

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CRIMINAL NO. 06CR00538 JH
v.	)	
	)	
DANUEL QUAINANCE, et al.,	)	
	)	
Defendants.	)	

**UNITED STATES' NOTICE OF APPEAL OF MAGISTRATE JUDGE'S ORDER  
AMENDING CONDITIONS OF RELEASE AFTER HEARING ON JUNE 22, 2006.**

COMES NOW David C. Iglesias, United States Attorney for the District of New Mexico, and Amanda Gould, Special Assistant United States Attorney, and moves this Court for an Order Staying the Order on Defendant's Motion to Amend Conditions of Release, filed by defendant Danuel Quaintance, and joined by defendant Mary Quaintance in the above-captioned case. In support of this Motion, the government states as follows:

1. The Defendants are charged with violation of 21 U.S.C. § 846, Conspiracy, and 21 U.S.C. § 841(a)(1) and 21 U.S.C. § 841(b)(1)(C), Possession with Intent to Distribute 50 Kilograms and more of Marijuana, and 18 U.S.C. § 2, Aiding and Abetting, in a Superseding Indictment that was filed on May 17, 2006.

2. On June 22, 2006, United States Magistrate Judge Martinez set amended conditions of release in the above-captioned case pursuant to defendants' motion for amendment wherein they requested that they be able to have contact with members of their "church", and that they be able to smoke marijuana, which they declare to be the "sacrament" and "deity" of their "religion".

3. The defendant's conceded at the hearing on the motion that the issue of whether or not they will be able to smoke marijuana legally is dependent upon the issues before the court in their Motion to Dismiss the Indictment, which claim is based on the Religious Freedom Reformation Act. However, they went on to contest the ban on contact with other members of the "church" which had previously been a condition of their pretrial release.

4. The government has contended from the inception of this case that the defendants' claim that their use, consumption and buying of marijuana should be protected under the Religious Freedom Reformation Act has been fabricated for the sole purpose that they wish to use and sell marijuana for other than religious reasons.

5. Magistrate Judge Martinez found at the hearing that the defendants should be allowed to have contact with the members of their "church", so long as they did not "partake of the sacrament" and/or talk about their "deity", try to recruit new members to the "church" or influence existing members of the "church" to consume marijuana in contravention of the law.

6. An officer from Pre-Trial Services, as well as this prosecutor, further inquired as to the meaning of the Magistrate's ruling by asking whether the defendants should be allowed to have contact with such "church" members who were known to Pre-Trial Services to be known drug users. The court represented to the officer that such contact would be allowed with the caveat that the defendants would not be able to "partake of sacrament" while in the company of the known drug-user "church" members, and would not be able to discuss the use of the "sacrament" or discuss the "deity" with the known drug-user "church" members.

7. The ruling of the Magistrate Judge is somewhat ambiguous and, therefore, difficult for Pre-Trial Services to enforce. The government, therefore, appeals the ruling of the Magistrate Judge so that the conditions to which the defendants must adhere as part of their pre-trial release may be clarified.

8. Additionally, the government appeals the amended conditions of release based on the fact that such conditions were changed based on an assumption that the "religion" to which the defendants claim they belong is genuine and a sincere religious belief. On the contrary, the defendants' "religion" has not yet been shown to be sincere or genuine, and such assertions will be the subject of the defendants' Motion to Dismiss the Indictment which has not yet been decided by District Court Judge Herrera, and on which the defendants bear the burden of proof. These drug defendants proclaim to be the heads of an organization that they represent to be a "religion". The central belief of that "religion" is that marijuana is both a "sacrament" and a "deity". Because the defendants proclaim to be the founders and heads of this organization, they have a certain power over the members of their "congregation". For the defendants to then have contact with known drug users who follow this "religion" that is centered around marijuana, and who act at the direction of the heads of this organization who are the defendants in this case, is a danger to the community.

**WHEREFORE**, based upon the foregoing, the United States respectfully appeals Judge Martinez's Order Amending Conditions of Release set on June 22, 2006, in the above-captioned case, and requests that the Court deny the Defendant's Motion to Amend Conditions of Release Filed on May 1, 2006.

Respectfully submitted,

DAVID C. IGLESIAS  
United States Attorney

/s/

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I hereby certify that a true copy of the foregoing was mailed/delivered to the Federal Defender's Office, on this 23rd day of June , 2006.

/s/

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AMANDA GOULD  
Special Assistant United States Attorney