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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
JULIAN RAYMON ORTIZ,  
Defendant.

No. 2:24-cr-00302-JAM

**ORDER DENYING MOTION FOR  
RECONSIDERATION**

**I. INTRODUCTION**

The Court granted dismissal of the Indictment in this matter on November 12, 2025, finding that an exceptionally prolonged lapse in Criminal Justice Act ("CJA") funding for Defendant's counsel had violated Defendant's Sixth Amendment right to effective assistance of counsel and prejudiced Defendant's ability to prepare an adequate defense for his January 26, 2026, trial. The Government now seeks reconsideration of that dismissal, citing a recent temporary restoration of CJA funding for defense counsel, arguing this renders the harm suffered by Defendant moot and the remedy of dismissal too severe.

1 As explained below, the Court disagrees. The restoration of  
2 CJA funding now does nothing to properly address the fact that  
3 Defendant was deprived of adequate resources to prepare a defense  
4 to the felony criminal charge against him for five months while  
5 the Government's preparations for trial, which is set to start a  
6 mere seven weeks from now, continued unabated. The Government  
7 argues that a continuance, rather than dismissal, is the  
8 appropriate remedy now that funding has been restored to allow  
9 defense counsel additional time to prepare. However, CJA funding  
10 has only temporarily been restored through the end of January  
11 2026. Even if this Court were to grant a continuance now, the  
12 record in this case reveals that it is reasonable to conclude  
13 that that Defendant may still not have adequate time to prepare  
14 for trial and that another funding lapse is a foregone  
15 conclusion.<sup>1</sup> Under these unique and unprecedented circumstances,  
16 the Court declines to penalize Defendant by extending his  
17 pretrial detention time and jeopardizing his speedy trial rights  
18 based on such uncertainties.

19 Rather, the Court holds that dismissal without prejudice  
20 remains the sole lawfully appropriate remedy here. Dismissal  
21 creates a more even playing field by turning back the clock and  
22 returning both the Government and Defendant to square one.

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24 <sup>1</sup> The Court takes judicial notice that the most recent information  
25 provided by the Administrative Office of the Courts in its  
26 December 5, 2025 Memorandum is that the Senate Appropriations  
27 Committee's draft of the FY 2026 appropriations bill includes  
28 funding for Defender Services that would require suspension of  
panel attorney payments beginning on or about August 6, 2026, and  
the House of Representatives proposed funding would require panel  
attorneys payments to be suspended beginning around July 16,  
2026.

1 Dismissal does not unfairly penalize the prosecutors since the  
2 Government still has an opportunity to refile federal charges  
3 against Defendant if it so desires. At the same time it allows  
4 Defendant a reasonable opportunity to prepare for trial without a  
5 five-month long handicap. The Court acknowledges that such  
6 drastic measures may not be required in every, or indeed, most  
7 cases where a Sixth Amendment violation has occurred. In this  
8 case, however, the Court denies the Government's Motion For  
9 Reconsideration and reaffirms that dismissal without prejudice is  
10 the appropriate remedy given Defendant's rapidly approaching  
11 trial date and his inability to prepare at all for trial, as well  
12 as the unprecedented and potentially ongoing CJA-funding crisis.

## 13 **II. BACKGROUND**

14 On October 4, 2025, Defendant Julian Raymon Ortiz moved this  
15 Court to dismiss the indictment in this matter under Federal Rule  
16 of Criminal Procedure 12(b)(1) because his Sixth Amendment Right  
17 to Counsel was being violated. ECF No. 23. Defendant argued his  
18 counsel, who was appointed pursuant to the CJA, 18 U.S.C.  
19 § 3006A, had not received compensation for her representation  
20 since June 2025 due to a CJA-funding shortage and ongoing  
21 government shutdown, which Defendant argued impeded counsel's  
22 ability to prepare an adequate defense, particularly in light of  
23 Defendant's pending January 26, 2026, trial date. Id.

