

9/11/15  
Del. to Set

*C/S*

1 JEFFREY F. ROSEN  
District Attorney  
2 DAVID R. BOYD  
Deputy District Attorney  
3 California State Bar No. 184614  
County Government Center, West Wing  
4 70 West Hedding Street  
San Jose, California 95110  
5 Telephone: (408) 792-2968

6 Attorneys for Plaintiff

**FILED**  
SEP 11 2015

DAVID H. YAMABAI  
China Extradition Officer/Attorney  
Superior Court of CA County of Santa Clara  
*David H. Yamabai*  
DEPUTY  
N. Nguyen

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF SANTA CLARA

11	THE PEOPLE OF THE STATE	)	Criminal Case No. 213515
12	OF CALIFORNIA,	)	
13	Plaintiff,	)	DATE: September 22, 2015
14	v.	)	TIME: <del>9:00</del> a.m. 11:30
15	ANTOLIN GARCIA-TORRES,	)	DEPT: 29
16	Defendant.	)	TIME EST.: 2 MINUTES
17		)	NOTICE OF MOTION AND
		)	MOTION TO CONTINUE
		)	PURSUANT TO PENAL CODE
		)	SECTION 1050

18 PLEASE TAKE NOTICE THAT on September 22, 2015 at 9:00 a.m. in  
19 Department 29, or as soon thereafter as the matter may be heard,  
20 the People of the State of California, by and through their  
21 counsel, Jeffrey F. Rosen, District Attorney, and David R. Boyd,  
22 Deputy District Attorney, will move to continue the above-  
23 referenced case pursuant to Penal Code section 1050.

24 This motion is made on the following grounds: the motion to  
25 dismiss the indictment is calendared on a date in which this  
26 prosecutor is not in the State. The motion is based on the  
27 attached memorandum of points and authorities and the attached  
28 declaration.

1 The People request a hearing date of no earlier than November  
2 16, 2015. The defense has no objection to the People's request  
3 for a continuance into November.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 The People have complied with the procedural elements of  
6 Penal Code section 1050(b): this motion is in writing, accompanied  
7 by a declaration detailing specific facts showing that a  
8 continuance is necessary, and was served on all parties to the  
9 proceeding at least two days prior to the proceeding.

10 Penal Code section 1050(e) allows a continuance of any  
11 hearing on a showing of good cause. "Whether good cause exists is  
12 a question for the trial court's discretion." *People v. Doolin*  
13 (2009) 43 Cal.4th 390, 450. Good cause exists because of this  
14 prosecutor's pre-planned, pre-paid personal trip out of the State  
15 during the first two weeks in October.


16 **CONCLUSION**

17 For the above reasons, the People request that the hearing  
18 date be vacated and a new hearing date be set no earlier than  
19 November 19, 2015.

20 Dated: September 10, 2015

21  
22 Respectfully submitted,

23 JEFFREY F. ROSMAN  
24 District Attorney

25   
26 DAVID R. BOYD  
27 Deputy District Attorney  
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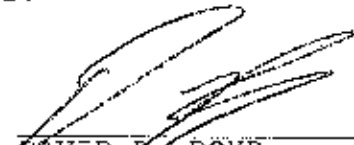
DECLARATION OF DAVID R. BOYD IN SUPPORT OF  
MOTION FOR CONTINUANCE

I, David R. Boyd, do hereby declare that:

1. I am the assigned Deputy District Attorney to the above-referenced case.
2. On or about September 3, 2015, the People received defendant's motion to dismiss the indictment. It is calendared to be heard before this Court on October 5, 2015.
3. Counsel for the defendant did not consult with the People prior to its selection of the motion date. While it appears the court may have adjusted the date to October 5, 2015, the People are out of the State for the first two weeks of October.
4. The defense has indicated in writing that they have no objection to a continuance of the motion into the month of November 2015.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Dated: September 10, 2015

  
\_\_\_\_\_  
DAVID R. BOYD  
Deputy District Attorney

PROOF OF SERVICE

FILED  
SEP 11 2015

STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

) People v. ANTOLIN GARCIA TORRESAN  
) SS.  
) Docket No. 213515  
BY David P. Torresan  
Deputy District Clerk  
County of Santa Clara

I am employed in the County of Santa Clara, State of California. I am over the age of eighteen years, and not a party to the above-entitled action. My business address is: Office of the District Attorney, 70 West Hedding Street, West Wing, San Jose, CA 95110

On September 11, 2015, I served the following documents upon the interested parties in this action by the method(s) indicated below:

**Notice of Motion and Motion to Continue Pursuant to Penal Code Section 1050**

BY PERSONAL DELIVERY: by causing a true copy thereof to be hand-carried to the recipient at the address indicated:

