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9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,)
14 Plaintiff,)
15 v.)
16 BARRY BONDS,)
17 Defendant.)
18)

No. CR 07-0732-SI

**UNITED STATES’S OPPOSITION TO
WITNESS GREG ANDERSON’S
MOTION FOR RELEASE FROM
CUSTODY PRIOR TO AGREEING TO
TESTIFY AT TRIAL OR THE CLOSE
OF TRIAL**

19 In re Trial Subpoena of)
20 GREG FRANCIS ANDERSON.)
21)
22)

Date: March 22, 2011
Judge: Honorable Susan Illston

23 **INTRODUCTION**

24 The United States opposes witness Greg Anderson’s motion for release from custody
25 prior to the time he agrees to testify at trial, or prior to the end of trial. This Court, affirmed by
26 the Ninth Circuit Court of Appeals, has already rejected Anderson’s argument that his plea
27 agreement permits him to refuse to testify as a witness in this case. This Court’s inherent powers
28 permit it to hold Anderson in custody until he agrees to testify, or until this trial concludes.

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ARGUMENT**I. This Court should reject Anderson's argument about his plea agreement under the law of the case doctrine**

In its September 28, 2006 order, the Ninth Circuit rejected Anderson's argument that his plea agreement provides him with a legal basis not to testify. *See* Exh. A at 4. Under the law of the case doctrine, courts do not reopen what has been decided unless there has been an intervening change of controlling authority, new evidence has surfaced, or the previous disposition was clearly erroneous and would work a manifest injustice. *Jeffries v. Woods*, 75 F.3d 491, 493-94 (9th Cir. 1996). None of these exceptions exist in this case.

Nor does the unpublished case that Anderson provides this Court, *United States v. Singleton*, 1995 U.S. App. LEXIS 3302 (9th Cir. 1995) (unpublished), provide this Court with an exception to the law of the case doctrine. Indeed, *Singleton*, is not on point. In *Singleton*, the district court made a factual finding Singleton reasonably believed that he was pleading guilty to a fifteen-year sentence partly in exchange for the ability to avoid any cooperation with the government. *Id.* at *6. This finding was based on the specific facts of Singleton's plea negotiations, including the government's representation that it would not agree to a sentence under fifteen years unless Singleton agreed to cooperate, and the fact that Singleton's plea agreement was for a fifteen-year sentence. *Id.* at *10. The Ninth Circuit found that the district court's factual findings had not been clearly erroneous.

This Court has never made an analogous finding with respect to Anderson's plea agreement with the United States, but previously rejected the argument, which resulted in Anderson's appeal to the Ninth Circuit Court of Appeals. Indeed, in paragraph 11 of Anderson's plea agreement, filed on July 15, 2005, Anderson specifically promises not to "intentionally provide false information to the Court, the Probation Office, Pretrial Services, or the government," which suggests that there was an expectation by the government that Anderson would provide truthful information to the government. *See* Exh. B at 6.

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1 **B. This Court may, and should, continue to confine Anderson for the purpose of**
2 **compelling his testimony, however strongly he insists that he will not be compelled**

3 Anderson also argues that because he has been recalcitrant about providing testimony in
4 this case – testimony that is central to the case – he should not be placed in custody, as it will
5 have no effect on him and therefore cannot be coercive. This argument lacks merit.

6 The difference between civil and criminal contempt “lies in the *intended* effect of the
7 punishment imposed.” *United States v. Armstrong*, 781 F.2d 700, 703 (9th Cir. 1986) (emphasis
8 added). Fines or imprisonment are appropriate sanctions for a witness who has been found in
9 civil contempt of a court’s order that he testify where the sentence is “conditional,” and will be
10 lifted as soon as the witness complies with the court’s order or when the ability of the contemnor
11 to comply with the court’s order disappears (*e.g.*, at the close of evidence). *Shillitani v. United*
12 *States*, 384 U.S. 364, 365, 371 (1966). “While any imprisonment, of course, has punitive and
13 deterrent effects, it *must be viewed* as remedial if the court conditions release upon the
14 contemnor’s willingness to testify.” *Id.* at 370 (emphasis added). This is because “it is essential
15 that courts be able to compel the appearance and testimony of witnesses.” *Id.* As this Court has
16 noted, Anderson’s unwillingness to testify has caused much “dislocation,” and this Court’s
17 sanction of incarcerating Anderson for the duration of the trial or until he testifies, is for the
18 express purpose of obtaining his testimony.

