

(N.D. Tex. 1995) (Fitzwater, J.) (quoting *Fontenot v. Upjohn Co.*, 780 F.2d 1190, 1194 (5th Cir. 1986)). This means that the movant must demonstrate that there are no genuine and material fact disputes and that the movant is entitled to summary judgment as a matter of law. See *Martin v. Alamo Cmty. Coll. Dist.*, 353 F.3d 409, 412 (5th Cir. 2003). “The court has noted that the ‘beyond peradventure’ standard is ‘heavy.’” *Carolina Cas. Ins. Co. v. Sowell*, 603 F.Supp.2d 914, 923-24 (N.D. Tex. 2009) (Fitzwater, C.J.) (quoting *Cont’l Cas. Co. v. St. Paul Fire & Marine Ins. Co.*, 2007 WL 2403656, at *10 (N.D. Tex. Aug. 23, 2007) (Fitzwater, J.)).

The court concludes that plaintiffs have failed at this preliminary stage to satisfy their heavy burden to establish beyond peradventure all of the essential elements of their APA claims necessary to warrant judgment in their favor. For example, they have not demonstrated beyond peradventure that the Federal Bureau of Prisons undertook the alleged adverse conduct based on 28 C.F.R. § 115.42(g).

Plaintiffs’ motion for partial summary judgment is therefore denied without prejudice.

SO ORDERED.

August 25, 2026.



SIDNEY A. FITZWATER
SENIOR JUDGE