

**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.	)	
	)	<u>GOVERNMENT'S MOTION FOR</u>
ENRIQUE FAUSTINO AGUILAR	)	<u>VOLUNTARY DISMISSAL OF APPEAL;</u>
NORIEGA, <u>et al.</u> ,	)	<u>DECLARATION OF CURTIS A. KIN</u>
	)	
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

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 United States v. Enrique Faustino Aguilar Noriega, 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.

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

9th Circuit Case Number(s) 11-50507

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