

APPENDICES

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NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 18 2025

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Appellee,

v.

FRANCISCO SORIA,

Appellant.

No. 24-3541

D.C. No.

2:22-cr-00335-MWF-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Michael W. Fitzgerald, District Judge, Presiding

Submitted September 16, 2025**
Pasadena, California

Before: BYBEE, IKUTA, and LEE, Circuit Judges.

Defendant-Appellant Francisco Soria appeals the district court's denials of his motion to suppress, his related request for an evidentiary hearing, and his motion to dismiss his Section 922(g)(1) felon-in-possession count. We affirm the

* 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).

district court's denials.

We have jurisdiction to review the district court's final judgment pursuant to 28 U.S.C. § 1291. We review de novo the denial of a motion to suppress, *United States v. Zapien*, 861 F.3d 971, 974 (9th Cir. 2017), the validity of a search warrant, *United States v. King*, 985 F.3d 702, 707 (9th Cir. 2021), and the constitutionality of a federal statute, *United States v. Oliver*, 41 F.4th 1093, 1097 (9th Cir. 2022). We review factual findings for clear error. *Zapien*, 861 F.3d at 974. And we review the denial of an evidentiary hearing for abuse of discretion. *United States v. Cook*, 808 F. 3d 1195, 1201 (9th Cir. 2015).

1. The warrant was valid. The magistrate issued it based on the officers' adequately particular description of "the place to be searched." U.S. Const. amend. IV; *see also Mena v. City of Simi Valley*, 226 F. 3d 1031, 1036 (9th Cir. 2000) (citation omitted). And the officers had probable cause as to the "specific areas" identified in the warrant, having gathered evidence via authorized Title III wiretaps indicating narcotics trafficking tied to Soria's address and his Jeep. *Maryland v. Garrison*, 480 U.S. 79, 84–85 (1987); *Mena*, 226 F. 3d at 1036–1038. Although law enforcement learned that the warrant was overbroad as to his address when they executed the warrant and discovered the building was not a "single-family residence" but had been divided into three makeshift subunits, officers neither knew nor should have known of this arrangement when seeking the warrant.

Garrison, 480 U.S. at 85–86. There was no record of residential subdivision at that address, which was listed as Soria’s official address on his driver’s license. Additionally, there were no clear signs of multiple residences on the exterior of the home or through map views available online. Despite overbreadth discovered in hindsight, the warrant was valid. *Garrison*, 480 U.S. at 80, 85–87 (upholding a warrant that described only a “third floor apartment” when the building in fact had “two separate units on the third floor”); *see also Mena* at 1035–36 (upholding a warrant authorizing the search of a “single family dwelling” that was in fact a “multi-unit dwelling”).

2. The execution of the warrant as to Soria was also valid, and he lacks standing to challenge its execution as to his neighbors. Soria effectively admitted that he has a “reasonable expectation of privacy” only in his subunit. He thus lacks standing to challenge officers’ engagements with the other subunits because he has neither a property nor possessory interest in them. *Rakas v. Illinois*, 439 U.S. 128, 148 (1978); *see U.S. v. Zermeno*, 66 F.3d 1058, 1061 (9th Cir. 1995); *U.S. v. Paopao*, 469 F.3d 760, 765 (9th Cir. 2006) (rejecting a suppression motion based on an “officer’s entry” and “protective sweep” of a location where the defendant lacked a “reasonable expectation of privacy”). Moreover, the only evidence seized was taken from his residence. As the suspect, Soria cannot suppress evidence found in his home pursuant to a valid warrant.

3. The district court denied Soria’s request for an evidentiary hearing seeking to determine what police knew and when they knew it upon obtaining and then executing the warrant because it had “resolved the potential factual dispute in [Soria’s] favor.” It did not abuse its discretion in doing so. *Cook*, 808 F. 3d at 1201.

4. The district court properly upheld the constitutionality of 18 U.S.C. § 922(g)(1). We held in *United States v. Duarte* that this provision is constitutional on its face and as applied to “non-violent felons.” 137 F. 4th 743, 748 (9th Cir. 2025) (en banc). Soria’s Section 922(g)(1) count is thus constitutional, both facially and as applied.

The district court’s denials of Soria’s motion to suppress, request for an evidentiary hearing, and motion to dismiss are **AFFIRMED**.

**United States District Court
Central District of California**

UNITED STATES OF AMERICA vs.

Docket No. CR 22-335-MWF

Defendant 1. Francisco Soria
t/n: Francisco Emanuel Soria
akas: Soria, Juan; Cisco; Pancho; Smily

Social Security No. 4 3 5 0
(Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

MONTH	DAY	YEAR
JUNE	3	2024

In the presence of the attorney for the government, the defendant appeared in person on this date.

COUNSEL Peter Johnson, Appointed
(Name of Counsel)

PLEA **GUILTY**, and the court being satisfied that there is a factual basis for the plea. **NOLO** **NOT**
CONTENDERE **GUILTY**

FINDING There being a finding/verdict of **GUILTY**, defendant has been convicted as charged of the offense(s) of:
Count 1: Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances in violation of 21 U.S.C. §§ 846, 841(a)(1), 841(b)(1)(A).
Count 7: Possession of a Firearm in Furtherance of Drug Trafficking Crimes in violation of 18 U.S.C. §§ 924(c)(1)(A)(i).
Count 9: Felon in Possession of Firearms and Ammunition in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2).

JUDGMENT AND PROB/COMM ORDER The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of:

It is ordered that the defendant shall pay to the United States a special assessment of \$300, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

Pursuant to Guideline §5E1.2(a), all fines are waived as the Court finds that the defendant has established that he is unable to pay and is not likely to become able to pay any fine.

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant, Francisco Soria, is hereby committed on Counts 1, 7 and 9 of the indictment to the custody of the Bureau of Prisons for a term of 181 months. This term consists of 121 months on each of Counts 1 and 9 of the indictment, to be served concurrently, and 60 months on Count 7, to be served consecutively.

The Court recommends that the Bureau of Prisons evaluate the defendant for participation in the Bureau of Prisons' 500-hour Residential Drug Abuse Program (RDAP).

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 5 years. This term consists of 5 years on each of Counts 1 and 7 of the indictment, and 3 years on Count 9, all such terms to run concurrently under the following under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation & Pretrial Services Office and Second Amended General Order 20- 04.
2. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from custody and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the Probation Officer.
3. During the period of community supervision, the defendant shall pay the special assessment in accordance with this judgment's orders pertaining to such payment.
4. The defendant shall cooperate in the collection of a DNA sample from the defendant.

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5. The defendant shall participate in an outpatient substance abuse treatment and counseling program that includes urinalysis, breath or sweat patch testing, as directed by the Probation Officer. The defendant shall abstain from using alcohol and illicit drugs, and from abusing prescription medications during the period of supervision.
6. During the course of supervision, the Probation Officer, with the agreement of the defendant and defense counsel, may place the defendant in a residential drug treatment program approved by the U.S. Probation and Pretrial Services Office for treatment of narcotic addiction or drug dependency, which may include counseling and testing, to determine if the defendant has reverted to the use of drugs. The defendant shall reside in the treatment program until discharged by the Program Director and Probation Officer.
7. As directed by the Probation Officer, the defendant shall pay all or part of the costs of the Court-ordered treatment to the aftercare contractors during the period of community supervision. The defendant shall provide payment and proof of payment as directed by the Probation Officer. If the defendant has no ability to pay, no payment shall be required.
8. The defendant shall submit the defendant's person, property, house, residence, vehicle, papers, computers, cell phones, other electronic communications or data storage devices or media, email accounts, social media accounts, cloud storage accounts, or other areas under the defendant's control, to a search conducted by a United States Probation Officer or law enforcement officer. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. Any search pursuant to this condition will be conducted at a reasonable time and in a reasonable manner upon reasonable suspicion that the defendant has violated a condition of his supervised release and that the areas to be searched contain evidence of this violation.
9. During supervision, the Probation Officer, with the agreement of the defendant and defense counsel, may place the defendant in a residential reentry center (pre-release component) for a period of no more than 180 days, and the defendant shall observe the rules of that facility.

