

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

VS.

DANIEL RAY CALDWELL

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CRIMINAL NO. 1:21-CR-00181

SECOND MOTION TO WITHDRAW AS ATTORNEY OF RECORD

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW John Hunter Smith, the attorney of record for defendant in the above styled and numbered cause and moves the Court to be allowed to withdraw as the defendant's attorney of record. Additionally, Patrick J. McClain, who sponsored Attorney John Hunter Smith *pro hac vice* moves the court to be allowed to withdraw.

I.

The defendant was arrested on February 10, 2021, on a criminal complaint that is part of this instant case. Counsel for the defendant was retained on this matter on February 11, 2021. Counsel for the defendant represented him before the court in the Eastern District of Texas, and sought admission via *pro hac vice* before this Honorable Court.

Counsel for the defendant has met with the defendant on April 24, 2021, and again on June 19, 2021. During those meetings, we reviewed relevant discovery connected to the defendant, and the government's proposed plea agreement. During the course of my representation, the defendant and I have discussed his case via phone on numerous occasions.

Over the past month, Counsel and defendant have discussed the cost of representation.

The defendant and his family do not have the financial resources to continue with retained counsel in this matter.

Additionally, we have discussed various courses of action associated with his case. Counsel and the defendant respectfully have a philosophical disagreement on the direction of his case.

On August 4, 2021, I was instructed by the defendant to file a Motion to Withdraw in this case. Pursuant to LcrR 44.5(d), please see Exhibit A.

Based on the above, defendant and counsel have had a break down in the attorney-client relationship. Because of this conflict, I am requesting to withdraw as attorney of record.

II.

Counsel on behalf of the defendant requests that this Honorable Court appoint a Criminal Justice Act (CJA) attorney or an attorney with the Federal Public Defender's (FPD) office. It is counsel's understanding that the family has been in communication with the Federal Public Defenders (FPD) office for the district to obtain legal counsel. The defendant has exhausted all of his financial resources and needs the assistance of a court appointed legal counsel.

WHEREFORE, the undersigned counsel prays that he be allowed to withdraw as attorney of record for the defendant in this case.

Respectfully Submitted,

/s/ John Hunter Smith
John Hunter Smith
State Bar No. 24028393
707 W. Washington
Sherman, Texas 75092
Tel: (903)-893-8177
Fax: (903)-892-0916

Patrick J. McLain
SBN: 13737480
900 Jackson St., Suite 635
Dallas, Texas 75202
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patrick@patrickjmclain.com

CERTIFICATE OF CONFERENCE

Defense counsel conferred with Mr. James D. Peterson, Assistant United States Attorney, via telephone on August 5, 2021, and he is not opposed to such motion.

/s/ John Hunter Smith
John Hunter Smith

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Motion was provided to with Mr. James D. Peterson, Assistant United States Attorney via CMECF/PACER on August 12, 2021.

/s/ John Hunter Smith
John Hunter Smith

CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2021, a true and correct copy of this Motion was hand delivered to the defendant Daniel Ray Caldwell.

/s/ John Hunter Smith
John Hunter Smith

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EXHIBIT

I Daniel Ray Caldwell, on August 4, 2021, instructed Attorney John Hunter Smith to file a Motion to Withdraw as my legal counsel.

I Daniel Ray Caldwell, authorize the filing of this motion.

I Daniel Ray Caldwell, have received a copy of the Motion to Withdraw.

X 8/12/21
DATE

X Daniel Ray Caldwell
Daniel Ray Caldwell
Inmate Number 376977
DC Department of Corrections
1901 E Street, SE
Washington, DC 20003

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ORDER

Upon motion of the defendant, DANIEL RAY CALDWELL, Motion To Withdraw As Attorney Of Record, and the Court having reviewed the facts surrounding said motion, this Court hereby GRANTS/DENIES said motion as it relates to Attorney John Hunter Smith and sponsoring Attorney Patrick J. McClain.