

UNITED STATES v. JUAN ANGULO CABRERA

PETITION FOR WRIT OF CERTIORARI

"APPENDIXES"

APPENDIX "A"

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

AUG 22 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JUAN GABRIEL ANGULO-CABRERA,

Defendant-Appellant.

No. 18-56521

D.C. Nos. 2:18-cv-00321-RGK

2:13-cr-00889-GHK-2

Central District of California,
Los Angeles

ORDER

Before: SCHROEDER and PAEZ, Circuit Judges.

This appeal is from the denial of appellant's 28 U.S.C. § 2255 motion and subsequent Federal Rule of Civil Procedure 59(e) motion. The request for a certificate of appealability (Docket Entry No. 4) is denied because appellant has not shown that "jurists of reason would find it debatable whether the [section 2255 motion] states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C. § 2253(c)(2); *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012); *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *United States v. Winkles*, 795 F.3d 1134, 1143 (9th Cir. 2015), *cert. denied*, 136 S. Ct. 2462 (2016).

Any pending motions are denied as moot.

DENIED.

APR 11 2019

APPENDIX "B"

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:18-cv-00321-RGK CR 13-00889-RGK	Date	July 05, 2018
Title	<i>Juan Angulo Cabrera v. United States of America</i>		

Present: The Honorable R. GARY KLAUSNER, UNITED STATES DISTRICT JUDGE		
Sharon L. Williams	Not Reported	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiff:	Attorneys Present for Defendant:	
Not Present	Not Present	
Proceedings: (IN CHAMBERS) Order Re: Defendant's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 (DE 1)		

I. INTRODUCTION AND FACTUAL BACKGROUND

In October 2013, Juan Gabriel Angulo-Cabrera ("Defendant") and co-conspirators were arrested in a public parking lot regarding a transaction to sell approximately 30 pounds of methamphetamine to an undercover agent. In May 2014, following a trial, Defendant was found guilty by the jury as to multiple violations of counts 1-3 of the indictment—conspiracy to distribute, aiding and abetting, and possession with intent to distribute methamphetamine in violation of 21 U.S.C. §§ 846, 841(a)(1), 841(b)(1)(A)(vii) and 18 U.S.C. § 2.

On September 24, 2014, the Court sentenced Defendant to 292 months incarceration for the aforementioned violations. Defendant's prior counsel filed a timely appeal that alleged ineffective assistance of counsel during sentencing, which the Ninth Circuit denied upon finding that counsel's sentencing strategy was reasonable. *United States v. Juan Gabriel Angulo-Cabrera*, 665 Fed. Appx. 601 (9th Cir. 2016) (unpublished).

On January 12, 2018, Defendant filed this Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255, in which he claims his conviction and sentence violated his Sixth Amendment constitutional right to effective assistance of counsel. For the following reasons, the Court **DENIES** Defendant's motion.

II. JUDICIAL STANDARD

A. Section 2255 and Ineffective Assistance of Counsel

In relevant part, 28 U.S.C. § 2255 provides that a federal prisoner's sentence may be vacated, set

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aside, or corrected if the prisoner can show that the sentence imposed violates the Constitution or laws of the United States, including the Sixth Amendment right to effective assistance counsel. 28 U.S.C. § 2255(a); *Noguera v. Davis*, 290 F. Supp. 3d 974, 1015 (C.D. Cal. 2017).

The Sixth Amendment provides that “[in] all criminal prosecutions, the accused shall enjoy the right to . . . Assistance of Counsel for his defense.” U.S. Const. amend. VI. The right to counsel exists to ensure that each and every defendant receives a “fair trial.” *Strickland v. Washington*, 466 U.S. 668, 684–85 (1984). For that reason, the U.S. Supreme Court has recognized that “the right to counsel is the right to the effective assistance of counsel.” *McMann v. Richardson*, 397 U.S. 759, 771 (1970).

A defendant claiming ineffective assistance of counsel must demonstrate that, in light of all the circumstances (1) his counsel’s performance was deficient, meaning it fell below an objective standard of reasonableness; and (2) he suffered prejudice as a result, meaning “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have to be different.” *Strickland*, 466 U.S. at 694.

In order to evaluate counsel’s performance, the Court must make “every effort . . . to eliminate the distorting effects of hindsight” as it is “all too tempting for a defendant to second-guess counsel’s assistance after conviction” *Id.* at 689. Thus, the Court’s review of counsel’s performance “must be highly deferential” and must “indulge a strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” *Id.* With that said, a counsel’s “tactical decision cannot form the basis for a claim of ineffective assistance of counsel simply because the defendant disagrees with it.” *Guam v. Santos*, 741 F.2d 1167, 1169 (9th Cir. 1984).

B. Evidentiary Hearing Pursuant to 28 U.S.C. § 2255

28 U.S.C § 2255 provides that an evidentiary hearing shall be granted “unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief.” 28 U.S.C. § 2255 (b). A hearing is not necessary when the factual allegations asserted by the defendant fail to state a claim upon which relief may be granted, or the allegations “are so palpably incredible or patently frivolous as to warrant summary dismissal.” *United States v. Schaflander*, 743 F.2d 714, 717 (9th Cir. 1984) (citing *Blackledge v. Allison*, 431 U.S. 63, 76 (1977)).

III. DISCUSSION

The Court **DENIES** Defendant’s Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 because Defendant does not allege sufficient facts to establish deficient performance or prejudice. For the same reason, the Court finds an evidentiary hearing unnecessary.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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Title *Juan Angulo Cabrera v. United States of America***A. Ineffective Assistance of Counsel**

Defendant alleges several ways in which counsel was deficient, and argues that these deficiencies individually and cumulatively prejudiced the outcome of his trial and sentence. The Court addresses each alleged deficiency below.

1. Calling of Witnesses

Defendant argues that counsel was deficient in failing to call Defendant's wife as a witness to testify as to why Defendant was present at the scene of the crime.

Defendant's allegations do not tell the whole story. Counsel tried twice to call Defendant's wife to testify, to no avail, at which point counsel called another witness who would present the same evidence. Because the other witnesses' testimony produced the same evidence as the wife's prospective testimony, Defendant has failed to show that prejudice resulted from the failure to call his wife as a witness. *Schaflander*, 743 F.2d at 718-19 (quoting *Strickland*, 466 U.S. at 694).

2. Use of Phone Records

Defendant also argues counsel was deficient in failing to present his phone records, which Defendant asserts would have shown that he did not hold a leadership position in the illegal drug transaction.

The Court finds counsel's decision not to introduce Defendant's phone records reasonable. Had counsel introduced the full phone record, the government could have introduced expert testimony to show that drug traffickers often have multiple phones. As such, Defendant's counsel made a tactical decision to use other witnesses and evidence to show that Defendant did not have a leadership role in the drug transaction. For example, defense counsel cross-examined government witnesses using a co-defendant's admission that he owned the drugs. Defense counsel also cross-examined government witnesses using part of Defendant's phone record. In addition, defense counsel asked the jury to notice the difference between Defendant's voice at trial as compared to the voice on the recordings presented by the government. Counsel's tactical decision to establish the same facts using alternative evidence is an improper for a claim of ineffective assistance of counsel. *See Santos*, 741 F.2d at 1169.

3. Choice of Counsel

Defendant argues that he was denied the right to choose his counsel because at the last minute he was assigned a new attorney, Peter Scalisi ("Scalisi"), different than the counsel he had retained for

UNITED STATES DISTRICT COURT
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himself, Michael McDonnell ("McDonnell"). Defendant argues that Scalisi provided ineffective assistance of counsel in violation of the Sixth Amendment.

Defendant's allegations misstate the facts. Scalisi was appointed to represent Defendant during trial and Defendant consented to this representation. While Defendant argues that his consent was made under duress, in court he verbally consented to Scalisi's representation. Such "solemn declarations in open court carry a strong presumption of verity" that Defendant has not overcome. *Blackledge*, 431 U.S. 63 at 74. Defendant has failed to prove that counsel was ineffective or that Defendant suffered any prejudice from Scalisi's representation.

4. Conflicts of Interest

Defendant, somewhat vaguely and without naming any specific attorney, argues that his counsel's conflicts of interest adversely affected their respective performances. Defendant does not provide details of the alleged conflicts, explain whether and how they affected his counsel's performance, or demonstrate that any prejudice resulted therefrom. Defendant's "presentation of conclusory allegations unsupported by specifics is subject to summary dismissal." *Id.*

5. Remaining Allegations

Defendant alleges that his counsel failed to present photos of a co-defendant, failed to move for suppression of evidence, failed to request appropriate jury instructions, failed to investigate or present evidence material to sentencing and failed to investigate or present issues for direct appeal. Because Defendant asserts "conclusory allegations which are not supported by a statement of specific facts," Defendant's allegations "do not warrant habeas relief." *Jones v. Gomez*, 66 F.3d 199, 204 (9th Cir. 1995).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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Title *Juan Angulo Cabrera v. United States of America***B. Evidentiary Hearing**

Defendant argues that an evidentiary hearing is necessary for the Court to determine the validity of his ineffective assistance of counsel claim. The Court disagrees. As described above, Defendant provides insufficient facts to support a finding of ineffective assistance of counsel and so fails to state a claim upon which relief may be granted. The court therefore finds an evidentiary hearing would not further his claim for relief. *See Hill v. Lockhart*, 474 U.S. 52, 60 (1985).

IV. CONCLUSION

In light of the foregoing, Defendant's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 is **DENIED** without an evidentiary hearing.

IT IS SO ORDERED.

Initials of Preparer

APPENDIX "C"





APPENDIX "D"

State of California
Department of Justice
Division of Law Enforcement
BUREAU OF INVESTIGATION
Investigation Report

Between 1515 hours and 1650 hours, the CI maintained phone contact with GIL GUERRA. It should be noted that INCA agents maintained surveillance of the suspects but later lost them. For details, see TFO Beebe and TFO Ramirez's reports.

At approximately 1700 hours, GIL GUERRA told the CI that they were in the parking lot of the Target store ready to complete the transaction. I told the CI to bring them to my location.

At approximately 1720 hours, I met with the CI and the suspects at the parking lot of the Home Depot located at 16783 Santa Ana Avenue in Fontana. GIL GUERRA arrived with the CI. Following the CI was a grey/blue 1998 Dodge Caravan CA LIC # 6THZ607 driven by Jesus A. CARDENAS-SELEM. ANGULO-CABRERA and MERCADO-VAZQUEZ were in the white Pilot ~~were circling the parking lot but eventually parked close to us.~~ I met with GIL GUERRA who told me that they were ready. I asked to see the drugs and told him that we would complete the transaction at a nearby house. GIL GUERRA told me that the drugs were in the Caravan (driven by CARDENAS-SELEM). I opened the rear passenger side door of the van and spoke to CARDENAS-SELEM. CARDENAS-SELEM told me that the methamphetamine was in a cardboard box behind his seat. I opened the rear driver's side door of the van and looked into the box. I saw that it contained 10 clear plastic bags that contained a crystal like substance I identified as methamphetamine. I asked CARDENAS-SELEM, "how many pounds were in the box" and he replied "ten." I complained to GIL GUERRA that he had agreed to sell me 30 pounds (of methamphetamine). GIL GUERRA said, "let's do these first, go to a restaurant, eat, and then do the rest." I gave the pre-arranged arrest signal and the suspects were arrested by INCA agents. GIL GUERRA and CARDENAS-SELEM were arrested by SAS Dunn and TFO Ramirez, ANGULO-CABRERA was arrested by TFO Lee and TFO Beebe and MERCADO-VAZQUEZ was arrested by TFO Beebe and TFO Curtner.

I retrieved the box of methamphetamine from the van and later gave it to SAS Dunn. TFO Curtner field tested the drugs in the box and it reacted positive for the presence of methamphetamine.