The Court authorizes the Probation & Pretrial Services Office to disclose the Presentence Report to the substance abuse treatment provider to facilitate the defendant's treatment for narcotic addiction or drug dependency. Further redisclosure of the Presentence Report by the treatment provider is prohibited without the consent of the sentencing judge.

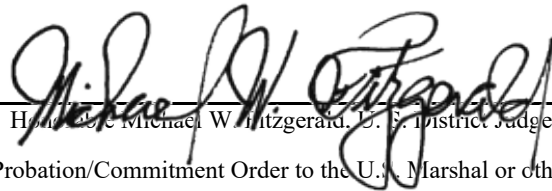
The defendant is advised of his appeal rights. The Court grants the government's motion to dismiss the remaining counts of the Indictment, as to this defendant only.

The Court recommends the defendant be designated to a facility located in Southern California to facilitate visits from family.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

June 4, 2024

Date



Hon. Judge Michael W. Fitzgerald, U. S. District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

June 4, 2024

Filed Date

By Rita Sanchez /s/

Deputy Clerk

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The defendant must comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant must not commit another federal, state, or local crime;
2. The defendant must report to the probation office in the federal judicial district of residence within 72 hours of imposition of a sentence of probation or release from imprisonment, unless otherwise directed by the probation officer;
3. The defendant must report to the probation office as instructed by the court or probation officer;
4. The defendant must not knowingly leave the judicial district without first receiving the permission of the court or probation officer;
5. The defendant must answer truthfully the inquiries of the probation officer, unless legitimately asserting his or her Fifth Amendment right against self-incrimination as to new criminal conduct;
6. The defendant must reside at a location approved by the probation officer and must notify the probation officer at least 10 days before any anticipated change or within 72 hours of an unanticipated change in residence or persons living in defendant's residence;
7. The defendant must permit the probation officer to contact him or her at any time at home or elsewhere and must permit confiscation of any contraband prohibited by law or the terms of supervision and observed in plain view by the probation officer;
8. The defendant must work at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons and must notify the probation officer at least ten days before any change in employment or within 72 hours of an unanticipated change;
9. The defendant must not knowingly associate with any persons engaged in criminal activity and must not knowingly associate with any person convicted of a felony unless granted permission to do so by the probation officer. This condition will not apply to intimate family members, unless the court has completed an individualized review and has determined that the restriction is necessary for protection of the community or rehabilitation;
10. The defendant must refrain from excessive use of alcohol and must not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
11. The defendant must notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
12. For felony cases, the defendant must not possess a firearm, ammunition, destructive device, or any other dangerous weapon;
13. The defendant must not act or enter into any agreement with a law enforcement agency to act as an informant or source without the permission of the court;
14. The defendant must follow the instructions of the probation officer to implement the orders of the court, afford adequate deterrence from criminal conduct, protect the public from further crimes of the defendant; and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

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The defendant must also comply with the following special conditions (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant must pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment under 18 U.S.C. § 3612(f)(1). Payments may be subject to penalties for default and delinquency under 18 U.S.C. § 3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed before April 24, 1996. Assessments, restitution, fines, penalties, and costs must be paid by certified check or money order made payable to “Clerk, U.S. District Court.” Each certified check or money order must include the case name and number. Payments must be delivered to:

United States District Court, Central District of California
Attn: Fiscal Department
255 East Temple Street, Room 1178
Los Angeles, CA 90012

or such other address as the Court may in future direct.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant must pay the balance as directed by the United States Attorney’s Office. 18 U.S.C. § 3613.

The defendant must notify the United States Attorney within thirty (30) days of any change in the defendant’s mailing address or residence address until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. § 3612(b)(1)(F).

The defendant must notify the Court (through the Probation Office) and the United States Attorney of any material change in the defendant’s economic circumstances that might affect the defendant’s ability to pay a fine or restitution, as required by 18 U.S.C. § 3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution under 18 U.S.C. § 3664(k). See also 18 U.S.C. § 3572(d)(3) and for probation 18 U.S.C. § 3563(a)(7).

Payments will be applied in the following order:

1. Special assessments under 18 U.S.C. § 3013;
2. Restitution, in this sequence (under 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid):
 - Non-federal victims (individual and corporate),
 - Providers of compensation to non-federal victims,
 - The United States as victim;
3. Fine;
4. Community restitution, under 18 U.S.C. § 3663(c); and
5. Other penalties and costs.

CONDITIONS OF PROBATION AND SUPERVISED RELEASE PERTAINING TO FINANCIAL SANCTIONS

As directed by the Probation Officer, the defendant must provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant must not apply for any loan or open any line of credit without prior approval of the Probation Officer.

When supervision begins, and at any time thereafter upon request of the Probation Officer, the defendant must produce to the Probation and Pretrial Services Office records of all bank or investments accounts to which the defendant has access, including any business or trust accounts. Thereafter, for the term of supervision, the defendant must notify and receive approval of the Probation Office in advance of opening a new account or modifying or closing an existing one, including adding or deleting signatories; changing the account number or name, address, or other identifying information affiliated with the account; or any other modification. If the Probation Office approves the new account, modification or closing, the defendant must give the Probation Officer all related account records within 10 days of opening, modifying or closing the account. The defendant must not direct or ask anyone else to open or maintain any account on the defendant’s behalf.

The defendant must not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

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RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____

Defendant noted on appeal on _____

Defendant released on _____

Mandate issued on _____

Defendant's appeal determined on _____

Defendant delivered on _____ to _____

at _____

the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

Date

By _____
Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

Filed Date

By _____
Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant

Date

U. S. Probation Officer/Designated Witness

Date

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES – GENERAL

Case No. CR 22-335-MWF Date: March 07, 2024

Present: The Honorable: MICHAEL W. FITZGERALD, United States District Judge

Interpreter Not Applicable

<u>Rita Sanchez</u>	<u>Not Reported</u>	<u>Damaris M. Diaz, Claire E. Kelly</u>
<i>Deputy Clerk</i>	<i>Court Reporter / Recorder</i>	<i>Assistant U.S. Attorney</i>

<u>U.S.A. v. Defendant(s)</u>	<u>Present</u>	<u>Cust</u>	<u>Bond</u>	<u>Attorneys for Defendant(s):</u>	<u>Present</u>	<u>App</u>	<u>Ret</u>
1. Francisco Soria	Not	X		1. Peter Johnson	Not	X	

Proceedings: (IN CHAMBERS) ORDER DENYING DEFENDANT’S MOTION TO SUPPRESS EVIDENCE (DOCKET NO. 112)

Before the Court is Defendant Francisco Soria’s Motion to Suppress Evidence Seized Pursuant to Search of Residence on May 8, 2020 (the “Motion”), filed on February 5, 2024. (Docket No. 112). The government filed its Opposition to the Motion (the “Opposition”) on February 12, 2024. (Docket No. 116). Defendant filed a Reply in support of his Motion (the “Reply”) on February 26, 2024. (Docket No. 119). Defendant also lodged three body camera videos, identified as Exhibits P-1, P-2, and P-3, in support of his Reply.

On March 4, 2024, the Court held a hearing on the Motion but declined at that time to hold an evidentiary hearing.

