

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:12-CR-384-T-17EAJ

MARTERRENCE O. HOLLOWAY.

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ORDER

This cause is before the Court on:

Dkt. 112	Sealed Transcript of Sidebar at Sentencing
Dkt. 123	Motion to Withdraw Counsel
Dkt. 124	Motion for Inquiry of Substantial Assistance Provided by Defendant that Warrants Relief Pursuant to Rule 35(b)
Dkt. 126	Motion for Inquiry of Substantial Assistance Provided by Defendant that Warrants Relief Pursuant to Rule 35(b)

Dkt. 123      Motion to Withdraw Counsel

Defendant Marterrence O. Holloway, pro se, requests that counsel be withdrawn, and that his counsel be required to turn over every document pertaining to this case to Defendant Holloway.

The Court notes that Defendant Holloway was represented by retained counsel. Defendant Holloway is free to terminate his retained counsel and represent himself at any time. Defendant Holloway has done so by filing the present Motion. The docket sheet indicates that Defendant Holloway is proceeding pro se at this time. The attorney's name will remain in the Court's records, since attorneys are not removed from the record when they are fired or otherwise terminated.

Before the Court considers Defendant Holloway's request for an Order directing Defendant's former counsel to turn over every document pertaining to this case to Defendant, the Court will allow Defendant's former counsel to respond to Defendant's Motion. The Court directs that Defendant Holloway's former counsel file a response to Defendant's Motion for copies of every document pertaining to this case within fourteen days. The Court defers ruling as to Defendant Holloway's request.

After consideration, Defendant Holloway's Motion to Withdraw Counsel is denied in part and deferred in part.

Dkt. 124      Motion for Inquiry of Substantial Assistance  
Dkt. 126      Motion for Inquiry of Substantial Assistance

Defendant Holloway further contends that Defendant has rendered substantial assistance to the Government. Defendant Holloway requests an order that directs the Government to consider whether Defendant's assistance warrants a reduction of Defendant's sentence.

Defendant Holloway entered into a Plea Agreement, pleading guilty to Counts One, Nineteen and Thirty-Six (Dkt. 74). Defendant's Plea Agreement does not contain a substantial assistance provision. The Government and Defendant's counsel discussed this issue at sidebar during the sentencing hearing. (Dkt. 112, pp. 4-6). The Government indicated the Government did not contemplate substantial assistance at the time of sentencing, and Defendant's counsel made it clear that Defendant Holloway was attempting to cooperate, and requested that Defendant Holloway not be discouraged from further cooperation efforts. (Dkt. 112, p. 8).

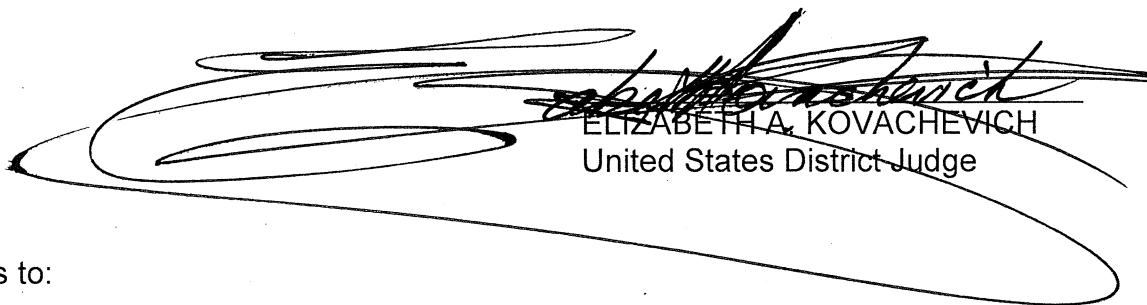
In this case, the Government remained neutral, and Defendant Holloway offered substantial assistance as noted in Defendant's Motions. Whether a defendant's cooperation qualifies as substantial assistance and whether a defendant's substantial assistance warrants a Rule 35 Motion are matters that are completely within the discretion of the Government. This Order will remind the Government of Defendant Holloway's cooperation efforts.

Defendant Holloway does not contend that the Government has refused to file a Rule 35 Motion due to an unconstitutional motive, such as race or religion. After consideration, the Court denies both Motions for Inquiry of Substantial Assistance without prejudice. Accordingly, it is

**ORDERED** that pro se Defendant Marterrence O. Holloway's Motion to Withdraw Counsel (Dkt. 123) is **denied** in part as moot and **deferred** in part. Defendant's former counsel, Tim Bower-Rodriguez **shall respond** to Defendant Holloway's Motion within fourteen days. It is further

**ORDERED** that pro se Defendant Marterrence O. Holloway's Motions for Inquiry of Substantial Assistance (Dkts. 124, 126) are **denied without prejudice**.

**DONE and ORDERED** in Chambers in Tampa, Florida on this 9<sup>th</sup> day of August, 2018.



ELIZABETH A. KOVACHEVICH  
United States District Judge

Copies to:

AUSA Kelley Howard-Allen  
Tim Bower-Rodriguez, Esq.

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