

1 DAVID Z. CHESNOFF, ESQ.
Pro Hac Vice
2 RICHARD A. SCHONFELD, ESQ.
3 California Bar No. 202182
CHESNOFF & SCHONFELD
4 520 South Fourth Street
5 Las Vegas, Nevada 89101
6 Telephone: (702) 384-5563
7 dzchesnoff@cslawoffice.net
rschonfeld@cslawoffice.net
Attorneys for Defendant, ALEXANDER SMIRNOV

8
9 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 * * * * *

11 UNITED STATES OF AMERICA,) **JOINT STIPULATION FOR RELEASE**
12) **PENDING APPEAL UNDER**
13) **18 U.S.C. § 3143(b)(1)**
14 Plaintiff,) (EXPEDITED CONSIDERATION
15) REQUESTED)
16) Case No. 2:24-CR-00091-ODW &
17 v.) No. 2:24-CR-00702-ODW
18)
19 ALEXANDER SMIRNOV,)
20 Defendant,)
_____)

21 COMES NOW, Defendant, ALEXANDER SMIRNOV (“Mr. Smirnov”), by and through
22 his attorneys, DAVID Z. CHESNOFF, ESQ., and RICHARD A. SCHONFELD, ESQ., of the law
23 firm of CHESNOFF & SCHONFELD and the UNITED STATES OF AMERICA, by and through
24 its attorneys, BILAL A. ESSAYLI, U.S. ATTORNEY and DAVID R. FRIEDMAN, AUSA who
25 hereby submit this Joint Stipulation for Release Pending Appeal Under 18 U.S.C. § 3143(b)(1).
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27 Dated this 10th day of April, 2025.
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Respectfully Submitted:

CHESNOFF & SCHONFELD

/s/ David Z. Chesnoff
DAVID Z. CHESNOFF, ESQ.
Pro Hac Vice
RICHARD A. SCHONFELD, ESQ.
California Bar No. 202182
520 South Fourth Street
Las Vegas, Nevada 89101
Telephone: (702)384-5563
dzchesnoff@cslawoffice.net
rschonfeld@cslawoffice.net
Attorneys for Defendant
ALEXANDER SMIRNOV

BILAL A. ESSAYLI
United States Attorney

/s/ David R. Friedman
Assistant United States Attorney
Chief, Criminal Appeals Section
312 North Spring Street, Suite 1000
Los Angeles, California 90012
Ph: (213) 894-7418
Attorneys for Plaintiff
UNITED STATES OF AMERICA

JOINT STIPULATION FOR RELEASE PENDING APPEAL

1
2 ALEXANDER SMIRNOV, Defendant, and the UNITED STATES OF AMERICA,
3 Plaintiff, do hereby stipulate that this Honorable Court enter an Order—based on said stipulation
4 and 18 U.S.C. § 3143(b)(1)¹—commanding that Defendant be forthwith released from custody
5 pending his appeal in this matter, as set forth below.
6

7 The parties jointly agree that Defendant has been continuously incarcerated with a chronic
8 eye disease for over one year and that his release pending appeal will permit him to travel to
9 California to obtain treatment for his eye condition. The parties thus respectfully and jointly submit
10 that expedited consideration of this unopposed request is warranted.
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16 ¹ That statute provides:

17 (b)(1) Except as provided in paragraph (2), the judicial officer shall order that a
18 person who has been found guilty of an offense and sentenced to a term of
19 imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be
detained, *unless* the judicial officer finds—

20 (A) by clear and convincing evidence that the person is not likely to flee or pose a
21 danger to the safety of any other person or the community if released under
section 3142(b) or (c) of this title; *and*

22 (B) that the appeal is not for the purpose of delay and raises a substantial question
of law or fact likely to result in—

23 (i) reversal,

24 (ii) an order for a new trial,

25 (iii) a sentence that does not include a term of imprisonment, *or*

(iv) 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.

26 If the judicial officer makes such findings, such judicial officer *shall* order the
27 release of the person in accordance with section 3142(b) or (c) of this title,

28 18 U.S.C. § 3143(b)(1) (emphases added).

STIPULATED FACTS

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2 1. On December 12, 2024, in District Court Case Nos. 2:24-CR-00091-ODW and
3 2:24-CR-00702-ODW (C.D. Cal.), the parties entered into a binding plea agreement under Rule
4 11(c)(1)(C) of the Federal Rules of Criminal Procedure. DC Doc. Nos. 195 & 9.²
5

6 2. On January 8, 2025, the district court, pursuant to that plea agreement, sentenced
7 Defendant—who has been in continuous custody since his rearrest in February 2022—to 72
8 months’ imprisonment. DC Doc. Nos. 219 & 38.

9 3. On January 16, 2025, the district court entered the Amended Judgment. DC Doc.
10 No. 223 & 42.

11 4. On January 21, 2025, Defendant timely filed a Notice of Appeal (DC Doc. No. 225
12 & 46), where this case was docketed as Nos. 25-400 & 25-408.

13 5. Defendant’s Opening Brief is currently due April 15, 2025. CA Doc. 2.1 (Jan. 21,
14 2025).
15

16 6. The United States intends to review the government’s theory of the case underlying
17 Defendant’s criminal conviction.

18 7. On April 10, 2025, the U.S. Court of Appeals for the Ninth Circuit entered an Order
19 denying the parties’ substantively identical “joint motion . . . for release pending appeal,” and
20 further stating: “[Mr. Smirnov] may file a new motion for release with this court if needed after
21 presenting the motion to the district court.” CA Doc. 7.1 (Apr. 10, 2025) (citing Fed. R. App. P.
22 9(b) & 9th Cir. R. 9-1.2(a)).
23

24 **APPLICATION OF 18 U.S.C. § 3143(b)(1)**
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28 ² Citations are to Case Nos. 2:24-CR-00091-ODW and 2:24-CR-00702-ODW, respectively.

1 8. The parties agree and stipulate that Defendant's release from custody pending
2 appeal is warranted, for the reasons set forth below.

3 9. Clear and convincing evidence for Defendant's non-violent offenses of conviction
4 (involving taxes and false statements) shows that Defendant is not likely to flee or pose a danger
5 to the safety of any other person or the community if released under section 3142(b) or (c) of this
6 title. *See* 18 U.S.C. § 3143(b)(1)(A); Fed. R. App. 9(b) (incorporating standard in 18 U.S.C. §
7 3143).

8
9 10. The parties agree that this Court should order Defendant's travel to be restricted to
10 the State of Nevada, *except that* he shall, be permitted to travel to San Francisco, California, so his
11 personal physician, Dr. George Tanaka may treat his ongoing eye conditions.

12 11. This stipulation is filed not for the purpose of delay, but, rather, because the pending
13 appeal raises a substantial question of law or fact. *See* 18 U.S.C. § 3143(b)(1)(B).
14

15 Respectfully Submitted:

16 CHESNOFF & SCHONFELD

17 /s/ David Z. Chesnoff
18 DAVID Z. CHESNOFF, ESQ.
19 RICHARD A. SCHONFELD, ESQ.
20 520 South Fourth Street
21 Las Vegas, Nevada 89101
22 Telephone: (702)384-5563
23 dzchesnoff@cslawoffice.net
24 rschonfeld@cslawoffice.net
25 Attorneys for Defendant
26 ALEXANDER SMIRNOV

27 BILAL A. ESSAYLI
28 United States Attorney

/s/ David R. Friedman
Assistant United States Attorney
Chief, Criminal Appeals Section

312 North Spring Street, Suite 1000
Los Angeles, California 90012
Ph: (213) 894-7418
Attorneys for Plaintiff
UNITED STATES OF AMERICA

SUBMITTED this 10th day of April, 2025.

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