

**NOT FOR PUBLICATION**

**FILED**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

SEP 20 2022

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

MIGUEL ANGEL MOTA, AKA Miguel  
Mota-Angel,

Defendant-Appellant.

No. 21-50231

D.C. No.  
3:20-cr-01521-CAB-1

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Cathy Ann Bencivengo, District Judge, Presiding

Submitted August 31, 2022\*\*  
Pasadena, California

Before: M. SMITH and R. NELSON, Circuit Judges, and DRAIN,\*\*\* District Judge.

Miguel Angel Mota appeals his conviction for illegal reentry, in violation of

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable Gershwin A. Drain, United States District Judge for the Eastern District of Michigan, sitting by designation.

8 U.S.C. § 1326. He contends the district court violated (1) his substantial rights by accepting his guilty plea in violation of Rule 11(b)(2) of the Federal Rules of Criminal Procedure, and (2) his Sixth Amendment rights by denying his motions to substitute counsel.<sup>1</sup> Mota did not raise his Rule 11 objection in the district court, so we review the claim for plain error. *United States v. Dominguez Benitez*, 542 U.S. 74, 76 (2004). We review the denials of his motions for substitution of counsel for abuse of discretion. *United States v. Adelzo-Gonzalez*, 268 F.3d 772, 777 (9th Cir. 2001). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

1. Mota claims the district court erred by failing to ask him (1) whether his guilty plea was the result of any promises, (2) how far he had gone in school, and (3) whether he understood his attorney or felt fully satisfied with the counsel, representation, and advice his attorney had given him. He also claims the court erred by failing to ask defense counsel whether Mota's plea was knowing and voluntary.

The last of these claims is factually inaccurate. The district court asked defense counsel whether he agreed that Mota's plea was voluntary after Mota affirmed that it was for the second time.

Additionally, the district court's failure to ask Mota about his education does

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<sup>1</sup> Mota also claims the district court violated Federal Rule of Criminal Procedure 32(i)(1)(A) by failing to ask him whether he, not his counsel, had reviewed the presentence report. Because Mota acknowledges any error was harmless under *United States v. Soltero*, 510 F.3d 858, 864 (9th Cir. 2007), he raises the issue only to preserve it for en banc or Supreme Court review.

not constitute a Rule 11 violation. Mota argues that *United States v. Fuentes-Galvez*, 969 F.3d 912 (9th Cir. 2020), requires a district court to explicitly ask about a defendant's schooling. It does not. Instead, in that case the question was asked to determine whether the defendant "was capable of knowingly and voluntarily entering a plea at that time." *Id.* The record reflects that the district court more than adequately covered both aspects of this inquiry. The district court asked Mota twice and his counsel once if he was pleading voluntarily, confirmed Mota was not taking any mind-altering substances or medications and was not having trouble understanding the proceedings, and offered Mota the opportunity to confer with counsel, which he did three times.

Nevertheless, we assume, *arguendo*, that the district court plainly erred by failing to ask about promises or Mota's interactions with counsel during the Rule 11 colloquy. Despite this, we find that any error was harmless because Mota has not shown an impact on his substantial rights. *See, e.g., United States v. Ferguson*, 8 F.4th 1143, 1146 (9th Cir. 2021) (assuming magistrate judge's failure to "explicitly ask [defendant] about the voluntariness of his plea or whether it involved any force, threats, or promises" was a Rule 11 violation but finding the error did not affect his substantial rights).

Contrary to Mota's assertions, *Fuentes-Galvez*, 969 F.3d 912 does not suggest that the failure to ask the questions described therein is inherently prejudicial.

*Ferguson*, 8 F.4th at 1147 (“*Fuentes-Galvez* was driven by the defendant’s unique susceptibility to coercion and did not announce a rule that Rule 11(b)(2) violations are always prejudicial.”).<sup>2</sup> And Mota does not demonstrate the same vulnerabilities as the defendant in *Fuentes-Galvez*. He does not argue that he has any “significant mental challenges.” *Fuentes-Galvez*, 969 F.3d at 916. While he only completed eighth or ninth grade, we have found, in other contexts, that such limited schooling is insufficient to establish prejudice without more. *See United States v. Ceja*, 23 F.4th 1218, 1224 (9th Cir. 2022) (finding jury trial waiver was knowing and intelligent despite defendant’s “language barrier and eighth-grade education obtained in a foreign country”), *petition for cert. filed, Ceja v. United States*, No. 21-7648 (S. Ct. Apr. 14, 2022). And the district court inquired whether Mota “was capable of knowingly and voluntarily entering a plea at that time.” *Fuentes-Galvez*, 969 F.3d at 915.

Mota also fails to “show a reasonable probability that, but for the error, he would not have entered the plea.” *Dominguez Benitez*, 542 U.S. at 83. Indeed, Mota explicitly distinguished the plea colloquy from prior situations in which he felt like his counsel had been pressuring him. Additionally, the record demonstrates that Mota did not, in fact, want to go to trial. His disputes with all three attorneys

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<sup>2</sup> Mota suggests there is an intra-circuit conflict between *Fuentes-Galvez* and *Ferguson*. Not so. *Ferguson* merely explains that defendants have read the *Fuentes-Galvez* holding too broadly. *See Ferguson*, 8 F.4th at 1147.

involved dissatisfaction with the plea offers they presented him and the alternative of proceeding to trial. Mota had even explicitly accused his change-of-plea counsel of “threatening” him earlier in the representation by not providing him a plea offer.

2. Mota also claims the district court abused its discretion, and violated his Sixth Amendment rights, by forcing him to proceed with counsel with whom he had an irreconcilable conflict. However, as Mota concedes, because he has failed to show that the district court’s presumed Rule 11 errors violated his substantial rights, his substitution of counsel claim is waived by his unconditional guilty plea. *United States v. Foreman*, 329 F.3d 1037, 1038–39 (9th Cir. 2003), *overruled on other grounds by United States v. Jacobo Castillo*, 496 F.3d 947 (9th Cir. 2007) (en banc) (finding defendant’s claim that district court erred by denying pre-plea motion to substitute counsel was waived by defendant’s entry of unconditional guilty plea where defendant failed to demonstrate his plea was involuntary or not given intelligently).

**AFFIRMED.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BEFORE HONORABLE CATHY ANN BENCIVENGO, JUDGE PRESIDING

COURT STENOGRAPHER'S TRANSCRIPT OF PROCEEDINGS  
SENTENCING W/PSR  
PAGES 1-8

For The Government: United States Attorney's Office  
Southern District of California  
Lyndzie Marie Carter, AUSA  
880 Front Street  
San Diego, CA 92101

For The Defendant: Law Office of David L. Baker  
David L. Baker  
419 19th Street, Suite 200  
San Diego, CA 92102

Proceedings reported by stenography, transcript produced by CAT software

Mauralee Ramirez, RPR, CSR No. 11674  
Federal Official Court Stenographer  
ordertranscript@gmail.com

1 San Diego, California; Friday, October 15, 2021; 9:27 a.m.  
2 (Case 20CR1521-CAB called)

3 ATTORNEY BAKER: David Baker on behalf of Mr. Mota.  
4 He is in custody, I believe, and he is a Spanish speaker.

5 ATTORNEY CARTER: Good morning again, Your Honor.  
6 Lyndzie Carter on behalf of the United States.

7 THE COURT: Thank you.

8 (Pause in the proceedings)

9 THE COURT: Good morning, sir. We're here today for  
10 your sentencing hearing on charges of removed alien found in  
11 the United States. I have reviewed and considered the  
12 following:

13 The indictment filed on June 9th, 2020, the plea that  
14 I took on June 14th, 2021, the presentence report prepared by  
15 probation, the government's sentencing materials, and your  
16 counsel's sentencing submissions. I am familiar with the  
17 charge and your history and characteristics.

18 Counsel, any objections to the presentence report?

19 ATTORNEY BAKER: No, Your Honor.

20 THE COURT: All right. Go ahead.

21 ATTORNEY BAKER: Your Honor, Mr. Mota has been through  
22 a lot in this case since being in custody. He came here for  
23 two reasons: One, to earn money to take care of his father who  
24 has been very sick, and to see his daughter. He realizes that  
25 doing that has just created more problems for everyone in his

1 family. He has been in custody throughout COVID. It's been  
2 tough on him.

3 I know sometimes it takes people a while to learn, but  
4 he's 41 years old. He knows he cannot come back to the United  
5 States. He knows it's more important to be in Mexico and take  
6 care of his father. He's making arrangements to work once he  
7 gets back there.

8 Your Honor, we're not going to see him again. He just  
9 wants to go back to Mexico, start his life, stay there, and try  
10 to build a future in Mexico. We're asking for a lot. I mean,  
11 last time, he got 24 months, but he does have to deal with Utah  
12 as well, so it's for specific deterrence as well as general  
13 deterrence giving him a reduced sentence -- and we're not  
14 asking for a giant reduction here, but giving him a reduced  
15 sentence is appropriate, and I believe we're not going to see  
16 him again. And I'll submit on that, Your Honor.

17 THE COURT: All right. Thank you.

18 Government.

19 ATTORNEY CARTER: Your Honor, the government is  
20 recommending 46 months. I know that Mr. Baker had requested a  
21 minus two variance for COVID. But as the Court knows, that  
22 wasn't offered for Mr. Mota's case. He pled the morning of  
23 trial so we're not looking at any additional variances that  
24 apply to him.

25 I do acknowledge what his counsel said that he doesn't

1 plan on coming back ever again, but I just have serious  
2 concerns, given he's got 12 criminal history points, that  
3 specific deterrence is an issue here.

4 Also his temper has obviously been an issue throughout  
5 this case and then is reflected in his criminal history, his  
6 violent offense for shooting at his ex-girlfriend's new  
7 boyfriend during a car incident. There are some serious anger  
8 issues. There are serious issues with him really not really  
9 acting in his best interest, as this case is proof of. So we  
10 have concerns with that, Your Honor.

11 We're asking for 46 months given his criminal history,  
12 given his violent criminal history, and some specific  
13 characteristic traits that we have seen in Mr. Mota throughout  
14 this case, no additional variances for COVID, he pled open the  
15 morning of trial. And on that, Your Honor, I will submit.

16 THE COURT: All right. Thank you.

17 Probation.

18 THE PROBATION OFFICER: Your Honor, the correct  
19 custody credits for this case is 512 days.

20 (Court stenographer interruption)

21 THE CLERK: You're going to have to project your  
22 voice.

23 THE COURT: Mr. Mota, you don't have to say anything  
24 today, but if there's anything you would like to say, now is  
25 your opportunity. She can hear you through the --

1 THE DEFENDANT (through the interpreter): What the  
2 attorney said is true, I came to help my family. What he said  
3 is correct, my dad is sick I wanted to help him, and I have two  
4 children that depend on me. And what my attorney said is true,  
5 that rather than helping them that they now are in a worse  
6 position. I intend to go back to Mexico and stay there.  
7 That's all. I appreciate you allowing me to speak. May God  
8 bless you, and whatever you give me, it's your decision.

9 THE COURT: All right. Thank you, sir.

With that guideline in mind, the Court has considered the other 3553(a) factors, including the nature and circumstances of the offense, your history and characteristics, the need to deter criminal conduct, and protect the public from further crimes by you. This is your third immigration offense. Your first one in 2014, you got 12 months and then you violated supervision and got an additional six months on that sentence.

1 I think only three were consecutive.

2 Then in 2018, you got a second conviction and got 24  
3 months. And while you were on supervision and deported on  
4 May 1st, 2020 from that conviction, you returned a mere 21 days  
5 later and committed this offense.

