

THE HONORABLE RICHARD A. JONES
THE HONORABLE BRIAN A. TSUCHIDA

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA

v.

CHANGPENG ZHAO,

Defendant.

CASE NO. CR 23-179 (RAJ)

DECLARATION OF SAVANNAH
BURGOYNE IN SUPPORT OF
DEFENDANT’S OPPOSITION TO THE
GOVERNMENT’S MOTION FOR REVIEW OF
THE MAGISTRATE JUDGE’S RULING ON
DEFENDANT’S PRESENTENCING TRAVEL
RESTRICTIONS

DECLARATION OF SAVANNAH BURGOYNE

I, SAVANNAH BURGOYNE, declare the following to be true and correct:

1. I am an attorney at law duly licensed to practice before the courts of the State of Virginia and the District of Columbia, and am an associate at the law firm of Latham & Watkins LLP. On November 21, 2023, this Court admitted me to practice *pro hac vice* to appear on behalf of Defendant Changpeng Zhao (“Defendant” or “Mr. Zhao”) in connection with the above-captioned matter. *See* ECF Nos. 10, 22.

1 2. I submit this declaration in support of Defendant’s Opposition to the government’s
2 Motion for Review of the Magistrate Judge’s Ruling on Defendant’s Presentencing Travel
3 Restrictions (“Opposition”). I have personal knowledge of the facts stated herein, and could and
4 would competently testify to these facts if called as a witness.

5 3. On November 21, 2023, this Court held the initial appearance, change of plea, and
6 detention hearing as to Mr. Zhao (the “Hearing”). *See* ECF No. 29. Judge Tsuchida presided and
7 issued an order from the bench on the conditions of release for Mr. Zhao, permitting him to return
8 to the United Arab Emirates (the “Release Order”). *See id.* I appeared on behalf of Mr. Zhao for
9 the Hearing. *See id.*

10 4. Shortly following the Hearing, and also on November 21, 2023, counsel for
11 Mr. Zhao requested from the Court a copy of the official digital recording of the Hearing. That
12 official digital recording was received on the same date.

13 5. In connection with Mr. Zhao’s Opposition, I listened to and transcribed the official
14 audio recording of the Hearing in relevant parts, as an official transcript for the Hearing cannot be
15 obtained in time for the submission of Mr. Zhao’s Opposition.

16 6. The following excerpts are portions from the Hearing, with respective approximate
17 time stamps from the original digital recording, which I have transcribed and determined to the
18 best of my ability and believe to be true and accurate:

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21 a. **Mr. Mosley, beginning at 00:49:16 of the recording:** “The position, Your
22 Honor, is that Mr. Zhao should remain in the United States. He would be able
23 to travel freely with certain conditions within the United States, but not be
24 allowed to travel outside of the continental United States which would include
25 not being able to go back to, in particular, to the United Arab Emirates where
26 the United States does not have an extradition treaty and where Mr. Zhao has
extensive family ties.”

b. **Mr. Burke, beginning at 00:56:39 of the recording:** “We also believe that
there are many indications that Mr. Zhao, beyond the fact that he’s come here,
that he will be coming here and there are really no reasons to think that he will

1 not, including, Your Honor, that the sentence that he's facing under the
2 Guidelines is either twelve to eighteen months if the government prevailed on
3 its theory of the unlawful proceeds enhancement; it's ten to sixteen months if
4 we prevail on our arguments. And of course, we will be arguing as well for a
5 lower sentence than even the ten months that will be the bottom of the range."

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c. **Mr. Bartlett, beginning at 01:00:35 of the recording:** "And I think it's
absolutely critical for the Court to understand the UAE is probably, if not the
top country, one of the top two or three countries in the world welcoming
crypto. And he went over there over two years ago because there was a mutual
seeking out – he wanted to go to a country that welcomed crypto, and they
wanted him. They have treated him tremendously well. And he is a citizen of
the UAE. And it's interesting, as a person who was not born in the UAE, he
could not apply to be a citizen. They contacted him and they offered him
citizenship. That's how he became a citizen over there. And he is very fond of
the country, he is very grateful to the government, for the welcome they've
shown his business, his family and himself. He would never put that
government in a situation where the U.S. government is saying we need this
man out of here and he's saying no, no, no protect me. He wouldn't do it. . . .
And finally I'll commit to the Court, we will come back two to three weeks
before sentencing, so we won't even know what the government's going to
recommend, we'll have him back in the country. He'll wake up, we'll see what
the recommendation is, we'll go to sentencing, and we'll deal with it at that
point and time. If the Court has any questions I'd be happy to respond."

d. **Mr. Bartlett, beginning at 1:13:48 of the recording:** "Completely
understand. The one thing I do want to respond to with regard to Mr. Mosley
is, he is right, I think that the UAE government has been incredibly gracious
toward Mr. Zhao and I think they should be because what a wonderful company
he brought to them. On the other hand, if you look at any of the history between
the UAE and the United States government, you will see that they are one of
the closest allies with the United States government, both militarily and
diplomatically. It is a very, very close relationship that is good for both parties.
And as I mentioned before, Mr. Zhao is totally aware of that, and he would
never put that country in a position where they had to choose him over their
good relationship with the United States."

e. **Mr. Zhao, beginning at 1:18:14 of the recording:** "Your Honor, I just want
to say one thing. I want to close the issue. So I want to take responsibility and
close this chapter in my life. So, it is a very simple mindset for me. I've not
caused problems before, I've never been a criminal, I've not been into a
courthouse before. So all this is new to me. To be very frank, before I came, I
was a little bit scared. In most countries, when you go to the country, you know,
you don't know what's going to happen. So I was very impressed in this court
hearing having Your Honor explain every little detail to me, all of that is very
reassuring actually. So before I come here, I did not know that. So and also
with the issue on UAE – I was given, I was offered a citizenship, I took it as an

1 honor. I do not want to leverage that to say ‘hey, protect me.’ I don’t want to
2 use that. I don’t want to use favors in that way. So I want to address issues
3 myself. So I have full intention to come back here and close this issue,
4 otherwise I wouldn’t be here today. So the issue was there, we got to an
5 agreement, and I will close the issue now. Thank you. I will return.”

