 And if, as the Motion suggests, the Government learned of the matter only recently, it  
6 failed to explain why the state proceedings could not wait until after the scheduled  
7 February 17, 2026 trial. Either way, dismissal to ensure Defendant faces the state  
8 proceedings makes little sense. Within days, Defendant would have been either  
9 convicted—at which point the Government could have remanded him to state  
10 authorities—or acquitted, in which case state authorities could have arrested Defendant  
11 immediately upon release.

12 The Motion also failed to explain why dismissal without prejudice was necessary.  
13 It did not disclose whether the Government intends to re-charge Defendant, or when.  
14 Instead, it simply concluded that because of the pending state matter, “[a]s such, there is  
15 no need for the extreme remedy of dismissal with prejudice.” Doc. # 91 at 5.

16 As counsel for the Government conceded at the February 9, 2026 hearing, the  
17 Government has been aware of the alleged parole violation since August 5, 2025. Indeed,  
18 the Government relied on that alleged violation to argue that Defendant should remain  
19 detained pending trial. At the September 3, 2025 hearing, the Government opposed  
20 Defendant’s request for release so he could address the parole matter and cited the alleged  
21 violation as a basis for continued detention. *See* Doc. # 30 at 1. It is therefore troubling  
22 that the same counsel representing the Government at that hearing would now accuse  
23 Defendant of “using his federal misdemeanor case to shield himself from the pending  
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25 <sup>9</sup> In her declaration opposing the Motion, defense counsel explains that the alleged parole violation  
26 stemmed from a procedural error following the transfer of Defendant’s parole supervision from Los  
27 Angeles County to Chula Vista in San Diego County—a location far from Defendant’s residence for  
28 reasons unknown to him. According to defense counsel, Defendant’s failure to appear in person at the  
Chula Vista parole office led to an allegation that he had absconded, notwithstanding his efforts to contact  
his parole agent to explain his inability to travel to that location. *See* Doc. # 92 at 12–13, ¶¶ 4–15.

1 parole violation proceedings.” Doc. # 92-2. A defendant held in federal custody is not  
2 “shielded” from state process. Federal detention may delay state proceedings, but it does  
3 not prevent them. As any criminal practitioner knows, federal detention is not a good  
4 hiding place from state charges. And as counsel for the Government knows in this case,  
5 Defendant did not seek to be detained. In fact, Defendant sought release on bond in order  
6 to address the alleged parole violation, but the Government opposed. *See* Doc. # 92 at 13,  
7 ¶ 17.

8 At the February 9, 2026 hearing, Government counsel attempted to justify its  
9 changed position by asserting that the Government was concerned about the delay of  
10 Defendant’s trial and that California’s interest in prosecuting Defendant had eclipsed the  
11 federal interest with the most recent continuance. In other words, it was the Court’s recent  
12 two-week continuance that led the Government to conclude that the state matter had  
13 become more important than proceeding with the federal prosecution.

14 This reason was not identified in the Government’s Motion, and it is plainly  
15 meritless. At the February 9, 2026 hearing, Government counsel could not identify any  
16 recent communications with state authorities that would suggest urgency. Indeed, counsel  
17 stated he was not aware of any state statute-of-limitation or speedy trial concerns triggered  
18 by the Court’s recent trial continuance. In short, the Government has not explained why  
19 the passage of an additional two weeks rendered the state’s interest suddenly so urgent  
20 that dismissal was sought. Nor did counsel explain why dismissal of the federal case was  
21 necessary to accommodate any state proceedings. To the contrary, counsel conceded at  
22 the hearing that had Defendant been convicted at the February 17, 2026 trial, established  
23 procedural mechanisms would have permitted the state to secure Defendant’s presence  
24 before completion of any federal sentence, so any delay of the state proceedings would  
25 have been minimal.

26 For these reasons, the Court finds that the Government’s reliance on the alleged  
27 parole violation as justification for dismissal without prejudice is pretextual and thus  
28 offered in bad faith.

1           **B. Postponing Trial to Gain a Tactical Advantage Constitutes a Bad Faith**  
2           **Reason for Dismissal Without Prejudice**

3           Why, then, seek dismissal on the eve of trial? Defendant offers two explanations.  
4           The Court credits only one.

5           The Court does not accept the suggestion that the Government sought dismissal  
6           without prejudice to accommodate preplanned leave by trial counsel. To be clear, if that  
7           were the reason, it would be indefensible. To abandon a pending criminal case for a  
8           vacation without arranging substitute counsel—after securing a defendant’s detention and  
9           litigating the matter aggressively for months—would reflect a fundamental disregard for  
10          the obligations of the prosecutorial office.

11          But the Court does not believe that is what occurred here. Counsel’s disclosure of  
12          scheduling constraints, while not requested by the Court, may reasonably be understood  
13          as assisting the Court in managing its calendar. The record further undermines the  
14          vacation-based explanation. The United States Attorney’s Office for the Central District  
15          of California has numerous capable trial attorneys who could have easily handled a one-  
16          count misdemeanor trial set for February 17, 2026. The Government represented that it  
17          intended to call only one witness and introduce three exhibits, and the legal issues were  
18          neither novel nor complex. Given the vigor with which the Government litigated this case  
19          and opposed Defendant’s release, the Court does not find it plausible that the decision to  
20          seek dismissal turned on counsel’s leave schedules. Counsel for the Government  
21          reaffirmed this at the February 9, 2026 hearing on the Motion, representing that the  
22          Government provided counsel’s leave schedules so that the Court would be aware in the  
23          event that the trial was moved necessitating substitute trial counsel for the Government to  
24          appear. They further represented that line prosecutors in their office do not have authority,  
25          on their own, to dismiss an information without prejudice. The Court accepts this  
26          reasonable explanation for counsel disclosing their scheduled leave.

27          The more plausible explanation is Defendant’s second: that the Government sought  
28          dismissal to gain a tactical advantage. The timing and circumstances point in that

1 direction. From the pretrial motions and the January 28, 2026 pretrial conference, the  
2 Government gained substantial insight into Defendant’s trial strategy and a preview of the  
3 Court’s views on pivotal pretrial disputes, including self-defense and the scope of  
4 admissible evidence. The Government also had the opportunity to assess the Court’s  
5 concerns through its questions and willingness to hear argument. *See Erickson*, 2024 WL  
6 81290, at \*6–9 (finding the Government acted in bad faith by waiting to dismiss a case  
7 until after a pretrial status conference where the Government gained insight into defense  
8 counsel’s trial strategy and the Court’s intended rulings on pretrial disputes). The  
9 Government also gained key evidence from Defendant in discovery, including higher  
10 quality, slow motion video of the incident in question than the low quality social media  
11 video it had relied on months before.<sup>10</sup>

12 It was equally apparent that prior to the filing of the Motion, the Government’s  
13 evidentiary presentation had not yet solidified. On October 7, 2025, after the parties had  
14 briefed their motions in limine, the Court (then presided over by Judge Staton) ordered the  
15 Government to provide the video exhibits it intended to introduce at trial. *See Doc. # 47*.  
16 The Government initially lodged a single video—apparently a screen recording of footage  
17 uploaded by an unknown social media user who was recording a second video played on  
18 a different device. *See Doc. # 80*. At the January 28, 2026 pretrial conference, the  
19 Government relied on a different, higher-quality video that it had obtained from defense  
20 counsel. When the Court then directed the Government to clarify which video evidence it  
21 intended to present, the Government identified a surveillance video for the first time—one  
22

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23 <sup>10</sup> At the February 9, 2026 hearing, the Government asserted that the final pretrial conference did not  
24 prompt its decision to seek dismissal. According to the Government, it had already learned Defendant’s  
25 trial strategy from the defense’s pretrial motions, and because the Court had not yet ruled on those  
26 motions, it gained no insight from the Court’s questions or comments at the conference. Even accepting  
27 those assertions—and the Court does not—the conclusion does not follow. Dismissal without prejudice  
28 would nonetheless afford the Government substantial additional time to address the issues surfaced in  
both the pretrial motions and the final pretrial conference and to recalibrate its case accordingly, before  
recharging Defendant at a time of its choosing. That opportunity itself would confer a significant tactical  
advantage.

1 it had not previously lodged—and stated that it no longer intended to offer the social media  
2 recording. Doc. ## 80, 81.

3 With trial imminent, evidentiary issues unresolved, and Defendant unwilling to  
4 plead, the Government faced the prospect of proceeding to trial with an unsettled and  
5 potentially constrained case. The Government faced the possibility that it would have to  
6 disclose personnel files of several FPS officers, including one who seemingly made  
7 misrepresentations, or at least omissions, to his employer and potentially federal agents.  
8 Dismissal without prejudice would eliminate these risks for the Government, allowing it  
9 time to regroup, refine its evidence, and refile at a more favorable moment. Additional  
10 time would no doubt permit the Government to address the authentication and foundation  
11 objections raised by Defendant, and perhaps collect even more evidence. This may have  
12 strengthened the Government’s presentation for use in the future, but it is not a good-faith  
13 basis for dismissal under Rule 48(a). *See Poindexter*, 719 F. Supp. at 12.