19 Nevertheless, Anderson argues that despite the Court’s legitimate intention in placing him
20 in custody, the sanction is impermissible because he has steadfast in his refusal to give testimony,
21 and therefore confinement has no coercive effect on him, and is punitive. Although courts have
22 recognized that in some cases, confinement for civil contempt may be punitive rather than
23 coercive, and therefore violate a witness’s due process rights, Anderson does not have a valid due
24 process claim.

25 In *In re Grand Jury Investigation*, 600 F.2d 420, 428 (3d Cir. 1979), which Anderson
26 cites, Braun challenged his custodial sentence for refusing to testify before a grand jury, based on
27 “his persistent refusal to cooperate with the government in the past.” The Third Circuit
28 acknowledged that a sentence for civil contempt could become punitive based on the duration of

1 incarceration, as when a person is jailed indefinitely, but also noted that when this happened “is
2 not readily discernible” and “[o]bviously, the civil contempt power would be completely
3 eviscerated were a defiant witness able to secure his release merely by boldly asserting that he
4 will never comply with the court’s order.” *Id.* at 424-25, 428. In Braun’s case, his “history of
5 non-cooperation is not in itself sufficient to meet the heavy burden that Braun must bear in order
6 to establish that his confinement pursuant to s 1826(a) [for a statutory maximum of 18 months] is
7 in violation of due process.” *Id.* at 428. The Third Circuit noted that Braun’s continued silence
8 “during the relatively few months that he has been held in coercive imprisonment far less than
9 the eighteen months that in Congress’s view approached the punitive level” did not “necessarily
10 mean that he will not succumb under the pressure of further confinement.” *Id.* at 428.

11 Anderson’s case is similar to Braun’s. As the Third Circuit case noted, where the period
12 of incarceration for civil contempt is confined, the concern that it is punitive is significantly
13 lessened. In this case, the evidentiary portion of the trial is expected to last between two and four
14 weeks. At the end of this time, Anderson will be released, regardless of whether he testifies.
15 Under such circumstances, Anderson’s incarceration clearly “bears a reasonable relationship to
16 the purpose for which he is committed.” *See Lambert v. Montana*, 545 F.2d 87, 89, 91 (9th Cir.
17 1976) (explaining that due process challenges to civil contempt sentences require nature and
18 duration of commitment to bear some reasonable relationship to purpose for which individual is
19 committed, and remanding to district court for finding of whether there was substantial
20 likelihood that continued confinement had lost its coercive power over petitioner, who had been
21 confined for sixteen straight months for failing to testify).

22 Moreover, it is Anderson’s heavy burden to persuade this Court that there is a “substantial
23 likelihood” that confinement is no longer coercive to him. *Lambert*, 545 F.2d at 87-91. He has
24 not done so. Anderson has indeed demonstrated that he does not intend to testify at the trial. He
25 has gone into custody for it – but Anderson’s accounting of the time he has spent in custody for
26 this is exaggerated. Anderson served 3 months in prison on his sentence. This was not related to
27 his civil contempt. Anderson has also spent time in prison for refusing to testify before the grand
28 jury. He has never spent time in prison for refusing to testify at trial.

1 This difference is important. While Anderson may dispute this, his refusal to testify until
2 this point may reasonably be interpreted as an attempt to thwart trial and protect his former
3 clients, including defendant Bonds. Now, finally, the trial is happening, and the circumstances
4 and pressures are different than they ever were before. Anderson's refusal to testify has
5 necessitated numerous other witnesses, who might not otherwise be called to testify, to provide
6 circumstantial evidence of what Anderson could provide direct evidence. These other witnesses,
7 a number of whom were Anderson's athlete clientele, will face public scrutiny and
8 embarrassment that could have been avoided but for Anderson's refusal to testify. The
9 imminence of this may impact Anderson's determination to refuse to testify, since potential
10 future clients would reasonably avoid working with a trainer who created such a difficult
11 situation for them.

12 Recently, this Court also notified Anderson that his testimony is not merely sought by the
13 government, but defendant Bonds. Anderson has never been so notified, and this new
14 information may also change the calculus of whether to testify.

15 Anderson's last period of incarceration ended in November 2007. It is now March 2011.
16 Anderson's previous imperviousness to incarceration cannot be said to be indicative of his
17 current state. More than three years have passed since he was last in custody; the circumstances
18 of life have changed.

