

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 20 2022

FOR THE NINTH CIRCUIT

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

* 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.¹ 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

¹ 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.”).² 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

² 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.

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 BEFORE HONORABLE CATHY ANN BENCIVENGO, JUDGE PRESIDING

4
5 UNITED STATES OF AMERICA,)
6 Plaintiff,) CASE NO. 20CR1521-CAB
7 vs.)
8 MIGUEL ANGEL MOTA,) SAN DIEGO, CALIFORNIA
9 Defendant.)
10

11
12 COURT STENOGRAPHER'S TRANSCRIPT OF PROCEEDINGS
13 SENTENCING W/PSR
14 PAGES 1-8

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

18 For The Defendant: Law Office of David L. Baker
19 David L. Baker
20 419 19th Street, Suite 200
21 San Diego, CA 92102

22 Proceedings reported by stenography, transcript produced by CAT
23 software

24 Mauralee Ramirez, RPR, CSR No. 11674
25 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.

10 The Court begins with the advisory sentencing
11 guidelines. Your base offense level is an eight. There is a
12 four-level adjustment upwards for the prior immigration
13 convictions and the six-level adjustment upwards for the prior
14 felony conviction. You are receiving two points for your
15 acceptance of responsibility, all of which brings you to a
16 total offense level of 16. Your criminal history score is a
17 12, you're in a category V, and your guideline range would be
18 41 to 51 months.

19 With that guideline in mind, the Court has considered
20 the other 3553(a) factors, including the nature and
21 circumstances of the offense, your history and characteristics,
22 the need to deter criminal conduct, and protect the public from
23 further crimes by you. This is your third immigration offense.
24 Your first one in 2014, you got 12 months and then you violated
25 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

15
16 S/ Mauralee Ramirez
17 Mauralee Ramirez, CSR No. 11674, RPR
18 Federal Official Court Stenographer
19
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY **DEPUTY**

UNITED STATES OF AMERICA
V.

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

MIGUEL ANGEL MOTA (1)

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):

Title & Section

8 USC 1326

Nature of OffenseREMOVED ALIEN FOUND IN THE UNITED STATES
(FELONY)

Count
Number(s)

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.

☐ JVT 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 Sentence

HON. Cathy Ann Bencivengo
UNITED STATES DISTRICT JUDGE

AO 245B (CASD 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 8 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

//

20-CR-1521-CAB

FILED

2020 JUN -9 P 4:57

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

BY:

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

November 2019 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

MIGUEL MOTA-ANGEL,

Defendant.

Case No. **20 CR 1521 CAB**

I N D I C T M E N T

Title 18, U.S.C., Sec. 1326(a)
and (b) - Removed Alien Found
in the United States

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).

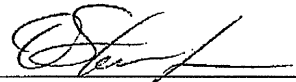
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1 It is further alleged that defendant MIGUEL MOTA-ANGEL was removed
2 from the United States subsequent to January 14, 2019.

3 DATED: June 9, 2020.

4 A TRUE BILL:

5 
6 _____
Foreperson

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

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

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7 UNITED STATES DISTRICT COURT
8
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

Case No. 20MJ9208

11 Plaintiff,

COMPLAINT FOR VIOLATION OF

12
13 v.

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

14 Miguel MOTA-Angel,

15
16 Defendant.


17
18 The undersigned complainant being duly sworn states:

19 On or about May 22, 2020, within the Southern District of California, defendant,
20 Miguel MOTA-Angel, an alien, who previously had been excluded, deported and removed
21 from the United States to Mexico was found in the United States, without the Attorney
22 General of the United States or his designated successor, the Secretary of the Department of
23 Homeland Security (Title 6, United States Code, Section 202(3) and (4), and 557), having
24 expressly consented to the defendant's reapplication for admission into the United States; in
25 violation of Title 8, United States Code, Section 1326.
26
27
28

1 And the complainant states this complaint is based on the attached Probable Cause
2 Statement, which is incorporated herein by reference.
3
4

5 
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 26th day of May, 2020.
12

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

2 v.

3 Miguel MOTA-Angel

4 PROBABLE CAUSE STATEMENT

5 I, Border Patrol Agent Benny Galindo, declare under penalty of perjury, the following
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

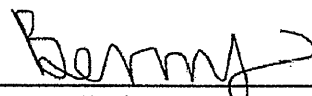
11 On May 22, 2020, BPA D. Casanova was conducting linewatch duties
12 approximately 16 miles east of the Calexico, California West Port of Entry. At
13 approximately 8:06 p.m., remote video surveillance systems operators observed and
14 notified agents in the area of three individuals travelling northbound away from the
15 International Boundary Fence (IBF). BPA Casanova responded to search the surrounding
16 area, and at approximately 10:03 p.m., BPA Casanova encountered three subjects. The
17 subjects, one of whom was later identified as MOTA, were attempting to conceal
18 themselves in the brush south of Highway 98 approximately 1.5 miles north of the IBF.
19 BPA Casanova approached MOTA, identified himself as a BPA, and questioned MOTA
20 as to his citizenship. Through questioning, MOTA admitted to being a citizen of Mexico
21 who does not possess immigration documents to be in the United States legally. MOTA
22 was placed under arrest and transported to the El Centro Border Patrol Station for further
23 processing.
24
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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

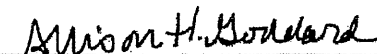
10 Record checks revealed MOTA was granted an administrative deportation on April
11 4, 2008. MOTA was most recently removed to Mexico on May 1, 2020 via El Paso, Texas.
12

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 Hon. Allison Goddard
28 United States Magistrate Judge

6:40 AM, May 23, 2020
Date/Time

USAO INTAKE INFORMATION RAP SHEET

First: Miguel Mid. Last: MOTA AngelCase 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 DISTRICT 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 | | 3 |
| | | DATE OF MOST RECENT DEPORTATION(PHYSICAL REMOVAL) | 05/01/2020 | |
| | | DATE OF ORDER OF FIRST DEPORTATION | 04/07/2008 | |

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA
3

4 UNITED STATES OF AMERICA,) Case No. 20CR1521-CAB
5 Plaintiff,) El Centro, California
6 vs.) Tuesday,
7 MIGUEL MOTA-ANGEL,) May 26, 2020
8 Defendant.) 3:00 p.m.
9)

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

13 APPEARANCES:

14 For the Plaintiff: JESSICA MORENO, ESQ.
15 Assistant United States
16 Attorney
17 516 Industry Way
18 Imperial California 92251

19 For the Defendant: FEDERAL DEFENDERS OF SAN DIEGO
20 BY: LEAH GONZALES, ESQ.
21 225 Broadway, Suite 900
22 San Diego, California 92101
23 (619) 234-8467

24 Transcript Ordered by: DAVID A. SCHLESINGER, ESQ.

25 Transcriber: Jordan R. Keilty
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9711 Cactus Street
Suite B
Lakeside, California 92040
(858) 453-7590

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

Echo Reporting, Inc.

1

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

2 --oOo--

3 (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.

9 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

2

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

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3

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 border 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.)

24

25

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
10 L.L. Francisco, President
11 Echo Reporting, Inc.
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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA
3

4 UNITED STATES OF AMERICA,) Case No. 20CR1521-CAB
5 Plaintiff,) El Centro, California
6 vs.) Tuesday,
7 MIGUEL MOTA-ANGEL,) June 23, 2020
8 Defendant.) 9:00 a.m.
9)

10 TRANSCRIPT OF ARRAIGNMENT/ATTORNEY APPOINTMENT HEARING
11 BEFORE THE HONORABLE BERNARD G. SKOMAL
12 UNITED STATES MAGISTRATE JUDGE

13 APPEARANCES:

14 For the Plaintiff: JESSICA MORENO, ESQ.
15 Assistant United States
16 Attorney
17 516 Industry Way
18 Imperial, California 92251

19 For the Defendant: CHARLES L. REES, ESQ.
20 Law Offices of Charles Rees
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22 San Diego, California 92101
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24 Transcript Ordered by: DAVID SCHLESINGER, ESQ.

25 Transcriber: Jordan R. Keilty
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Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

Echo Reporting, Inc.

1

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

2 --oOo--

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?

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.

5

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.)
22
23
24
25

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MIGUEL ANGEL MOTA,

Defendant.

CASE NO. 20CR1521-CAB

SAN DIEGO, CALIFORNIA

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

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San Diego, CA 92101

For The Defendant: Law Office of David L. Baker
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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, 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 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA
3 BEFORE HONORABLE CATHY ANN BENCIVENGO, JUDGE PRESIDING
4

5
6 UNITED STATES OF AMERICA,)
7 Plaintiff,) CASE NO. 20CR1521-CAB
8 vs.)
9 MIGUEL ANGEL MOTA,) SAN DIEGO, CALIFORNIA
10 Defendant.)
11

12
13 COURT STENOGRAPHER'S TRANSCRIPT OF PROCEEDINGS
14 CHANGE OF PLEA HEARING
15 PAGES 1-13

16 For The Government: United States Attorney's Office
17 Southern District of California
18 Lyndzie Carter, AUSA
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19 For The Defendant: Law Office of David L. Baker
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21 San Diego, CA 92102

22 Proceedings reported by stenography, transcript produced by CAT
23 software

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

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
23
24
25

CERTIFICATE OF OFFICIAL COURT STENOGRAPHER

I, Mauralee Ramirez, federal official court stenographer, in and for the United States District Court for the Southern District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that to the best of 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.

Dated this 30th day of November 2021

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

**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

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**
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TERMINATED: 11/06/2020
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Designation: CJA Appointment

Pending Counts

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

Disposition

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

Highest Offense Level
(Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level
(Terminated)

None

Complaints

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

Disposition

Plaintiff

USA

represented by **J'me Forrest**
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ATTORNEY TO BE NOTICED
Designation: Assistant United States Attorney

| 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 | 2 | 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 | 3 | ***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 | 7 | 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 | 9 | 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 | 11 | 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 |

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| | | 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 | 14 | 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 | 17 | 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 | 18 | 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 | 20 | 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 | 21 | 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 |

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| | | 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 | <u>22</u> | 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 | <u>23</u> | 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 | <u>24</u> | MOTION to Continue <i>status hearing</i> by Miguel Angel Mota. (Baker, David) (anh). (Entered: 01/25/2021) |
| 01/26/2021 | <u>25</u> | 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 | <u>26</u> | 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 | <u>27</u> | 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 | <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> by Miguel Angel Mota. (Baker, David) (anh). (Entered: 05/01/2021) |
| 05/14/2021 | <u>29</u> | 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> , In Limine MOTION to Admit Testimony (B) <i>Public Records Searches</i> , In Limine MOTION to Prohibit (C) <i>Collateral Attach 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> , 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> , (O) <i>Reference to National Immigration Policy or Related Issues</i> , In Limine MOTION to Exclude (N) <i>Defendant's Medical Records or Psychological Evaluation</i> by USA as to Miguel Angel Mota. (Carter, Lyndzie) (anh). (Entered: 05/14/2021) |

| | | |
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| 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 | 31 | 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 Attach 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 | 37 | 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) |

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| 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 | <u>40</u> | 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 | <u>42</u> | 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 |

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| | | 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) |
| 12/16/2021 | <u>52</u> | 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) |
| 12/21/2021 | <u>53</u> | 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) |
| 01/07/2022 | <u>54</u> | 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) |
| 01/07/2022 | <u>55</u> | 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) |
| 01/07/2022 | <u>56</u> | 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, |

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| | | 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 |

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| | | Restriction set for 5/4/2022. (akr) (Entered: 02/03/2022) |
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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

MIGUEL ANGEL MOTA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PROOF OF SERVICE

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:

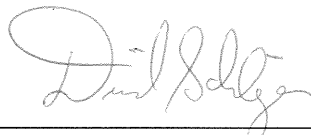
The Honorable Elizabeth B. Prelogar, Esq.
Acting Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Ave., N.W., Room 5614
Washington, DC 20530-0001
Counsel for Respondent

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



DAVID A. SCHLESINGER
Declarant