

FILED

OCT - 1 2008

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY M. Z.
DEPUTY CLERK

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

CELERINO CASTILLO, III)

Defendant.)

) **CRIMINAL NO. SA-08-CR-193-RF**

GOVERNMENT'S MOTION TO DISMISS INDICTMENT

COMES NOW, the United States of America, by and through its undersigned Attorney, and hereby moves to dismiss the indictment in the above-captioned criminal matter, and states:

United States v. Polk, 118 F.3d 286 (5th Cir. 1997) precludes an individual being charged with Title 18, United States Code, Section 922(a)(6) where the straw purchaser bought a firearm for an individual who was not a prohibited person. The defendant in the above-captioned criminal case was not a prohibited person. The parties have agreed that the defendant will plead guilty to a Superseding Information related to the defendant engaging in the business of dealing firearms without a license in violation of Title 18, United States Code, Sections 371 and 922(a)(1)(A). The sentencing guidelines for the charge in the Superseding Indictment remain the same.

WHEREFORE, the United States respectfully requests that this honorable Court dismiss the Indictment in the above-captioned criminal case.

Approved:

JOHNNY SUTTON
United States Attorney



MARK T. ROOMBERG
Assistant United States Attorney

Certificate of Service

The above Motion was served on the defense counsel below and the Motion is unopposed.

Mr. Eddie De La Garza
Attorney at Law
6810 Waxahachie Way
San Antonio, TX 78256



MARK T. ROOMBERG
Assistant United States Attorney