No. 19-10300

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

SONIA QUINTERO,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Arizona

BRIEF OF AMICI CURIAE NINTH CIRCUIT FEDERAL AND COMMUNITY DEFENDER ORGANIZATIONS IN SUPPORT OF DEFENDANT-APPELLANT'S PETITION FOR REHEARING EN BANC

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INTEREST OF AMICI CURIAE

The Ninth Circuit Federal and Community Defender Organizations provide representation to accused persons who lack financial means to hire private counsel in this Circuit pursuant to 18 U.S.C. § 3006A. The Defenders advocate on behalf of the criminally accused, with the core mission of protecting the constitutional rights of their clients and safeguarding the integrity of the federal criminal justice system. Specific to this case, Defenders regularly represent individuals with intellectual, developmental, and psychiatric disabilities who are charged with crimes but found incompetent to stand trial. The Defenders have a profound interest in assuring that the constitutional rights of clients with illness or disability are protected; that needless and harmful incarceration is avoided; and that the ethical dilemmas for defense attorneys created by the current interpretation of 18 U.S.C. § 4241(d) are ameliorated. This brief supports Ms. Quintero's position that persons on pretrial conditional release should not be automatically incarcerated for restoration upon a finding of incompetency. No party or party's counsel or any person other than employees of amici curiae authored this brief in whole or in part or contributed money that was intended to fund preparing or submitting the brief.

INTRODUCTION

When a judge has found a mentally disabled defendant to be neither a danger nor a flight risk on conditional release under the Bail Reform Act, fundamental constitutional protections foreclose automatic incarceration for competency restoration without individualized consideration of less restrictive forms of custody. The current implementation of 18 U.S.C. § 4241(d) creates exactly such disrespect of liberty interests for a class of society's most vulnerable members. The Defenders support rehearing en banc for this Court to reexamine and to reject the reasoning and result in *United States v. Strong*, 489 F.3d 1055 (9th Cir. 2007). The *Strong* opinion wrongly foreclosed constitutional objection to mandatory incarceration of persons with mental or intellectual disabilities for competency restoration and did not adequately consider construction of the underlying statute to accommodate the relevant constitutional protections.

ARGUMENT

I. The Court Should Reconsider *Strong* Because Mandatory Imprisonment For Competency Restoration Is Harmful, Unnecessary, And Constitutionally Problematic.

As argued by Ms. Quintero, the Constitution and statutes protecting persons with disabilities prohibit the mandatory detention in federal prison of presumptively innocent defendants for competency restoration. For pretrial defendants with mental

disabilities, there is a profound difference between community-based restoration treatment versus imprisonment for treatment. In the community, the conditions of pretrial release often include outpatient treatment, employment or education, and access to family and religious support networks. In contrast, in overworked prison mental health facilities, our clients are separated from the familiar and placed in the intimidating regimentation of prison. In support of Ms. Quintero's constitutional arguments, the Court should consider the harms our clients face, the less restrictive means of achieving any legitimate governmental need, and the statutory and constitutional provisions that protect a vulnerable population.

A. Mandatory Detention Is Needlessly Harsh And Subjects Defendants To Real Harm.

The mandatory incarceration of defendants with mental disabilities causes significant harm. First, mandatory detention removes disabled people from community resources and the supports they depend on, such as mental health providers, housing, family, and public benefits. Losing existing support systems can be traumatic. Moreover, once lost, it can take many months to reestablish support such as social security benefits, subsidized housing, and treatment relationships with mental health providers.

Forced removal from the community injures individuals who require substantial resources to stay healthy and safe. *See* CRIMINAL JUSTICE STANDARDS ON MENTAL

HEALTH, § 7-4.10(a)(iii)(B) (ABA 2016) (involuntary hospitalization should be limited to judicial determinations by clear and convincing evidence that there exists "no less restrictive alternative."). The carceral setting itself is inherently problematic for individuals with mental health disabilities: "For an individual living with a mental health condition, a jail setting is 'at best, counter-therapeutic and, at worst, dangerous to [a detainee's] mental and physical well being.'" Susan McMahon, *Pandemic as Opportunity for Competence Restoration Decarceration*, 2 ARIZ. ST. L.J. 207, 211 (2020) (citation omitted).

Second, mandatory detention can lead to significant delays in treatment and competency restoration. The Bureau of Prisons' facilities for men's competency restoration are in North Carolina, Missouri, and Massachusetts, and the only one for women is in Texas. The national demand for treatment results in long waiting times for services. Further, transportation to those facilities, which are located hundreds of miles from the Ninth Circuit, causes further delays and harm. Clients are often transported in shackles and kept for weeks or months in sub-optimal stop-over facilities. *Id*. at 208-11 (delays in treatment have increased during the pandemic).

B. Out-Of-Custody Competency Restoration Is Effective, Efficient, And Humane.

Competency restoration programs in the community are effective and efficient for defendants who can be conditionally released. Currently, at least 35 states have

community-based competency restoration programs. Amanda Wik, *Alternatives to Inpatient Competency Restoration Programs: Community-Based Competency Restoration Programs*, 5 (Nat'l Ass'n of State Mental Health Program Dirs. Rsch. Inst. 2018). These programs are successful at treating defendants in an outpatient setting and restoring competency. *Id.* at 15; *see also Multnomah County, Oregon: Case Study* (Just. Sys. Partners 2018).

In Oregon, the Multnomah County Forensic Diversion Program is a model of how community restoration works. The program consists of mental health treatment with weekly legal skills psychoeducation. Defendants in the program receive short-term intensive case management and are linked to community resources. The success of the Oregon community-based competency restoration program has been matched in other states that reject automatic incarceration for restoration. *See* Wik, *supra* at 15. These programs not only provide humane treatment without removing mentally ill people from their communities, but they are also cost-effective. *Id.*

C. Detention Of Defendants With Mental Disabilities Without An Individualized Determination Of Necessity Violates Due Process, Equal Protection, And Federal Laws Protecting The Rights Of The Disabled.

Based on protective statutes and constitutional guarantees, mentally ill and intellectually disabled defendants should receive greater protections than other defendants. But mandatory incarceration of incompetent defendants flips these

protections on their head, turning disabled people into disfavored subjects of discrimination. Where competent defendants receive conditional pretrial release, similarly situated defendants with mental disabilities receive mandatory incarceration.

1. Constitutional Protections

Treating mentally disabled defendants worse than other defendants violates the full range of constitutional provisions identified by Ms. Quintero. "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 imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty th[e Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Specifically, "the Fifth Amendment permits detention only where heightened, substantive due process scrutiny finds a sufficiently compelling governmental need." *Demore v. Kim*, 538 U.S. 510, 549 (2003) (quotations omitted).

These principles extend to the mentally ill. Thus, generally speaking, "there is . . . no constitutional basis for confining [mentally ill] persons involuntarily if they are dangerous to no one and can live safely in freedom." *O'Connor v. Donaldson*, 422 U.S. 563, 575 (1975); *see also* Marisol Orihuela, *The Unconstitutionality of Mandatory Detention During Competency Restoration*, 22 BERKELEY J. CRIM. L. 1, 27

(2017) ("[M]ental illness, on its own, cannot serve as the sole basis for the government's authority to detain consistent with substantive due process.").

In *Jackson v. Indiana*, the Court held that, "indefinite commitment of a criminal defendant solely on account of his incompetency to stand trial" violates due process. 406 U.S. 715, 731 (1972); *see also Zinermon v. Burch*, 494 U.S. 113, 131 (1990) ("[T]here is a substantial liberty interest in avoiding confinement in a mental hospital."); *Vitek v. Jones*, 445 U.S. 480, 491-92 (1980) (commitment to mental hospital entails "a massive curtailment of liberty"). The current practice of mandatory imprisonment for incompetent defendants, without further justification, implicates fundamental due process liberty interests as well as procedural due process.

The equal protection norms of the Fifth Amendment further protect mentally ill and intellectually disabled defendants against mandatory imprisonment. In *Jackson*, the Court held that, by subjecting a mentally ill defendant "to a more lenient commitment standard and to a more stringent standard of release than those generally applicable to all other persons not charged with offenses," the state violated the defendant's equal protection rights. 406 U.S. at 730. Mandatory incarceration violates equal protection because it subjects those found incompetent to stand trial to a more stringent release standard than that required in 18 U.S.C. § 3142(e) for other pretrial defendants.