6 There seems to be -- I understand your motivations are  
7 to be here to be with your family, but you are repeatedly  
8 showing that you are just going to violate United States  
9 immigration law. And I wish I could be as optimistic as your  
10 counsel that this time you've gotten the message, but I guess  
11 time will tell.

12 You are also on a supervised release violation right  
13 now out of Utah, so your sentence today is not the end of the  
14 proceedings before you. You will also be transferred back to  
15 Utah to face that judge for violating his or her order of  
16 supervision.

17 Considering all the factors and your motivations, the  
18 Court is going to give you a slightly below guideline sentence,  
19 but still a graduated sentence up from your last sentence and  
20 sentence you to 36 months of custody for this violation.

21 You're given credit for the time you've served so far.  
22 I'm not going to impose supervised release pursuant to  
23 guideline 5(d)1.1(c). But, again, you still have the  
24 supervised release violation in Utah, so there will likely be  
25 additional time on this time that you've returned. But I'm

1 hoping you see the trend here, 12, 24, 36 months, and that  
2 supervision hasn't deterred you but the overall sentences, I  
3 hope, will deter you from spending your entire 40s in federal  
4 custody.

5 No fine is imposed as the Court finds you economically  
6 unable to pay.

7 Given the limited opportunities to earn during custody  
8 right now, would you remit?

9 ATTORNEY CARTER: Yes, Your Honor.

10 THE COURT: No special assessment is imposed.

11 The Court finds the sentence imposed to be sufficient  
12 but not greater than necessary to comply with the statutory  
13 purposes of sentencing and the policy reasons and factors set  
14 forth in Title 18, United States Code Section 3553(a),  
15 including the need for the sentence to reflect the seriousness  
16 of the offense, promote respect for the law, provide just  
17 punishment, and avoid unwarranted disparity with the sentences  
18 of others with similar conduct and records.

19 There is no waiver here, so his opportunity to appeal  
20 runs from the entry of judgment today.

21 ATTORNEY BAKER: Certainly, Your Honor.

22 THE COURT: Anything else, Counsel?

23 ATTORNEY BAKER: No. Thank you, Your Honor.

24 THE COURT: Sir, that's all for today. I certainly  
25 hope we don't see you back here again. Good luck.

1 (Attorney/Client discussion off the record)

2 CERTIFICATE OF OFFICIAL COURT STENOGRAPHER

3

4 I, Mauralee Ramirez, federal official court stenographer, in  
5 and for the United States District Court for the Southern  
6 District of California, do hereby certify that pursuant to  
7 Section 753, Title 28, United States Code that to the best of  
8 my ability, the foregoing is a true and correct transcript of  
9 the stenographically reported proceedings held in the  
10 above-entitled matter and that the transcript page format is in  
11 conformance with the regulations of the Judicial Conference of  
12 the United States.

13

14 Dated this 30th day of November 2021

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16 S/ Mauralee Ramirez  
17 Mauralee Ramirez, CSR No. 11674, RPR  
Federal Official Court Stenographer

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FILED

OCT 15 2021

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIACLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY DEPUTYUNITED STATES OF AMERICA  
V.

MIGUEL ANGEL MOTA (1)

JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)

Case Number: 20-CR-1521-CAB

DAVID L. BAKER  
Defendant's Attorney

USM Number 14289081



## THE DEFENDANT:

 pleaded guilty to count(s) ONE (1) OF THE ONE-COUNT INDICTMENT was found guilty on count(s) \_\_\_\_\_

after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Count Number(s)</u>
8 USC 1326	REMOVED ALIEN FOUND IN THE UNITED STATES (FELONY)	1

The defendant is sentenced as provided in pages 2 through 2 of this judgment.  
The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

 The defendant has been found not guilty on count(s) \_\_\_\_\_ Count(s) \_\_\_\_\_ is dismissed on the motion of the United States.

Assessment : \$100.00

 Pursuant to the motion of the United States under 18 USC 3573, the special assessment provided for under 18 USC 3013 is waived and remitted as uncollectible. JVTA Assessment\*: \$

\*Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

 No fine  Forfeiture pursuant to order filed \_\_\_\_\_, included herein.

IT IS ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of any material change in the defendant's economic circumstances.

October 15 2021  
Date of Imposition of SentenceHON. Cathy Ann Bencivengo  
UNITED STATES DISTRICT JUDGE

AO 245B (CASP Rev. 1/19) Judgment in a Criminal Case

DEFENDANT: MIGUEL ANGEL MOTA (1)  
CASE NUMBER: 20-CR-1521-CAB

Judgment - Page 2 of 2

**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 36 MONTHS.

- Sentence imposed pursuant to Title 18 USC Section 1326(b).
- The court makes the following recommendations to the Bureau of Prisons:
  - The defendant is remanded to the custody of the United States Marshal.
  - The defendant must surrender to the United States Marshal for this district:
    - at \_\_\_\_\_ A.M. on \_\_\_\_\_
    - as notified by the United States Marshal.
  - The defendant must surrender for service of sentence at the institution designated by the Bureau of Prisons:
    - on or before \_\_\_\_\_
    - as notified by the United States Marshal.
    - as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_ DEPUTY UNITED STATES MARSHAL

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20-CR-1521-CAB

FILED

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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *m* DEPUTY

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

November 2019 Grand Jury

UNITED STATES OF AMERICA,

Case No. 20 CR 1521 CAB

Plaintiff,

I N D I C T M E N T

v.

Title ~~8~~, U.S.C., Sec. 1326(a) and (b) - Removed Alien Found in the United States

MIGUEL MOTA-ANGEL,

Defendant.

The grand jury charges:

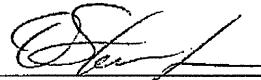
On or about May 22, 2020, within the Southern District of California, defendant MIGUEL MOTA-ANGEL, an alien, who previously had been excluded, deported and removed from the United States, was found in the United States, without the Attorney General of the United States and his/her designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326(a) and (b).

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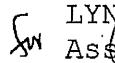
1 It is further alleged that defendant MIGUEL MOTA-ANGEL was removed  
2 from the United States subsequent to January 14, 2019.

3 DATED: June 9, 2020.

4 A TRUE BILL:

5   
6 Foreperson

7 ROBERT S. BREWER, JR.  
8 United States Attorney

9 By: Ami Castille  
10  LYNDZIE M. CARTER  
11 Assistant U.S. Attorney

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Case No. 20MJ9208

Plaintiff,

COMPLAINT FOR VIOLATION OF

v.

Title 8, U.S.C., Section 1326  
Deported Alien Found In the United  
States (Felony)

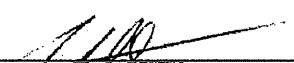
Miguel MOTA-Angel,

Defendant.

The undersigned complainant being duly sworn states:

On or about May 22, 2020, within the Southern District of California, defendant, Miguel MOTA-Angel, an alien, who previously had been excluded, deported and removed from the United States to Mexico was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Section 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

1 And the complainant states this complaint is based on the attached Probable Cause  
2 Statement, which is incorporated herein by reference.  
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6   
7 WENCESLAO PARTIDA  
8 BORDER PATROL AGENT

9  
10 Sworn and attested to under oath by telephone, in accordance with Federal Rule of  
11 Criminal Procedure 4.1, this 26<sup>th</sup> day of May, 2020.  
12

13   
14 HON. RUTH BERMUDEZ MONTENEGRO  
15 U.S. MAGISTRATE JUDGE  
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1 UNITED STATES OF AMERICA

2 v.

2 Miguel MOTA-Angel

3 PROBABLE CAUSE STATEMENT

4 I, Border Patrol Agent Benny Galindo, declare under penalty of perjury, the following  
5  
6 is true and correct:

7 The complainant states this complaint is based upon the investigative report of Border  
8 Patrol Agent (BPA) T. Thompson that defendant, Miguel MOTA-Angel (MOTA), was  
9 found in the United States and was arrested on May 22, 2020, near Calexico, California.

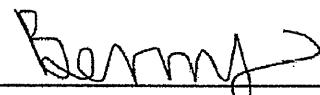
10 On May 22, 2020, BPA D. Casanova was conducting linewatch duties  
11 approximately 16 miles east of the Calexico, California West Port of Entry. At  
12 approximately 8:06 p.m., remote video surveillance systems operators observed and  
13 notified agents in the area of three individuals travelling northbound away from the  
14 International Boundary Fence (IBF). BPA Casanova responded to search the surrounding  
15 area, and at approximately 10:03 p.m., BPA Casanova encountered three subjects. The  
16 subjects, one of whom was later identified as MOTA, were attempting to conceal  
17 themselves in the brush south of Highway 98 approximately 1.5 miles north of the IBF.  
18 BPA Casanova approached MOTA, identified himself as a BPA, and questioned MOTA  
19 as to his citizenship. Through questioning, MOTA admitted to being a citizen of Mexico  
20 who does not possess immigration documents to be in the United States legally. MOTA  
21 was placed under arrest and transported to the El Centro Border Patrol Station for further  
22 processing.

1 MOTA was advised of his Miranda Rights, acknowledged understanding these  
2 rights, and agreed to answer questions without the presence of an attorney. MOTA  
3 admitted to being a citizen of Mexico who does not possess any immigration  
4 documentation to remain in the United States legally. MOTA admitted to re-entering the  
5 United States illegally on May 22, 2020 by climbing over the border fence. MOTA  
6 admitted to being deported from the United States before. MOTA stated he intended to  
7 travel to Los Angeles, California.  
8

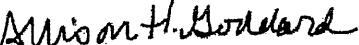
9  
10 Record checks revealed MOTA was granted an administrative deportation on April  
11 4, 2008. MOTA was most recently removed to Mexico on May 1, 2020 via El Paso, Texas.  
12

13 Record checks revealed there is no evidence showing MOTA has applied for and  
14 sought or received permission from the United States Attorney General or the Secretary of  
15 the Department of Homeland Security to re-enter the United States.  
16

17 Executed on May 23, 2020 at 3:00 a.m.

  
18 \_\_\_\_\_  
19 Benny Galindo  
20 Border Patrol Agent

21 On the basis of the facts presented in the Probable Cause Statement consisting of  
22 two pages, I find probable cause to believe that the defendant named in this Probable Cause  
23 Statement committed the offense on May 22, 2020 in violation of Title 8, United States  
24 Code 1326.  
25

26   
27 \_\_\_\_\_  
28 Hon. Allison Goddard  
United States Magistrate Judge

29 6:40 AM, May 23, 2020

30 Date/Time

## USAO INTAKE INFORMATION RAP SHEET

First: Miguel Mid. \_\_\_\_\_ Last: MOTA \_\_\_\_\_ Angel \_\_\_\_\_  
 Case No. \_\_\_\_\_

## RAP SHEET SUMMARY CHART

Conviction Date	Conviction Court	Charge	Prison Term	Points
10/5/2007	U.S.D.C CENTRAL DIVISION OF UTAH	18 USC 922(g)(5) POSSESSION OF A FIREARM BY AN ILLEG ALIEN(F)	18 MO PRISON, 24 MO SR	
2/9/2015	U.S.D.C DIRTICT OF UTAH	8 USC 1326 RE-ENTRY OF A PREVIOUSLY REMOVED ALIEN(F)	12 MO PRISON, 36 MO SR	
7/6/2018	3RD DIST COURT - SALT LAKE, UT	PATRONIZING PROSTITUTION(M)	365 DAYS JAIL, 24 MO PROB	
1/14/2019	U.S.D.C DISTRICT OF UTAH	VIOLATION OF SUPERVISED RELEASE (F)	6 MO PRISON CONCURRENT	
1/14/2019	U.S.D.C DISTRICT OF UTAH	8 USC 1326 RE-ENTRY OF PREVIOUSLY REMOVED ALIENS(F)	24 MO PRISON, 36 MO SR	
ON PAROLE/PROBATION				
TOTAL POINTS				
CRIMINAL HISTORY CATEGORY				
DEPORTATIONS				
DATE OF MOST RECENT DEPORTATION(PHYSICAL REMOVAL)		05/01/2020		
DATE OF ORDER OF FIRST DEPORTATION		04/07/2008		

10 TRANSCRIPT OF INITIAL APPEARANCE  
BEFORE THE HONORABLE RUTH BERMUDEZ MONTENEGRO  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

12 For the Plaintiff: JESSICA MORENO, ESQ.  
13 Assistant United States  
14 Attorney  
15 516 Industry Way  
16 Imperial California 92251  
17  
18 For the Defendant: FEDERAL DEFENDERS OF SAN DIEGO  
19 BY: LEAH GONZALES, ESQ.  
20 225 Broadway, Suite 900  
21 San Diego, California 92101  
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Transcript Ordered by: DAVID A. SCHLESINGER, ESO.