[REDACTED]

At approximately 1745 hours, I advised GIL GUERRA of his Miranda Warnings in Spanish. GIL GUERRA said that he understood and waived his rights. GIL GUERRA denied that he was involved in a drug deal. He denied having negotiated the drug deal with me and the CI. GIL GUERRA said that he thought he was buying furniture from us. I told GIL GUERRA that he had agreed to sell me 30 pounds of methamphetamine and he replied, "we don't have 30 pounds there." GIL GUERRA said that he only met me because "LUIS," told him to do so. GIL GUERRA referred to LUIS as "THE DENTIST." The interview was terminated.

At approximately 1800 hours, I advised ANGULO-CABRERA of his Miranda Warnings in Spanish. ANGULO-CABRERA said that he understood and waived his rights. ANGULO-CABRERA denied

State of California
Department of Justice
Division of Law Enforcement
BUREAU OF INVESTIGATION
Investigation Report

that he was involved in a drug deal. ANGULO-CABRERA denied having negotiated the drug deal by saying, "I never mentioned the word methamphetamine." ANGULO-CABRERA said that he was there to sell me "mattresses." During the interview, ANGULO-CABRERA said that he did not want to be questioned any further and the interview was terminated.

At approximately 1815 hours, I advised MERCADO-VAZQUEZ of his Miranda Warnings in Spanish. MERCADO-VAZQUEZ said that he understood and he waived his rights. MERCADO-VAZQUEZ did not answer any questions and only said, "I have nothing to say." The interview was terminated.

At approximately 2030 hours, TFO Caleb and I booked GIL GUERRA, ANGULO-CABRERA, MERCADO-VAZQUEZ and CARDENAS-SELEM into the San Bernardino County Adult Detention Center pending the filing of charges for H&S 11379 - Transportation of Methamphetamine, H&S 11378 - Possession for Sales of Methamphetamine and PC 182 - Conspiracy.

I later learned that INCA Task Force Officers had served a follow up search warrant at CARDENAS-SELEM's residence located at 6288 Camelback Lane in Fontana. I learned that an additional 107.7 pounds of methamphetamine (gross weight), 9.44 pounds of cocaine (gross weight), .46 pounds of black tar heroin and \$27, 500.00 in U.S. currency had been seized. For details of the search warrant service and evidence, see TFO Ramirez's report.

It should be noted that INCA is in the process of identifying "LUIS" for possible charges. The UHM I referred to in the Opening Report is Sergio MERCADO-VAZQUEZ.

Investigation continues.

PHYSICAL DESCRIPTION:

A. Subjects:

1. ANGULO-CABRERA, JUAN GABRIEL, WMA, DOB-10/05/1975, 5'09", 185 lb., HAIR-BROWN, EYE-BROWN, SMT-UNK, CDL-F4821851, SSN-714-17-8758, CIL-UNK, CDC-UNK, FBI-UNK
PLACE OF BIRTH (POB): MEXICO
RESIDENCE: 228 YOSEMITE AV, MODESTO, STANISLAUS COUNTY, CA 95351-0000 (RESIDENCE)
PHONE: (209) 968-1851 (CELLULAR)
2. CARDENAS-SELEM, JESUS ARMANDO, WMA, DOB-08/27/1988, 5'10", 200 lb., HAIR-BLACK, EYE-BROWN, SMT-UNK, DL-UNK, SSN-624-24-6006, CIL-UNK, CDC-UNK, FBI-UNK
PLACE OF BIRTH (POB): MEXICO
RESIDENCE: 6288 CAMELBACK LN, FONTANA, SAN BERNARDINO COUNTY, CA 92336-0000 (RESIDENCE)

INVESTIGATION NO: BI-IN2013-00038

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APPENDIX "E(a)"

Name and address:
PETER W. SCALISI SBN # 90131
18685 Main Street, Suite 1
Huntington Beach, CA 92648
Office: (949) 274-1166
Fax: (714) 969-9220
Email: lawoffps@aol.com

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE UNITED STATES OF AMERICA

CASE NUMBER:

2:13-CR-00889-GHK-2

PLAINTIFF(S)

v.

