

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**JAMES WESLEY BURGER**

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**No. 1:25-CR-00332-ADA**

**GOVERNMENT'S MOTION TO STAY ORDER DISMISSING SUPERSEDING  
INDICTMENT AND RELEASE PENDING APPEAL**

COMES NOW, the United States of America, by and through its undersigned attorneys, and hereby files its Motion to Stay Order Dismissing Superseding Indictment and Release Pending Appeal, and states:

On November 24, 2025, this honorable Court orally granted the Defendant's Motion to Dismiss Superseding Indictment and granted Defendant release from custody following hearing.

The Government must confer with the Solicitor General on whether to appeal the Court's decision to grant dismissal of the Superseding Indictment.

The Government believes the Defendant is a danger to the community based on the crimes for which he was indicted. The Government requests this honorable Court stay its order releasing the Defendant for 7-10 days following the issuance of the Court's written order to allow time for the Solicitor General to consider whether to appeal this Court's decision to the Fifth Circuit Court of Appeals.

The Government additionally requests that this honorable Court issue a written order setting forth its reasoning to allow the Government to appeal.

Respectfully submitted,

JUSTIN R. SIMMONS  
UNITED STATES ATTORNEY

/s/  
MARK T. ROOMBERG  
Assistant United States Attorney  
Texas Bar No. 24062266  
601 NW Loop 410, Suite 600  
San Antonio, Texas 78216  
(210) 384-7100

KEITH HENNEKE  
Assistant United States Attorney  
Texas Bar No. 24054497  
903 San Jacinto Blvd., Ste. 334  
Austin, Texas 78701  
(512) 370-1291

CERTIFICATE OF SERVICE

I hereby certify that on the 24<sup>th</sup> day of November 2025, a true and correct copy of the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System that will transmit notification of such filing to the following CM/ECF participants:

Jose Gonzalez-Falla  
Charly Herring  
Attorneys for Defendant

/s/  
MARK ROOMBERG  
Assistant United States Attorney

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**ORDER**

This matter having come before the Court on the Government's Motion to Stay Order Dismissing Superseding Indictment and Release Pending Appeal, and the Court being otherwise fully advised in the premises,

IT IS HEREBY ORDERED that, for the reasons set forth in the Government's Motion to Stay Order Dismissing Superseding Indictment, the Government's Motion to Stay Order Dismissing Superseding Indictment is GRANTED/DENIED.

IT IS HEREBY ORDERED that, for the reasons set forth in the Government's Motion to Stay Release Pending Appeal, the Government's Motion to Stay Release Pending Appeal is GRANTED/DENIED.

IT IS SO ORDERED.

SIGNED and ENTERED this                      day of                      2025, Austin, Texas.

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HONORABLE ALAN ALBRIGHT  
United States District Judge