

Supreme Court, U.S.
FILED
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No. 26A51

IN THE SUPREME COURT OF THE UNITED STATES

JOHN ANTHONY CASTRO,
Applicant,
v.
UNITED STATES OF AMERICA,
Respondent.

Application to the Honorable Samuel A. Alito, Jr.,
Circuit Justice for the Fifth Circuit

APPLICATION FOR RELEASE PENDING APPEAL

From the United States Court of Appeals for the Fifth Circuit
No. 26-10428, consolidated with No. 24-11000

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APPLICATION FOR RELEASE PENDING APPEAL

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the Fifth Circuit:

Applicant John Anthony Castro respectfully applies for release pending appeal under 18 U.S.C. Section 3143(b), Federal Rule of Appellate Procedure 9, and Supreme Court Rule 22. This is a bail application only. It does not seek certiorari, mandamus, remand, reconsideration of consolidation, review of consolidation, or any other non-bail relief. The only requested relief is release pending appeal on appropriate conditions.

Applicant is willing to submit to any conditions necessary to assure appearance and public safety, including home detention, electronic monitoring, travel restrictions, bond, surrender of any passport, reporting to Pretrial Services, no tax-return preparation, no contact with trial witnesses, no social-media or mass-communication activity, and any other conditions deemed appropriate.

ORDERS BELOW

The Fifth Circuit denied Applicant's release-pending-appeal matter in a one-sentence order dated June 15, 2026. App. A. The district court denied release pending appeal on January 22, 2026. App. B. The district court later dismissed Applicant's motion for statement of reasons and related record-completion motions on April 21, 2026. App. C.

BASIS FOR THE APPLICATION

Supreme Court Rule 22 permits an application to an individual Justice. This application is addressed to Justice Alito because this case arises from the Fifth Circuit.

Federal Rule of Appellate Procedure 9 governs review of release orders in criminal cases. Rule 9(a)(1), made applicable after judgment by Rule 9(b), requires the district court to state reasons in writing or orally on the record for a release or detention order. Rule 9(a)(3) permits the court of appeals or one of its judges to order release pending appeal.

The governing substantive statute is 18 U.S.C. Section 3143(b). Release pending appeal is appropriate when the defendant shows by clear and convincing evidence that he is not likely to flee or pose a danger, the appeal is not for delay, and the appeal raises a substantial question of law or fact likely to result in reversal, an order for a new trial, a sentence without imprisonment, or a sufficiently reduced sentence.

STATEMENT

Applicant was convicted in the Northern District of Texas of 33 counts of aiding or assisting in the preparation of false returns and was sentenced to 188 months of imprisonment. His direct criminal appeal, No. 24-11000, remains pending in the Fifth Circuit.

Applicant sought release pending appeal. In the district court, he argued that he is not a flight risk or danger, that the appeal is not for delay, and that the appeal presents substantial issues involving the alleged testimonial stipulations, alleged Brady impeachment evidence, and related claims. The district court denied release in a one-page order that recited the statutory substantial-question conclusion but did not identify the issues, discuss flight risk or danger, or provide case-specific reasons. App. B.

Applicant then sought a statement of reasons with a basis in the record. The district court dismissed that request and related record-completion motions for lack of jurisdiction because Applicant had already filed a notice of appeal from the January 22 release order. App. C.

The Fifth Circuit docketed the release-pending-appeal matter as No. 26-10428 and administratively consolidated it with No. 24-11000 for briefing and oral argument purposes. Applicant does not ask this Court to review that consolidation. On June 15, 2026, the Fifth Circuit denied release in a one-sentence order. App. A.

GOVERNING STANDARD

Section 3143(b) requires Applicant to show that he is not likely to flee or pose a danger, that the appeal is not for delay, and that the appeal raises a substantial question likely to result in reversal, a new trial, a non-imprisonment sentence, or a sufficiently reduced sentence.

In the Fifth Circuit, a substantial question is one that calls into question the validity of the judgment and is of more substance than merely nonfrivolous. *United States v.*

Valera-Elizondo, 761 F.2d 1020, 1022-24 (5th Cir. 1985). The reviewing court independently assesses release pending appeal. *United States v. Clark*, 917 F.2d 177, 179-80 (5th Cir. 1990).

Applicant submits that the record satisfies that standard. The direct appeal presents serious constitutional and new-trial issues that, if resolved in Applicant's favor, are likely to require reversal or a new trial.

REASONS FOR GRANTING RELEASE

I. Applicant is not likely to flee or pose a danger if released on appropriate conditions.

The orders below contain no finding that Applicant is likely to flee and no finding that he poses a danger to any person or the community. App. A-B. The offenses of conviction are nonviolent tax offenses. Applicant has no history of violence or substance abuse. He has strong family and community ties, a wife and children, a home to return to, and every incentive to continue litigating the pending appeal openly through the courts.

Applicant will accept stringent release conditions. He will surrender any passport, remain on home detention, submit to electronic monitoring, restrict travel as ordered, report to Pretrial Services, refrain from preparing tax returns or operating a tax-return business, avoid contact with trial witnesses, and comply with any no-social-media, no-mass-communication, or other conditions the Court deems necessary. These conditions reasonably assure appearance and public safety.

The Government previously argued that the length of Applicant's sentence creates an incentive to flee. But sentence length alone is not a case-specific finding of flight risk, and it is not enough to overcome Applicant's proposed conditions, family ties, and demonstrated commitment to litigating through judicial process rather than avoiding it.

II. The appeal is not for delay.

Applicant's appeal is already pending and has been extensively briefed. Release would not delay the appeal; it would simply prevent continued imprisonment while substantial issues are resolved. Applicant has repeatedly sought prompt rulings. His purpose is not delay but review of constitutional and record-based claims that, if correct, require meaningful relief.

III. The appeal raises substantial questions likely to result in reversal or a new trial.

The direct appeal presents multiple substantial questions. This application focuses on two conviction issues because favorable resolution of either would likely require a new trial or reversal: (1) whether Applicant validly waived confrontation through the challenged stipulations, and (2) whether the district court abused its discretion by denying a Brady-based new-trial motion without an evidentiary hearing.

A. The Sixth Amendment/stipulations issue is substantial.

Applicant's opening brief framed the central question as whether the Government satisfied its burden of proving an effective waiver of confrontation by relying on an out-of-context email response about unspecified stipulations, where the alleged stipulations were never read into the record or meaningfully discussed in open court, where counsel later clarified that the defense did not concede a false or fraudulent item, and where the alleged stipulations were treated as proof of elements for 24 of the 33 counts.

That issue is substantial under Fifth Circuit and Supreme Court precedent. The Government bears the burden of proving a valid waiver of confrontation. *United States v. Ceballos*, 789 F.3d 607, 614 (5th Cir. 2015). Courts must indulge every reasonable presumption against

waiver of fundamental rights. *Id.*; *United States v. Stephens*, 609 F.2d 230, 232-34 (5th Cir. 1980). And the trial judge has the duty to ensure that constitutional procedures for testing the reliability of evidence are followed. *Hemphill v. New York*, 595 U.S. 140, 152-53 (2022). The record, as Applicant has argued below and on appeal, presents a close and serious question about full knowledge and waiver. Applicant asserts that the challenged ECF 36 stipulations covered 331 proposed findings and were used as proof of numerous counts. He further asserts that those stipulations were not read aloud, were not meaningfully described in open court, and were referenced only vaguely during trial. The content and effect of the alleged stipulations were revealed only when the district court discussed the Government's position that the stipulations satisfied all elements of the offense for 24 of the 33 counts making them tantamount to a guilty plea.

Applicant also argued that the Government could not carry its burden to prove a knowing waiver by relying on the isolated phrase "I agree to them," where the surrounding email context did not establish that any document was attached to the email much less that Applicant reviewed, understood, or knowingly approved the alleged 331 testimonial stipulations or their effect as proof of elements of the charged offenses tantamount to a guilty plea.

This issue alone satisfies Section 3143(b). It is at least a substantial question whether the Government proved a knowing and valid waiver of confrontation where the stipulations were not read into the record, were not meaningfully explained, were treated as proof of elements, and were met with defense counsel's later clarification that the defense did not concede the false-or-fraudulent-item element.

The most important trial exchange occurred after both sides rested. The district court stated its impression that the Government believed the alleged stipulations satisfied all elements of the offense for 24 of the 33 counts, including willfulness. Defense counsel then clarified that the defense did not concede that any stipulation satisfied the false-or-fraudulent-item element. Applicant argued that this clarification reflected dissent and prevented a valid finding of

waiver.

