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No. _____ (Application __A__)

Supreme Court, U.S.

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*"Learn to do well; seek judgment, relieve the oppressed, judge the fatherless,
plead for the widow."*

— Isaiah 1:17 (KJV)

IN THE
SUPREME COURT OF THE UNITED STATES

TIFFANY BROWN, Applicant,

v.

UNITED STATES OF AMERICA, Respondent.

**APPLICATION FOR RELEASE PENDING APPEAL
(BAIL) DIRECTED TO THE HONORABLE CLARENCE THOMAS,
ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND
CIRCUIT JUSTICE FOR THE ELEVENTH CIRCUIT**

Eleventh Circuit No. 25-11317

District Court No. 1:22-cr-00359-TWT-JEM (N.D. Ga.)

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**TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE JUSTICE OF THE
SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE
ELEVENTH CIRCUIT:**

Under Supreme Court Rules 22 and 23 and 18 U.S.C. § 3143(b), Applicant Tiffany Brown, a federal prisoner proceeding pro se, respectfully applies for an order releasing her on conditions pending the disposition of her direct appeal in the Eleventh Circuit (No. 25-11317) and of any petition for certiorari. In the alternative she asks that the Court direct the Eleventh Circuit to rule on the merits of her release request.

RELIEF SOUGHT AND RELIEF SOUGHT BELOW

Sup. Ct. R. 23.3. Applicant asks for release on conditions the Justice deems appropriate, including home confinement, location monitoring, and surrender of travel documents. The district court denied release on August 20, 2026 (Doc. 226), holding only that Applicant had not shown that her appeal is not for delay and raises a substantial question; the one-paragraph order makes no finding on flight or danger. App. B. In the Eleventh Circuit, Applicant repeatedly sought release, and each time the Clerk declined to act because she is represented by appointed counsel. 11th Cir. R. 25-1. The docket of No. 25-11317 shows Clerk notices of no action on her release motions of April 21, 2025 (Doc. 2), May 13 and 14, 2025 (Docs. 19, 24), June 17, 18, and 20, 2025 (Docs. 38, 43, 45), June 15, 2026 (Doc. 92; notice June 16), and August 7, 2026 (Doc. 103; notice August 12), and on her recusal motions (Docs. 105, 108), her pro se supplemental brief (notice of September 11), and her Fed. R. App. P. 9(b) notice of appeal from the August 20 release denial (received August 27; notice of September 25, Doc. 121). The Clerk's separate September 25 notice in No. 26-13061 (Doc. 11) confirms that the Rule 9(b) notice of appeal from the August 20 order was docketed in No. 25-11317, where the Clerk then took no action on it. App. A. The one order of the court of appeals that touches release was

entered in a separate mandamus proceeding, where a judge denied her release request as duplicative of her direct-appeal filings and stated that the relief was more appropriately sought in the direct appeal. No. 26-12162, Doc. 5-2 (Aug. 17, 2026), App. A-17 to A-19. Because the Clerk has declined to docket her release filings in the direct appeal while she is represented, no judge of the court of appeals has ruled on the merits of release. Applicant acknowledges that Rule 23.3 ordinarily requires a ruling from the court of appeals first. She submits that this is the extraordinary case, because she has no means of obtaining one: the Eleventh Circuit will not accept her papers, counsel of record has not presented the request, and the court has refused to relieve counsel or to appoint another.

WHY THIS APPLICATION IS URGENT

Applicant is serving a 144-month sentence and has been in custody since June 20, 2025. She maintains that she is innocent of the offenses of conviction. Release pending appeal is meaningful only while the appeal is pending, and briefing in No. 25-11317 is complete. The Eleventh Circuit has twice declined to relieve or replace appointed counsel (orders of June 12 and August 12, 2026, Docs. 90-2 and 102-2, App. D), including after counsel herself moved to withdraw (Doc. 99), while its Clerk has refused every release filing Applicant has submitted on the ground that she is represented. The result is that a federal prisoner has no forum in which her detention can be reviewed. Counsel has also declined, in writing, to present Applicant's own arguments. On August 28, 2026, Applicant asked counsel by Corrlinks email to file her reply to the Government's response, her supplemental brief, and her motion for release and, if counsel was unwilling or unable to do so, to explain what steps she would take to protect Applicant's deadline and appellate rights. App. J-1. On August 31, 2026 counsel informed Applicant's sister by email that she was "not filing Ms. Brown's proposed supplemental brief and reply." On