24 The Court granted dismissal on November 12, 2025, holding  
25 that the "systematic and ongoing failure of the Government to  
26 fund CJA-appointed attorneys for the past five months" violated  
27 Defendant's fundamental right to effective assistance of counsel  
28 as, a mere ten weeks before trial, Defendant's counsel found



1 judgment motions for reconsideration may be filed in criminal  
2 cases.”). In ruling on motions for reconsideration in criminal  
3 cases, courts rely on the standards governing reconsideration  
4 under Federal Rules of Civil Procedure 59(e) and 60(b). United  
5 States v. Arcila, No. 3:14-cr-00267-HZ-3, 2024 WL 2048643, at \*1  
6 (D. Or. May 6, 2024) (citation omitted).

7 Reconsideration of an order is “an extraordinary remedy, to  
8 be used sparingly in the interests of finality and conservation  
9 of judicial resources.” Kona Enters., Inc. v. Est. of Bishop,  
10 229 F.3d 877, 890 (9th Cir. 2000) (internal quotation marks and  
11 citation omitted). A court may reconsider its earlier decision  
12 if it “(1) is presented with newly discovered evidence,  
13 (2) committed clear error or the initial decision was manifestly  
14 unjust, or (3) if there is an intervening change in controlling  
15 law.” Sch. Dist. No. 1J v. ACandS, Inc., 5 F.3d 1255, 1263 (9th  
16 Cir. 1993) (citation omitted). Ultimately, whether to grant or  
17 deny a motion for reconsideration is in the sound discretion of  
18 the district court. Navajo Nation v. Confederated Tribes & Bands  
19 of the Yakama Indian Nation, 331 F.3d 1041, 1046 (9th Cir. 2003).

#### 20 IV. OPINION

21 The Government argues that reconsideration is warranted here  
22 because “the sole rationale for the Court’s dismissal Order is  
23 now moot based upon the restoration of [CJA] funding[.]” Mot.  
24 Recons. at 3, ECF No. 31; see also Reply Mot. Recons. at 1-3, ECF  
25 No. 34. Although CJA funding is now in place, at least until  
26 January 31, 2026, the restoration of funding has done nothing to  
27 cure the constitutional injury already suffered by Defendant due  
28 to Congress’s intentional decision not to provide

1 constitutionally mandated funding for over five months. As  
2 Defendant's counsel persuasively argues,

3 Mr. Ortiz has lost almost five months of trial  
4 preparation. That cannot be undone and the recent  
5 temporary funding bill does nothing to right that  
6 wrong. Mr. Ortiz will now be forced to choose between  
7 two constitutional rights – effective counsel or a  
8 speedy trial. Time cannot be excluded for trial  
9 preparation when the Government created a situation  
10 that essentially denied Mr. Ortiz's counsel the  
11 ability to prepare for more than five months.

12 Opp'n Mot. Recons. at 3, ECF No. 33. The Court finds that the  
13 injury suffered by Defendant, and thus the case and controversy  
14 before this Court, are far from moot.

15 The Government also argues that a continuance rather than  
16 dismissal is the more appropriate remedy now that funding has  
17 been restored. Mot. Recons. at 8. However, the Court rejects  
18 the Government's apparent contention that the recent restoration  
19 of funding is sufficient to fix the Sixth Amendment violation  
20 moving forward. To date, it is unclear whether all CJA backlog  
21 payments have been fully disbursed. More significantly, there is  
22 concerning evidence in this record projecting that the funding  
23 crisis may well continue in January 2026, potentially prolonging  
24 and exacerbating the injury already suffered by Defendant. See  
25 Opp'n Mot. Recons. at 3-5; see also Opp'n Mot. Recons., Ex. A,  
26 ECF No. 33-1 (letter from Federal Public and Community Defenders  
27 to Senate Committee on Appropriations expressing concern over  
28 persistent underfunding of federal public defense); Opp'n Mot.  
Recons., Ex. B, ECF No. 33-2 (memo from Heather Williams, Federal  
Defender for the Eastern District of California, detailing  
ongoing financial crisis and warning "there is no guarantee we  
won't be back in appropriation lapse mode again come January 31,

1 2026"); Opp'n Mot. Recons., Ex. C, ECF No. 33-3 (letter from  
2 Administrative Office of the Courts providing update on judiciary  
3 operations under the continuing resolution and planning in case  
4 of another lapse in appropriations).<sup>2</sup> Requiring defense counsel  
5 to prepare for trial now risks prolonging Defendant's pretrial  
6 detention time with no guarantee that trial preparations will be  
7 complete before the next possible shutdown. The Court will not  
8 impose such a burden on Defendant or his counsel.

9 The Court does not order dismissal without prejudice lightly  
10 and acknowledges that both the Supreme Court and the Ninth  
11 Circuit have found that dismissal of an indictment under  
12 different circumstances involving a Sixth Amendment violation is  
13 plainly inappropriate. See Reply Mot. Recons. at 5-8 and cases  
14 cited therein. That said, this remedy is compelled by the unique  
15 circumstances before the Court in this specific case, including a  
16 prolonged CJA-funding lapse; a Defendant who has had no  
17 opportunity to adequately investigate the charge against him and  
18 properly prepare for trial; an adversary with unlimited resources  
19 who is fully prepared to go to trial; a rapidly approaching trial  
20 date; and no guarantee that the appropriation lapse that created  
21 this crisis will not occur again. Under different facts, the  
22 Court might well reach a different conclusion. Cf., e.g., United  
23 States v. Castro, Jr., No. 2:24-cr-00074-JAM, 2025 WL 3467795  
24 (E.D. Cal. Dec. 3, 2025) (finding Sixth Amendment violation due  
25 to CJA-funding lapse but granting a continuance rather than

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26 <sup>2</sup> The Court takes judicial notice of these exhibits. See  
27 Daniels-Hall v. Natl. Educ. Ass'n, 629 F.3d 992, 998-99 (9th Cir.  
28 2010) (a court may take judicial notice under Federal Rule of  
Evidence 201 of publicly available government documents).

1 ordering dismissal given the lack of a set trial date). However,  
2 the law clearly permits the Court to remedy extreme structural  
3 defects in the criminal process such as those presented here.  
4 See Order at 5-6, ECF No. 30 (summarizing law on court's ability  
5 to dismiss indictments under supervisory authority).

6 The Government argues that such authority is inapplicable  
7 here, as a "district court's exercise of supervisory authority to  
8 dismiss a criminal indictment has always referred to agents and  
9 representatives of the Executive Branch" and "has never been  
10 extended to reach action (or inaction) by the Legislative  
11 Branch." Reply Mot. Recons. at 6. While that may be true, the  
12 Government does not cite any authority that a court's supervisory  
13 authority may not under any circumstances be exercised in  
14 response to Legislative Branch action (or inaction).

15 Further, the Court is not, as the Government suggests,  
16 attempting to "remedy[] failures of Congress by dismissing a  
17 valid indictment" or "deter[] Congress from future dysfunction."  
18 Id. The Court agrees that such remedies are beyond the scope of  
19 the Court's powers here. As the Ninth Circuit has explained,

20 Under their supervisory power, courts have substantial  
21 authority to oversee their own affairs to ensure that  
22 justice is done. They do not, however, have a license  
23 to intrude into the authority, powers and functions of  
24 the coordinate branches. Judges are not legislators,  
25 free to make laws guided only by their moral compass  
26 or notions of national interest; nor are they  
27 executive officers, vested with discretion over law  
28 enforcement policy and decisions. Thus, while the  
supervisory power does empower judges to formulate  
procedural rules not specifically contemplated by  
Congress or the Constitution . . . it does not justify  
a chancellor's foot veto over activities of coequal  
branches of government . . . judges must be careful to  
supervise their own affairs and not those of the other  
branches. The Constitution empowers the judiciary to  
thwart the will of the other branches only when their

1 behavior is not in accordance with law . . . .  
2 United States v. Simpson, 927 F.2d 1088, 1089-91 (9th Cir. 1991)  
3 (internal quotations and citations omitted).