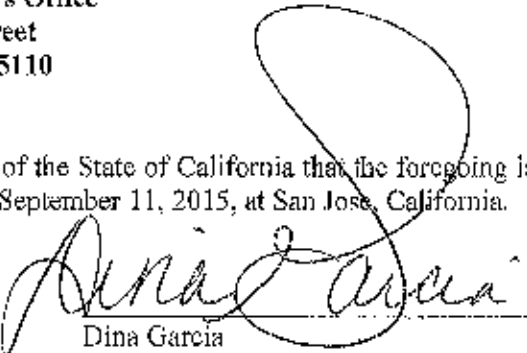
BY FACSIMILE TRANSMISSION: by faxing a true copy thereof to the recipient at the facsimile number indicated:

BY COUNTY PONY MAIL: by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Al Lopez  
Alternate Defenders Office  
701 Miller Street  
San Jose, CA 95110

Brian Matthews  
Alternate Defenders Office  
701 Miller Street  
San Jose, CA 95110

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on September 11, 2015, at San Jose, California.

  
Dina Garcia

# County of Santa Clara

Office of the District Attorney

County Government Center, West Wing  
70 West Hedding Street  
San Jose, California 95110  
(408) 299-7400  
www.santaclara-da.org



Jeffrey R. Rosen  
District Attorney

September 11, 2015

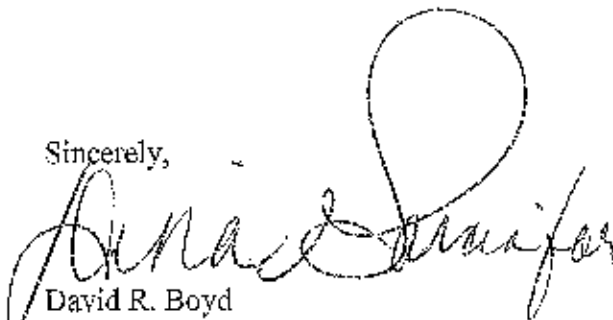
Honorable Thang Barrett  
Presiding Judge, Criminal  
Santa Clara County Superior Court  
190 West Hedding Street  
San Jose, CA 95110

Re: Antolin Garcia Torres  
Docket No: 213515

Dear Honorable Thang Barrett:

Here is a copy that complies with your Remote Electronic Access to Case Information Order of May 30, 2014, there were no redactions necessary for this motion.

Sincerely,



David R. Boyd  
Deputy District Attorney

DA Case No: 120511149

FILED

SEP 11 2015

DAVID H. YAMAZAKI  
Chief Executive Officer  
Superior Court of California, Santa Clara  
BY  DEPUTY  
Mark McCoy

1 JEFFREY F. ROSEN  
District Attorney  
2 DAVID R. BOYD  
Deputy District Attorney  
3 California State Bar No. 184614  
County Government Center, West Wing  
4 70 West Hedding Street  
San Jose, California 95110  
5 Telephone: (408) 792-2968

6 Attorneys for Plaintiff

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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF SANTA CLARA

10  
11 THE PEOPLE OF THE STATE )  
OF CALIFORNIA, )

12 Plaintiff, )

13 v. )

14 ANTOLIN GARCIA-TORRES, )

15 Defendant. )  
16  
17

Criminal Case No. 213515

DECLARATION IN SUPPORT  
OF ORDER PERMITTING OVERSIZE  
BRIEF [SCC RULE OF COURT  
S.B.13.e]

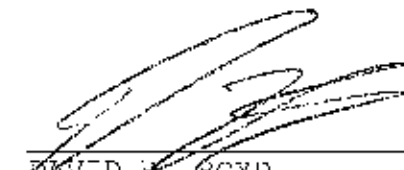
18  
19 I, DAVID R. BOYD, do hereby declare that:

- 20 1. I am the assigned Deputy District Attorney to the above-  
21 referenced case.
- 22 2. The People seek leave of court to exceed 15 pages in its  
23 response to defendant's motion to compel discovery  
24 compliance.
- 25 3. The defendant motion to compel discovery consists of nineteen  
26 pages exclusive of the declaration and exhibits. The motion  
27 to compel demands nineteen separate categories of material  
28 and many of those paragraphs have numerous subcategories.

- 1 4. The defendant's briefing cites approximately fifty-eight
- 2 cases as authority, however it discusses the holdings in
- 3 virtually none of them. Substantial briefing is required to
- 4 identify that most of the cases do not stand for the broad
- 5 range of discovery sought to be compelled.
- 6 5. The People's brief requires additional space to provide the
- 7 court with a more complete factual history of selected
- 8 discovery demands.
- 9 6. The People provided notice via e-mail (approximately 10:00 AM
- 10 9/10/15) to counsel for the defendant of this request. There
- 11 is no objection.

12 I declare under penalty of perjury under the laws of the  
13 State of California that the foregoing is true and correct to the  
14 best of my knowledge.

15  
16 DATED: September 10, 2015

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18  
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20 \_\_\_\_\_  
21 DAVID R. COYD  
22 Deputy District Attorney  
23  
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26  
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