September 15, 2026, after Applicant asked her to confirm that she would not file those pleadings, App. J-3, counsel confirmed to Applicant directly, by Corrlinks email, that “I cannot simply file your pleadings,” and that Applicant could raise ineffectiveness in a § 2255 motion once the appeal is final. App. J-4. Applicant’s September 16, 2026 request for counsel’s reasons, and for advice on whether an issue must be raised on direct appeal to be preserved, App. J-5, has drawn no reply in the record. Counsel never filed a motion for release pending appeal, although she told Applicant by email on August 21, 2025 that she hoped to have a bond motion ready soon (App. G-4), and on December 17, 2025 that she would file a motion for bond if appropriate (App. G-9). Applicant’s petition for a writ of mandamus in the Eleventh Circuit (No. 26-12162) was denied leave to proceed in forma pauperis on August 17, 2026 and dismissed on September 8, 2026 for failure to pay the docketing fee. App. A-16 to A-21.

Medical concerns. Applicant has a history of asthma, bronchitis, and respiratory infections but was healthy when she entered prison on June 20, 2025. She had an inhaler at home but never needed to use it.

Conditions of confinement. In the more than 460 days Applicant has been at FCI Marianna, institutional conditions have drastically deteriorated and amount to deliberate indifference to medical needs. One inmate died in custody, three suffered drug overdoses, one attempted suicide, and multiple violent physical assaults resulted in significant injuries. Sleep deprivation, overcrowding, food insecurity, and continuous second-hand smoke exposure from vapes and K2 became normalized conditions. Applicant’s informal and formal concerns were ignored, and she was abruptly reassigned on October 22, 2025 to a dorm created for UNICOR employees. That move intensified overcrowding and increased her exposure to K2 and vape second-hand smoke. She is continually exposed to K2 second-hand smoke. It has been reported

that even brief exposure can cause dizziness, rapid heart rate, nausea, disorientation, and respiratory irritation, symptoms Applicant experiences regularly. Inmates frequently smoke K2 indoors and outdoors.

Applicant's current environment consists of a lack of ventilation, extreme heat, mold, and chronic exposure to K2 and vape second-hand smoke. She has a civil conditions-of-confinement case pending, *Brown v. Gabby, et al.*, No. 5:25-cv-00356-AW/MJF (N.D. Fla.).

Applicant pursued the Bureau of Prisons' administrative remedy process, 28 C.F.R. §§ 542.10–542.19, under Remedy ID 1255924. After an informal request (BP-8) in September 2025, she filed a BP-9 dated September 17, 2025, asking for placement in home confinement under 18 U.S.C. § 3624(c)(2) because of the conditions described above. The institution rejected it on September 29, 2025, for lack of an informal-resolution attempt. She then filed a BP-10 on October 22, 2025 (answered January 9, 2026, and delivered February 11, 2026) and a BP-11 on November 6, 2025 (received November 18, 2025). The Central Office rejected the BP-11 on December 1, 2025 (delivered December 9, 2025) and told her to resubmit a BP-9, and no request brought relief. To the extent any of these conditions arose or worsened after those filings, further exhaustion was not required, because prison officials' delay and repeated procedural rejections made the remedy "unavailable" within the meaning of *Ross v. Blake*, 578 U.S. 632, 642–44 (2016). App. H.

Retaliation concerns. Applicant experienced a complete denial of phone and video services for a period reportedly directed by the Executive Team, without justification, across the entire institution. This deprivation prevented her from taking part in scheduled legal and personal communications, including a standing video visit on her birthday, which could not be

rescheduled because of institutional restrictions. Such a condition constitutes adverse action taken to deter protected activity and raises serious constitutional concerns.

The pattern of interference is not isolated. On February 25, 2026, Applicant was denied a scheduled video visit with her mother because of an impromptu PREA-related event and an apparent system malfunction, which prevented meaningful communication until the final moments before disconnection on her birthday. Courts in the Eleventh Circuit recognize that arbitrary interference with communication and access can support a retaliation claim when tied to protected conduct. *See Bennett v. Hendrix*, 423 F.3d 1247, 1254 (11th Cir. 2005) (adopting the “ordinary firmness” test and emphasizing that retaliatory acts need not be extreme to be actionable).

On April 1, 2026, Applicant’s air conditioner was shut off for 24 hours for “scheduled maintenance.” The next day, April 2, 2026, she was randomly drug tested for the second time in nine months, which is rare according to the BOP urinalysis officer who handles these matters. Both tests were negative; Applicant has no issues with drug or alcohol use.