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f. **Judge Tsuchida, beginning at 1:19:33 of the recording:** “Thank you
everyone for filling me in on a very interesting and challenging decision. This
is what I’m going to do. Number one, there is no disagreement among the
parties, the defense and the prosecution, that release is appropriate in the case,
so I will fashion an appearance bond and release order. The release order is
going to say that you are required to, number one, make all of your court
appearances and we’ll put right in the order the current sentencing date. And
simply because that’s what Judge Jones has currently set, if he wants to change
it, he can change it, but until he changes it that’s when you would be required
to show up. Now this is very important for a couple reasons, because number
one a release order can be revoked if you don’t show up. You can face more
criminal charges if Mr. Mosley, and Mr. Dion, or Ms. Carr, or Mr. Wharton can
prove that you willfully failed to show for a court hearing after being ordered
to do so, they say you are a bail jumper, we will prosecute you for that, you
could go to prison for that, on top of whatever you face so it’s very important
you show up. In all criminal cases we also always order what is sort of common
sense, it goes without saying, do not commit any law violations of any kind,
you have to maintain good conduct. And law violations being law violations
of federal, state, local, you know there’s a zillion different kinds of laws. You
have to show up for your court hearings. You have to stay out of trouble and
abide by all laws. The main issue here is the one on where you should live and
this is a very close call but I tend to favor your position, to stay in the UAE. I
think everybody who appears in this Court has always presented a risk of flight.
There’s been no one that I have released that did not present some kind of risk
of flight, including people who actually face many, many more years than you
who still show up. But I think that your actions maybe speak louder than the
worries in the sense that you had no obligation to come to the country and you
did. And as you said your intent is you would like to resolve this case, not run.
And so, I think we will allow you to live in UAE. You will reside at a residence
that you will maintain and let your lawyers know and don’t change until you let
your lawyers know. I think as a practical matter and the pretrial office can
correct me, it’s impracticable to say well I’m going to order pretrial service,
you know, they’re not going to go over to the UAE and, you know, visit you at
your house or anything like that. And so the distance and the fact that it’s a
foreign country doesn’t make a huge amount of sense. All right? Mr. Bartlett
had indicated, and maybe this is also a wise thing, that you are willing to appear
several weeks before sentencing, in other words the parties haven’t even
submitted their sentencing packets yet so you are kind of coming blind, you
don’t even know what the government is actually going to say – is it five
months, ten months, two months, twelve months, sixteen months, whatever –

1 you know, but you don't know. And so I suppose, Mr. Bartlett, Mr. Mosley,
2 Mr. Dion, Ms. Carr, Mr. Wharton, Mr. Naftalis, Mr. Burke, that we could put
into the appearance bond that you shall return to the United States fourteen days
before your sentencing.”

3 g. **Judge Tsuchida, beginning at 1:34:00 of the recording:** “Mr. Zhao, I’m just
4 kind of going over both a legal and practical thing – the legal part is that these
5 decisions I make are reviewable by your district judge, the practical thing is
6 what kind of time gap we need to sort out whether Judge Jones will affirm what
7 I’ve just ordered or will reverse. So let us simply say that the government has
8 said they need 72 hours, so, today is Tuesday . . . Wednesday . . . well, if you
9 count Thursday we’re really talking about until Friday. What kind of time
10 pressures does your client have, or does he have any time pressures about
11 staying in the U.S.? . . . Well let me do this, because you know we have
12 Thanksgiving and oddly the Court is supposed to be open but I think it’s closed
13 on Friday so I don’t know if a lot of people are going to be around; why don’t
14 we just say if we don’t hear from Judge Jones by 5:00 on Monday, then this
15 order will stand. And the reason I say this is that it is not that Judge Jones has
to make a decision, but if he says ‘I want to take a look at this,’ then he’ll set a
hearing I’m sure, but, you know, it is not going to take him that long to say I
want a hearing, or I don’t want a hearing. . . . Okay, so Mr. Zhao you got to
stick around the United States, don’t leave, alright, and, because we will give
Judge Jones until Monday afternoon to say whether he wants to take a look at
this, reverse me, affirm me, it’ll be up to him okay? And I think if we do not
hear from Judge Jones then this order will stand and this will be your release
order, alright?”

16 7. If helpful to the Court, counsel for Mr. Zhao would be happy to obtain an official
17 transcript of the Hearing from a third party vendor and submit to this Court as soon as practicable.

18 I declare under penalty of perjury under the laws of the United States of America that the
19 foregoing is true and correct. Executed on November 23, 2023, in Washington, D.C.

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21 /s/ Savannah Burgoyne
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