19 Under these circumstances, this Court properly exercised its inherent authority to place
20 Anderson in custody until he testifies or for the duration of the trial.

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CONCLUSION

For the above-stated reasons, the government respectfully asks this Court to find that confinement has not lost its coercive power of Anderson, and to deny Anderson's motion for his release prior to his agreeing to provide testimony at trial, or prior to the close of evidence in this trial.

DATED: March 22, 2011

Respectfully submitted,

MELINDA HAAG
United States Attorney

/s/

MATTHEW A. PARRELLA
JEFFREY D. NEDROW
MERRY JEAN CHAN

Assistant United States Attorneys

EXHIBIT A

ORIGINAL

FILED

SEP 28 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: GRAND JURY SUBPOENA,
DATED July 19, 2006.

GREG FRANCIS ANDERSON,

Witness - Appellant,

v.

UNITED STATES OF AMERICA,

Appellee.

No. 06-16572

D.C. No. CR-06-90292-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William H. Alsup, District Judge, Presiding

Submitted September 28, 2006 **

Before: REINHARDT, O'SCANNLAIN and GRABER, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

06-16572

The motion to seal the answering brief and excerpts of record is granted.

Greg Anderson appeals the district court's August 28, 2006 order of confinement for contempt of court following his refusal to testify before a federal grand jury. Anderson contends that the government possesses an illegal tape recording that taints the grand jury proceedings.

This court has jurisdiction pursuant to 28 U.S.C. § 1291 and 28 U.S.C. § 1826(a). We review the district court's contempt order for abuse of discretion; *see In re Grand Jury Proceedings*, 40 F.3d 959, 961 (9th Cir. 1994) (per curiam), and the district court's underlying factual findings for clear error, and will not reverse unless this court has "a definite and firm conviction that the [district court] committed a clear error of judgment after weighing the relevant factors." *Irwin v. Mascott*, 370 F.3d 924, 931 (9th Cir. 2004) (internal quotation marks omitted).

We are unable to conduct a review because the factual findings and record are not adequate. We remand to the district court for further proceedings consistent with this order.

The government acknowledged the existence of a tape recording ("Paragraph 8 material") which it refused to disclose to Anderson. Anderson requested a limited hearing on the legality of the tape recording. The court denied

06-16572

the request and discussed the Paragraph 8 material with the government ex parte. Based on the ex parte discussion, the government agreed to limit its questions to those not derived from the Paragraph 8 material. The district court concluded that the tape recording was not produced by a wiretap but made no finding on the legality of the tape recording under 28 U.S.C. § 2515.

The record contains insufficient evidence to demonstrate that the government made the requisite showing concerning 18 U.S.C. §§ 2511(2)(d) and 2510(2) in an *in camera* hearing before the district court or that its questions to Anderson in the grand jury were not derived from Paragraph 8 material.

The district court must determine either that the government made the requisite factual showing that the Paragraph 8 material does not violate 18 U.S.C. §§ 2515 and 2511(2)(d) or that its questions to Anderson in the grand jury were not tainted by Paragraph 8 material. If the government objects to disclosure of documents based on secrecy grounds, the court may make the determination *in camera*.

A transcript of the hearings, including any *in camera* hearing, shall be made so that this court may review the proceedings. Appellee shall order a transcript of the hearing at the daily rate upon the conclusion of the hearing. Appellee shall

06-16572

provide a copy to this court of such transcript within 24 hours. If the hearing is *in camera*, the transcript shall be filed in the district court under seal and the copy filed with this court shall be identified as filed under seal and appellant will not be served with this document.

We remand for the district court to conduct further proceedings consistent with this decision and issue its order within a week of the filing date of this decision. The district court must make findings sufficient for this court to review in any new subsequently filed appeal.

Anderson also raises five other claims: that in light of his plea agreement he need not testify before the grand jury; that because there were leaks from the first grand jury's proceedings he need not testify before the second grand jury; that the district court improperly relied on material not in evidence; that he complied with the district court's order calling for a question-by-question determination of taint; and that his confinement is impermissibly punitive and not coercive. We find the first four claims to be without merit. As to the fifth claim, we find it to lack merit considering the length of Anderson's incarceration to date. Our ruling on the fifth claim is without prejudice, however, and the claim may be renewed at a later date.



REMANDED.

EXHIBIT B

Jun-26-06 10:40am From-

T-840 P.18/54 F-438

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FILED

JUL 15 2005

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 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION
 13

14 UNITED STATES OF AMERICA,
 15 Plaintiff,
 16 v.
 17 GREG ANDERSON,
 18 Defendant.
 19

No. CR 04-0044-SI
 PLEA AGREEMENT

20 I, Greg Anderson, and the United States Attorney's Office for the Northern District of
 21 California (hereafter "the government") enter into this written plea agreement (the "Agreement")
 22 pursuant to Rule 11(c)(1)(A) and (B) of the Federal Rules of Criminal Procedure:

23 The Defendant's Promises

24 1. I agree to plead guilty to Count One of the captioned Indictment charging me with
 25 conspiracy to distribute anabolic steroids, in violation of 21 U.S.C. § 846, and Count Forty-Two,
 26 charging me with money laundering, in violation of 18 U.S.C. § 1956(a)(1)(B)(i). I agree that the
 27 elements of the offenses and the maximum penalties for each offense are as follows:
 28

PLEA AGREEMENT
 CR 04-0044-SI

Handwritten signature/initials

Jun-26-06 10:40am From-

T-840 P.20/54 F-498

COUNT ONE-ELEMENTS

1
2 (1) There was an agreement between myself and one or more persons to distribute, and
3 possess with intent to distribute, anabolic steroids; and

4 (2) I became a member of that conspiracy to distribute, and possess with intent to
5 distribute, anabolic steroids knowing of at least one of its objectives and intending to help
6 accomplish that objective.

COUNT ONE-PENALTIES

7		
8	a. Maximum prison sentence	Five years imprisonment
9	b. Maximum fine	\$250,000 or twice the gross gain or gross loss, whichever is greater
10		
11	c. Maximum supervised release term	Two years
12	d. Mandatory special assessment	\$100
13	e. Restitution	None

COUNT FORTY-TWO - ELEMENTS

14
15 (1) I willfully caused another person to conduct a financial transaction.

16 (2) I knew the money involved in that financial transaction represented the proceeds of
17 some form of unlawful activity.

18 (3) The financial transaction involved the proceeds of drug trafficking, a specified
19 unlawful activity.

20 (4) I knew that the transaction was at least partially designed to conceal the nature,
21 location, source, ownership, or control of proceeds of drug trafficking.

COUNT FORTY-TWO-PENALTIES

22		
23	a. Maximum prison sentence	20 years imprisonment
24	b. Maximum fine	\$ 250,000 or twice the gross gain or gross loss, whichever is greater
25		
26	c. Maximum supervised release term	Five years
27	d. Mandatory special assessment	\$ 100
28	e. Restitution	None

PLEA AGREEMENT
CR 04-0044-SI

Jun-26-06 10:40am From-

T-840 P. 21/54 F-488

1 2. I agree that I am guilty of the offenses to which I will plead guilty, and I agree that the
2 following facts are true:

3 Between December 1, 2001 and September 3, 2003, I knowingly participated in a
4 conspiracy with Victor Conte and Jim Valente to illegally distribute anabolic steroids. I also
5 laundered the proceeds of my steroid-trafficking activities by willfully causing another person to
6 cash checks written to me for the sale of steroids, thus resulting in my concealment and disguise
7 of the nature, location, source, ownership, and control of the proceeds of the illegal distribution
8 of anabolic steroids.

9 I knowingly illegally distributed steroids, and I distributed other performance-enhancing
10 drugs, to athletes in furtherance of the conspiracy. The drugs I distributed to these athletes
11 included a testosterone/epitestosterone cream, known as "The Cream;" a synthetic and
12 undetectable steroid-like derivative, tetrahydrogestrinone, also known as "THG," or "The Clear;"
13 injectable human growth hormone; clomid (an anti-estrogen medication used to help the body
14 regenerate natural testosterone levels); injectable anabolic steroids; and oral anabolic steroids,
15 including ones I referred to as "beans." In furtherance of the conspiracy, I obtained steroids from
16 the Bay Area Lab Cooperative, or "BALCO."

17 Upon receiving checks from athletes, portions of which were attributed as payment for
18 steroids, I laundered the proceeds by willfully causing another person to cash the checks for me
19 in that person's name. I asked this other person to cash the checks derived from the sale of
20 steroids knowing that the purpose of the transaction was at least partially to conceal my receipt of
21 checks from the athletes as payment for the sale of steroids.