The last two video visits, on Friday, September 25 and Monday, September 28, 2026, were cancelled, the first because of an impromptu guest speaker and the second because of a lock-in after a lunch fight, which further exposed Applicant to K2 and vape smoke. The second was also the day her reply to the recommendation that her case be dismissed for failure to state a plausible claim was docketed. The disruptions repeatedly fall on the same day she responds to the courts.

When viewed collectively, these repeated disruptions, particularly when they coincide with personal and legal dates, demonstrate a pattern of conduct that is neither incidental nor benign, and instead suggest retaliatory intent and institutional indifference.

Further compounding these concerns are the deteriorating and unsafe conditions within the facility, including reports of escalating violence, substance distribution, and multiple arrests in the surrounding area. While prison administrators are afforded deference in maintaining order, the Eleventh Circuit has made clear that conditions posing a substantial risk of serious harm may violate constitutional protections. *See Hale v. Tallapoosa County*, 50 F.3d 1579, 1583 (11th Cir. 1995). Applicant's exposure to ongoing violence, drug activity, and second-hand smoke, including K2 use both indoors and outdoors, places her at heightened risk, particularly given her known respiratory condition. These facts are directly relevant to her claim of irreparable harm and the need for judicial intervention to remove her from a hostile and toxic environment.

BACKGROUND

Conviction and sentence. After an eight-day jury trial, Applicant was convicted on all counts on January 17, 2025 and sentenced on April 22, 2025 to 144 months, five years of supervised release, and restitution of \$1,708,960.38. Docs. 139, 140. She was on pretrial release from October 13, 2022 (a \$10,000 unsecured bond, later with home detention and location monitoring after the verdict) for about two years and eight months, without an adjudicated violation. Docs. 11, 113. She self-surrendered on June 20, 2025.

The November 19, 2024 hearing. At a hearing on her request for new counsel, the district court denied the request after an ex parte proceeding that was sealed. Doc. 174 at 6:13–7:7. Applicant has declared under penalty of perjury that the court stated in substance that she was “just mad that [she] got caught,” and her sister, who was present, has given a corroborating declaration. App. C. The government was authorized to access the sealed transcript on August 26, 2025 (Doc. 197). Applicant's counsel did not order it until February 26, 2026, and it was not disclosed to counsel until March 24, 2026. Docs. 211, 212. Its estimated filing date of April 12,

2026 has passed, and a request for it has been filed. On August 17, 2026, Applicant filed a Motion for Production of All Hearings and Court Transcripts at Government Expense, which was entered on the district court docket on August 18, 2026 (Doc. 218). On August 20, 2026, the district court entered an order directing the Government to respond to that motion within fourteen days. (Doc. 227). That motion remains pending before the district court as of the filing of this Application. On September 16, 2026, Applicant asked counsel whether that matter must be raised on direct appeal to be preserved or can await a § 2255 motion; the record shows no answer. App. J-5.

The continued withholding of the transcript past its estimated filing date, on a topic directly relevant to the district judge's impartiality, independently raises due process concerns.

The counsel orders. On April 27 and 30, 2026, Applicant moved in the Eleventh Circuit to substitute counsel or proceed pro se. Dkts. 80, 81. Both were denied on June 12, 2026. Doc. 90-2, App. D-2 to D-3. On April 22, 2026, Applicant also filed a grievance against counsel with the State Bar of Georgia, and counsel moved to withdraw on June 30, 2026 (Doc. 99).

Reconsideration was denied on August 12, 2026, and counsel's own motion to withdraw was denied "in the interests of judicial economy," because "briefing is almost complete, and any new attorney will be constrained by the issues already briefed." Doc. 102-2 at 2, App. D-9. Briefing closed with the reply brief on September 2, 2026. After the August 12 order, Applicant asked counsel to file her own reply, supplemental brief, and motion for release, or to explain how she would protect Applicant's appellate rights; on September 15, 2026 counsel confirmed that she "cannot simply file" Applicant's pleadings and pointed Applicant to a future § 2255 motion. App. J-1 – J-4.

The new-trial ruling. On August 20, 2026, the district court also denied Applicant's pro se motion for a new trial under Fed. R. Crim. P. 33 and for an indicative ruling under Fed. R. Crim. P. 37, concluding that it lacked jurisdiction because the motion was untimely and that the bar complaint on which it relied was not newly discovered evidence. Doc. 223; App. I. That is a separate order from the one on which this Application seeks relief, and the issues raised on direct appeal remain pending in the Eleventh Circuit.

Innocence and the loss of liberty. Applicant has maintained since the day she was indicted that she is innocent. She is a businesswoman who performed a contract to deliver emergency meals in the aftermath of a hurricane, and she was convicted of fraud in connection with that work. She does not contend that a fair process simply reached a result she dislikes. She contends that the process failed her: that a cooperating witness who was suing her and negotiating with a federal regulator testified without the jury learning either fact; that a debarment official with no statutory role in criminal enforcement became a central prosecution witness; and that a jury weighing the credibility of those witnesses returned its verdict after three hours. For a person who believes she is innocent, confinement is more than a loss of freedom. It separates her from her parents, her sister, and her church, and from the work and ordinary routines of a free life, and it replaces them with counts, locked doors, and lock-ins. The loss is felt most sharply on the dates that matter to a family, such as the birthday on which her video visit with her mother was cancelled, and on the days she learns that the lawyer appointed to speak for her will not file her arguments (App. J-4). For about two years and eight months before her surrender, Applicant lived at liberty under the court's supervision, without a single adjudicated violation, and she then reported to prison on the date ordered. She knows the difference between the freedom she was trusted with and the confinement she endures now.

ARGUMENT

Legal Standard

Under 18 U.S.C. § 3143(b)(1), a defendant who has been sentenced to imprisonment and has filed an appeal shall be released on conditions if the judicial officer finds:

- (A) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released; and
- (B) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal, an order for 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)(1)(A)–(B). A “substantial question” is “a ‘close’ question or one that very well could be decided the other way.” *United States v. Giancola*, 754 F.2d 898, 901 (11th Cir. 1985). The question need not be one that will probably be decided in the defendant’s favor, only that it is “substantial” and that, if decided favorably, it is likely to result in reversal or one of the other listed outcomes. *Id.*

I. APPLICANT IS NOT A FLIGHT RISK AND POSES NO DANGER TO THE COMMUNITY.

Applicant Tiffany Brown self-surrendered voluntarily to FCI Marianna on June 20, 2025 to begin serving her sentence. She did not flee before surrender, did not attempt to flee during the pendency of the proceedings below, and has no prior criminal history involving violence, weapons, or flight from law enforcement. Her underlying conviction arose from a contract involving the delivery of emergency meal services following Hurricane Maria. The conduct was

non-violent and not drug related, and she poses no risk of danger to any person or the community.

Applicant is a businesswoman with established ties to her community, church, and family. She was born in the district (Northside Hospital), and her parents and sister reside there. Conditions of release such as home confinement, electronic monitoring, and surrender of travel documents would be sufficient to ensure appearance, and the Justice may impose additional conditions if warranted. This record establishes by clear and convincing evidence that Applicant is not likely to flee or endanger the community.

II. THE APPEAL IS NOT TAKEN FOR PURPOSES OF DELAY.

Applicant's direct appeal raises multiple, independently meritorious grounds for reversal that were identified and preserved during trial and at sentencing. The appeal was filed timely and is pending before the Eleventh Circuit. Counsel's opening brief was filed on April 28, 2026 and her reply brief on September 2, 2026. Applicant's own pro se supplemental brief, which raises substantial issues not addressed by counsel, was refused by the Clerk (notice of September 11, 2026), after counsel declined to file it. App. J-1, J-3, J-4. Counsel has written that she raised only "every issue that I believe has arguable merit." App. F. The appeal is not a delay tactic; it is a genuine attempt to correct multiple constitutional violations that infected the proceedings from inception.

III. THE APPEAL RAISES SUBSTANTIAL QUESTIONS OF LAW AND FACT LIKELY TO RESULT IN REVERSAL OR A NEW TRIAL.

Applicant's appeal raises at least two independent substantial questions, each of which, if decided in her favor, would require reversal of the conviction or a new trial. These issues are set

out in Applicant's proposed pro se supplemental brief, which the Clerk refused to accept (notice of September 11, 2026), and which counsel declined to file. App. J-1, J-3, J-4.

A. The Debarment Official's Unauthorized Participation in the Criminal Prosecution Requires an Evidentiary Hearing and, If the Taint Is Established, a New Trial.

The Federal Acquisition Regulation (FAR), Subpart 9.4, 48 C.F.R. §§ 9.400–9.408, is the exclusive governing framework for the suspension and debarment of federal contractors. The regulation establishes a carefully bounded administrative system with one purpose: to protect the integrity of federal procurement by dealing only with “responsible contractors.” FAR § 9.402(a).