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Proceedings recorded by electronic sound recording;  
transcript produced by transcription service.

## *Echo Reporting, Inc.*

1

EL CENTRO, CALIFORNIA TUESDAY, MAY 26, 2020 3:00 P.M.

—○○○—

(Call to order of the Court.)

4 THE CLERK: Number eight on the log, 20MJ9208,  
5 U.S.A. versus Miguel Mota-Angel.

6 MS. GONZALES (via VTC): Leah Gonzales, Federal  
7 Defenders, for Mr. Mota-Angel. I'm appearing via video, and  
8 El Centro Jail.

MS. MORENO: Jessica Moreno for the United States.

10 THE COURT: All right. Mr. Mota, are you able to  
11 see and hear everything transpiring in the courtroom, sir?

12 THE DEFENDANT (via VTC through interpreter): Yes.

13 THE COURT: If the audio or the video fails, please  
14 let me know.

15 THE DEFENDANT: Okay.

16 THE COURT: Did you consult with your attorney  
17 regarding appearing today via video conference?

18 THE DEFENDANT: Yes.

19 THE COURT: And do you consent to appearing today  
20 via video conference rather than in person?

21 THE DEFENDANT: Yes.

22 THE COURT: Is Miguel Mota-Angel your true and  
23 correct name?

24 THE DEFENDANT: Yes

25 THE COURT: You're here today because you've been

1 charged in a criminal complaint with deported alien found in  
2 the United States, a felony. You are not required to make any  
3 statement. In fact, any statement that you make in open court  
4 may be used against you.

5 You have a right to a hearing to determine if  
6 there's probable cause to support the charges pending against  
7 you.

8 You have the right to be represented by an  
9 attorney. If you cannot afford to hire an attorney, I will  
10 appoint one to represent you at no cost to you.

11 If you are not a United States citizen, you have a  
12 right to request that a federal prosecutor or law enforcement  
13 agent notify a consular officer for your country of  
14 nationality that you have been arrested. Consular  
15 notification may be required regardless of your request.

16 You have the right to bail unless the Government  
17 moves to detain you and there's good cause to hold you without  
18 bail. If you're released on bail, you must comply with the  
19 following standard conditions and any additional conditions I  
20 set in your case.

21 You must not violate federal, state or local laws.  
22 You must cooperate in the collection of a DNA sample. You  
23 must make all your court appearances. You must not possess a  
24 firearm, destructive device or other dangerous weapon. You  
25 must not use or possess a narcotic drug or other controlled

1 substance without a lawful medical prescription. You must not  
2 use or possess marijuana or any marijuana derivative products  
3 under any circumstances.

4 You must report to Pretrial Services as directed by  
5 a Pretrial Services officer. And you must provide the Court  
6 with a current residence address and telephone number prior to  
7 your release and keep them current while this matter is  
8 pending.

9 You are to read and to acknowledge your  
10 understanding of the Advice of Penalties and Sanctions Form,  
11 and your travel will be restricted, and you're not to enter  
12 Mexico.

13 All right. Does the Defendant have sufficient  
14 assets to retain counsel?

15 MS. GONZALES: Your Honor, Mr. Mota did not  
16 indicate sufficient assets to retain counsel. So I would ask  
17 that the Court appoint counsel for him.

18 THE COURT: The Court will appoint Attorney Charles  
19 Rees to represent him.

20 What is the Government's position on bail?

21 MS. MORENO: We'll move to detain based on flight  
22 risk. The Defendant is a citizen of Mexico with no legal  
23 status to enter or remain in the United States, and he's is  
24 subject to deportation if convicted of the offense. He has no  
25 legal employment in the United States. He also has no

1 residence in the United States, and he lacks significant ties  
2 or contact with the community, which increases the risk of  
3 flight.

4 He was found approximately 1.5 miles north of the  
5 international bounder fence, and he admitted the offense at  
6 the time of his detention. He was last removed from the  
7 United States on May 1st, 2020.

8 He also does have a prior significant criminal  
9 record which includes a conviction in 2007 for possession of a  
10 firearm by an undocumented person, a felony offense. In 2015,  
11 he was convicted of the same crime that he is charged today,  
12 1326, illegal reentry. 2018, patronizing prostitution,  
13 misdemeanor, 2019, violation of supervised release, a felony  
14 offense, and 2019 as well, another 1326 conviction, the same  
15 offense he's facing today, and he was placed on 36 months of  
16 supervised release, he's placed right now on supervised  
17 release.

18 He has been deported three times before, your  
19 Honor. Based on the proffer, there is no condition that could  
20 be set to ensure his appearance in court, and we'd ask the  
21 Court to detain without bail.

22 MS. GONZALES: Your Honor, for Mr. Mota-Angel, I'm  
23 asking for a \$10,000 cash or corporate surety bond under  
24 standard conditions.

25 With respect to any supervised release that he

1 might be on, the Court is well within their power to issue a  
2 hold related to that. Mr. Mota is 39 years old, and despite  
3 what the Government just said, he does have extensive ties to  
4 the United States that span over two decades. And all of  
5 those ties are centralized in Salt Lake City, Utah.

6 Mr. Mota-Angel has five children that reside in the  
7 United States, and he also has worked at various companies in  
8 the United States over those 20 years. He's primarily worked  
9 with landscaping. Normally he works for companies called  
10 Occasion Gardening, Primo Landscaping, and most recently as a  
11 general laborer for Wasack Temporary Agency in Salt Lake City  
12 area.

13 Mr. Mota-Angel also has indicated that his partner,  
14 who is the mother of two of his children, could potentially  
15 post bail. They are not married, but in the event that the  
16 Court will require someone to serve as surety, I would ask  
17 that the Court strike any related condition.

18 He's also indicated that a friend of his that he's  
19 known for years that is a citizen in Salt Lake City, Utah, can  
20 also potentially post this bond if the Court does require a  
21 surety to be part of it.

22 I'm not necessarily asking that the Court extend  
23 travel to Salt Lake City, but I am asking that the Court  
24 fashion the conditions of release for Mr. Mota to be able to  
25 reasonably post bond.

1                   THE COURT: The Court orders the Defendant's  
2 detention because I find that by as preponderance of the  
3 evidence that there's no condition or combination of  
4 conditions that will reasonably ensure the appearance of  
5 Defendant as required.

6                   The Court's findings are based on the evidence  
7 presented to the Court, including the criminal complaint and  
8 the attorney proffers. After considering all the relevant  
9 information and evidence, the Court finds as follows:

10                  Defendant is charged with deported alien found in  
11 the United States, a felony.

12                  As to the weight of the evidence against the  
13 Defendant, the Court acknowledges this is the least  
14 significant factor, finds that the evidence against the  
15 Defendant is strong, including that the Defendant admitted to  
16 being a citizen of Mexico who does not possess immigration  
17 documents to be in the United States legally. He also  
18 admitted to being a citizen of Mexico who does not possess any  
19 immigration documents to remain in the United States legally,  
20 and he admitted to reentering the United States illegally on  
21 May 22nd, 2020 by climbing over the border fence.

22                  The Defendant lacks lawful status. If convicted,  
23 he's subject to deportation. He lacks significant financial  
24 resources and assets in the United States. He has a prior  
25 criminal history. That includes a 2007 conviction for

1 possession of a firearm by an illegal alien, a felony  
2 conviction. He has a 2015 conviction for reentry of  
3 previously removed alien, felony conviction, for which he  
4 received 12 months prison, 36 months supervised release. He  
5 has a 2018 conviction for patronizing prostitution, for which  
6 he received 365 days jail and 24 months probation. He  
7 committed that offense while he was on felony supervised  
8 release. And in 2019, he received six months prison for  
9 violation of supervised release. 2019 he was convicted of  
10 reentry of previously removed alien, a felony conviction, for  
11 which he received 24 months prison, 36 months supervised  
12 release.

13 He's currently on supervised release and also  
14 currently on probation for the State offense, and he has three  
15 prior deportations.

16 For those reasons, the Court will detain.

17 Your next court date, sir, is June 9th at 10:00  
18 a.m. for a preliminary hearing and June 23rd at 10:00 a.m. for  
19 arraignment.

20 That is all for today, sir. Please do not hang up.  
21 Put the phone on the desk, and let the guard know that we're  
22 ready for the next person.

23 (Proceedings concluded.)

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1           I certify that the foregoing is a correct  
2 transcript from the electronic sound recording of the  
3 proceedings in the above-entitled matter.

4

5 /s/Jordan Keilty                           12/16/21  
6 Transcriber                                   Date

7 FEDERALLY CERTIFIED TRANSCRIPT AUTHENTICATED BY:

8

9 /s/L.L. Francisco  
L.L. Francisco, President  
10 Echo Reporting, Inc.

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*Echo Reporting, Inc.*

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA  
3  
4 UNITED STATES OF AMERICA, ) Case No. 20CR1521-CAB  
5 Plaintiff, )  
6 vs. ) El Centro, California  
7 MIGUEL MOTA-ANGEL, )  
8 Defendant. )  
9 )  
10 TRANSCRIPT OF ARRAIGNMENT/ATTORNEY APPOINTMENT HEARING  
11 BEFORE THE HONORABLE BERNARD G. SKOMAL  
12 UNITED STATES MAGISTRATE JUDGE  
13  
14 APPEARANCES:  
15  
16 For the Plaintiff: JESSICA MORENO, ESQ.  
17 Assistant United States  
18 Attorney  
19 516 Industry Way  
20 Imperial, California 92251  
21  
22 For the Defendant: CHARLES L. REES, ESQ.  
23 Law Offices of Charles Rees  
24 424 F Street, Suite 205  
25 San Diego, California 92101  
26 (619) 239-9300  
27  
28 Transcript Ordered by: DAVID SCHLESINGER, ESQ.  
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37  
38 Proceedings recorded by electronic sound recording;  
39 transcript produced by transcription service.

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1                   EL CENTRO, CALIFORNIA TUESDAY, JUNE 23, 2020 9:00 A.M.

2                   --00o--

3                   (Call to order of the Court.)

4                   THE CLERK: Number eight on the calendar, 20CR1521-  
5 CAB, U.S.A. versus Miguel Mota-Angel.

6                   MR. REES (via VTC): Good morning again, your  
7 Honor. Charles Rees on behalf of Mr. Miguel Mota-Angel.

8                   THE COURT: All right. Thank you, Mr. Rees.

9                   Mr. Mota-Angel, you're appearing by way of video  
10 teleconferencing today. Do you agree to do so?

11                  THE DEFENDANT (via VTC through interpreter): Yes.

12                  THE COURT: Have you discussed this with Mr. Rees?

13                  (Pause.)

14                  THE CLERK: Officer, are you there?

15                  THE DEFENDANT: No.

16                  THE COURT: All right. So, Mr. Mota-Angel -- Mr.  
17 Rees, do you concur with him appearing by video  
18 teleconferencing?

19                  MR. REES: I do, your Honor.

20                  THE COURT: I find he is knowingly and voluntarily  
21 agreeing to proceed by way of the video teleconferencing.

22                  First, we'll arraign him on the indictment. Then  
23 I'll address his counsel request.

24                  THE CLERK: Miguel Mota-Angel, is that your true  
25 name?

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1                   THE DEFENDANT: Yes.

2                   THE CLERK: Sir, you are hereby informed that an  
3 indictment has been filed charging you with removed alien  
4 found in the United States.

5                   Counsel, have you received a copy of the  
6 indictment, and do you waive further reading?

7                   MR. REES: Yes.

8                   THE CLERK: You are further informed that you have  
9 the right to be represented by counsel at all stages of the  
10 proceedings before the Court. You have the right to remain  
11 silent. You have a right to a trial by jury. You have a  
12 right to confront and cross examine any witnesses who testify  
13 against you, and you have the right to have witnesses  
14 subpoenaed to testify on your behalf.

15                  How does the Defendant plead to all counts of the  
16 indictment?

17                  THE COURT: We'll enter a not guilty plea, Mr.  
18 Rees, on his behalf.

19                  You're scheduled before Judge Bencivengo for motion  
20 hearing on July 31st at 10:30 in the morning. And, Mr. Rees,  
21 is this your -- Mr. Mota's request for new counsel or are you  
22 requesting new counsel?

23                  MR. REES: Well, I think at this point it might be  
24 a -- a joint request based on what appears to be a breakdown  
25 in communications. There's been a --

1           THE COURT: You have to speak up. Mr. Rees, you  
2 have to speak up.

3           MR. REES: Your Honor, can you hear me now?

4           THE COURT: Not really.

5           MR. REES: All right. I'm going to go as loud as I  
6 can.

7           THE COURT: Okay.

8           MR. REES: There's been a number of telephone  
9 conferences. Myself, I've had a conference call with him.  
10 I've seen him in person. My investigator, Thomas Leyva  
11 (phonetic), has seen him at least two or three times, and it  
12 has become clear to me that there's something between us that  
13 is preventing us from having meaningful discussions about his  
14 case and talking about critical aspects of it so that we can  
15 meet deadlines and move this case forward.

16           THE COURT: Well, that really isn't grounds in my  
17 opinion to terminate you. You've spent lots of times with  
18 him. You're a very competent lawyer. You've had interpreters  
19 all the time that you've had conferences. You even had an  
20 in-person conference.

21           Let me ask Mr. Mota. Why do you want a new lawyer,  
22 Mr. Mota?

23           THE DEFENDANT: (Speaking Spanish.)

24           THE COURT: You got to translate that. I heard  
25 what he said because I speak Spanish, but --

1                   THE INTERPRETER: Certainly, your Honor.

2                   THE DEFENDANT: Yes. Well, he came over to tell  
3 me, and he told me something about 41 months, and he -- and I  
4 asked him where are you getting this 41 months from, and he  
5 started threatening me. He says, "Well, if you don't want me,  
6 then you can look for another lawyer." And then I said,  
7 "Well, yeah, well, look for another lawyer." And then he  
8 said, "Well, good luck with that because you're not going to  
9 get 41 months. You're going to get even more than that." And  
10 he started threatening me and making fun of me, and if he  
11 wants to be respected, then he needs to respect others.

12                  MR. REES: Your Honor, may I chime in? And I don't  
13 want to do this with other counsel and Government counsel  
14 listening. However, there were absolutely no threats  
15 whatsoever, and Mr. Mota and our breakdown in communication  
16 happened on our very first conference call when I mentioned to  
17 him what the Government's offer was, and Mr. Mota hung up the  
18 phone.

19                  So, I have advised him he can do what he wishes.  
20 He does not have to take the offer. He questioned some of the  
21 evidence against him, and I have told him repeatedly that's  
22 why I want to talk to him, so that we can go over these  
23 aspects of the case that he believes aren't accurate. But he  
24 gets caught up on the recommendation from the Government,  
25 which I told him is merely a recommendation.

1                   THE COURT: Thank you. I'm denying the request. I  
2 don't believe that Mr. Rees, with all his years of experience  
3 even as an Assistant U.S. Attorney would ever make any  
4 threats. It appears to me that Mr. Mota-Angel does not like  
5 the plea offers being made.

6                   And let me add, Mr. Mota-Angel, that Mr. Rees does  
7 not control what the Government offers. He also didn't create  
8 the law and the sentencing guidelines, and much of this is  
9 based on a criminal history that you may or may not have, and  
10 his job is to relay that offer to you. And his job is also to  
11 tell you the consequence of not accepting that offer, because  
12 many times the offers being made require a plea of guilty  
13 quickly, and then that offer is withdrawn, and you do face  
14 more time because you're not getting the Government's  
15 reduction.

16                   So, I suggest that you cooperate with Mr. Rees, you  
17 listen to his advice and proceed according to his advice. So,  
18 it's denied at this time. Thank you.

19                   MR. REES: Thank you, your Honor.

20                   THE COURT: Thank you.

21                   (Proceedings concluded.)

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1           I certify that the foregoing is a correct  
2 transcript from the electronic sound recording of the  
3 proceedings in the above-entitled matter.

4

5 /s/Jordan Keilty                   12/15/21  
6 Transcriber                           Date

7 FEDERALLY CERTIFIED TRANSCRIPT AUTHENTICATED BY:

8

9 /s/L.L. Francisco  
10 L.L. Francisco, President  
11 Echo Reporting, Inc.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BEFORE HONORABLE CATHY ANN BENCIVENGO, JUDGE PRESIDING

COURT STENOGRAPHER'S TRANSCRIPT OF PROCEEDINGS  
STATUS CONFERENCE  
PAGES 1-6

5 For The Government: United States Attorney's Office  
6 Southern District of California  
7 Lyndzie Carter, AUSA  
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San Diego, CA 92101

18 For The Defendant: Law Office of David L. Baker  
19 David L. Baker  
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San Diego, CA 92102

22 Proceedings reported by stenography, transcript produced by CAT  
software

Mauralee Ramirez, RPR, CSR No. 11674  
Federal Official Court Stenographer  
ordertranscript@gmail.com

1 San Diego, California; Friday, March 19, 2021; 10:28 a.m.

2 (Case 20CR1521-CAB called)

3 ATTORNEY BAKER: David Baker on behalf of Mr. Mota who  
4 is appearing via video. He is a Spanish speaker. Good  
5 morning, Your Honor.

6 THE COURT: Good morning.

7 ATTORNEY CARTER: Good morning, Your Honor. Lyndzie  
8 Carter on behalf of United States.

9 THE COURT: All right. Thank you.

10 Mr. Mota, I just want to make sure, through the  
11 interpreter, that you can see and hear what's going on.

12 THE DEFENDANT (through the interpreter): Yes.

13 THE COURT: All right. Thank you. This is a status  
14 hearing. Mr. Baker, you were confirmed as counsel four months  
15 ago. Where are we on this case?

16 ATTORNEY BAKER: Well, I'm prepared to move forward  
17 with it. I've had numerous conversations with Mr. Mota on the  
18 telephone, some of them more productive than others. He's in  
19 Arizona. We haven't been able to meet in person, which would  
20 be absolutely helpful I believe in this case. But at this  
21 point, I'm familiar with everything, and I'm prepared to move  
22 forward, Your Honor.

23 THE COURT: All righty. Then the Court is going to  
24 set this matter for trial on June 10th. Reserving June 10th  
25 and 11th for trial in this case. The motion in limine hearing

1 will be on June 6th at 2:00 -- I'm sorry June 4th.

2 ATTORNEY BAKER: Your Honor, if I may? I'm out of  
3 town the 1st through the 4th of June.

4 THE COURT: All right. Then how are we on the week  
5 before?

6 THE DEFENDANT: May I ask a question?

7 THE COURT: Yes. I'm sorry.

8 THE CLERK: That's the defendant asking.

9 THE COURT: Sir. This is always --

10 THE DEFENDANT (through the interpreter): The attorney  
11 is lying. I haven't had a single call from him.

12 THE COURT: All right. Mr. Mota --

13 THE DEFENDANT: It never happened.

14 THE COURT: Mr. Mota --

15 THE DEFENDANT: He even -- he even never let me know  
16 that they were going to change my date. He's not doing  
17 anything. He never calls me. I never have communication with  
18 him. He's lying.

19 THE COURT: Well, all right --

20 THE DEFENDANT: I call him.

21 THE CLERK: Madam interpreter, stop, please.

22 THE COURT: Stop, please.

23 Mr. Mota, I don't want you to say --

24 THE DEFENDANT: That they have --

25 THE COURT: I need for you to stop, sir, because you

1 are in open court essentially, and everything you're saying is  
2 on the record. I do not want you to say anything that might be  
3 incriminating for you. Mr. Baker is your third attorney on  
4 this case. I am not going to appoint another attorney for you  
5 in this matter.

6 It is difficult while you're not in the jurisdiction  
7 for him to be in touch with you, but at this point, this case  
8 is going to proceed forward, and I will expect he will make  
9 every effort to prepare with you to prepare for trial.

10 The Court is setting a trial date for this case for  
11 June 10th. The motion in limine hearing will be on May 28th.  
12 So they need to be filed by May 14th with oppositions by  
13 May 21st, and if there's any outstanding discovery or Rule 16  
14 disclosures that the government needs to provide, those should  
15 be completed no later than April 30th.

16 All right. Mr. Baker --

17 THE CLERK: Your Honor, what time on the 28th? It  
18 would have to be the afternoon.

19 THE COURT: 2:00.

20 ATTORNEY BAKER: That was June 10th for trial?

21 THE COURT: Yes. It's a Thursday. We are presumably  
22 going to be under the conditions that we have been under. If  
23 it changes, we could talk about adjusting the date, but that is  
24 my jury selection reserve date down in jury assembly. In fact,  
25 you could talk to Ms. Carter she just tried a case here the

1 last two days, a similar case. It took two days. We picked a  
2 jury downstairs got them up here and got through it pretty  
3 efficiently. So that's the date I will reserve for you.

4 There's not a whole lot I can do to help with regard  
5 to moving him closer to you, but certainly to the extent, I'll  
6 put on the record a recommendation this defendant now has a  
7 trial date if he could be moved to a facility where you could  
8 meet with him on a more regular basis, that would be helpful.

9 There is no -- are there are no other defendants, at  
10 least of this morning's schedule, who are in custody that week  
11 for trial, so he will have the -- I call it the trial suite,  
12 which would be at MCC for the week so that you will be able to  
13 meet with him to further prepare for trial. That is all for  
14 today.

15 Mr. Mota, if you're having issues with counsel, I am  
16 encouraging him to make sure he can get in touch with you and  
17 hopefully they can move you to a facility now that you have a  
18 specific trial date that will facilitate your ability to work  
19 with him and talk with him. But that is it. Unless there is  
20 anything else.