4 In the case at bar, the Court is imposing a remedy that will  
5 fix a concrete and particularized injury suffered by this  
6 Defendant. The Defendant has been demonstrably prejudiced and  
7 the relief ordered is appropriate under the circumstances to  
8 assure him the effective assistance of counsel and a fair trial.  
9 That such injury stems from Legislative rather than Executive  
10 Branch action does not change the nature of the injury suffered,  
11 nor the Court's conviction that dismissal without prejudice is an  
12 available and appropriate remedy for that injury. See United  
13 States v. Matta-Ballesteros, 71 F.3d 754, 763 (9th Cir. 1995)  
14 (explaining that a court may exercise its supervisory powers to  
15 dismiss an indictment in order to, among other things, "implement  
16 a remedy for the violation of a recognized statutory or  
17 constitutional right").

18 This Court is also aware, of course, that there is  
19 disagreement among the Judges in this District as to whether  
20 dismissal of the indictment is the appropriate remedy here. See  
21 United States v. Vasquez, No. 2:25-cr-00135-WBS, 2025 WL 2961906  
22 (E.D. Cal. Oct. 20, 2025) (finding no Sixth Amendment violation  
23 and denying dismissal); United States v. Evanovich, No. 2:24-CR-  
24 00079-DJC, 2025 WL 3208308 (E.D. Cal. Nov. 17, 2025) (finding  
25 Sixth Amendment violation and granting continuance but denying  
26 dismissal). Now that funding for the attorney representing  
27 Defendant has been (or will soon be) restored, it is fair to ask  
28 what remedy dismissal without prejudice practically provides

1 given the Government's ability to immediately seek a new  
2 indictment.

3 The answer, in this Court's opinion, is that a dismissal  
4 without prejudice gives the Defendant the relief to which he is  
5 legally entitled – a more even playing field given that his trial  
6 is currently set for January 26, 2026, and he has had no  
7 opportunity to investigate the charge against him or prepare his  
8 defenses. Dismissal requires the Government to start over and  
9 decide whether seeking a new indictment under these circumstances  
10 is fair and just. Dismissal also puts the Defendant back to the  
11 position he was in before his constitutional right to counsel was  
12 violated. Finally, dismissal preserves the integrity of the  
13 judicial process.

14 Once again, it is worth noting that this case presents a  
15 situation never before faced by this Court – an intentional  
16 decision by Congress not to provide the resources required by a  
17 Defendant to properly defend himself against a serious criminal  
18 charge. Given the extraordinary nature of the constitutional  
19 violation here and the prejudicial impact it has had on  
20 Defendant, a dismissal of the indictment without prejudice allows  
21 the criminal justice system to operate as it is intended. The  
22 prosecutor's code is not to achieve convictions under such  
23 circumstances as these, where a Defendant has a looming trial  
24 date and has been given no resources to mount an effective  
25 defense. The job of the prosecutor is to do justice. Sometimes,  
26 as in this case, that means starting the process over, including  
27 reconsidering whether a federal indictment is warranted. This  
28 Court, therefore, finds that dismissal of the indictment without

1 prejudice is the lawfully appropriate remedy – that is, it is the  
2 remedy that allows the Court to ensure that all Parties receive  
3 justice under the law.

4 **V. ORDER**

5 For the reasons set forth above, the Government’s Motion for  
6 Reconsideration (ECF No. 31) is DENIED. The Indictment (ECF No.  
7 1) in this matter is hereby DISMISSED WITHOUT PREJUDICE. The  
8 December 9, 2025, trial confirmation hearing and January 26,  
9 2026, trial date in this matter are VACATED. Defendant shall,  
10 forthwith, be released from custody.

11 IT IS SO ORDERED.

12 Dated: December 8, 2025

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15 JOHN A. MENDEZ,  
16 SENIOR UNITED STATES DISTRICT JUDGE  
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