The Motion is **DENIED**. This Court’s ruling on the thoughtful Motion ultimately rests on the law surrounding a post-warrant finding of a divided place to be searched. Specifically, after obtaining a warrant for 9621 Laurel Street, Los Angeles, California, the officers learned that the location was divided into three different de facto subunits, although there was only the one official address. Based on the body camera videos, the officers did search all three subunits; the government characterizes their actions as “sweeps” and in fact the focus of their search was Defendant’s own subunit. Nothing was seized or is being offered against Defendant from the other two subunits.

Defendant challenges both the warrant itself and its execution on the basis of *Maryland v. Garrison*, 480 U.S. 79 (1987). In *Garrison*, the searching officers learned upon execution of

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES – GENERAL

the warrant that the third floor of the building in fact contained two apartments. The Supreme Court upheld the search but indicated that, under certain circumstances, a search should be suspended when the fact of the multiple units becomes clear. *See also Mena v. City of Simi Valley*, 226 F.3d 1031, 1038-39 (9th Cir. 2000) (concluding, in the context of a § 1983 case, that a warrant describing multiple residences provided the officers with, at most probable cause to search the suspect’s room); *United States v. Johnson*, 469 F. App’x 632, 637 (9th Cir 2012) (citing *Garrison* and *Mena*), see generally 2 W.R. LaFave, *Search and Seizure* § 4.5(b) (6th ed. 2022).

As to the warrant itself, ample probable cause existed and there is no evidence to suggest that the officers knew of the subunits and failed to disclose their existence to the magistrate (the Honorable Terry A. Bork, Judge of the Superior Court). Therefore, the Motion on that basis should be denied on the merits and alternatively pursuant to *Leon*. The warrant explicitly allows a search of every portion of 9621 Laurel Street.

The execution of the warrant is a different question but ultimately *Garrison* supports denying the Motion. The officers did not completely limit their search to the residence of the suspect, depending on one’s views of the “sweeps”, but no evidence is being used except for that from Defendant’s residence. Having correctly determined which subunit was Defendant’s residence, the officers reasonably searched that residence.

Defendant argues that the officers relied on their general search to determine Defendant’s residence. That is not forbidden by *Garrison*. Defendant further argues that the warrant here did not name Defendant. However, numerous cases allow the officers to reference the affidavit to understand the scope of the warrant. W.R. LaFave, *supra*, at § 4.5(b) n.70. Here, reference to the affidavit elucidates what the officers already knew and acted upon – the purpose of the warrant was to search Defendant’s residence.

Finally, Defendant in the alternative requests that the Court hold an evidentiary hearing. The Court has resolved the potential factual dispute in Defendant’s favor – the Court assumes that the officers determined which subunit was Defendant’s by the search itself, most probably by finding his identification. The other proffered basis for a hearing is the alleged inconsistency on timing based on the video timestamps. The timing of the videos does not affect the Court’s

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CRIMINAL MINUTES – GENERAL

ruling under *Garrison* one way or the other. Moreover, after watching the videos, the Court's view is that all the videos were taken in the early morning and the timestamps might be mistaken. Resolving that issue is not significant enough to warrant an evidentiary hearing because no legal ruling depends on it. Therefore, the request for an evidentiary hearing is **DENIED**.

The Pretrial Conference and hearing on Motion in Limine remain set on March 11, 2024, at 1:30 p.m. Trial remains set on March 19, 2024, at 8:30 a.m.

IT IS SO ORDERED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 2 2026

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FRANCISCO SORIA, AKA Cisco,

Defendant - Appellant.

No. 24-3541

D.C. No.

2:22-cr-00335-MWF-1

Central District of California,

Los Angeles

ORDER

Before: BYBEE and LEE, Circuit Judges.¹

The panel has voted to deny Soria's petition for rehearing. Judge Lee voted to deny petition for rehearing en banc, and Judge Bybee recommended denial of the petition for rehearing en banc.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 40.

Soria's petition for rehearing and petition for rehearing en banc, filed on October 1, 2025, are DENIED.

¹ Judge Ikuta was the third judge on the panel. Following her passing, the panel is proceeding as a quorum pursuant to GO 3.2h.