The Court recognized the liberty and individual autonomy at stake for pretrial defendants in *Sell v. United States*, finding a defendant's interests in being free from involuntary medication to restore competency required individualized determinations by a judicial officer. 539 U.S. 166, 180-81 (2003). The Court set out a number of factors courts must consider before infringing on liberty interests:

- "The facts of the individual case [and] the Government's interest in prosecution."
- Whether the intrusion "will *significantly further* [the] state interests [in assuring that the defendant's trial is a fair one]."
- Whether the intrusion "is *necessary* to further those interests" and "any alternative, less intrusive treatments are unlikely to achieve substantially the same results."
- Whether the intrusion "is *medically appropriate*, *i.e.*, in the patient's best medical interest in light of his medical condition."

Id. (emphases in original). None of those factors were included in *Strong*'s construction of the competency statute, and the district court weighed none of them before subjecting Ms. Quintero to mandatory imprisonment.

2. Statutory Protections

The constitutional assessment of governmental and individual interests must occur in the context of norms established in federal disability law protecting defendants with mental illness and intellectual disabilities against mandatory imprisonment. Protections enacted by Congress in the Rehabilitation Act (RA) and the

Developmental Disabilities Assistance and Bill of Rights Act (DDA) prohibit the discrimination that mandatory detention inherently creates for incompetent defendants with mental illness or developmental disabilities.

First, Section 504 of the RA requires the Department of Justice to "administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons." 28 C.F.R. § 39.130(d). The language of the "integration mandate" prohibits "[u]njustified isolation." *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 597 (1999) (addressing the substantially similar "integration mandate" in the Americans with Disabilities Act as it applies to the states). Unjustified isolation of a disabled person was "properly regarded as discrimination based on disability." *Id.* But under the *Strong* interpretation, § 4241(d) mandates imprisonment for competency restoration without regard to whether it will lead to unjustified isolation and without determining whether there is a more "integrated setting" that could appropriately meet the needs for restoration of competency.

Second, for defendants with developmental disabilities as opposed to mental illness, the DDA requires that competency restoration be provided in the "least restrictive" setting. 42 U.S.C. § 15009(a)(2). State restoration programs across the country show that community restoration is particularly effective for these defendants.

Mandatory detention for in-prison hospitalization under § 4241(d) for competency restoration flips the norms established in federal disability law by denying individualized protection for those whom Congress recognizes deserve protection the most. The Court should reject the panel's treatment of these statutes as irrelevant because they are "civil claims." *United States v. Quintero*, 995 F.3d 1060-61 (9th Cir. 2021). The societal norms embedded in these statutes inform both statutory and constitutional analyses of mandatory incarceration of disabled people.

II. Section 4241(d) Is Amenable To Construction To Require That The Judicial Commitment Specify The Degree Of Custody Authorized Based On An Individualized Determination Of The Least Restrictive Alternative.

This Court need only reach the serious constitutional issues raised by mandatory imprisonment of presumptively innocent pretrial defendants if § 4241(d) cannot be construed to avoid those problems. *United States v. Buckland*, 289 F.3d 558, 564 (9th Cir. 2002) (en banc). *Strong* equated Congress's use of the word "custody" with "incarceration," without permitting any community-based restrictions. 489 F.3d at 1062 (describing the four-month custody limitation as "temporary incarceration"). That reasoning conflicts with basic rules of statutory interpretation, under which the well-established meaning of "custody" includes conditional release for community-based restoration of competency. The panel here treated the statutory language as unambiguously removing the Judiciary from providing any direction to the Executive

Branch regarding the appropriate degree of restraint required. *Quintero*, 995 F.3d at 1050. Under the rules of statutory interpretation, "custody" includes conditional release for community-based restoration of competency.

A. The Term "Custody" On Its Face And In Context Includes Conditional Community Placement.

"[S]tatutory interpretation turns on 'the language itself, the specific context in which that language is used, and the broader context of the statute as a whole.'" *Nken v. Holder*, 556 U.S. 418, 426 (2009) (quoting *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997)). Starting with the plain language, "custody" includes a broad range of court-determined restrictions short of actual incarceration.

In *Hensley v. Municipal Court*, the Court addressed the statutory requirement that a person be "in custody" to seek relief under the federal habeas corpus statute. 411 U.S. 345 (1973). The state contended that the petitioner was not "in custody" because he had been released on his own recognizance pending appeal of his sentences. The Court held he was "in custody" because, due to his conditions of release, he was subject to restraints "not shared by the public generally." *Id*. at 351 (quoting *Jones v. Cunningham*, 371 U.S. 236, 240 (1963)). In *Jones*, conditions of parole constituted "custody" for the purposes of the federal habeas corpus statutes. 371 U.S. at 240. The term "custody," as used by the Court long before the enactment of the competency statute, includes placement in the community on conditions.

The context of "custody" in § 4241(d) also strongly supports authorization to impose conditions in the community to accomplish competency restoration. The Comprehensive Crime Control Act of 1984 used the term "custody" in two statutes addressing pretrial detention and pretrial competency restoration. In the first but not the second, Congress added the qualifying phrase "in a corrections facility." 18 U.S.C. § 3142(i) ("[T]he judicial officer shall. . . direct that the person be *committed to the custody of the Attorney General for confinement in a corrections facility*.") (emphasis added).

The competency restoration statute includes no such requirement of confinement in a corrections facility. *Inclusio unius est exclusio alterius* is a specific application of the rules on context. *See Gozlon-Peretz v. United States*, 498 U.S. 395, 404-05 (1991) ("[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion."). In analogous circumstances, the Supreme Court has repeatedly held that courts should not draw meaning from legislative silence where Congress has demonstrated in related statutes that it knows how to express itself. *See, e.g.*, *Lagos v. United States*, 138 S. Ct. 1684, 1689-90 (2018); *Honeycutt v. United States*, 137 S. Ct. 1626, 1634 (2017); *Dean v. United States*, 137 S. Ct. 1170, 1177 (2017).

Section 4241(d) does not equate "custody" with detention in corrections facilities. In the pretrial context, "custody" requires determination by the Judicial Branch of the necessary degree of custody, with the Executive Branch carrying out the least restrictive judicially-determined alternative because liberty deprivation is determined by judges, not prosecuting authorities. *See Setser v. United States*, 566 U.S. 231, 242 (2012) (interpreting concurrency statute consistently with the "desideratum" that "sentencing not be left to employees of the same Department of Justice that conducts the prosecution"). Although the panel here recognized that the Executive Branch has broad discretion, 995 F.3d at 1050, the question of detention for competency restoration must be determined by a neutral decision-maker – the district court judge – after notice and an opportunity to be heard by adverse parties. *See United States v. Salerno*, 481 U.S. at 746 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

By the plain language and context of the competency restoration statute, for an individual on pretrial release, the trial judge has full authority to specify that the "custody" must not exceed the restrictions for conditional release beyond community-based restoration programming and treatment. Under this construction, the trial judge would not order a particular program, but rather would specify the degree of authorized custody. The Attorney General would adapt "hospitalization" and "suitable facility"

in order to match its own or contract treatment programs to the court's specific custody conditions. The decision whether to commit under custody to community-based competency restoration is a quintessentially judicial function.

B. If "Custody" Does Not Unambiguously Permit Community Placement, The Term Should Be Interpreted To Include Conditions In The Community Under The Doctrine Of Constitutional Avoidance And The Rule Of Lenity.

If an otherwise acceptable construction of a statute would raise serious constitutional problems, and where an alternative interpretation of the statute is "fairly possible," the Court construes the statute to avoid such problems. *INS v. St. Cyr*, 533 U.S. 289, 299-300 (2001); *see Clark v. Martinez*, 543 U.S. 371, 381 (2005) (the canon of constitutional avoidance "is a tool for choosing between competing plausible interpretations of statutory text, resting on the reasonable presumption that Congress did not intend the alternative which raises serious constitutional doubts."). The serious constitutional issues raised by automatic incarceration based on pretrial incompetency trigger the doctrine of constitutional avoidance, requiring the "plausible" and "fairly possible" interpretation of the statute that avoids constitutional issues.

The constitutional issues are not only serious but also meritorious. As held by the Georgia Supreme Court in *Carr v. State,* automatic commitment does not bear a reasonable relation to the State's legitimate purposes and violates due process. 815 S.E.2d 903, 916 (Ga. 2018). And the Executive Branch's interpretation of the criminal

statute is not entitled to any interpretive deference. *See Abramski v. United States*, 573 U.S. 169, 191 (2014) ("The critical point is that criminal laws are for courts, not for the Government, to construe."); *Crandon v. United States*, 494 U.S. 152, 177 (1990) (Scalia, J., concurring) ("The law in question, a criminal statute, is not administered by any agency but by the courts.").

The statute is at least amenable to the broad construction of the term "custody" that requires individualized judicial consideration of the scope of allowable custody. If, after applying other rules of construction, ambiguity persists, the Court would construe the statute in favor of the mentally disabled defendant. *United States v. Granderson*, 511 U.S. 39, 54 (1994) ("[W]here text, structure, and history fail to establish that the Government's position is unambiguously correct—we apply the rule of lenity and resolve the ambiguity in [the defendant's] favor."); *see United States v. Santos*, 553 U.S. 507, 514 (2008) (The rule of lenity "places the weight of inertia upon the party that can best induce Congress to speak more clearly and keeps courts from making criminal law in Congress's stead.").

III. The Court Should Reject *Strong* Because Mandatory Imprisonment Of Conditionally Released Defendants For Competency Restoration Institutionalizes An Intractable Conflict Between Defense Attorneys' Sixth Amendment Obligations To Their Clients And Ethical Obligations To The Courts.

The panel opinion minimizes and limits the scope of the intractable conflict created by the *Strong* interpretation of the competency statute. *Quintero*, 995 F.3d at 1059-60. The duty of candor to the court is in direct conflict with the duty to mentally ill clients of zealous representation and safeguarding secrets. Instead of addressing the structural conflict, the panel ignored the problem in the absence of plain error based on an actual conflict. That is not the point under the Sixth Amendment: the statute should be construed to avoid the institutionalized conflict, and the statute, if construed to require mandatory incarceration, is unconstitutional for this additional reason.

Legal ethicists have debated defense counsel's duty, on one hand, of candor to the court regarding a client's impairment and, on the other, of protecting mentally ill clients' confidential information "to the extent reasonably necessary to protect the client's interests." MODEL RULES OF PROF'L CONDUCT R. 1.14(c) (ABA 2018). The prospect of mandatory incarceration instead of pretrial conditional release presents a major conflict, especially when the mandatory incarceration exceeds the time likely to be served for the underlying offense. Marisol Orihuela, *The Unconstitutionality of Mandatory Detention During Competency Restoration*, *supra*, at 9-11 (reporting

competency concerns often "runs counter to [a] client's best interest" as increasing incarceration); Rodney J. Uphoff, *The Role of the Criminal Defense Lawyer in Representing the Mentally Impaired Defendant: Zealous Advocate or Officer of the Court?*, 1988 WIS. L. REV. 65, 72 (1988) ("For many defendants, particularly those charged with minor offenses, raising competency subjects the defendant to a far greater deprivation of his liberty than if he were convicted of the crime with which he is charged."); Bruce J. Winick, *Reforming Incompetency to Stand Trial and Plead Guilty: A Restated Proposal and A Response to Professor Bonnie*, 85 J. CRIM. L. & CRIMINOLOGY 71, 580-81 (1995) ("[D]efendants who are evaluated may be confined for longer than they would have been had they been permitted to waive their incompetency and either plead guilty or stand trial at the outset.").

Contrary to the panel's view of required disclosure, *Quintero*, 995 F.3d at 1059-60, the ABA's guidance does not require disclosure, stating, "Defense counsel *may* seek an ex parte evaluation or move for evaluation of the defendant's competence to proceed whenever counsel has a good faith doubt about the defendant's competence, even if the motion is over the defendant's objection." CRIMINAL JUSTICE STANDARDS ON MENTAL HEALTH, § 7-4.3(c) (ABA 2016) (emphasis added). The real-life practice of criminal defense in this context is not a matter of competing "trial strategy" or "hard choices" but of competing ethical duties.

Defense attorneys owe their clients a duty of zealous representation and loyalty that restricts disclosure of information about mentally ill clients. *See Wheat v. United States*, 486 U.S. 153, 161-62 (1988) (Sixth Amendment guarantees conflict-free counsel); *Strickland v. Washington*, 466 U.S. 668, 688 (1984) ("Counsel's function is to assist the defendant, and hence counsel owes the client a duty of loyalty, a duty to avoid conflicts of interest."). The matter is further complicated by recent case law requiring defense counsel to respect mentally ill clients' personal autonomy to make decisions regarding representation. *See McCoy v. Louisiana*, 138 S. Ct. 1500, 1511 (2018) (attorney's tactical admissions of guilt over defendant's objection violated client's "protected autonomy right"); *accord United States v. Read*, 918 F.3d 712, 715 (9th Cir. 2019).

The ABA ethical standards assume incarceration will *not* automatically ensue from reporting disability to the court, which ameliorates the conflict. CRIMINAL JUSTICE STANDARDS ON MENTAL HEALTH, § 7-4.10(a)(iii) (ABA 2016) ("A defendant should not be involuntarily hospitalized to restore or sustain competence unless the court determines by clear and convincing evidence that: (A) treatment appropriate for the defendant to attain or maintain competence is available in the facility; and (B) no appropriate treatment alternative is available that is less restrictive than placement in

the facility."); *accord* § 7-4.11(c) ("A defendant has a right to treatment in the least restrictive setting appropriate to restore competence to proceed.").

Even with this assumption, the Model Rules recognize the ethical dilemma, given short shrift by the panel, for defense attorneys faced squarely with a conflict between their duty of candor to the court and their duty to protect their clients' best interests, acknowledging that "[t]he lawyer's position in such cases is an unavoidably difficult one." MODEL RULES OF PROF'L CONDUCT R. 1.14 cmt. 8 (ABA 2018); *compare* Uphoff, *supra*, at 89 (the duty of candor is "paramount and overrides counsel's obligations to her client") *with* John D. King, *Candor, Zeal, and the Substitution of Judgment: Ethics and the Mentally Ill Criminal Defendant*, 58 AM. U. L. REV. 207, 240, 257 (2008) ("The duties of zealous representation and protection of client confidences should trump any rule that requires a criminal defense lawyer to raise her doubts about her client's competency.").

The panel's language minimizes the real and unresolved ethical conflict defense lawyers too frequently confront. Instead of using the *Strong* term "temporary incarceration," the panel references "temporary pretrial hospitalization." *Quintero*, 995 F.3d at 1060. The reality is that our mentally ill clients are sent to prisons. They are incarcerated with the regimentation, dehumanization, danger, and loss of community that a prison stay entails. *See Rosales-Mireles v. United States*, 138 S. Ct.

1897, 1907 (2018) ("Any amount of actual jail time is significant, and has exceptionally severe consequences for the incarcerated individual[.]").

The *Strong* construction of § 4241(d) should not be allowed to institutionalize conflicts that dilute defense counsel's Sixth Amendment duties to the presumptively innocent criminally accused. The broad construction of "custody" in § 4241(d) ameliorates the risk of conflict because, for pretrial defendants who have established that conditional release creates neither a risk of flight nor any danger to the community, defense attorneys can raise competency concerns without automatically risking their clients' prolonged incarceration.

Conclusion

The Court should grant rehearing en banc and either construe § 4241(d) to authorize commitment to custody in the community or hold that the commitment statute is unconstitutional to the extent it subjects mentally disabled pretrial defendants to mandatory incarceration without individualized consideration.

Respectfully submitted this 7th day of June, 2021.

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CONSENT OF PARTIES

Pursuant to Circuit Advisory Committee Note to Rule 29-3, the Ninth Circuit Federal Public and Community Defenders, through Chief Deputy Public Defender Stephen Sady, respectfully advise the Court that the defendant, Sonia Quintero, represented by Assistant Federal Public Defenders M. Edith Cunningham and James D. Smith, and counsel for plaintiff, Assistant United States Attorney Shelley Clemens, consent to this filing.

Dated this 7th day of June, 2021.

/s/Stephen R. Sady
Stephen R. Sady
Chief Deputy Federal Public Defender

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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