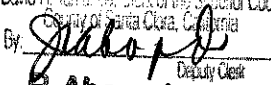


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9 Attorneys for Defendant

FILED

2015 APR -3 AM 11:13

David H. Yamamoto, Clerk of the Superior Court  
County of Santa Clara, California  
By:   
Deputy Clerk  
P. Abogado

10  
11  
12 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **IN AND FOR THE COUNTY OF SANTA CLARA**

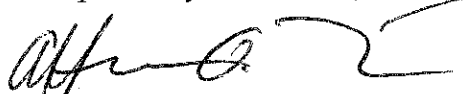
14	PEOPLE OF THE STATE OF CALIFORNIA,	NO: 213515
15		Plaintiff,
16		RESPONSE TO PEOPLE'S
17		REQUEST FOR ALL-PURPOSE
18		COURT ASSIGNMENT
19	vs.	
20	ANTOLIN GARCIA-TORRES,	Date: 04/15/15
21		Time: 1:30 P.M.
22		Dept.: 24
23		Time Est.: 5 MINUTES
24		Defendant

25 TO THE CLERK OF THE ABOVE-ENTITLED COURT, AND  
26 TO THE DISTRICT ATTORNEY FOR SANTA CLARA COUNTY:

27 NOTICE IS HEREBY GIVEN that on the 15<sup>th</sup> day of April, 2015, at 1:30 p.m., in  
28 Department 24 of the above-entitled court, the above-named defendant will move the court to  
deny the government's request to assign this case to an all-purpose court.

Dated: April 3, 2015

Respectfully Submitted,

  
ALFONSO O. LOPEZ  
Deputy Alternate Defender

1 **BACKGROUND:**

2 The government first informed the defense on May 19, 2014, that they were seeking the death  
3 penalty in this case. Prior to that date, after that date, and just last week the government has been  
4 disclosing to the defense voluminous records, reports, and video data. Although the discovery process is  
5 on-going, it is unlikely that the defense has received everything to which it is entitled. Moreover, the  
6 government is setting up an appointment with the defense to view the physical evidence. This case is  
7 currently in the discovery stage, including thoroughly investigating all aspects of mitigation. Besides  
8 the complexity of the discovery in this case related to innocence, the government’s decision to seek the  
9 death penalty less than one year ago has caused a need for even more investigation dealing with the  
10 penalty aspect of the case. Based on the current status of discovery, it is premature to assign this case to  
11 an all-purpose court.  
12

13 **DISCUSSION**

14 **I. ALL-PURPOSE ASSIGNMENT WILL NOT SPEED UP THE CASE**

15 The government suggests that assigning an all-purpose court for this case will reduce some  
16 delays. Their argument implies that the court has been responsible, in part, for the case not being  
17 ready for trial. However, the government has not cited one single instance where the court has been  
18 unavailable to hear any motions, orders, or other matters related to this case. In fact, the court has  
19 already decided multiple motions, conducted several hearings, and made several court orders. This  
20 case is not yet ready for trial because of the complexity of the case and the government’s decision to  
21 seek the death penalty; the absence of an all-purpose assignment has not contributed to the delay.  
22

23 The unsupported claim by the government that a sole judge who is familiar with the case,  
24 “will reduce some of the inevitable delay...,” amounts to mere speculation. The idea of having only  
25 one judge available to hear all pre-trial motions will result in undue delays as all motions will be set  
26 according to that judge’s schedule. Currently, all motions are brought in the Law and Motion  
27 department, a court that is able to hear and decide pretrial motions. Indeed, the Law and Motion  
28 department has already heard motions in this case. Unlike with an all-purpose assignment, if the

1 Law and Motion judge is unavailable due to vacation, illness, or other reasons, another available  
2 judge will hear the motions. Thus, the current status allows for a greater range of motion dates.

3 Lastly, the government suggests that a centralized department will ease the burden on the  
4 parties as the sole judge will be familiar with the facts of the case and somehow speed up the  
5 process. Such an argument implies that the court is responsible, in part, for delaying the case. Again,  
6 the government cannot articulate any instances where a judge has delayed this case because he was  
7 not familiar with the facts of the case. Moreover, motions typically have a statement of facts and  
8 judges are highly experienced in expeditiously learning the issues before they make their ruling. The  
9 defense has confidence that the Law and Motion department is equipped to hear and decide the pre-  
10 trial motions once they are ready to be filed. Assigning the case to an all-purpose department will not  
11 reduce the amount of work the defense must do to ensure Mr. Garcia-Torres receives the effective  
12 assistance of counsel and it will, therefore, not speed up the process in a meaningful way.

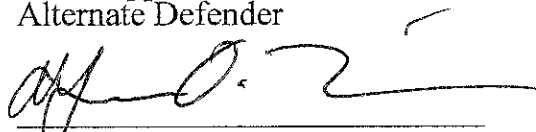
13 //

14 **II. CONCLUSION:**

15 This court should deny the government's request for an all-purpose judicial  
16 assignment at this time for the following reasons. First, the case is still in the discovery stage  
17 and not ready to be set for trial in light of the defense having notice that the People are  
18 seeking the death penalty less than one year ago. Secondly, having the Law and Motions  
19 department available to both parties to file pre-trial motions gives them a greater range of  
20 dates to file and hear their motions. Lastly, the Law and Motions department is more than  
21 capable of expeditiously learning the relevant facts of this case necessary to rule on motions.

22 Dated: April 3, 2015

23 Respectfully submitted,  
24 Davis Epps  
25 Alternate Defender

26   
27 \_\_\_\_\_  
28 Alfonso O. Lopez  
Deputy Alternate Defender