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Attorney for Defendant
GABRIEL CARACHEO

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE EASTERN DISTRICT OF CALIFORNIA**

| | |
|---|---|
| **UNITED STATES OF AMERICA,** Plaintiff, v. **GABRIEL CARACHEO,** Defendant. | 2:07-CR-00248 WBS<br><br>**STIPULATION AND [~~PROPOSED~~] ORDER TO MODIFY BRIEFING SCHEDULE** |

On June 8, 2016, the Court adopted the parties' stipulation to modify the briefing schedule pertaining to a possible motion to reduce sentence pursuant to 18 U.S.C. § 3582(c)(2) to await final decision by the Ninth Circuit on the petition for rehearing *en banc* granted in *United States v. Davis*, 776 F.3d 1088 (9th Cir. 2015). CR 1402. On June 13, 2016, the Ninth Circuit issued its decision on the petition for rehearing *en banc*, reversing its prior holding, which precluded a reduction in sentence in Mr. Caracheo's case. *United States v. Davis*, 2016 U.S. App. LEXIS 10661 (9th Cir. 2016). In light of this change in Ninth Circuit law on this issue, Mr. Caracheo may be eligible for reduction in sentence despite the fact that he entered his plea pursuant to a Federal Rule of Criminal Procedure 11(c)(1)(C) plea agreement.



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The parties have conferred regarding whether Mr. Caracheo is eligible for relief in light of *Davis*. The government needs additional time to assess its position on this issue. Ms. Radekin concurs with this request.

Accordingly, the parties stipulate and request that the current briefing schedule be vacated and a new briefing schedule be ordered as follows:

| | |
|---|---|
| Motion to reduce sentence | **September 15, 2016** |
| Government's opposition | **October 6, 2016** |
| Defendant's reply, if any | **October 13, 2016** |

Assistant United States Attorney Jason Hitt has indicated he has no objection to the above briefing schedule.

Therefore, the parties respectfully stipulate and request that this Court modify the briefing schedule as set forth above.

Dated: August 16, 2016

BENJAMIN WAGNER
United States Attorney

By: /s/ Jason Hitt
JASON HITT
Assistant United States

Dated: August 16, 2016

/s/ Erin J. Radekin
ERIN J. RADEKIN
Attorney for Defendant
GABRIEL CARACHEO

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**ORDER**

Pursuant to the unopposed request, and good cause appearing therefor, it is hereby ordered that the briefing schedule relating to defendant's possible motion to reduce sentence pursuant to § 3582(c)(2) be revised to reflect the following deadlines:

| | |
|---|---|
| Motion to reduce sentence | **September 15, 2016** |
| Government's opposition | **October 6, 2016** |
| Defendant's reply, if any | **October 13, 2016** |

Dated: August 17, 2016

WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE