

APPENDIX B: District Court's Order

1 We're here this morning because your lawyer has filed a motion
2 to dismiss the indictment charge against you, and that is based
3 on a Ninth Circuit decision that was entered where they made
4 some findings regarding who would be a prohibited person that
5 can possess a firearm.

6 Unfortunately for you, I'm sure your lawyer has
7 explained this to you, at this point, the Ninth Circuit has
8 vacated that decision and they are considering it en banc,
9 meaning, the Court as a whole will consider it. So, based on
10 precedent that I'm bound to follow, I'm going to deny your
11 lawyer's motion to dismiss the charging document.

12 In addition -- anything else you wish to add on that
13 point, Mr. Zugman?

14 **MR. ZUGMAN:** No, Your Honor. This comes as no
15 surprise. Just a couple of points of -- the *Duarte* case is set
16 for argument the week of December 9th I discussed with
17 Mr. Sutton before the hearing, there was some discussion in the
18 papers about whether Mr. Baptist's particular convictions would
19 qualify. I didn't file a reply, but I would have some
20 arguments on that. I think ultimately it's a jurisdictional
21 question. I don't think I can waive it. I'm trying to avoid
22 waiver in all its forms. So, just that little code into the
23 record.

24 **THE COURT:** Thank you. And so, at this juncture, your
25 lawyer indicated that based on my ruling on the motion to

1 dismiss the indictment, that you wish to enter a guilty plea to
2 an agreement that you reached with the Government. Is that
3 what you want to do this morning?

4 **THE DEFENDANT:** Yes, Your Honor. That is.

5 **THE COURT:** Thank you. So, Rhea, can you place him
6 under oath?

7 **THE CLERK:** Yes.

8 Please raise your right hand. Do you solemnly swear
9 that the evidence you shall give in the cause now before the
10 Court shall be the truth, the whole truth, and nothing but the
11 truth?

12 **THE DEFENDANT:** I do.

13 **THE CLERK:** You may lower your hand, sir.

14 "Michael Edward Baptist" is that your true name?

15 **THE DEFENDANT:** Yes.

16 **THE CLERK:** Thank you.

17 **THE COURT:** All right. So, Mr. Baptist, you were just
18 placed under oath, which means you must tell the truth. If you
19 lie or give any false answers, they can be used against you in
20 a different prosecution known as "perjury" or "making a false
21 statement"; do you understand?

22 **THE DEFENDANT:** Yes, ma'am.

23 **THE COURT:** How old are you, sir? And how far did you
24 go in school?

25 **THE DEFENDANT:** I'm 46 and went to about my senior