Case: 11-50507 05/25/2012 ID: 8192777 DktEntry: 8 Page: 1 of 5

IN THE

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,)	
)	C.A. No. 11-50507
Plaintiff-Appellant,)	D. Ct. No. CR 10-1031-AHM
)	(Cent. Dist. Calif.)
v.)	
)	GOVERNMENT'S MOTION FOR
ENRIQUE FAUSTINO AGUILAR)	VOLUNTARY DISMISSAL OF APPEAL;
NORIEGA, <u>et al.</u> ,)	DECLARATION OF CURTIS A. KIN
)	
Defendants-Appellees.)	
)	
)	

Plaintiff-Appellant United States of America, through its counsel of record, the United States Attorney for the Central District of California, hereby withdraws its appeal filed with the United States Court of Appeals for the Ninth Circuit from the district court's order, entered December 1, 2011, granting the Defendants-Appellees' motion to dismiss the indictment.

Accordingly, based on the attached declaration of Curtis A.

Kin, the government herein moves this Court for voluntary

dismissal of its appeal in this matter pursuant to Rule 42(b) of
the Federal Rules of Appellate Procedure.

DATED: May 25, 2012

Respectfully submitted,

ANDRÉ BIROTTE JR. United States Attorney

ROBERT E. DUGDALE Assistant United States Attorney Chief, Criminal Division

/s/ Curtis A. Kin

CURTIS A. KIN
Assistant United States Attorney
Chief, Criminal Appeals Section

Attorneys for Plaintiff-Appellant UNITED STATES OF AMERICA

Case: 11-50507 05/25/2012 ID: 8192777 DktEntry: 8 Page: 3 of 5

DECLARATION OF CURTIS A. KIN

- I, Curtis A. Kin, hereby declare the following:
- 1. I am an Assistant United States Attorney for the United States Attorney's Office in the Central District of California and serve as the Chief of the Criminal Appeals Section for my Office. I make this declaration in support of the government's motion for voluntary dismissal of its appeal in <u>United States v. Enrique Faustino Aquilar Noriega</u>, et al., C.A. No. 11-50507.
- 2. On December 1, 2011, the district court in the Central District of California entered an order granting the Defendants-Appellees' motion to dismiss the indictment. On that same day, the government filed a protective notice of appeal from that order. The government's opening brief is currently due June 1, 2012.
- 3. After consideration of this matter within the United States Attorney's Office, the Criminal Division of the Department of Justice, and the Office of the Solicitor General, the United States Attorney's Office now moves to dismiss the government's appeal of the district court's order entered December 1, 2011.
- 4. On May 25, 2012, I spoke with Jan L. Handzlik, counsel for Defendants-Appellees Lindsey Manufacturing Company and Keith E. Lindsey, and with Janet I. Levine, counsel for Defendant-Appellee Steve K. Lee; both indicated they had no opposition to the government's motion for voluntary dismissal.

Case: 11-50507 05/25/2012 ID: 8192777 DktEntry: 8 Page: 4 of 5

5. The Defendants-Appellees are not in custody.

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

EXECUTED May 25, 2012, in Los Angeles, California.

/s/ Curtis A. Kin

CURTIS A. KIN

Assistant United States Attorney

******* ERTIFIC Es are Re ly filed the or the Nine c case are	ATE OF SE gistered for the foregoing with Circuit by u	********** RVICE the Appellat ith the Clerk o	int > PDF Printer/Creator). *********** te CM/ECF System of the Court for the llate CM/ECF system
******* ERTIFIC Es are Re ly filed the or the Nine c case are	ATE OF SE gistered for the foregoing with Circuit by u	********** RVICE the Appellat ith the Clerk o	te CM/ECF System of the Court for the
ERTIFIC ts are Re ly filed the or the Nine.	ATE OF SE gistered for the de foregoing what th Circuit by u	RVICE the Appellat ith the Clerk (te CM/ECF System of the Court for the
ts are Re ly filed the or the Nine c case are	gistered for the foregoing with Circuit by u	the Appellatith the Clerk of	of the Court for the
or the Nind.	th Circuit by u		
M/ECF sy	•	I/ECF users a	nd that service will be
/ Curtis A	. Kin		
<*****	*****	·********	*******
ly filed the range of the Ning. egistered of the control of the c	te foregoing we the Circuit by users the case a rest-Class Mail,	ith the Clerk of sing the appears will be served re not register postage prep	of the Court for the llate CM/ECF system ed by the appellate red CM/ECF users. I aid, or have dispatched it
	//ECF sy // Curtis A ****** RTIFIC Ints are l by filed the for the Nin egistered of earticipantent by Fin	M/ECF system. / Curtis A. Kin ****************** RTIFICATE OF SET onts are Registered for the Ninth Circuit by under the Ninth	-