Critically, debarment is an administrative remedy, not a law enforcement tool. The FAR is explicit that “[t]he serious nature of debarment and suspension requires that these remedies be imposed only in the public interest for the Government's protection and *not for purposes of punishment.*” FAR § 9.402(b) (emphasis added). The FAR further provides that “[t]he existence of a cause for debarment, however, does not necessarily require that the contractor be debarred.” FAR § 9.406-1(a).

Nowhere in FAR Subpart 9.4, or in any other statute, regulation, or executive order, is a debarment official granted authority to participate in a criminal investigation, provide evidence to federal prosecutors, or become a witness in a criminal prosecution arising from the same conduct underlying a debarment referral.

The government's witness Jennifer L. Ward, the DHS debarment official who conducted the debarment proceedings against Applicant, did precisely that. She participated in the criminal investigation, gathered evidence used against Applicant at trial, and testified as a key government witness. The jury relied on Ward's testimony, the exhibits she provided, and her credibility as a government official throughout trial and during opening and closing statements.

An administrative official acting *ultra vires*, beyond the boundaries of her legal authority, who inserts herself into a criminal prosecution taints those proceedings from inception. The admission of evidence gathered through, and testimony provided by, an official acting without legal authority constitutes error requiring an evidentiary hearing and, if the taint is established, a new trial. This is a substantial question that has not been adjudicated and that, if decided in Applicant's favor, would require reversal.

B. The Government Suppressed Material Impeachment Evidence Regarding Another Key Prosecution Witness, Violating Brady and Giglio.

A second issue undermining the integrity of the government's case involves its two key cooperating witnesses: Jennifer L. Ward (discussed above) and Legal Funding Group CEO Benjamin Eichholz. At the very time Mr. Eichholz was cooperating with federal authorities in the prosecution of Applicant, he was suing her in Fulton County Superior Court, and his attorney was reaching out for a civil settlement with her, a material fact never disclosed to the defense before trial. Further, he was working on a settlement with the Securities and Exchange Commission (SEC). The government's failure to disclose this constitutes a violation of *Brady v. Maryland*, 373 U.S. 83 (1963), and *Giglio v. United States*, 405 U.S. 150 (1972).

Under *Brady*, the prosecution must disclose evidence favorable to the accused that is material to guilt or punishment. *Id.* at 87. *Giglio* extended this obligation to impeachment evidence, holding that the government's failure to disclose a promise of leniency or other benefit to a key witness, even when that failure results from negligence rather than intent, constitutes a due process violation requiring a new trial. 405 U.S. at 153–54. The Supreme Court reinforced this principle in *Kyles v. Whitley*, 514 U.S. 419 (1995), making clear that the individual prosecutor “has a duty to learn of any favorable evidence known to the others acting on the

government's behalf in the case," and that the cumulative effect of all suppressed evidence must be considered together. *Id.* at 436–38.

Mr. Eichholz was suing Applicant and working on a settlement with her, and he settled with the SEC in April 2022, all while cooperating with the government against her. The judgment later ordered \$1,020,000 in restitution payable to the Legal Funding Group of Georgia, the company that Mr. Eichholz owns and controls. App. E-7. That underscores that the witness and his company had a direct financial stake in the convictions, a fact the jury never weighed. That was an undisclosed conflict of interest directly bearing on his credibility and motive. The government was aware of this arrangement and did not share the SEC-issued press release disclosing the settlement, which suggests a deliberate effort to keep it from the defense and the jury. The failure to disclose this settlement is textbook *Giglio* material: it is evidence bearing on a witness's motive and incentive to testify in a manner favorable to the government. *See Giglio*, 405 U.S. at 154–55. A witness who settles with the SEC has, by definition, been the subject of a government investigation, a fact that bears directly on how the jury should have weighed his testimony.

Applicant was further prejudiced by the failure to investigate and present evidence that the witness in this case, Benjamin Eichholz, owner of Legal Funding Group, engaged in misconduct related to this case specifically, demanding sexual favors in lieu of monetary payment on a litigation loan. Eichholz requested sexual favors by text message. Applicant's previous attorney, Alicide Honoré, later became a government witness, and Honoré's counsel turned over a July 2024 consumer-protection complaint against Eichholz, which was referenced in the government's reply to Applicant's Rule 33 motion.

This evidence was material for several reasons:

- It established that a key witness had a personal, improper interest in the outcome of this case.
- It raised serious questions about witness bias and motive to testify falsely.
- It constituted prior bad acts admissible under Fed. R. Evid. 404(b) and *United States v. Abel*, 469 U.S. 45 (1984), to show motive, bias, and lack of credibility.
- It was directly relevant to whether these witnesses had independent corrupt motivations separate from legitimate law enforcement cooperation.

The government acknowledged this July 2024 consumer-protection complaint in its reply to Ms. Brown's motion for a new trial, confirming its awareness of Eichholz's retaliatory and coercive conduct. This further illuminates the extent of his bias and the critical importance of the undisclosed settlement to the jury's assessment of his credibility. Under *Kyles*, the cumulative suppression of this evidence (the settlement, the lack of disclosure, and the witness's subsequent misconduct) raises a reasonable probability that the result of the trial would have been different. 514 U.S. at 434.

Furthermore, Debarment Official Ward is the same official who:

- conducted the debarment proceedings against Applicant;
- had an undisclosed improper relationship with Applicant's then-defense attorney, against whom Applicant filed a bar complaint in June 2019;
- and referred Applicant's matter for criminal investigation.

The government never disclosed to Applicant, her trial counsel, the grand jury, or the trial court the existence of this conflict of interest. This additional suppressed material, the bar complaint and the improper relationship and their effect on Ward's credibility and motive, independently constitutes sufficient *Brady/Giglio* material requiring a new trial.

IV. IF THESE QUESTIONS ARE DECIDED IN APPLICANT'S FAVOR, REVERSAL OR A NEW TRIAL IS THE LIKELY RESULT.

Each of the issues identified above, standing alone, would, if decided favorably to Applicant, require either reversal of the conviction outright or a new trial:

- The unauthorized participation of a government official acting *ultra vires* in procuring evidence and testifying at trial, if established at the evidentiary hearing, requires exclusion of the tainted evidence and testimony, which formed the backbone of the government's case.
- The suppression of material impeachment evidence regarding both Eichholz and Ward, the two witnesses most critical to the government's case, satisfies the *Brady/Giglio* materiality standard because there is a reasonable probability that disclosure would have produced a different result. The jury deliberated for only three hours, suggesting a case that was heavily dependent on witness credibility.

All issues, taken together, make reversal or a new trial not merely possible but likely if the Eleventh Circuit reaches the merits.

V. THE LIBERTY INTEREST AT STAKE, AND THE CONSTITUTIONAL DESIGN OF A GOVERNMENT LIMITED BY LAW, WEIGH DECISIVELY IN FAVOR OF RELEASE.

The statutory test is the one set out above, and Applicant has addressed each element of it. But the Justice is asked to apply that test to a person's freedom, and the weight of that interest is part of the analysis. Applicant recognizes that her conviction changed her posture: the presumption of innocence that protected her at trial no longer carries the force it did, and Congress has placed on a convicted defendant the burden of making the showings required by § 3143(b). Even so, Congress chose its words deliberately. When a defendant makes those showings, the judicial officer "shall" order release. 18 U.S.C. § 3143(b)(1). The statute is not

framed as a grant of discretion to be exercised sparingly. It is a command, and the plain meaning of a mandatory text should be enforced as written.

That command rests on principles older than the statute. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). The presumption of innocence is "axiomatic and elementary," and its enforcement "lies at the foundation of the administration of our criminal law." *Coffin v. United States*, 156 U.S. 432, 453 (1895). It reflects the settled judgment, traced to Blackstone and embraced by the Framers' generation, that it is better that ten guilty persons escape than that one innocent person suffer. 4 William Blackstone, *Commentaries on the Laws of England* 358. *A person who maintains her innocence, and who raises substantial questions about the integrity of her trial, stands exactly where that judgment is meant to protect her.*

The Constitution was written by a generation that had learned from experience to distrust concentrated and unaccountable power. James Madison put the problem plainly: "[y]ou must first enable the government to control the governed; and in the next place oblige it to control itself." *The Federalist No. 51* (James Madison). Alexander Hamilton warned that confinement of the person, by hurrying him to jail where his sufferings are unknown or forgotten, is among the most dangerous engines of arbitrary government. *The Federalist No. 84* (Alexander Hamilton) (quoting 1 William Blackstone, *Commentaries on the Laws of England*). The Declaration of Independence rests on the proposition that government derives its just powers from the consent of the governed and exists to secure the individual's liberty, not to consume it.

Those principles bear directly on this record. Applicant's first substantial question is that an administrative official, whose authority is confined by the regulatory framework in FAR Subpart 9.4 to protecting the integrity of federal procurement, stepped outside that authority and became a participant in a criminal prosecution. This Court has recently reaffirmed that an agency possesses only the authority Congress has delegated to it, and that courts must independently police the limits of that authority rather than defer to an agency's own view of its reach. *See Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). A citizen's liberty should not depend on the unexamined assumption that an executive official stayed within her lawful bounds, particularly when the official's own undisclosed relationships were never put before the jury.

Applicant accepts, as every citizen must, that personal responsibility is the other side of liberty. She does not ask to be excused from the consequences of any wrong she has actually committed; she denies that she committed one. But accountability must run in both directions. On the record before the Justice, a cooperating witness was in litigation with her and settling with a federal agency while he testified against her; a federal official's undisclosed connection to Applicant's own former counsel went unexamined; the district judge's reported remark that she was “just mad that [she] got caught” was made before any verdict; and the court of appeals has twice declined to relieve appointed counsel who has refused to file Applicant's arguments (App. J-4), while its Clerk has declined every release filing because Applicant is nominally represented. When the prosecutor, the agency, the court-appointed defense, and the appellate forum each fail to answer to the individual they exist to serve, a private citizen standing alone against the national government has nowhere left to turn but the Circuit Justice.

The relief Applicant seeks is measured and conventional. She does not ask the Justice to decide her appeal or to find her innocent. She asks that she be released on strict conditions, namely home confinement, location monitoring, and surrender of her travel documents, while the courts decide whether she should have been convicted at all. The record supports that request. She is a nonviolent member of the community in which she was born, with family nearby; she remained on release for years without a violation; she surrendered on the day ordered; and she is held in conditions that, as described above, endanger her health. Nothing about her history suggests that a person who walked into prison voluntarily would flee from home confinement. If her appeal succeeds, every day she serves in the meantime will be a day of liberty that can never be restored. The Justice should not allow that irreversible loss to occur while the question remains open.

CONCLUSION

For the foregoing reasons, Applicant Tiffany Brown respectfully requests that the Court grant release on appropriate conditions pending resolution of her direct appeal and any petition for a writ of certiorari, including but not limited to home confinement with electronic monitoring, surrender of travel documents, and any other condition the Justice deems necessary to protect the community and ensure appearance. In the alternative, Applicant asks that the Court direct the Eleventh Circuit to rule on her release request within a set time. If the Court requires further briefing or a hearing on this Application, Applicant respectfully requests an expedited schedule in light of her current incarceration.

Respectfully submitted,

Tiffany C. Brown, Pro Se

Reg. No. 26499-510

FCI Marianna Prison Camp

P.O. Box 7006

Marianna, FL 32446-7006

Dated: October 4, 2026

CERTIFICATE OF SERVICE AND RULE 29.2 DECLARATION

I, Tiffany C. Brown, a person confined in an institution and proceeding pro se, certify under penalty of perjury, 28 U.S.C. § 1746, that on October 4, 2026 I deposited the original and two copies of the foregoing Application and its appendix, together with the accompanying motion for leave to proceed in forma pauperis, in the internal legal-mail system of FCI Marianna, first-class postage prepaid, addressed to the Clerk, Supreme Court of the United States, 1 First Street, N.E., Washington, DC 20543. On the same date I served a copy of the Application and appendix on counsel for Respondent by first-class mail addressed to: Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530-0001.

Tiffany C. Brown

INDEX TO APPENDICES

App. A: Eleventh Circuit Clerk's notices of no action under 11th Cir. R. 25-1 (docket excerpts for No. 25-11317; notice of Aug. 25, 2026, Doc. 110; Notice of Appeal under Fed. R. App. P. 9(b), Doc. 120 (Aug. 27, 2026); notices of Sept. 11 and Sept. 25, 2026, Docs. 118 and 121; the Notice to Parties in No. 26-13061, Doc. 11; the mandamus order of Aug. 17, 2026 (No. 26-12162, Docs. 5-1, 5-2); and the dismissal of Sept. 8, 2026 (No. 26-12162-D; N.D. Ga. Doc. 239))

App. B: District court order denying release pending appeal, Doc. 226 (Aug. 20, 2026)

App. C: Motion for recusal, N.D. Ga. Doc. 229 (Aug. 21, 2026), with Declarations of Tiffany Brown (Doc. 230) and Tameka Barber (Doc. 231) (executed Aug. 19, 2026; filed Aug. 21, 2026)

App. D: Eleventh Circuit orders of June 12, 2026 (Doc. 90-2), July 20, 2026 (Doc. 101-2), and Aug. 12, 2026 (Doc. 102-2), with Clerk's transmittal notices

App. E: Judgment in a Criminal Case, N.D. Ga. Doc. 140 (Apr. 23, 2025)

App. F: Letter of Sydney Strickland to Tiffany Brown (Apr. 30, 2026)

App. G: Emails between Applicant and appointed counsel, July 31, 2025 – Apr. 13, 2026, and related emails with Tameka Barber and Rev. Charles Brown (Dec. 2025 – Jan. 2026), filed as Exhibit C to Applicant's Emergency Motion in the Eleventh Circuit (Doc. 80, Apr. 27, 2026)

App. H: Administrative remedy forms and rejection notices, Remedy ID 1255924 (BP-8, BP-9, BP-10, BP-11; notices of Sept. 29 and Dec. 1, 2025), Brown v. Gabby, No. 5:25-cv-00356 (N.D. Fla.), Doc. 4, pp. 12-25

App. I: District court order denying motion for new trial and for indicative ruling, Doc. 223 (Aug. 20, 2026)

App. J: Emails between Applicant and appointed counsel (Aug. 28 – Sept. 16, 2026), concerning counsel's refusal to file Applicant's reply, supplemental brief, and motion for release

TRULINCS 26499510 - BROWN, TIFFANY - Unit: MNA-X-B

FROM: 26499510
TO: B. T. Strickland, Sydney
SUBJECT: Follow on your letter
DATE: 08/28/2026 10:52:58 AM

Ms. Strickland,

I received your letter informing me of my Government Reply is due on September 2nd and that our motions (motion for substitute counsel and withdrawal) was denied.

I would like to request to file my reply to the government's response, and supplemental brief without substantive changes electronically on August 31st. My sister will send you an electronic version of both documents on Sunday or latest Monday morning. Please send us confirmation once it has been uploaded. I also would like you to file my Motion for Release and please email me the sealed portion of the November 19th, 2024 transcript.

If you are unwilling or unable to file these documents, please notify me immediately via email and explain what steps you will take to protect my deadline and appellate rights.

Because time may be limited, please respond in writing as soon as possible. My sister is cc on this email and will also send this request via regular email just in case you don't receive this.

Sincerely,

Tiffany Brown

TRULINCS 26499510 - BROWN, TIFFANY - Unit: MNA-X-B

FROM: Strickland, Sydney
TO: 26499510
SUBJECT: RE: Follow on your letter
DATE: 09/09/2026 02:51:06 PM

Ms. Brown,

My apologies. I did not receive a notification from Corrlinks and I just saw this email when I logged on to address something else. I did get your sister's email, though, and I responded to that. Hopefully she communicated the message.

Thanks,
Sydney

TRULINCS 26499510 - BROWN, TIFFANY - Unit: MNA-X-B

FROM: 26499510
TO: B, T; Brown, Charles; Brown High, Queenester; Lima, Adriana; Murriel, Kevin; Strickland, Sydney
SUBJECT: RE:RE: Follow up on my Letter
DATE: 09/10/2026 06:52:06 AM

Good Morning Sydney,

Yes! I got your message through my sister, Tameka Barber. But just to confirm, you will NOT:

- *file my Motion for Release
- *file my reply to the Government
- *file my pro se supplemental brief

as my counsel of record nor find my an replacement in order preserve my appellate rights for collateral arguments?

Thanks

Tiffany Brown

TRULINCS 26499510 - BROWN, TIFFANY - Unit: MNA-X-B

.....

FROM Stenland Sydney
TO 26499510
SUBJECT RE RE RE Follow up on my Letter
DATE 09/15/2026 12:06:08 PM

Ms Brown

That's correct. I cannot simply file your pleadings. If you believe I have been ineffective, you will be able to raise that in a 2255 motion once your appeal is final.

Thanks
Sydney

TRULINCS 26499510 · BROWN, TIFFANY · Unit: MNA-X-B

FROM 26499510
TO B. T. Brown, Charles; Lima, Adriana
SUBJECT RE RE RE RE Follow up on your letter
DATE 09/16/2026 02:34:22 PM

Sydney,

Thanks for the response! I want to formally note that I disagree with your decision not to file my pleadings, and that I don't accept that a future 2255 motion is an adequate substitute for raising these issues now. Please confirm in writing your reasons for declining, including any legal or ethical basis as my counsel of record.

I also need a specific answer. On our March 3rd legal call, I mentioned to you about Judge Thrash's statement that paraphrasing "You are just mad that you got caught" in November 19th, 2024 trial transcript, doesn't that need to be raised on direct appeal to preserve it, or can it wait for a 2255 motion the way an ineffective assistance claim can? I want confirm the avenue in which this can be pursued.

Please also confirm my appeal deadline.

Thanks

iffany