

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

§

Plaintiff,

§

§

v.

§

Cause No. CR 06-538 JH

§

§

DANUEL DEAN QUAINANCE,

§

§

Defendant.

§

MR. QUAINANCE'S MOTION TO VACATE PLEA HEARING

DANUEL DEAN QUAINANCE, Defendant, by and through the undersigned appointed counsel, Marc H. Robert, Assistant Federal Public Defender, moves the Court to vacate the plea hearing scheduled for January 25, 2007, and in support of his motion would respectfully show the Court as follows:

1. Mr. Quaintance is charged by superseding indictment filed on May 17, 2006 [Doc. 65] with possession of more than 50 kilograms of marijuana with intent to distribute it and conspiracy to possess more than 100 kilograms of marijuana with intent to distribute it. Mr. Quaintance was arraigned on June 2, 2006 and entered not guilty pleas to both charges. The government and Mr. Quaintance had reached an agreement for a conditional plea, and a plea hearing has been scheduled for Thursday, January 25, 2007.

2. On January 23, 2007, the undersigned counsel was advised that the government will not honor one of the terms of the plea agreement which the government had offered, and which had been accepted by Mr. Quaintance. Until this issue is resolved, a plea hearing will not be necessary.

3. Based on the foregoing, Mr. Quaintance requests that the plea hearing be vacated until further notice.

WHEREFORE, for the foregoing reasons, DANUEL DEAN QUAINANCE, Defendant, respectfully prays that the Court vacate the plea hearing in this cause, and provide such other and further relief to which the Court may find Mr. Quaintance to be justly entitled.

Respectfully Submitted,

FEDERAL PUBLIC DEFENDER
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filed electronically on January 23, 2007

MARC H. ROBERT
Assistant Federal Public Defender
Las Cruces Office

Counsel for Mr. Quaintance

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Vacate Plea Hearing was served on Assistant United States Attorneys Luis A. Martinez and Amanda Gould, 555 Telshor, Suite 300, Las Cruces, New Mexico, 88011, by placing it in the box designated for the United States Attorney's Office at the United States District Court Clerk's office; Mr. Mario A. Esparza, P.O. Box 2468, Las Cruces, New Mexico 88004; and Ms. Bernadette Sedillo, 201 N. Church St., Suite 330, Las Cruces, New Mexico 88001 on January 23, 2007.

filed electronically on January 23, 2007

MARC H. ROBERT