14 **C. Permitting the Government to Re-Charge Defendant in These**  
15 **Circumstances Would Permit Prosecutorial Harassment**

16 By seeking dismissal without prejudice, the Government necessarily preserves the  
17 option of re-charging Defendant at some future time. The Motion itself offers no  
18 explanation of when that might occur. Government counsel’s February 5, 2026 email,  
19 however, confirms the Government’s intent to do so, stating that the Government  
20 “believes that it is in the interests of justice for the state matter to proceed *first*, which is  
21 why we are seeking a dismissal without prejudice.” Doc. # 92-2 (emphasis added).

22 At the February 9, 2026 hearing, Government counsel stated that the Government  
23 had no present intention to re-charge Defendant. In light of that representation, the Court  
24 recessed to allow counsel to confer with his supervisor to assess whether the Government  
25 would agree to dismissal of the Information with prejudice. After the recess, counsel  
26 reported that the Government’s position remained unchanged and that it continued to seek  
27 dismissal without prejudice. From that position, the Court necessarily infers that the  
28

1 Government wishes to preserve the option to refile this same charge against Defendant at  
2 some point in the future, subject only to the statute of limitations.

3 That posture is troubling. Charging Defendant with a misdemeanor assault, insisting  
4 on his pretrial detention, allowing him to remain in custody for six months, dismissing the  
5 charge while accusing him of evading state authorities, and then retaining the option to re-  
6 charge him later would objectively constitute prosecutorial harassment.<sup>11</sup> And because this  
7 is a misdemeanor offense that does not require a grand jury indictment, Defendant is  
8 uniquely vulnerable to recharging and immediate re-detention at the Government's  
9 discretion. *Cf. United States v. Balde*, No. 1:25-CR-00294 (JLR), 2025 WL 2476710, at  
10 \*3 (S.D.N.Y. Aug. 28, 2025) (noting that “dismissal without prejudice is not a toothless  
11 sanction, since the Government would need to secure a new indictment within the statute  
12 of limitations in order to re prosecute Defendant”) (internal citation removed).

13 This is precisely the kind of harassment Rule 48(a) empowers the Court to prevent.

14 **D. The Interests of the Public Are Not Served by a Dismissal Without**  
15 **Prejudice**

16 Moreover, dismissal without prejudice would not serve the public interest. As  
17 recognized by the Government, this charge arose in the context of a protest against the  
18 Government's immigration enforcement actions. *See* Doc. # 1 at 3; Doc. # 34 at 3. The  
19 right to protest is a core First Amendment protection. Granting the Government's Motion  
20 here risks sending a dangerous signal: that when officials are confronted with protest or  
21 criticism, they may respond with aggressive tactics and then deploy criminal charges that  
22  
23

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24  
25 <sup>11</sup> To be clear, the Court is not accusing the Government of subjective bad faith or personal harassment  
26 of Defendant. Instead, the Court considers the effect on Defendant of a dismissal of charges with future  
27 re-prosecution being held in abeyance for an indefinite period of time (within the statute of limitations  
28 period) in this circumstance to amount to objective bad faith and prosecutorial harassment. *See, e.g.,*  
*Poindexter*, 719 F. Supp. at 11–12.

1 can be imposed, withdrawn, and revived at the Government’s discretion. That signal alone  
2 is sufficient to chill lawful protest.

3 The Court draws no conclusion regarding the truth of Defendant’s allegations  
4 regarding officer motives or the appropriateness of the force used against Defendant. But  
5 allowing dismissal without prejudice in the shadow of such allegations risks sending a  
6 message to the public that prosecutorial power will be used to reinforce, rather than  
7 restrain, heavy-handed crowd control at protests—by allowing criminal charges to  
8 function as leverage instead of allegations that will promptly be tested before a jury.

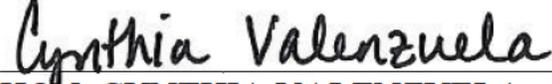
9 The Court emphasizes that violent protest is not protected by the First Amendment,  
10 and when the Government is confident in its case, it may and should bring charges against  
11 those who assault federal officers acting within the scope of their duties. But the Court  
12 cannot permit a system in which prosecutorial discretion is used to impose punishment  
13 without adjudication, particularly when applied in the context of those protesting the  
14 Government’s activities. Rule 48(a) does not allow the criminal process to be weaponized  
15 in that manner.

16 **IV. CONCLUSION**

17 Accordingly, for the reasons above, and in the interests of justice, the Court finds  
18 that the Information brought against Defendant is hereby DISMISSED WITH  
19 PREJUDICE. The case is closed. All pending matters are hereby terminated.

20 **IT IS SO ORDERED.**

21  
22 Dated: 2/9/26

23   
24 HON. CYNTHIA VALENZUELA  
25 UNITED STATES DISTRICT JUDGE  
26  
27  
28