22 As alleged in Count Forty-Two, I agree that on April 8, 2003, I caused another person to
23 cash a check written to me for \$1,200, which in fact involved the proceeds of steroid distribution.
24 I agree that the check was cashed at a financial institution in San Mateo, California affecting
25 interstate commerce.

26 3. I further agree to waive all rights and ownership in \$22,500 of the monies seized
27 from my residence on September 3, 2003. I will not contest that there is probable cause for the
28

PLEA AGREEMENT
CR 04-0044-SI

Jun-26-06 10:41am From-

T-640 P. 22/54 F-488

1 government's contention that \$22,500 of those seized assets represent the proceeds from the
2 criminal steroid trafficking and money laundering activity with which I was involved, as
3 described above. I will not contest the government's administrative seizure of \$22,500 of these
4 assets. I also waive any rights of appeal to the seizure and forfeiture of \$22,500 of these assets.
5 In addition, I will grant the government a waiver for not duly providing a "Notice of Intent to
6 Forfeit" to me in connection with \$22,500 of these assets.

7 4. I agree to give up all rights that I would have if I chose to proceed to trial, including
8 the rights to a jury trial with the assistance of an attorney, to confront and cross-examine
9 government witnesses; to remain silent or testify; to move to suppress evidence or raise any other
10 Fourth or Fifth Amendment claims; to any further discovery from the government and to future
11 DNA testing of physical evidence in the government's possession; and to pursue any affirmative
12 defenses and present evidence.

13 5. I agree to give up my right to appeal my convictions, the judgment, and orders of the
14 Court. I also agree to waive any right I may have to appeal any aspect of my sentence, including
15 any orders relating to forfeiture and/or restitution.

16 6. I understand that under 18 U.S.C. § 3600, I have the right, under certain
17 circumstances, to post-conviction DNA testing of evidence in the government's possession in
18 support of a claim that I am actually innocent of the offenses to which I am pleading guilty under
19 this plea agreement. I agree to waive my right to post-conviction DNA testing and my right to
20 file a petition under 18 U.S.C. § 3600 to compel that testing.

21 7. I agree not to file any collateral attack on my convictions or sentence, including a
22 petition under 28 U.S.C. § 2255, at any time in the future after I am sentenced, except for a claim
23 that my constitutional right to the effective assistance of counsel was violated.

24 8. I agree that the Court will calculate my sentencing range under the Sentencing
25 Guidelines. I understand that the Court, while not bound to apply the Guidelines, must consult
26 those Guidelines and take them into account when sentencing. I agree that regardless of the
27 sentence that the Court imposes on me, I will not be entitled, nor will I ask, to withdraw my
28 guilty pleas. I also agree that the Sentencing Guidelines range will be calculated as follows and

PLEA AGREEMENT
CR 04-0044-SI

Jun-26-06 10:41am From-

T-840 P.23/54 F-488

1 that I will not ask for any other adjustment to or reduction in the offense level or for a downward
2 departure from the Guidelines range:

3 COUNT ONE

4 (1) Base Offense Level, U.S.S.G. § 2D1.1(c): 6

5 [For purposes of the Sentencing Guidelines, the parties agree that
6 the quantity of drugs involved in the conspiracy charged in
7 Count One of the indictment was less than 250 units of
8 Schedule III substances.]

9 (2) Acceptance of responsibility: -2
10 (If I meet the requirements of
11 U.S.S.G. § 3E1.1)

12 (3) Adjusted offense level: 4

13 COUNT FORTY-TWO

14 (1) Base Offense Level, U.S.S.G. § 2S1.1(a)(1): 6

15 (2) Conviction under 18 U.S.C. § 1956 +2

16 (3) Acceptance of responsibility: -2
17 (If I meet the requirements of
18 U.S.S.G. § 3E1.1)

19 (4) Adjusted offense level: 6

20 Final Offense Level:
21 (w/application of grouping guideline
22 U.S.S.G. § 3D1.2): 6

23 I further agree that based upon these calculations, the sentencing range is 0-6 months,
24 based upon an estimated criminal history category I designation. I understand that this estimated
25 sentencing range will change if I have a greater criminal history category designation.

26 9. I agree that a sentence within the Guideline range is reasonable and that I will not seek
27 a sentence below the Guideline range. I agree that, regardless of any other provision in this
28 Agreement, the government may and will provide to the Court and the Probation Office all
information relevant to the charged offenses or the sentencing decision. I also agree that the
Court is not bound by the Sentencing Guidelines calculations above, the Court may conclude that
a higher guideline range applies to me, and, if it does, I will not be entitled, nor will I ask, to
withdraw my guilty pleas.

PLEA AGREEMENT
CR/04-0044-SI

Jun-26-06 10:41am From-

T-840 P.24/54 F-498

1 10. I agree that I will make a good faith effort to pay any fine, forfeiture or restitution I
2 am ordered to pay. Before or after sentencing, I will, upon request of the Court, the government,
3 or the U.S. Probation Office, provide accurate and complete financial information, submit sworn
4 statements and give depositions under oath concerning my assets and my ability to pay, surrender
5 assets I obtained as a result of my crimes, and release funds and property under my control in
6 order to pay any fine, forfeiture, or restitution. I agree to pay the special assessments at the time
7 of sentencing.

8 11. I agree not to commit or attempt to commit any crimes before sentence is imposed
9 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
10 release (if any); intentionally provide false information to the Court, the Probation Office,
11 Pretrial Services, or the government; or fail to comply with any of the other promises I have
12 made in this Agreement. I agree that, if I fail to comply with any promises I have made in this
13 Agreement, then the government will be released from all of its promises below, but I will not be
14 released from my guilty pleas.

15 12. I agree that this Agreement contains all of the promises and agreements between
16 the government and me, and I will not claim otherwise in the future.

17 13. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
18 District of California only, and does not bind any other federal, state, or local agency.

19 The Government's Promises

20 14. The government agrees to move to dismiss any open charges pending against the
21 defendant in the captioned indictment at the time of sentencing.

22 15. The government agrees not to file or seek any additional charges against the
23 defendant that could be filed as a result of the investigation that led to the captioned indictment.

24 16. The government agrees to recommend the Guidelines calculations set out above.
25 The government agrees that based upon these calculations, the sentencing range is 0-6 months,
26 based upon an estimated criminal history category I designation.

27

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PLEA AGREEMENT
CR 04-0044-SI

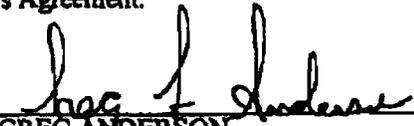
1 The Defendant's Affirmations

2 17. I confirm that I have had adequate time to discuss this case, the evidence, and this
3 Agreement with my attorney, and that he has provided me with all the legal advice that I
4 requested.

5 18. I confirm that while I considered signing this Agreement, and at the time I signed it,
6 I was not under the influence of any alcohol, drug, or medicine.

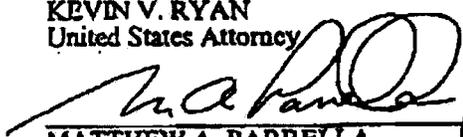
7 19. I confirm that my decision to enter a guilty plea is made knowing the charges that
8 have been brought against me, any possible defenses, and the benefits and possible detriments of
9 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
10 one coerced or threatened me to enter into this Agreement.

11
12 Dated: 7-15-05


GREG ANDERSON
Defendant

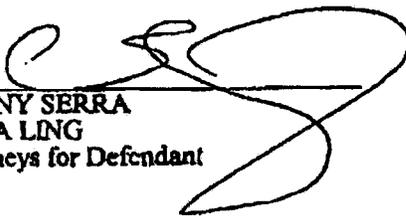
13
14
15
16
17 Dated: 7/15/05

KEVIN V. RYAN
United States Attorney


MATTHEW A. PARRELLA
JEFFREY D. NEDROW
JEFFREY R. FINIGAN
Assistant United States Attorneys

18
19
20 I have fully explained to my client all the rights that a criminal defendant has and all the
21 terms of this Agreement. In my opinion, my client understands all the terms of this Agreement
22 and all the rights he is giving up by pleading guilty, and, based on the information now known to
23 me, his decision to plead guilty is knowing and voluntary.

24
25 Dated: 7-15-05


J. TONY SERRA
ANNA LING
Attorneys for Defendant

Jun-26-06 10:42am From-

T-840 P.26/54 F-498

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

USA et al,

Plaintiff,

v.

Anderson et al,

Defendant.

Case Number: CR04-00044 SI

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 18, 2005, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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San Francisco, CA 94133

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Dated: July 18, 2005

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