



Aug. 28, 2018

Board of Disciplinary Appeals

**BEFORE THE BOARD OF DISCIPLINARY APPEALS  
OF THE SUPREME COURT OF TEXAS**

**IN THE MATTER OF  
RAHUL MALHOTRA  
STATE BAR NO. 00797781**

§  
§  
§

**CAUSE NO. 59097**

RESPONDENT'S MOTION TO AMEND JUDGMENT

Comes now, Respondent, Rahul Malhotra, and files this, his Motion to Amend Judgment, showing as follows:

I.

Statement of Jurisdiction

This honorable tribunal has continuing jurisdiction over this matter as was articulated in the Order Terminating Suspension of Suzanne H. Wooten, BODA cause number 50489.

II.

Factual Background

On or about May 25, 2017, the State Bar of Texas initiated this action. The case was heard on the merits on January 25, 2018. On January 26, 2018, the Judgment of Suspension was signed and filed in the record of this case, reflecting that this honorable tribunal exercised its discretion to suspend Mr. Malhotra's law license during the term of his probation. BODA's judgment thus suspended Respondent's law license until March 22, 2022, the last date of the criminal probation that was imposed on Mr. Malhotra in the March 28, 2017, judgment in case number 5:16-cr-00460-OLG, *United States of America v. Rahul Malhotra*.

Since judgment was entered in this case, Respondent Malhotra has learned that on January 26, 2018, at 2:13 CST, mere hours after the rendition of judgment by this tribunal, the honorable Chief Judge Orlando L. Garcia, United States District Court, Western District of Texas, San Antonio Division, made a docket entry in case number 5:16-cr-00460-OLG, *United States of America v. Rahul Malhotra*, granting Malhotra's Motion to Reduce Sentence. See Exhibit A, certified copy of docket entry. Thereafter,

on January 29, 2018, Chief Judge Garcia signed a document styled “Amended Judgment in a Criminal Case,” that placed Malhotra on probation for a “term of two (2) years,” such probation relating back to the original sentencing date of March 23, 2017. See Exhibit B, certified copy of Amended Judgment.

The following facts are set forth in the attached affidavit of Dan Cogdell, lead counsel for Respondent Malhotra in *U.S. v. Malhotra* (Exhibit C): On or about January 12th, 2018, Cogdell filed a Motion to Reduce Sentence on behalf of Malhotra. The United States filed its response on January 22, 2018. Thereafter, Mr. Cogdell received no notification of any action by the Court on the pending Motion to Reduce. On or about August 9, 2018, Mr. Cogdell was preparing to renew his request for a ruling on the pending Motion to Reduce Sentence and accessed the online records of the United States District Clerk. Upon doing so, Mr. Cogdell learned for the first time that the Motion to Reduce Sentence had been granted on January 26, 2018, and an Amended Judgment reflecting the new sentence had been signed and filed on January 29, 2018. Mr. Cogdell was also surprised to learn that the records reflected that notice of the Court’s granting of the Motion to Reduce Sentence was sent only to agents of the U.S. Department of Justice and not Mr. Cogdell. Mr. Cogdell promptly notified Mr. Malhotra of his discoveries and provided Mr. Malhotra copies of the relevant documents.

### III.

#### Statement of Relief Requested

As this honorable tribunal has previously determined to exercise its discretion to suspend Mr. Malhotra’s license to practice law for a period to coincide with the period of his criminal probation, it is appropriate to enter an Amended Judgment that states the date of the conclusion of Mr. Malhotra’s suspension to be the same day as the anticipated conclusion of his criminal probation, March 22, 2019.

### IV.

#### Argument and Authorities

Respondent Malhotra has not received an early release from his criminal probation. Accordingly, Rule 8.07, TRDP, does not state the applicable, governing law to be applied to consideration of this motion. Early termination of criminal probation is governed by 18 U.S.C.A. §3564(c) which states as follows:

**(c) Early termination.**--The court, after considering the factors set forth in section 3553(a) to the extent that they are applicable, may, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, terminate a term of probation previously ordered and discharge the defendant at any time in the case of a misdemeanor or an infraction or at any time after the expiration of one

year of probation in the case of a felony, if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice.

Mr. Malhotra has not been discharged from probation and, accordingly, there is no existing Order that terminates his probation pursuant to 18 U.S.C.A. §3564(c). Should Mr. Malhotra have received a section 3564(c) early termination of probation, Rule 8.07 would govern his status.

However, in contrast to an early termination of probation, Mr. Malhotra has received a new sentence. It is the one and only criminal sentence in his federal case. As set forth in both *U.S. v. Moran*, 325 F.3d 790, 793 (6<sup>th</sup> Cir. 2002) and *U.S. v. McDowell*, 117 F.3d 974, 977-978 (7<sup>th</sup> Cir. 1997), Mr. Malhotra's original sentence has been supplanted by the sentence contained in the Amended Judgment. See, for example, *Moran* at 793, "When the district court issued the 'Amended Judgment of Conviction' replacing Moran's original sentence with a shorter sentence, it effectively imposed a new sentence on him." And see *McDowell* at 977: "By any definition, the courts' order imposed a new sentence, and McDowell's appeal of that order is an appeal from an 'otherwise final sentence' within the meaning of section 3742."

WHEREFORE, PREMISES CONSIDERED, Respondent respectfully prays that, after consideration of evidence and the argument of counsel, this honorable tribunal enter an Amended Judgment of Suspension, describing the duration of Respondent's suspension to conclude on March 22, 2019, the date upon which Respondent will have concluded his sentence of probation in *U.S. v. Malhotra*, and he be granted such other and further relief to which he is entitled in law or equity.

Respectfully submitted,

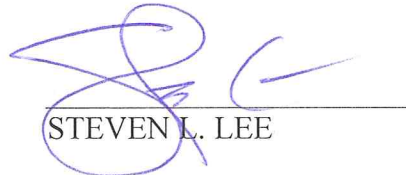
LAW OFFICE OF STEVEN L. LEE, P.C.  
1411 West Ave., Suite 100  
Austin, Texas 78701  
Phone (512) 215-2355  
Fax (512) 857-8108  
slee@txethicslaw.com

By: 

STEVEN L. LEE  
State Bar No. 12137400  
Attorney for Respondent

### CERTIFICATE OF CONFERENCE

This is to certified that by email delivery on August 27, 2018, opposing counsel, Ms. Judith Gres DeBerry, was supplied a copy of Respondent's proposed Motion to Amend Judgment and requested to state her client's agreement or opposition to the relief requested by Mr. Malhotra. Ms. DeBerry replied by email that she was out of the country and could not definitively state Petitioner's consent or opposition to the relief until her return, after Labor Day.

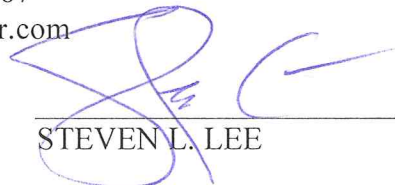


STEVEN L. LEE

### CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Respondent's Motion to Amend Judgment was sent email, this 28th day of August, 2018, to:

Judith Gres DeBerry  
Assistant Disciplinary Counsel  
State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711-2487  
judith.deberry@texasbar.com



STEVEN L. LEE

MIME-Version:1.0

From:TXW\_USDC\_Notice@txwd.uscourts.gov

To:cmecf\_notices@txwd.uscourts.gov

Bcc:

--Case Participants: William Franklin Lewis, Jr (deedee.rayos@usdoj.gov,  
william.lewis3@usdoj.gov)

--Non Case Participants: M Garbalena (margarita\_garbalena@txwp.uscourts.gov)

--No Notice Sent:

Message-Id:<18572059@txwd.uscourts.gov>

Subject:Activity in Case 5:16-cr-00460-OLG USA v. Sealed Order on Motion to Reduce Sentence

Content-Type: text/html

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court [LIVE]

Western District of Texas

### Notice of Electronic Filing

The following transaction was entered on 1/26/2018 at 2:13 PM CST and filed on 1/26/2018

Case Name: USA v. Sealed

Case Number: 5:16-cr-00460-OLG

Filer:

Document Number: No document attached

#### Docket Text:

Text Order GRANTING [74] Defendant's Motion to Reduce Sentence as to Rahul Malhotra (1) Entered by Chief Judge Orlando L. Garcia. (This is a text-only entry generated by the court. There is no document associated with this entry.) (ju)

5:16-cr-00460-OLG-1 Notice has been electronically mailed to:

William Franklin Lewis, Jr william.lewis3@usdoj.gov, DeeDee.Rayos@usdoj.gov

5:16-cr-00460-OLG-1 Notice has been delivered by other means to:

A true copy of the original, I certify.

Clerk, U. S. District Court

By

Diana Garcia  
Deputy





**FILED**

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

JAN 29 2018

CLERK, U.S. DISTRICT COURT  
 WESTERN DISTRICT OF TEXAS  
 BY [Signature] DEPUTY CLERK

UNITED STATES OF AMERICA

v.

Case Number: 5:16-CR-00460-OLG(1)

USM Number: 63855-380

RAHUL MALHOTRA

Defendant.

**AMENDED**  
**JUDGMENT IN A CRIMINAL CASE**  
**(For Offenses Committed On or After November 1, 1987)**

The defendant, RAHUL MALHOTRA, was represented by Dan Lamar Cogdell and J. Dennis Hester, Esq.

On motion of the United States, the Court dismissed the remaining count(s) as to this defendant.

The defendant pled guilty to Count(s) Two (2), of the Indictment on August 16, 2016. Accordingly, the defendant is adjudged guilty of such Count(s), involving the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 1001(a)(2)	False Statement	October 9, 2014	Two (2)

As pronounced on March 23, 2017 and as amended pursuant to the order granting defendant's motion to reduce sentence, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the Court and United States Attorney of material changes in economic circumstances.

Signed this 29<sup>th</sup> day of January, 2018.

[Signature]

ORLANDO L. GARCIA  
 Chief United States District Judge

A true copy of the original, I certify.

Clerk, U. S. District Court

By

[Signature]  
 Deputy



AO 245B (Rev. TXN 10/12) Judgment in a Criminal Case

Judgment -- Page 2 of 5

DEFENDANT: RAHUL MALHOTRA  
CASE NUMBER: 5:16-CR-00460-OLG(1)

**PROBATION**

The defendant is hereby placed on probation for a term of *two (2) years*.

While on probation the defendant shall comply with the mandatory and standard conditions that have been adopted by this Court.

DEFENDANT: RAHUL MALHOTRA  
CASE NUMBER: 5:16-CR-00460-OLG(1)

### CONDITIONS OF PROBATION

#### Mandatory Conditions:

- 1) The defendant shall not commit another federal, state, or local crime during the term of supervision.
- 2) The defendant shall not unlawfully possess a controlled substance.
- 3) The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release on probation or supervised release and at least two periodic drug tests thereafter (as determined by the court), but the condition stated in this paragraph may be ameliorated or suspended by the court if the defendant's presentence report or other reliable sentencing information indicates low risk of future substance abuse by the defendant.
- 4) The defendant shall cooperate in the collection of DNA as instructed by the probation officer, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).
- 5) If applicable, the defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et. seq.*) as instructed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
- 6) If convicted of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall participate in an approved program for domestic violence.
- 7) If the judgment imposes a fine or restitution, it is a condition of supervision that the defendant pays in accordance with the Schedule of Payments sheet of the judgment.
- 8) The defendant shall pay the assessment imposed in accordance with 18 U.S.C. § 3013.
- 9) The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

#### Standard Conditions:

- 1) The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within seventy-two (72) hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.
- 3) The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- 4) The defendant shall answer truthfully the questions asked by the probation officer.
- 5) The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least ten (10) days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within seventy-two (72) hours of becoming aware of a change or expected change.
- 6) The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that are observed in plain view..



DEFENDANT: RAHUL MALHOTRA  
CASE NUMBER: 5:16-CR-00460-OLG(1)

- 7) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or job responsibilities), the defendant shall notify the probation officer at least ten (10) days before the change. If notifying the probation officer at least ten (10) days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within seventy-two (72) hours of becoming aware of a change or expected change.
- 8) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within seventy-two (72) hours.
- 10) The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified, for the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11) The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- 12) If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.
- 13) The defendant shall follow the instructions of the probation officer related to the conditions of supervision.
- 14) If the judgment imposes other criminal monetary penalties, it is a condition of supervision that the defendant pays such penalties in accordance with the Schedule of Payments sheet of the judgment.
- 15) If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall provide the probation officer access to any requested financial information.
- 16) If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.
- 17) If the defendant is excluded, deported, or removed upon release on probation or supervised release, the term of supervision shall be a non-reporting term of probation or supervised release. The defendant shall not illegally re-enter the United States. If the defendant is released from confinement or not deported, or lawfully re-enters the United States during the term of probation or supervised release, the defendant shall immediately report to the nearest U.S. Probation Officer.

DEFENDANT: RAHUL MALHOTRA  
CASE NUMBER: 5:16-CR-00460-OLG(1)

### CRIMINAL MONETARY PENALTIES/SCHEDULE

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth. Unless the Court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. Criminal Monetary Penalties, except those payments made through Federal Bureau of Prisons' Inmate Financial Responsibility Program shall be paid through the Clerk, United States District Court, 655 E. Cesar E. Chavez Blvd, Room G65, San Antonio, TX 78206. The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$100.00	\$7,500.00	\$0.00

### SPECIAL ASSESSMENT

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00. Payment of this sum shall begin immediately.

### FINE

The defendant shall pay a fine of \$ 7,500.00. Payment of this sum shall begin immediately.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column above. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. §3614.

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All payment options may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

**BEFORE THE BOARD OF DISCIPLINARY APPEALS  
OF THE SUPREME COURT OF TEXAS**

**IN THE MATTER OF  
RAHUL MALHOTRA  
STATE BAR NO. 00797781**

§  
§  
§

**CAUSE NO. 59097**

**AFFIDAVIT OF DAN COGDELL**

Comes now Dan Cogdell who provides as follows:

“My name is Dan Cogdell, am above the age of 18, am of sound mind, and am in all regards competent to give this affidavit.

“I was the lead counsel for Rahul Malhotra in case number 5:16-cr-00460-OLG, *United States of America v. Rahul Malhotra*. As I testified before the Board of Disciplinary Appeals at Mr. Malhotra’s compulsory discipline trial, when the trial judge, Chief Judge Orlando Garcia, asked the parties at sentencing if anyone disagreed with his assessment that Mr. Malhotra’s case looked like a probation case, I did not speak up other than to assent to his observation. When he pronounced sentence of five-year’s probation, I regretted not making an argument on the duration of probation before he ruled.

“On January 12, 2018, I filed a Supplemental Motion to Reduce Sentence. On January 22, 2108, the U.S. Government filed its Response. I sent emails to the Court’s case manager on January 24, 2018, and January 26, 2018, requesting the matter be brought to the judge’s attention. I was told the motion was on his desk and when I followed up I was told it had not yet been signed. The entire email thread that corroborates my statements is attached as Exhibit 1 to this affidavit.

“After Mr. Malhotra’s BODA hearing had concluded and I learned of the outcome, I still had not received any notification of any action by the Court through the PACER electronic filing/messaging system and I thereby assumed that there had been no ruling on the motion. I placed a number of calls to the case manager to inquire about a ruling but those calls went to voice mail and I did not leave a message. I did not want to appear to be overbearing by leaving messages and was waiting for one of my calls to be answered so I could speak directly to the case manager.

“In early August Mr. Malhotra called me again, to see if there had been a ruling. When I said there had not, he asked if there was anything we could do. I told him I would call local counsel and ask him to personally visit the courthouse and try to speak to the case manager or the Court. In preparation for my call with our local counsel, I then went to



PACER to printout the Motion to Reduce Sentence which I planned to email to local counsel. It was then that I discovered that the Motion to Reduce Sentence had been granted on January 26, 2018, and an Amended Judgment had been signed on January 29, 2018. I noted that the docket sheet showed that the notice of the Court's action had been emailed to Mr. Malhotra's probation officer and blind copied to the U.S. Attorney. The docket sheet did not show any notice to me. I never received any notice through the electronic filing/messaging system (which is standard) and was completely unaware that the motion had long been granted.


"I informed Mr. Malhotra of my discovery promptly and emailed him copies of the docket entry and the Amended Judgment.

"Further affiant sayeth naught."

#### VERIFICATION

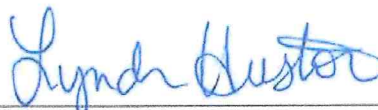
STATE OF TEXAS           §  
COUNTY OF HARRIS       §

Before me the undersigned Notary Public personally appeared Dan Cogdell who, after being by me duly sworn, stated that he has read the above affidavit and that every statement contained in it is within his personal knowledge and is true and correct.



Dan Cogdell

SUBSCRIBED AND SWORN TO BEFORE ME on this 24<sup>th</sup> day of August 2018.



Notary Public



Printed Name of Notary



My commission expires 03/15/2021

## Steve Lee

---

**From:** Dan Cogdell <Dan@cogdell-law.com>  
**Sent:** Friday, January 26, 2018 11:51 AM  
**To:** Jessica\_Urrutia@txwd.uscourts.gov  
**Cc:** Dan Cogdell  
**Subject:** Re: United States v. Rahul Malhotra, 5:16-cr-460

Jessica-

Thanks again for all your diligence.

We had a hearing yesterday in Austin with the SBOT which (I think) went well. We expect the panel to rule fairly quickly.

Should Judge Garcia rule on the pending Motion, we would supplement the record to the SBOT to appraise them of his ruling.

Any update?

Last time I will bother you and hope you have a good weekend!