JUAN GABRIEL ANGULO-CABRERA

REQUEST FOR APPROVAL OF
SUBSTITUTION OR WITHDRAWAL
OF COUNSEL

DEPENDANT(S)

INSTRUCTIONS

Generally, an attorney may withdraw from representing a party in a case without the Court's permission if another member of the attorney's firm or agency will continue to represent that party **and** the withdrawing attorney is not the only member in good standing of the Bar of this Court representing that party. In that circumstance, the withdrawing attorney should complete and file a "Notice of Appearance or Withdrawal of Counsel" (Form G-123), instead of this "Request for Approval of Substitution or Withdrawal of Counsel" (Form G-01).

Notably, however, Court permission for withdrawal or substitution is required if no member of the withdrawing attorney's firm or agency will remain as counsel of record. In such circumstances, the attorney(s) seeking to withdraw should complete and file this "Request for Approval of Substitution or Withdrawal of Counsel" (Form G-01), and submit a proposed "Order on Request for Approval of Substitution or Withdrawal of Counsel" (Form G-01 Order).

If the circumstances surrounding an attorney's withdrawal or request to substitute other counsel are not covered by this Form G-01, the attorney may instead file a regularly noticed motion supported by a more detailed memorandum of points and authorities.

SECTION I - WITHDRAWING ATTORNEY

Please complete the following information for the attorney seeking to withdraw (provide the information as it currently appears on the docket; if the attorney appeared pro hac vice, enter "PHV" in the field for "CA Bar Number"):

Name: Michael R. McDonnell CA Bar Number: 41463

Firm or agency: The McDonnell Law Firm

Address: 418 East La Habra Blvd. La Habra CA 90631

Telephone Number: (562) 694-3827 Fax Number: (562) 694-4280

E-mail: mike@mcdonnelllaw.org

Counsel of record for the following party or parties: Juan Gabriel Angulo-Cabrera

Other members of the same firm or agency also seeking to withdraw: _____

SECTION II - NEW REPRESENTATION

- ☐ No new counsel is necessary. The party or parties represented by the attorney(s) seeking to withdraw will continue to be represented by another attorney/firm who has already entered an appearance as counsel of record for that party or parties in this case, and who is a member in good standing of the Bar of this Court.
- ☐ The party or parties represented by the attorney(s) seeking to withdraw have not retained new counsel and wish to proceed *pro se*, as self-represented litigants.
- ☒ The party or parties represented by the attorney(s) seeking to withdraw have retained the following new counsel, who is a member in good standing of the Bar of this Court:

Name: PETER W. SCALISI

CA Bar Number: 90131

Firm or agency: Peter W. Scalisi, Attorney at Law

Address: 18685 Main Street, Suite 1 Huntington Beach CA 92648

Telephone Number: (949) 274-1166

Fax Number: (714) 969-9220

E-mail: lawoffps@aol.com

SECTION III - SIGNATURES

Withdrawing Attorney

I am currently counsel of record in this case, and am identified above in Section I as the "Withdrawing Attorney." I have given notice as required by Local Rule 83-2.3. I hereby request that I and any other attorney(s) listed in Section I be allowed to withdraw from this case.

Date: _____

Signature: _____

Name: Michael R. McDonnell

New Attorney (if applicable)

I have been retained to appear as counsel of record in this case, and my name and contact information are given above in Section II. I am a member in good standing of the Bar of this Court.

Date: _____

Signature: _____

Name: Peter W. Scalisi

Party Represented by Withdrawing Attorney

I am currently represented by, or am an authorized representative of a party currently represented by, the Withdrawing Attorney listed above. I consent to the withdrawal of my current counsel, and to (check if applicable):

☒ substitution of counsel as specified above.

☐ representing myself *pro se* in this case.

Date: _____

Signature: _____

Name: Juan Gabriel Angulo-Cabrera

Title: Defendant

Name and address:
PETER W. SCALISI SBN #90131
18685 Main Street, Suite 1
Huntington Beach, CA 92648
Office (949) 274-1166
Fax: (714) 969-9220
Email: lawoffps@aol.com

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE UNITED STATES OF AMERICA,

CASE NUMBER:

2:13-CR-00889-GHK-2

v.