21 ATTORNEY CARTER: Yes, Your Honor. Two things from  
22 the government. First is, I just wanted to put for the record  
23 that the parties have been communicating regularly and that  
24 with -- as far as Mr. Baker goes, he's been in regular  
25 communication with the government as it relates to discovery

1 and communications with regard to this case.

2                   And then, two, Your Honor, there is a fingerprint  
3 motion that is on file. The government would ask for the Court  
4 to rule on it. And Mr. Baker and I have already discussed  
5 coordinating to have that fingerprint done and then to move  
6 forward and prepare for trial in this case.

7                   THE COURT: Yes. The motion for leave to get  
8 fingerprint exemplars is granted. And make arrangements with  
9 whatever facility he's at, and you can either observe by Zoom  
10 or be present if he gets moved closer in interim.

11                  ATTORNEY BAKER: Thank you, Your Honor.

12                  ATTORNEY CARTER: Thank you, Your Honor.

13                  THE COURT: That's all for today.

14                  CERTIFICATE OF OFFICIAL COURT STENOGRAPHER

15

16 I, Mauralee Ramirez, federal official court stenographer, in  
17 and for the United States District Court for the Southern  
18 District of California, do hereby certify that pursuant to  
19 Section 753, Title 28, United States Code that to the best of  
20 my ability, the foregoing is a true and correct transcript of  
the stenographically reported proceedings held in the  
above-entitled matter and that the transcript page format is in  
conformance with the regulations of the Judicial Conference of  
the United States.

21

22                  Dated this 30th day of November 2021

23

24                  S/ Mauralee Ramirez  
25                  Mauralee Ramirez, CSR No. 11674, RPR  
                        Federal Official Court Stenographer



1 San Diego, California; Monday, June 14, 2021; 9:14 a.m.

2 (Related matter not reported)

3 (Case 20CR1521-CAB resumed)

4 THE COURT: We have reconvened on this case. Counsel  
5 is all present and Mr. Mota -- as the record reflected  
6 downstairs, Mr. Mota has elected not to proceed with trial in  
7 this matter but wants to enter a plea, so the Court is prepared  
8 to do that without a plea agreement.

9 Will the government be prepared to state the factual  
10 basis as well as the penalties?

11 ATTORNEY CARTER: Yes, Your Honor.

12 THE COURT: All right. Then, Lori, would you please  
13 proceed.

14 (Defendant given an oath)

15 THE CLERK: Is Miguel Angel Mota your true name?

16 THE DEFENDANT (through the interpreter): Yes.

17 THE CLERK: Sir, would you like to enter a guilty plea  
18 today?

19 THE DEFENDANT: Yes.

20 THE CLERK: Counsel, do you waive reading of the  
21 count?

22 ATTORNEY EZQUERRO: So waived.

23 THE COURT: All right. Thank you.

24 Sir, it's my responsibility now to review certain  
25 things with you to make sure you understand the importance of

1 the guilty plea you're entering. You do have the right to  
2 remain silent, but because of your indication that you wish to  
3 plead guilty and in order for me to accept your plea, I do need  
4 to ask you questions and get information from you. That means  
5 you must give up your right to remain silent, speak with me,  
6 and answer my questions. Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: And you just agreed to tell the truth.  
9 That means if you intentionally lie or give me false answers to  
10 the questions I ask, you could be charged with a separate crime  
11 called perjury or making a false statement, and if convicted,  
12 you could receive a substantial sentence with custody, so it is  
13 important that you think before answering my questions and  
14 answer honestly. You understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Are you presently taking any substance or  
17 medication that affects your ability to think clearly?

18 THE DEFENDANT: No.

19 THE COURT: And are you having any problem  
20 understanding what's going on so far?

21 THE DEFENDANT: No.

22 THE COURT: As we proceed if, at any time, you don't  
23 understand my question, please let me know and if you'd like to  
24 consult with your counsel, before you answer a question, please  
25 feel free to do so. Okay?

1 THE DEFENDANT: Thank you.

2 THE COURT: All right. By pleading guilty, you're  
3 giving up some very important rights and I am required to go  
4 over them with you. You have the right to continue to plead  
5 not guilty and proceed to trial. If you did that, you would  
6 have the right to a speedy and public trial before a judge and  
7 jury and the right to force of the government to prove its case  
8 against you to a standard called beyond a reasonable doubt and  
9 to do that without any help or testimony from you.

10           If you went to trial and couldn't afford an attorney,  
11 the Court would provide an attorney through trial and appeal if  
12 you needed to appeal.

13 You would also have the right to put on a defense to  
14 the case against you, to introduce evidence on your behalf and  
15 to testify, the right to confront and cross-examine the  
16 witnesses against you, which means to see those witnesses  
17 testify and ask them questions.

18                   And, finally, if you went to trial, you would have the  
19 right to remain silent, which means you couldn't be forced to  
20 testify at any hearing or trial, and the government couldn't  
21 comment on your remaining silent.

22 By pleading guilty, there is no trial. You give up  
23 your right to trial and the other constitutional rights I've  
24 just gone over with you. Do you understand that and agree to  
25 give up these rights?

1 THE DEFENDANT: Yes.

2 THE COURT: You are charged with being an alien found  
3 in the United States. The elements of this offense are that  
4 you were removed from the United States, that you thereafter  
5 voluntarily entered the United States. At the time you entered  
6 the United States, you knew you were entering the United  
7 States, and you were found in the United States without having  
8 obtained the consent of the attorney general or the secretary  
9 of the Homeland Security to reapply for admission to the United  
10 States, that you were an alien at the time you entered the  
11 United States, and that you were free from official restraint,  
12 which means you were not deprived of your liberty or prevented  
13 from going at large in the United States at the time you  
14 entered the United States. The government has also got the  
15 element that you were found in United States after  
16 January 14th, 2019. If you plead guilty to the charge, you'll  
17 admit each of those elements. You understand that?

18 (Attorney/Client discussion off the record)

19 THE COURT: All right. Sir, again, you've had time to  
20 consult with your counsel. Do you understand all of the  
21 elements of the offense that you would be agreeing to?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. Thank you.

24                   Would the government please state the maximum  
25 penalties that the defendant could receive.

1                   ATTORNEY CARTER: Yes, Your Honor. The crimes to  
2 which the defendant is pleading guilty carries the following  
3 penalties: A maximum 20 years in prison.

4                   A maximum \$250,000 fine.

5                   A mandatory special assessment of \$100 per count.

6                   And a term of supervised release of up to three years.

7                   THE COURT: Thank you. So, sir, those are the maximum  
8 penalties you could receive by pleading guilty. Do you  
9 understand that?

10                  THE DEFENDANT: Yes.

11                  THE COURT: And as part of the sentence you receive,  
12 the Court may impose a term of supervised release. That means  
13 I'll give you rules you'll have to follow when you're released  
14 from custody and if you violate those rules, you could be sent  
15 back to prison for the maximum of that original term of  
16 supervised release without any credit for time that you've  
17 already served in prison and even if you were following all the  
18 rules up until the time you might have been found to have  
19 violated them. Do you understand that?

20                  THE DEFENDANT: I do understand it perfectly.

21                  THE COURT: Now that we've discussed the maximum  
22 penalties you could receive, the actual sentence you receive  
23 will be up to the Court. In deciding the sentence you receive,  
24 I will consider rules called the sentencing guidelines. Have  
25 you discussed those with your attorney at any time?

1 (Attorney/Client discussion off the record)

2 THE DEFENDANT: Yes.

3 THE COURT: All right. The guidelines are just a  
4 factor that the Court will have to consider in your sentencing,  
5 along with all the other factors I consider, but I do have to  
6 consider those. You understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: And if you're not a citizen of the United  
9 States, it is a virtual certainty that you will be deported as  
10 a result of this guilty plea. Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: Has anyone threatened you or forced you to  
13 plead guilty?

14 THE DEFENDANT: No. Only what I said to you before.  
15 My attorney -- I decided we would go to trial, I just wasn't  
16 aware of what he wanted me to sign.

17 THE COURT: All right. But understanding, sir, your  
18 decision to enter a guilty plea today you're doing freely and  
19 voluntarily on your own because the alternative was trial. You  
20 understand that?

21 THE DEFENDANT: Yes, I do understand that.

22 THE COURT: And you're pleading guilty, sir, because  
23 you are, in fact, guilty; is that correct?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. Counsel, I'm going to have the

1 government state the facts that caused these charges to be  
2 brought against you. We'll do them one at a time so he can  
3 acknowledge each of the factual basis.

4 So if you would go ahead, please.

5 ATTORNEY CARTER: Yes, Your Honor. And can I have one  
6 moment, Your Honor?

7 THE COURT: Sure.

8 (Attorney discussion off the record)

9 ATTORNEY CARTER: Thank you, Your Honor. The first  
10 element is that on May 22nd of 2020, the defendant, then an  
11 alien and not a citizen of the United States, was found in the  
12 Southern District of California.

13 THE COURT: Is that true, sir?

14 THE DEFENDANT: Yes.

15 THE COURT: The second element is that the defendant  
16 had knowingly and voluntarily reentered and remained in the  
17 United States. Neither the attorney general of the United  
18 States nor the secretary of the Homeland Security had consented  
19 to defendant's reapplication for admission to the United  
20 States. Is that true, sir?

21 THE DEFENDANT: Yes.

22 ATTORNEY CARTER: Number three, defendant had been  
23 lawfully excluded, deported, and removed from the United States  
24 to Mexico on or about May 1st of 2020.

25 THE COURT: Is that true, sir?

1                   THE DEFENDANT: Yes.

2                   ATTORNEY CARTER: Number four, on January 14th, 2019  
3 and February 9th, 2015, defendant was convicted of felony  
4 illegal reentry under 8 U.S.C. 1326.

5                   THE COURT: Are those facts true, sir?

6                   THE DEFENDANT: Yes.

7                   ATTORNEY CARTER: And, finally, the defendant was  
8 lawfully ordered deported or removed from the United States for  
9 the first time on or about April 8th of 2008. On October 5th,  
10 2007, defendant was convicted of the felony crime of possession  
11 of a firearm by an illegal alien and sentenced to 18 months in  
12 prison.

13                  THE COURT: Are those facts true, sir?

14                  (Attorney/Client discussion off the record)

15                  THE COURT: Sir, you've had an opportunity to consult  
16 with your lawyer and to check record that they have present.  
17 Is there a date that he wants to adjust?

18                  ATTORNEY BAKER: He believes -- he believes that he  
19 was actually deported in October of 2008 and not April of 2008,  
20 and it's possible that the order was put in in April, but he  
21 was actually deported in October. That's a distinct  
22 possibility.

23                  THE COURT: For purposes of your plea, you are  
24 agreeing the government could confirm beyond a reasonable doubt  
25 that you were convicted of this weapons charge on what date?

1                   ATTORNEY CARTER: For the possession of firearm by an  
2 illegal alien, Your Honor, that was on October 5th of 2007.

3 For the --

4                   THE COURT: Okay. Hold on.

5                   So do you agree that that conviction is your  
6 conviction?

7                   THE DEFENDANT: Yes, I do accept, although the date  
8 seems different.

9                   THE COURT: All right. And after that conviction in  
10 2007 on or about the date given by the government, you were  
11 deported in approximately October of 2008. Do you agree with  
12 that?

13                  THE DEFENDANT: It was 2007 when I was deported. It  
14 was 2007.

15                  THE COURT: Does that make sense? No.

16                  ATTORNEY CARTER: No, Your Honor. The administrative  
17 removal, which was the order deporting Mr. Mota for the first  
18 time, was April 4th of 2008, and then the departure  
19 verification where the border patrol agents watched him walk  
20 over the border was on -- I'm sorry. Excuse me, Your Honor  
21 that was April 7th of 2008, the administrative order was  
22 April 4th of 2008. So three days later, he was deported with  
23 departure verification.

24                  THE COURT: Sir, I understand that you are not  
25 completely in agreement with what the record reflects, but for

1 purposes of your history and what the Court will take into  
2 consideration regarding sentencing and the government needs to  
3 prove, you are not contesting that you were deported in 2008 as  
4 a result of an administrative removal; is that correct?

5 THE DEFENDANT: Yes, it is true that I was deported.  
6 However, I was deported in 2007 which is what I was trying to  
7 tell my attorney.

8 THE COURT: Is this going to be critical, whether it's  
9 '7 or '8?

10 ATTORNEY CARTER: No, Your Honor. The government can  
11 prove that he had an administrative order prior to coming back  
12 on May 22nd of 2020, so I think we are fine, Your Honor.

13 THE COURT: The Court believes all the factual basis  
14 has been met. Counsel, do you agree?

15 ATTORNEY BAKER: I agree, Your Honor.

16 THE COURT: Government, are you satisfied with the  
17 factual basis as to what he did admit to?

18 ATTORNEY CARTER: Yes, Your Honor.

19 THE COURT: Sir, is this plea made voluntarily?

20 THE DEFENDANT: Yes.

21 THE COURT: And, Counsel, you agree that this is a  
22 voluntary plea?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: After all we've talked about, knowing the  
25 maximum sentence you could receive, the rights you're giving up

1 by pleading guilty, and the other consequences of a guilty  
2 plea, do you now wish to enter your plea for the record?

3 THE DEFENDANT: Yes.

4 THE COURT: Then the Court asks you for the record,  
5 how do you plead to the indictment, guilty or not guilty?

6 THE DEFENDANT: Guilty.

7 THE COURT: All right. Thank you. The Court finds  
8 your plea is freely and voluntarily given with an  
9 understanding, knowing, intelligent waiver of your rights, that  
10 are you competent to enter this plea, and there is a factual  
11 basis for it. The Court, therefore, accepts your plea.

12 I'm going to order a PSR. The Court will order a PSR  
13 and set your sentencing date.

14 THE CLERK: September 3rd at 9:00 a.m.

15 THE COURT: Sir, they're going to do some more  
16 paperwork, and you'll be back here September 3rd for  
17 sentencing. That is all for today then.

18 ATTORNEY CARTER: Thank you, Your Honor.

19 ATTORNEY EZQUERRO: Thank you, Your Honor.

20 (Court in recess at 10:40 a.m.)

21

22

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25

1 CERTIFICATE OF OFFICIAL COURT STENOGRAPHER

2

3 I, Mauralee Ramirez, federal official court stenographer, in  
4 and for the United States District Court for the Southern  
5 District of California, do hereby certify that pursuant to  
6 Section 753, Title 28, United States Code that to the best of  
7 my ability, the foregoing is a true and correct transcript of  
8 the stenographically reported proceedings held in the  
9 above-entitled matter and that the transcript page format is in  
10 conformance with the regulations of the Judicial Conference of  
11 the United States.

12

13 Dated this 30th day of November 2021

14

15 S/ Mauralee Ramirez  
16 Mauralee Ramirez, CSR No. 11674, RPR  
Federal Official Court Stenographer

17

18

19

20

21

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**U.S. District Court  
Southern District of California (San Diego)  
CRIMINAL DOCKET FOR CASE #: 3:20-cr-01521-CAB-1**

Case title: USA v. Mota

Magistrate judge case number: 2:20-mj-09208-RBM

Date Filed: 06/09/2020

Date Terminated: 10/15/2021

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Assigned to: Judge Cathy Ann  
Bencivengo

Appeals court case number:  
21-50231 USCA

**Defendant (1)**

**Miguel Angel Mota**

*TERMINATED: 10/15/2021*  
*also known as*  
Miguel Mota-Angel  
*TERMINATED: 10/15/2021*

represented by **Charles L Rees**

Law Offices of Charles L Rees  
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**Pending Counts**

8:1326(a), (b) – Removed Alien  
Found in the United States  
(1)

**Highest Offense Level  
(Opening)**

Felony

**Terminated Counts**

None

**Highest Offense Level  
(Terminated)**

None

**Complaints**

8:1326 – Deported Alien Found in  
the United States (Felony)

**Disposition**

Custody of BOP for 36 months. No supervised  
release to follow. Special assessment of \$100.00 is  
remitted by USA. No fine.

**Disposition**

**Plaintiff**

USA

represented by **J'me Forrest**  
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Date Filed	#	Docket Text
05/22/2020		Arrest of Miguel Mota-Angel (no document attached) (vyc) [2:20-mj-09208-RBM] (Entered: 05/26/2020)
05/26/2020	<u>1</u>	COMPLAINT as to Miguel Mota-Angel. (Copies provided to Counsel in Court). Initial Appearance set for 5/26/2020 in El Centro before Magistrate Judge Ruth Bermudez Montenegro. Preliminary Hearing set for 6/9/2020 at 10:00 AM in El Centro before Magistrate Judge Ruth Bermudez Montenegro. Arraignment set for 6/23/2020 at 10:00 AM in El Centro before Magistrate Judge Ruth Bermudez Montenegro. (Attachments: # <u>1</u> Info Sheet)(vyc) [2:20-mj-09208-RBM] (Entered: 05/26/2020)
05/26/2020	<u>2</u>	Minute Entry for proceedings held before Magistrate Judge Ruth Bermudez Montenegro: Initial Appearance as to Miguel Mota-Angel held on 5/26/2020. Defendant consents to appear via VTC. Appointed Attorney Charles L Rees for Miguel Mota-Angel. Bond set as to Miguel Mota-Angel (1) No Bail. Preliminary Hearing set for 06/09/2020 at 10:00am in El Centro before Magistrate Judge Ruth B. Montenegro. Arraignment set for 06/23/2020 at 10:00am in El Centro before Magistrate Judge Ruth B. Montenegro. Detention Hearing as to Miguel Mota-Angel held on 5/26/2020. USA oral motion for detention; motion granted as to Miguel Mota-Angel. Defendant ordered detained without prejudice. Order of detention to be submitted by AUSA. (Interpreter Ana Reyna). (CD# 5/26/2020 RBM 20 3:46-3:56). (Plaintiff Attorney Jessica Moreno). (Defendant Attorney Leah Gonzales). (vyc) [2:20-mj-09208-RBM] (Entered: 05/27/2020)
05/26/2020	<u>3</u>	***Spanish Interpreter needed as to Miguel Mota-Angel (no document attached) (vyc) [2:20-mj-09208-RBM] (Entered: 05/27/2020)
06/02/2020	<u>4</u>	FINDINGS OF FACT AND ORDER OF DETENTION as to Miguel Mota-Angel. Signed by Magistrate Judge Ruth Bermudez Montenegro on 6/1/2020. (vxc) [2:20-mj-09208-RBM] (Entered: 06/02/2020)
06/02/2020	<u>5</u>	NOTICE OF ATTORNEY APPEARANCE Lyndzie Marie Carter appearing for USA. (Carter, Lyndzie) Attorney Lyndzie Marie Carter added to party USA(pty:pla) [2:20-mj-09208-RBM] (Entered: 06/02/2020)
06/08/2020	<u>6</u>	WAIVER of Preliminary Hearing Rule 5.1 by Miguel Mota-Angel (Attachments: # <u>1</u> Proof of Service)(Rees, Charles) (jmr) [2:20-mj-09208-RBM] (Entered: 06/08/2020)
06/08/2020	<u>7</u>	NOTICE of Vacated Hearing(s): 6/9/2020 Preliminary Hearing vacated re <u>6</u> Waiver of Preliminary Hearing Rule 5.1 (no document attached) (ccc) [2:20-mj-09208-RBM] (Entered: 06/08/2020)
06/09/2020	<u>8</u>	INDICTMENT as to Miguel Mota-Angel (1) count(s) 1. (jmr)(jms). (Entered: 06/10/2020)
06/16/2020	<u>9</u>	NOTICE OF HEARING as to Defendant Miguel Mota-Angel. (Judge and time change) Arraignment set for 6/23/2020 09:00 AM in El Centro before Magistrate Judge Bernard G. Skomal. (no document attached) (ccc) (Entered: 06/16/2020)
06/23/2020	<u>10</u>	ORDER AUTHORIZING VIDEO TELECONFERENCE as to Miguel Mota-Angel. Signed by Judge Cathy Ann Bencivengo on 6/23/20. (ccc) (Entered: 06/23/2020)
06/23/2020	<u>11</u>	Minute Entry for proceedings held before Magistrate Judge Bernard G. Skomal: Dft consents to proceed via VTC. Arraignment on Indictment as to Miguel Mota-Angel (1) Count 1 held on 6/23/2020. Not Guilty plea entered. Defendants oral motion for new counsel - denied. Motion Hearing/Trial Setting set for 7/31/2020 10:30 AM before

		Judge Cathy Ann Bencivengo.(Interpreter Ana Reyna). (CD# 6/23/2020 BGS 1006-1014). (Plaintiff Attorney s/a Jessica Moreno, AUSA (VTC)). (Defendant Attorney Charles Rees, CJA (VTC)). (gac) (Entered: 06/24/2020)
07/08/2020	<u>12</u>	NOTICE OF ATTORNEY APPEARANCE J'me Forrest appearing for USA. (Forrest, J'me) Attorney J'me Forrest added to party USA(pty:pla) (anh). (Entered: 07/08/2020)
07/28/2020	<u>13</u>	NOTICE OF ATTORNEY APPEARANCE Lyndzie Marie Carter appearing for USA. (Carter, Lyndzie) (anh). (Entered: 07/28/2020)
07/29/2020	<u>14</u>	MINUTE ORDER of Judge Cathy Ann Bencivengo as to Miguel Mota-Angel: Upon request of defense to allow additional time to review discovery and with no opposition from government, the Motion Hearing/Trial Setting set for 7/31/2020 is HEREBY VACATED AND RESET to 9/4/2020 10:30 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. Excludable(s) started as to Miguel Mota-Angel: XT1 - Continuance granted, failure to continue would stop further proceedings or result in miscarriage of justice 7/31/2020 to 9/4/2020. (no document attached) (lmh) (Entered: 07/29/2020)
07/29/2020	<u>15</u>	MOTION to Compel Discovery , MOTION to Preserve Evidence , MOTION for Leave to File Further Motions by Miguel Mota-Angel. (Attachments: # <u>1</u> Memo of Points and Authorities, # <u>2</u> Proof of Service)(Rees, Charles) (anh). (Entered: 07/29/2020)
08/21/2020	<u>16</u>	MOTION for Fingerprint Exemplars , MOTION for Reciprocal Discovery , MOTION for Leave to File Further Motions by USA as to Miguel Mota-Angel. (Carter, Lyndzie) (anh). (Entered: 08/21/2020)
09/04/2020	<u>17</u>	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo: Motion Hearing/Trial Setting as to Miguel Mota-Angel held on 9/4/2020. Defendant appearing by VTC. Request for new counsel due to communication breakdown is granted. Attorney Francisco J Sanchez, Jr is appointed for Miguel Mota-Angel. Attorney Charles L Rees relieved in case as to Miguel Mota-Angel. Status Hearing re Confirmation of New Counsel is set for 9/11/2020 10:30 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. Excludable(s) started as to Miguel Mota-Angel: XT4 - Continuance granted in order to obtain or substitute counsel, or give reasonable time to prepare 9/4/2020 to 9/11/2020. (Interpreter Deborah Berry). (Court Reporter/ECR Mauralee Ramirez). (Plaintiff Attorney Marietta Geckos, S/A AUSA for N/A AUSA Lyndzie Carter). (Defendant Attorney Charles Rees, CJA (VTC)). (no document attached) (lmh) (Entered: 09/04/2020)
09/11/2020	<u>18</u>	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo: Status Hearing re New Counsel Confirmation as to Miguel Mota-Angel held on 9/11/2020. Defendant appearing by VTC. Further Status Hearing set for 10/16/2020 11:00 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. Excludable(s) started as to Miguel Mota-Angel: XT4 - Continuance granted in order to obtain or substitute counsel, or give reasonable time to prepare 9/11/2020 to 10/16/2020. (Interpreter Dan DeCoursey). (Court Reporter/ECR Mauralee Ramirez). (Plaintiff Attorney Blair Perez, S/A AUSA (telephonic) for N/A AUSA Lyndzie Carter). (Defendant Attorney Frank Sanchez, CJA). (no document attached) (lmh) (Entered: 09/11/2020)
10/09/2020	<u>19</u>	RESPONSE to Motion by USA as to Miguel Mota-Angel re <u>15</u> MOTION to Compel Discovery MOTION to Preserve Evidence MOTION for Leave to File Further Motions (Carter, Lyndzie) (anh). (Entered: 10/09/2020)
10/16/2020	<u>20</u>	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo: Status Hearing as to Miguel Mota-Angel held on 10/16/2020. True Name as to Miguel Mota-Angel is Miguel Angel Mota. Defendant requests new counsel. A further Status Hearing is set for 11/6/2020 10:30 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. Excludable(s) started as to Miguel Mota-Angel: XT1 - Continuance granted, failure to continue would stop further proceedings or result in miscarriage of justice 10/16/2020 to 11/6/2020. (Interpreter Daniel Novoa). (Court Reporter/ECR Mauralee Ramirez). (Plaintiff Attorney Lyndzie Carter, AUSA). (Defendant Attorney Frank Sanchez, CJA). (no document attached) (lmh) (Entered: 10/19/2020)
11/06/2020	<u>21</u>	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo: Status Hearing as to Miguel Angel Mota (VTC Appearance) held on 11/6/2020. Attorney

		David L Baker for Miguel Angel Mota added. Attorney Francisco J Sanchez, Jr relieved in case as to Miguel Angel Mota. Status Hearing re confirmation of counsel set for 11/13/2020 10:30 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. (Interpreter Gabriela Sosa). (Plaintiff Attorney Lyndzie Marie Carter, AUSA). (Defendant Attorney Francisco Sanchez, CJA). (no document attached) (smr) (Entered: 11/09/2020)
11/13/2020	22	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo: Status Hearing re New Counsel Confirmation as to Miguel Angel Mota held on 11/13/2020. Court confirms new counsel. Status Hearing re Briefing Schedule is set for 12/11/2020 10:30 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. Excludable(s) started as to Miguel Angel Mota: XT1 – Continuance granted, failure to continue would stop further proceedings or result in miscarriage of justice 11/13/2020 to 12/11/2020. (Interpreter Elizabeth Torres). (Court Reporter/ECR Mauralee Ramirez). (Plaintiff Attorney Colin McDonald, S/A AUSA for N/A AUSA Lyndzie Carter). (Defendant Attorney David L. Baker, CJA). (no document attached) (lmh) (Entered: 11/13/2020)
12/10/2020	23	MINUTE ORDER of Judge Cathy Ann Bencivengo as to Miguel Angel Mota: On the Court's own motion pursuant to the State's stay-at-home order and CJO 52-A, the Status Hearing set for 12/11/2020 is VACATED AND RESET to 1/29/2021 10:30 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. Excludable(s) started as to Miguel Angel Mota: XT1 – Continuance granted, failure to continue would stop further proceedings or result in miscarriage of justice 12/11/2020 to 1/29/2021. (no document attached) (lmh) (Entered: 12/10/2020)
01/25/2021	24	MOTION to Continue <i>status hearing</i> by Miguel Angel Mota. (Baker, David) (anh). (Entered: 01/25/2021)
01/26/2021	25	ORDER on Motion to Continue Status Hearing as to Miguel Angel Mota (1). Signed by Judge Cathy Ann Bencivengo on 1/26/2021.(anh) (Entered: 01/26/2021)
03/19/2021	26	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo: Status Hearing re Trial Schedule as to Miguel Angel Mota held on 3/19/2021. Defendant consents to proceed by VTC. Jury Trial (2-day estimate) set for 6/10/2021 09:00 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. Motion In Limine Hearing set for 5/28/2021 02:00 PM in Courtroom 15A before Judge Cathy Ann Bencivengo. Motions In Limine shall be filed by 5/14/2021, Oppositions filed by 5/21/2021. Rule 16 Disclosures shall be completed by 4/30/2021. Court grants <u>16</u> MOTION for Fingerprint Exemplars filed by USA. The Court requests US Marshal Service to move the defendant to a facility within San Diego County to allow the ability to prepare with counsel for jury trial.(Interpreter Gabriela Sosa). (Court Reporter/ECR Mauralee Ramirez). (Plaintiff Attorney Lyndzie Carter, AUSA). (Defendant Attorney David L. Baker, CJA). (no document attached) (lmh) (Entered: 03/22/2021)
03/31/2021	27	NOTICE OF ATTORNEY APPEARANCE James Miao appearing for USA. (Miao, James) Attorney James Miao added to party USA(pty:pla) (anh). (Entered: 03/31/2021)
05/01/2021	28	MOTION to Exclude Testimony , MOTION to Evidence Under Rule 404(b), MOTION to Exclude Evidence <i>A file</i> , MOTION to Exclude Documents <i>A file hearsay</i> , MOTION to Exclude <i>testimony of A file custodian</i> , MOTION to Exclude <i>Prior Statements</i> , MOTION to Exclude <i>Prior Criminal History</i> by Miguel Angel Mota. (Baker, David) (anh). (Entered: 05/01/2021)
05/14/2021	29	In Limine MOTION to Admit Evidence <i>(A) A-file Evidence and Testimony, (H) United States' Expert, (K) 404(b) Evidence, (L) 609 Evidence, (M) Plea Colloquy Excerpts</i> , In Limine MOTION to Admit Testimony <i>(B) Public Records Searches</i> , In Limine MOTION to Prohibit <i>(C) Collateral Attack of Prior Removal Orders, (D) Reference to Prior Residency in the United States, (E) Reference to Defendant's Health, Age, Finances, Education, and Potential Punishment</i> , In Limine MOTION to Preclude <i>(F) Evidence of Duress and Necessity, (G) Evidence of Defendant's Motivation to Re-enter the U.S., (I) Defense Expert, (J) Self-Serving Hearsay, (O) Reference to National Immigration Policy or Related Issues</i> , In Limine MOTION to Exclude <i>(N) Defendant's Medical Records or Psychological Evaluation</i> by USA as to Miguel Angel Mota. (Carter, Lyndzie) (anh). (Entered: 05/14/2021)

05/21/2021	<u>30</u>	RESPONSE in Opposition by USA as to Miguel Angel Mota re <u>28</u> MOTION to Exclude Testimony MOTION to Evidence Under Rule 404(b) MOTION to Exclude Evidence <i>A file</i> MOTION to Exclude Documents <i>A file hearsay</i> MOTION to Exclude <i>testimony of A file custodian</i> MOTION to Exclude <i>Prior Statements</i> MOTION to Exclude <i>Prior Criminal History</i> (Carter, Lyndzie) (anh). (Entered: 05/21/2021)
05/28/2021	<u>31</u>	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo: Motion In Limine Hearing as to Miguel Angel Mota held on 5/28/2021. For the reasons stated on the record, the Court's ruling is as follows: Re motions filed by Miguel Angel Mota [28-1] MOTION to Exclude Testimony is Granted in Part/Denied in Part; [28-2] MOTION to Evidence Under Rule 404(b) is Denied; [28-3] MOTION to Exclude Evidence <i>A file</i> is Denied; [28-4] MOTION to Exclude Documents <i>A file hearsay</i> is Denied; [28-5] MOTION to Exclude <i>testimony of A file custodian</i> is Denied; [28-6] MOTION to Exclude <i>Prior Statements</i> is denied; [28-7] MOTION to Exclude <i>Prior Criminal History</i> is denied. Re motions filed by USA [29-1] In Limine MOTION to Admit Evidence (A) <i>A-file Evidence and Testimony</i> , (H) <i>United States' Expert</i> , (K) <i>404(b) Evidence</i> , (L) <i>609 Evidence</i> , (M) <i>Plea Colloquy Excerpts</i> are all Granted; [29-2] In Limine MOTION to Admit Testimony (B) <i>Public Records Searches</i> are all Granted; [29-3] In Limine MOTION to Prohibit (C) <i>Collateral Attack of Prior Removal Orders</i> , (D) <i>Reference to Prior Residency in the United States</i> , (E) <i>Reference to Defendant's Health, Age, Finances, Education, and Potential Punishment</i> are all Granted; [29-4] In Limine MOTION to Preclude (F) <i>Evidence of Duress and Necessity</i> , (G) <i>Evidence of Defendant's Motivation to Re-enter the U.S.</i> , (I) <i>Defense Expert</i> , (J) <i>Self-Serving Hearsay</i> , are all Granted with exception to (O) <i>Reference to National Immigration Policy or Related Issues</i> which is Denied in Part/Granted in Part; [29-5] In Limine MOTION to Exclude (N) <i>Defendant's Medical Records or Psychological Evaluation</i> is Granted. Jury Trial set for 6/10/2021 is VACATED AND RESET to 6/14/2021 08:45 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. Jury selection will begin promptly at 9:00 AM. Government's trial brief, exhibit list and witness list; proposed instructions and proposed voir dire due by 6/7/2021. Defendant's proposed instructions and proposed voir dire due by 6/9/2021. Defendant's request for new counsel is denied. (Interpreter Juan Davila-Santiago, Dan DeCoursey). (Court Reporter/ECR Juliet Eichenlaub). (Plaintiff Attorney Lyndzie Carter and James Miao, AUSAs). (Defendant Attorney David L. Baker, CJA). (no document attached) (lmh) (Entered: 06/02/2021)
06/07/2021	<u>32</u>	TRIAL BRIEF by USA as to Miguel Angel Mota (Carter, Lyndzie) (anh). (Entered: 06/07/2021)
06/07/2021	<u>33</u>	Proposed Jury Instructions by USA as to Miguel Angel Mota (Carter, Lyndzie) (anh). (Entered: 06/07/2021)
06/07/2021	<u>34</u>	WITNESS LIST by USA as to Miguel Angel Mota (Carter, Lyndzie) (anh). (Entered: 06/07/2021)
06/09/2021	<u>35</u>	Proposed Jury Instructions by Miguel Angel Mota (Baker, David) (anh). (Entered: 06/09/2021)
06/09/2021	<u>36</u>	Proposed Voir Dire by Miguel Angel Mota (Baker, David) (anh). (Entered: 06/09/2021)
06/14/2021	<u>37</u>	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo: Status Hearing re Jury Trial as to Miguel Angel Mota held on 6/14/2021, defendant waives trial and requests to proceed with entering a change of plea before Judge Bencivengo. Jurists released. Change of Plea Hearing as to Miguel Angel Mota held on 6/14/2021. Plea entered by Miguel Angel Mota (1) Guilty Count 1 (without a plea agreement). Court accepts guilty plea entered. PSR Ordered. Sentence With PSR set for 9/3/2021 09:00 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. All pending motions withdrawn; pending hearing dates vacated. (Interpreter Daniel Novoa, MariaPaz Sandoval). (Court Reporter/ECR Mauralee Ramirez). (Plaintiff Attorney Lyndzie Carter and James Miao, AUSAs). (Defendant Attorney David L. Baker, CJA and S/A Fernanda Ezquerro). (no document attached) (lmh) (Entered: 06/14/2021)
07/28/2021	<u>38</u>	PRE-SENTENCE REPORT as to Miguel Angel Mota. Report prepared by: Ryan Alejandria. (Document applicable to USA, Miguel Angel Mota.) (Briceno, C.) (Entered: 07/28/2021)

08/27/2021	<u>39</u>	SENTENCING SUMMARY CHART by USA as to Miguel Angel Mota (Carter, Lyndzie) (anh). (Entered: 08/27/2021)
08/31/2021	40	NOTICE OF CHANGE OF HEARING as to Defendant Miguel Angel Mota. Upon first request of defense due to unavailability and time to prepare sentencing recommendations, the Sentence With PSR set for 9/3/2021 is VACATED AND RESET to 10/15/2021 09:30 AM in Courtroom 15A before Judge Cathy Ann Bencivengo. (no document attached) (lmh) (Entered: 08/31/2021)
10/11/2021	<u>41</u>	SENTENCING MEMORANDUM by Miguel Angel Mota (Baker, David) (dxf). (Entered: 10/11/2021)
10/15/2021	42	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo: Sentence With PSR Hearing held on 10/15/2021 for Miguel Angel Mota (1). Count(s) 1: Custody of BOP for 36 months. No supervised release to follow. Special assessment of \$100.00 is remitted by USA. No fine. Appeal rights given. Judgment of Commitment to follow. (Interpreter Gabriela Sosa). (Court Reporter/ECR Mauralee Ramirez). (Plaintiff Attorney Lyndzie Carter, AUSA). (Defendant Attorney David L. Baker, CJA). (PO: L. Woolley). (no document attached) (lmh) (Entered: 10/18/2021)
10/15/2021	<u>43</u>	JUDGMENT as to Miguel Angel Mota (1), Count(s) 1, Custody of BOP for 36 months. No supervised release to follow. Special assessment of \$100.00 is remitted by USA. No fine.. Signed by Judge Cathy Ann Bencivengo (anh) (Entered: 10/18/2021)
10/18/2021	<u>44</u>	NOTICE OF APPEAL by Miguel Angel Mota re <u>43</u> Judgment. Fee Waived. (Notice of Appeal electronically transmitted to the US Court of Appeals.) (Baker, David) (akr) (Entered: 10/18/2021)
10/19/2021	<u>45</u>	USCA Case Number 21-50231 for <u>44</u> Notice of Appeal filed by Miguel Angel Mota. (akr) (Entered: 10/20/2021)
10/19/2021	<u>46</u>	USCA Time Schedule Order for <u>44</u> Notice of Appeal filed by Miguel Angel Mota. (NOTICE TO PARTIES of deadlines regarding appellate transcripts: Appellant shall file transcript designation and ordering form with the US District Court, provide a copy of the form to the court reporter, and make payment arrangements with the court reporter on or by 11/8/2021 (see Ninth Circuit Rule 10-3.2); Due date for filing of transcripts in US District Court is 12/8/2021.) (akr) (Entered: 10/20/2021)
11/10/2021	<u>47</u>	ORDER of USCA as to Miguel Angel Mota re <u>44</u> Notice of Appeal. The motion of appellant's appointed counsel, David L. Baker, Esq., to withdraw as counsel of record and to appoint new counsel is granted. Counsel will be appointed by separate order. The Clerk will electronically serve this order on the appointing authority for the Southern District of California, who will locate appointed counsel. The appointing authority is requested to send notification of the name, address, and telephone number of appointed counsel to the Clerk of the USCA at counselappointments@ca9.uscourts.gov within 14 days of locating counsel. Time schedule issued. The Clerk will serve this order on former counsel and appellant individually: Reg. No. 14289-081, MCC San Diego, Metropolitan Correctional Center, 808 Union Street, San Diego, CA 92101. (akr) (Entered: 11/10/2021)
11/12/2021	<u>48</u>	ORDER Appointing Counsel on Appeal as to Miguel Angel Mota. Attorney David Andrew Schlesinger appointed for Miguel Angel Mota. Signed by Magistrate Judge William V. Gallo on 11/12/2021. (USCA Case Number 21-50231. Order electronically transmitted to the US Court of Appeals.) (akr) (Entered: 11/12/2021)
11/22/2021	<u>49</u>	TRANSCRIPT DESIGNATION AND ORDERING FORM by Miguel Angel Mota for proceedings held on 05/26/2020, 06/23/2020, 09/04/2020, 09/11/2020, 10/16/2020, 11/06/2020, 11/13/2020, 03/19/2021, 05/28/2021, 06/14/2021, 10/15/2021 re <u>44</u> Notice of Appeal. (Attachments: # <u>1</u> Supplement Supplement to Transcript Designation and Ordering Form)(Schlesinger, David) (akr) (Entered: 11/22/2021)
11/24/2021	<u>50</u>	TRANSCRIPT ORDER – For hearing(s) on May 26, 2020 and June 23, 2020 (nxm) (Entered: 11/24/2021)
12/16/2021	<u>51</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Initial Appearance) as to Miguel Angel Mota for date of 5/26/2020 before Magistrate Judge Ruth Bermudez Montenegro re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Echo Reporting. Transcript may be viewed at the court public terminal or purchased through the Court

		<p>Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 1/6/2022. Redacted Transcript Deadline set for 1/18/2022. Release of Transcript Restriction set for 3/16/2022. (akr) (Entered: 12/16/2021)</p>
12/16/2021	<u>52</u>	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Arraignment/Attorney Appointment Hearing) as to Miguel Angel Mota for date of 6/23/2020 before Magistrate Judge Bernard G. Skomal re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Echo Reporting. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 1/6/2022. Redacted Transcript Deadline set for 1/18/2022. Release of Transcript Restriction set for 3/16/2022. (akr) (Entered: 12/16/2021)</p>
12/21/2021	<u>53</u>	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Motion in limine Hearing) as to Miguel Angel Mota for date of 5/28/2021 before Judge Cathy Ann Bencivengo re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Juliet Y. Eichenlaub. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 1/11/2022. Redacted Transcript Deadline set for 1/21/2022. Release of Transcript Restriction set for 3/21/2022. (akr) (Entered: 12/21/2021)</p>
01/07/2022	<u>54</u>	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Motion Hearing/Trial Setting) as to Miguel Angel Mota for date of 9/4/2020 before Judge Cathy Ann Bencivengo re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Mauralee Ramirez. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 1/28/2022. Redacted Transcript Deadline set for 2/7/2022. Release of Transcript Restriction set for 4/7/2022. (akr) (Entered: 01/07/2022)</p>
01/07/2022	<u>55</u>	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Status Hearing) as to Miguel Angel Mota for date of 9/11/2020 before Judge Cathy Ann Bencivengo re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Mauralee Ramirez. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 1/28/2022. Redacted Transcript Deadline set for 2/7/2022. Release of Transcript Restriction set for 4/7/2022. (akr) (Entered: 01/07/2022)</p>
01/07/2022	<u>56</u>	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Status Hearing) as to Miguel Angel Mota for date of 10/16/2020 before Judge Cathy Ann Bencivengo re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Mauralee Ramirez. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary,</p>

		parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 1/28/2022. Redacted Transcript Deadline set for 2/7/2022. Release of Transcript Restriction set for 4/7/2022. (akr) (Entered: 01/07/2022)
01/07/2022	<u>57</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Status Hearing) as to Miguel Angel Mota for date of 11/6/2020 before Judge Cathy Ann Bencivengo re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Mauralee Ramirez. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 1/28/2022. Redacted Transcript Deadline set for 2/7/2022. Release of Transcript Restriction set for 4/7/2022. (akr) (Entered: 01/07/2022)
01/07/2022	<u>58</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Status Conference) as to Miguel Angel Mota for date of 3/19/2021 before Judge Cathy Ann Bencivengo re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Mauralee Ramirez. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 1/28/2022. Redacted Transcript Deadline set for 2/7/2022. Release of Transcript Restriction set for 4/7/2022. (akr) (Entered: 01/07/2022)
01/07/2022	<u>59</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Change of Plea Hearing) as to Miguel Angel Mota for date of 6/14/2021 before Judge Cathy Ann Bencivengo re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Mauralee Ramirez. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 1/28/2022. Redacted Transcript Deadline set for 2/7/2022. Release of Transcript Restriction set for 4/7/2022. (akr) (Entered: 01/07/2022)
01/07/2022	<u>60</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Sentencing with PSR) as to Miguel Angel Mota for date of 10/15/2021 before Judge Cathy Ann Bencivengo re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Mauralee Ramirez. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 1/28/2022. Redacted Transcript Deadline set for 2/7/2022. Release of Transcript Restriction set for 4/7/2022. (akr) (Entered: 01/07/2022)
02/03/2022	<u>61</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Status Hearing) as to Miguel Angel Mota for date of 11/13/2020 before Judge Cathy Ann Bencivengo re <u>44</u> Notice of Appeal. Court Reporter/Transcriber: Mauralee Ramirez. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or the Court Reporter/Transcriber. If redaction is necessary, parties have seven calendar days from the file date of the Transcript to E-File the Notice of Intent to Request Redaction. The following deadlines would also apply if requesting redaction: Redaction Request Statement due to Court Reporter/Transcriber 2/24/2022. Redacted Transcript Deadline set for 3/7/2022. Release of Transcript

Restriction set for 5/4/2022. (akr) (Entered: 02/03/2022)

No. \_\_\_\_\_

**IN THE SUPREME COURT OF THE UNITED STATES**

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MIGUEL ANGEL MOTA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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**On Petition for A Writ of *Certiorari* to The United States Court of Appeals for  
the Ninth Circuit**

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**PROOF OF SERVICE**

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I, David A. Schlesinger, declare that on December 16, 2022, as required by Supreme Court Rule 29, I served Petitioner Miguel Angel Mota's MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on counsel for Respondent by depositing an envelope containing the motion and the petition in the United States mail (Priority, first-class), properly addressed to her, and with first-class postage prepaid.

The name and address of counsel for Respondent is as follows:

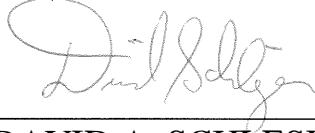
The Honorable Elizabeth B. Prelogar, Esq.  
Acting Solicitor General of the United States  
United States Department of Justice  
950 Pennsylvania Ave., N.W., Room 5614  
Washington, DC 20530-0001  
Counsel for Respondent

Additionally, I mailed a copy of the motion and the petition to my client, Petitioner Miguel Angel Mota, by depositing an envelope containing the documents in the United States mail, postage prepaid, and sending it to the following address:

Miguel Angel Mota  
Register No. 14289-081  
FCI Victorville Medium I  
Federal Correctional Institution  
P.O. Box 3725  
Adelanto, CA 92301

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 16, 2022



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DAVID A. SCHLESINGER  
Declarant