This is not a minor evidentiary point. If the Government failed to prove valid waiver, the factfinder would have relied on improper testimonial stipulations to prove elements in a bench trial. The Government's harmless-error argument is therefore difficult because the trial court itself treated the alleged stipulations as proof of elements for the 24 affected counts. If the Sixth Amendment issue is resolved in Applicant's favor, the only remedy is reversal or a new trial.

B. The Brady/new-trial issue is substantial.

Applicant also raises a substantial Brady/new-trial issue. The issue is not merely that Government witness Linda Rivera was married while filing as single. Applicant alleged newly discovered suppressed impeachment evidence concerning a child-support lien on her husband's IRS account and an undisclosed immunity or benefit arrangement. He argued that this evidence supplied motive and bias and would have allowed materially different impeachment of a key Government witness.

Brady extends to impeachment evidence. Evidence showing motive, bias, or an undisclosed benefit to a key witness can be material. *United States v. Sipe*, 388 F.3d 471, 476, 491-92 (5th Cir. 2004). Applicant argued that the district court denied the new-trial motion without an evidentiary hearing even though the allegations, if proven, would establish a Brady violation or at least require further factual development.

The Government opposed release by reframing the claim as one about Rivera's marital status alone. Applicant has consistently argued that the suppressed evidence was the lien and related benefit or immunity evidence, not marital status in isolation. That distinction matters because the alleged lien/benefit evidence would go to motive, bias, and the credibility of the Government's theory.

If resolved in Applicant's favor, the Brady issue would at least require an evidentiary hearing and could require a new trial. The issue supports release because it reinforces that this appeal is

not frivolous or dilatory but presents serious questions about whether the conviction rested on evidence tested through constitutionally adequate procedures.

C. The unexplained orders below reinforce that release is warranted.

This application asks for bail only. It does not seek a remand or any independent statement-of-reasons relief. But the lack of case-specific reasons below is relevant to whether continued detention should stand.

The district court's January 22 order recited only a statutory conclusion that the appeal did not raise a substantial question likely to result in reversal, a new trial, a sentence without imprisonment, or a sufficiently reduced sentence. App. B. The order did not identify the appellate issues, address no-flight/no-danger, address proposed conditions, or explain why the confrontation and Brady issues were insubstantial.

When Applicant requested a statement of reasons with a basis in the record, the district court dismissed that request for lack of jurisdiction because the January 22 release order had already been appealed. App. C. The Fifth Circuit then denied release in one sentence. App. A.

Rule 9 requires reasons so that release review can be meaningful. See Fed. R. App. P. 9(a)(1), 9(b). In *Febre v. United States*, 396 U.S. 1225 (1969) (Harlan, J., in chambers), the Circuit Justice recognized the importance of lower-court explanation in bail review. Here, no court below has supplied a case-specific explanation addressing the substantial questions identified above or the conditions that would assure appearance and public safety. That absence weighs in favor of release pending appeal.

CONCLUSION

Applicant respectfully requests release pending appeal under 18 U.S.C. Section 3143(b), subject to appropriate conditions. This application seeks bail only and should not be construed as a petition for writ of certiorari, a request for remand, a mandamus petition, or a challenge to consolidation.

Respectfully submitted,


/s/ John Anthony Castro

John Anthony Castro

Applicant, Pro Se

Register No. 93890-510

FPC Pollock Camp

P.O. Box 2099

Pollock, LA 71467

Dated: July 8, 2026

DECLARATION

I, John Anthony Castro, declare under penalty of perjury under 28 U.S.C. Section 1746 that the factual statements in this application concerning my requested release conditions, family and community ties, nonviolent history, procedural posture, and intent to prosecute the pending appeal rather than delay it are true and correct to the best of my knowledge and belief.

I am willing to comply with any conditions necessary to assure appearance and public safety, including home detention, electronic monitoring, travel restrictions, reporting to Pretrial Services, surrender of any passport, no tax-return preparation, and no contact with witnesses.

Executed on July 8, 2026.

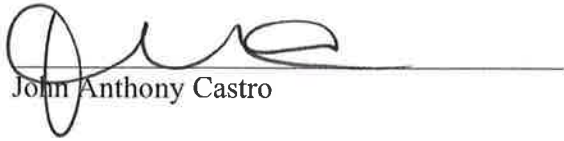

John Anthony Castro

CERTIFICATE OF SERVICE

I certify that on July 8, 2026, I served a copy of this Application for Release Pending Appeal and its appendix by first-class United States Mail, postage prepaid, on:


Solicitor General of the United States
Room 5616
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

I further certify that I mailed the original and two copies of the application to the Clerk of the Supreme Court of the United States.