PLAINTIFF(S)

JUAN GABRIEL ANGULO-CABRERA,

NOTICE OF APPEARANCE OR
WITHDRAWAL OF COUNSEL

DEFENDANT(S)

INSTRUCTIONS

Appearance of Counsel:

Attorneys may use this form to enter an appearance in a case, or to update the docket of a case to reflect a prior appearance. To do so, complete Sections I, II, and IV of this form, then file and serve the form in the case. (Using an attorney's CM/ECF login and password to file this form will expedite the addition of that attorney to the docket as counsel of record.)

Withdrawal of Counsel:

This form may be used to terminate an attorney's status as counsel of record for a party in three situations: (1) the attorney being terminated has already been relieved by the Court, but the docket does not yet reflect that fact; (2) at least one member of the attorney's firm or agency will continue to represent that party and the withdrawing attorney is not the only member of the Bar of this Court representing that party; or (3) the represented party has been dismissed from the case, but the attorneys are still receiving notices of electronic filing. For any of these situations, complete Sections I, III, and IV of this form, then file and serve the form in the case.

Note: In situations not covered above, attorneys seeking to withdraw from a case must first obtain permission from the Court. In such circumstances, attorneys should complete and file a "Request for Approval of Substitution or Withdrawal of Counsel" (Form G-01) rather than this "Notice of Appearance or Withdrawal of Counsel" (Form G-123). See Form G-01 for further information.

SECTION I - IDENTIFYING INFORMATION

Please complete the following information for the attorney you wish to add or remove (if removing an attorney, provide the information as it currently appears on the docket; if appearing pro hac vice, enter "PHV" in the field for "CA Bar Number"):

Name: PETER W. SCALISI

CA Bar Number: 90131

Firm or agency: Peter W. Scalisi, Attorney at Law

Address: 18685 Main Street, Suite 1 Huntington Beach CA 92648

Telephone Number: (949) 274-1166

Fax Number: (714) 969-9220

Email: lawoffps@aol.com

Counsel of record for the following party or parties: Juan Gabriel Angulo-Cabrera

SECTION II - TO ADD AN ATTORNEY TO THE DOCKET

Please select one of the following options:

- ☐ The attorney listed above has already appeared as counsel of record in this case and should have been added to the docket. The date of the attorney's first appearance in this case: _____.
- ☐ The filing of this form constitutes the first appearance in this case of the attorney listed above. Other members of this attorney's firm or agency have previously appeared in the case.
- ☒ The filing of this form constitutes the first appearance in this case of the attorney listed above. No other members of this attorney's firm or agency have previously appeared in the case.

SECTION III - TO REMOVE AN ATTORNEY FROM THE DOCKET

Please select one of the following options:

- ☐ The attorney named above has already been relieved by the Court as counsel of record in this case and should have been removed from the docket. Date of the order relieving this attorney: _____.
- ☐ Please remove the attorney named above from the docket of this case; at least one member of the firm or agency named above, and at least one member of the Bar of this Court, will continue to serve as counsel of record for the party or parties indicated.
(Note: if you are removing yourself from the docket of this case as a result of separating from a firm or agency, you should consult Local Rules 5-4.8.1 and 83-2.4 and Form G-06 ("Notice of Change of Attorney Business or Contact Information"), concerning your obligations to notify the Clerk and parties of changes in your business or contact information.)
- ☐ The represented party has been dismissed from the case, but the attorneys are still receiving notices of electronic filing. Date party was dismissed: _____.

SECTION IV - SIGNATURE

I request that the Clerk update the docket as indicated above.

Date: _____

Signature: _____

Name: Peter W. Scalisi

APPENDIX "E(b)"

Name and address:

MICHAEL R. McDONNELL CA SBN # 41463
 The McDonnell Law Firm
 418 E. La Habra Boulevard
 La Habra, California 90631
 Office: (562) 694-3827
 Fax: (562) 694-4280
 Email: mike@mcdonnelllaw.org

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

THE UNITED STATES OF AMERICA

CASE NUMBER:

2:13-CR-00889-R-2

PLAINTIFF(S)

JUAN GABRIEL ANGULO-CABRERA

DEPENDANT(S)

REQUEST FOR APPROVAL OF
 SUBSTITUTION OR WITHDRAWAL
 OF COUNSEL

INSTRUCTIONS

Generally, an attorney may withdraw from representing a party in a case without the Court's permission if another member of the attorney's firm or agency will continue to represent that party and the withdrawing attorney is not the only member in good standing of the Bar of this Court representing that party. In that circumstance, the withdrawing attorney should complete and file a "Notice of Appearance or Withdrawal of Counsel" (Form G-123), instead of this "Request for Approval of Substitution or Withdrawal of Counsel" (Form G-01).

Notably, however, Court permission for withdrawal or substitution is required if no member of the withdrawing attorney's firm or agency will remain as counsel of record. In such circumstances, the attorney(s) seeking to withdraw should complete and file this "Request for Approval of Substitution or Withdrawal of Counsel" (Form G-01), and submit a proposed "Order on Request for Approval of Substitution or Withdrawal of Counsel" (Form G-01 Order).

If the circumstances surrounding an attorney's withdrawal or request to substitute other counsel are not covered by this Form G-01, the attorney may instead file a regularly noticed motion supported by a more detailed memorandum of points and authorities.

SECTION I - WITHDRAWING ATTORNEY

Please complete the following information for the attorney seeking to withdraw (provide the information as it currently appears on the docket; if the attorney appeared pro hac vice, enter "PHV" in the field for "CA Bar Number"):

Name: Peter C. SwarthCA Bar Number: 143573Firm or agency: Peter C. Swarth Law OfficesAddress: 6520 Platt Avenue, Suite 557 West Hills CA 91307Telephone Number: (818) 887-8800Fax Number: (818) 887-8802E-mail: pswarth@gmail.comCounsel of record for the following party or parties: Juan Gabriel Angulo-Cabrera

Other members of the same firm or agency also seeking to withdraw: _____

SECTION II - NEW REPRESENTATION

- ☐ No new counsel is necessary. The party or parties represented by the attorney(s) seeking to withdraw will continue to be represented by another attorney/firm who has already entered an appearance as counsel of record for that party or parties in this case, and who is a member in good standing of the Bar of this Court.
- ☐ The party or parties represented by the attorney(s) seeking to withdraw have not retained new counsel and wish to proceed *pro se*, as self-represented litigants.
- ☒ The party or parties represented by the attorney(s) seeking to withdraw have retained the following new counsel, who is a member in good standing of the Bar of this Court:

Name: MICHAEL R. McDONNELLCA Bar Number: 41463Firm or agency: THE McDONNELL LAW FIRMAddress: 418 East La Habra Blvd. La Habra CA 90631Telephone Number: (562) 694-3827Fax Number: (562) 694-4280E-mail: mike@mcdonnelllaw.org**SECTION III - SIGNATURES****Withdrawing Attorney**

I am currently counsel of record in this case, and am identified above in Section I as the "Withdrawing Attorney." I have given notice as required by Local Rule 83-2.3. I hereby request that I and any other attorney(s) listed in Section I be allowed to withdraw from this case.

Date: 1-29-14Signature: Peter C. SwarthName: Peter C. Swarth**New Attorney (if applicable)**

I have been retained to appear as counsel of record in this case, and my name and contact information are given above in Section II. I am a member in good standing of the Bar of this Court.

Date: 1-29-14Signature: Mike R. McDonnellName: Michael R. McDonnell**Party Represented by Withdrawing Attorney**

I am currently represented by, or am an authorized representative of a party currently represented by, the Withdrawing Attorney listed above. I consent to the withdrawal of my current counsel, and to (check if applicable):

☒ substitution of counsel as specified above.☐ representing myself *pro se* in this case.Date: 1/29/14Signature: Juan Gabriel Angulo-CabreraName: Juan Gabriel Angulo-CabreraTitle: Defendant