*Thank you,*

*Dan Cogdell*

*Cogdell Law Firm, PLLC.*

*402 Main Street, 4th Floor | Houston, Texas 77002*  
*Phone: (713) 426-2244 | Fax: (713) 426-2255*  
*[dan@cogdell-law.com](mailto:dan@cogdell-law.com) | [www.cogdell-law.com](http://www.cogdell-law.com)*



On Jan 24, 2018, at 5:05 PM, Dan Cogdell <[Dan@cogdell-law.com](mailto:Dan@cogdell-law.com)> wrote:

Thank you.

Dan Cogdell  
402 Main, 4th Floor  
Houston, Tx 77007  
713 426 2244 (o)  
713 426 2255 (fax)  
[www.cogdell-law.com](http://www.cogdell-law.com)  
[dancogdell@me.com](mailto:dancogdell@me.com)

On Jan 24, 2018, at 4:52 PM, "Jessica\_Urrutia@txwd.uscourts.gov" <[Jessica\\_Urrutia@txwd.uscourts.gov](mailto:Jessica_Urrutia@txwd.uscourts.gov)> wrote:

No, I'm sorry, I went upstairs to double check, but he did not sign the order.

I will check again with him in the morning.

Jessica Urrutia  
Courtroom Deputy to the  
Honorable Orlando L Garcia  
Chief United States District Judge  
(210) 472-6550 ext. 5020  
[Jessica\\_Urrutia@txwd.uscourts.gov](mailto:Jessica_Urrutia@txwd.uscourts.gov)

From: Dan Cogdell <[Dan@cogdell-law.com](mailto:Dan@cogdell-law.com)>  
To: "Jessica\_Urrutia@txwd.uscourts.gov" <[Jessica\\_Urrutia@txwd.uscourts.gov](mailto:Jessica_Urrutia@txwd.uscourts.gov)>  
Date: 01/24/2018 04:47 PM  
Subject: Re: United States v. Rahul Malhotra, 5:16-cr-460

Jessica-

Any update? Just asking because we are near close of business.

Thanks again.

Dan Cogdell  
402 Main, 4th Floor  
Houston, Tx 77007  
713 426 2244 (o)  
713 426 2255 (fax)  
[www.cogdell-law.com](http://www.cogdell-law.com)  
[dancogdell@me.com](mailto:dancogdell@me.com)



On Jan 24, 2018, at 10:43 AM, "Jessica\_Urrutia@txwd.uscourts.gov"  
<Jessica\_Urrutia@txwd.uscourts.gov> wrote:

Good Morning Mr. Cogdell,

It is on the Judge's desk. I will follow up with him after Court.

Thank you.

Jessica Urrutia  
Courtroom Deputy to the  
Honorable Orlando L Garcia  
Chief United States District Judge  
(210) 472-6550 ext. 5020  
Jessica\_Urrutia@txwd.uscourts.gov

From: Dan Cogdell <Dan@cogdell-law.com>  
To: "jessica\_urrutia@txwd.uscourts.gov"  
<jessica\_urrutia@txwd.uscourts.gov>  
Cc: Dan Cogdell <Dan@cogdell-law.com>  
Date: 01/24/2018 10:31 AM  
Subject: United States v. Rahul Malhotra, 5:16-cr-460

Good morning Jessica,

I am writing to request, if possible, a ruling from the Court today on  
the

motion to reduce sentence (dkt. no. 74) that I filed in United States v.  
Rahul Malhotra, 5:16-cr-460. Mr. Malhotra was sentence by Judge  
Garcia to  
five year's probation on March 23, 2017. Our request is that the term of  
probation be reduced to two years.

This is our second motion to reduce sentence. The first was filed on  
March

28, 2017. By a text order, the Court denied that motion as moot on  
August  
14, 2017. We filed a second motion to reduce on January 12, 2018,  
arguing  
that the sentence should be reduced because Malhotra served over one

month

in immigration custody after he was sentenced by the Court, and, because the incarceration happened after this Court sentenced Malhotra, the Court did not have the opportunity to consider this additional punishment in determining Malhotra's original sentence. The government filed a response to our motion on January 22, indicating that it is opposed to the requested

reduction.

The reason I am requesting a ruling on this motion today is that Mr. Malhotra's hearing before the State Bar of Texas is scheduled for tomorrow

at 9:00 a.m. We believe that the State Bar will order a suspension of Malhotra's bar license for a time period commensurate with his sentence of

probation.

I thank you and the Court for considering this request.

Please do not hesitate to reach out to me if I may answer any questions.

Thank you.

Dan Cogdell

Cogdell Law Firm, PLLC.

402 Main Street, 4th Floor | Houston, Texas 77002  
Phone: (713) 426-2244 | Fax: (713) 426-2255  
dan@cogdell-law.com | www.cogdell-law.com