John Anthony Castro

CERTIFICATE OF COMPLIANCE

This application is prepared on 8 1/2-by-11-inch white paper using 12-point Times-Roman type. The body text is double-spaced in accordance with Supreme Court Rules 22 and 33.2; signature blocks and certificates are single-spaced or compactly spaced for filing clarity.



John Anthony Castro

APPENDIX

Appendix A - Fifth Circuit Order Denying Release Pending Appeal, filed June 15, 2026

Appendix B - District Court Order Denying Application for Release Pending Appeal, Docket No. 279, filed January 22, 2026

Appendix C - District Court Order Dismissing Motions Regarding Release Pending Appeal, Docket No. 302, filed April 21, 2026

APPENDIX A

Fifth Circuit Order Denying Release Pending Appeal
No. 24-11000, consolidated with No. 26-10428
Filed June 15, 2026

ORDER:

IT IS ORDERED that Appellant's motion filed in 26-10428 for release pending appeal is DENIED.

A copy of the paper order available to Applicant appears on the following page.

United States Court of Appeals
for the Fifth Circuit

No. 24-11000
CONSOLIDATED WITH
No. 26-10428

United States Court of Appeals
Fifth Circuit

FILED
June 15, 2026
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOHN ANTHONY CASTRO,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CR-1-1
USDC No. 4:24-CR-1-1

ORDER:

IT IS ORDERED that Appellant's motion filed in 26-10428 for release pending appeal is DENIED.

APPENDIX B

District Court Order Denying Application for Release Pending Appeal
Docket No. 279, filed January 22, 2026

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA §
 §
VS. § ACTION NO. 4:24-CR-001-Y
 §
JOHN ANTHONY CASTRO (1) §

ORDER DENYING APPLICATION FOR RELEASE PENDING APPEAL

Pending before the Court is Defendant's Emergency Application for Prompt Disposition and Release Pending Appeal (doc. 275) and his supplement to the motion (doc. 277). Also pending is Defendant's Motion for Expedited Default Ruling Regarding Motion for Release Due to Government Forfeiture (doc. 278). After review of these documents and the applicable law, the Court concludes that the motions should be, and they are hereby, DENIED. The Court concludes that the appeal does not raise a substantial question of law or fact that is likely to result in reversal, a new trial, a sentence that does not include a term of imprisonment, or a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process. 18 U.S.C. § 3143(b).

SIGNED January 22, 2026.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

APPENDIX C

District Court Order Dismissing Motions Regarding Release Pending Appeal
Docket No. 302, filed April 21, 2026

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA §
 §
VS. § ACTION NO. 4:24-CR-001-Y
 §
JOHN ANTHONY CASTRO (1) §

ORDER DISMISSING MOTIONS REGARDING RELEASE PENDING APPEAL

Pending before the Court are the following motions, all of which relate to the Court's January 22, 2026 Order Denying Application for Release Pending Appeal (doc. 279):

- (1) Defendant's Motion for Statement of Reasons with Basis in the Record (doc. 285);
- (2) Defendant's Motion to Correct Filing Dates of ECF 285/286 (doc. 288);
- (3) Defendant's Motion for Leave to File a Reply in Support of Motion for Statement of Reasons to Complete the Record (doc. 296); and
- (4) Defendant's Motion for Leave to Supplement His Leave to Reply in Support of Motion for Statement of Reasons to Complete the Record (doc. 301).

The government has filed responses to the first three motions, which the Court appreciates. The deadline for the government's response to the fourth motion has not yet passed.

Nevertheless, in reviewing the record, the Court learned that Defendant has already filed a notice of appeal (doc. 281) regarding the Court's January 22 order. Consequently, as previously mentioned in the Court's May 23, 2025, Order Dismissing or, Alternatively, Denying Pending Motions (doc. 238), this district court has lost jurisdiction over the matter of Defendant's potential release pending appeal. All of the above-listed motions concern that issue. Consequently, they are hereby DISMISSED for lack of jurisdiction.

SIGNED April 21, 2026.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE