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U.S. District Court

Northern District of Texas

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Case Name: USA v. Harris et al

Case Number: [3:17-cr-00103-M](#)

Filer:

Document Number: [1510](#)

Docket Text:

ORDER transferring [1506] Motion to Withdraw as Attorney. as to Bradley J Harris (1). (Ordered by Magistrate Judge Irma Carrillo Ramirez on 1/5/2023) (ndt)

3:17-cr-00103-M-1 Notice has been electronically mailed to:

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3:17-cr-00103-M-1 Notice required by federal rule will be delivered by other means (as detailed in the Clerk's records for orders/judgments) to:

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] [cd118f9b22e87e678b865fbd1bc6c8dd33d4a68cca3c364be1ad76b17b1d040619a
615364445b0d850dd7f350a3b11382e9bf1b85f4d52875b3df01c62de23e0]]

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNITED STATES OF AMERICA

vs.

**BRADLEY J. HARRIS,
Defendant.**

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§

No. 3:17-CR-103-M(1)

Referred to U.S. Magistrate Judge

ORDER

By electronic order of reference dated December 16, 2022 (doc. 1507), before the Court is the defendant's *Motion to Withdraw as Counsel*, received on December 15, 2022 (doc. 1506). Based on the relevant filings and applicable law, the motion is **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit.


On March 19, 2021, Bradley Harris (Defendant) pled guilty under a plea agreement to one count of conspiracy to commit health care fraud in violation of 18 U.S.C. § 1349 (18 U.S.C. § 1347), and one count of health care fraud in violation of 18 U.S.C. §§ 1347 and 2. (*See* docs. 923, 937, 1361.) By judgment imposed on January 25, 2022, he was sentenced to an aggregate term of 159 months' imprisonment, to be followed by a three-year term of supervised release. (*See* doc. 1361.) Defendant retained counsel to represent him on appeal. (*See* docs. 1392-93, 1454.) His appeal was dismissed on October 24, 2022. (*See* doc. 1497.) Defendant's retained appellate counsel filed a motion seeking to withdraw from further representation of Defendant and requesting the appointment of new appellate counsel Defendant for consideration of an appeal to the Supreme Court in the district court. (*See* doc. 1506.)

The Fifth Circuit's guidance states that "[a]n attorney who seeks to withdraw from a criminal appeal or from an appeal involving post-conviction relief *must* file a motion in this court," and describing the required contents of such motion. *Practitioners' Guide to the United States*

Court of Appeals for the Fifth Circuit, at 8 (Sept. 2021) (emphasis added). Additionally, Section 5, Paragraph D of the Fifth Circuit’s *Plan for Representation on Appeal Under the Criminal Justice Act*, Revised 4/09 (the Plan), provides that, “[i]f the court of appeals finds, at any time, that a party who had retained counsel has become financially unable to pay the attorney, it may appoint counsel and authorize payment pursuant to §§ (b), (c), and (d) of the [Criminal Justice] Act.”

Because the motion seeks to withdraw from further appellate proceedings and the appointment of new appeal counsel, it should have been filed in the Fifth Circuit. The District Clerk’s Office is hereby directed to forward or transfer the request to withdraw and for new counsel on appeal to the Fifth Circuit.

SO ORDERED on this 5th day of January, 2023.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE