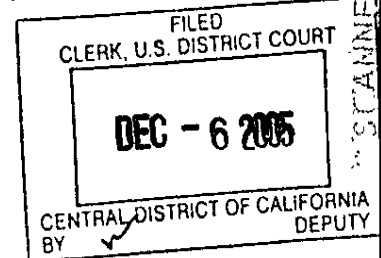


DEBRA WONG YANG
 United States Attorney
 THOMAS P. O'BRIEN
 Assistant United States Attorney
 Chief, Criminal Division
 BRIAN M. HOFFSTADT (Cal. Bar No. 187003)
 Assistant United States Attorney
 1200 United States Courthouse
 312 North Spring Street
 Los Angeles, California 90012
 Telephone: (213) 894-6482
 E-mail: brian.hoffstadt@usdoj.gov



Attorneys for Plaintiff
 UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

NO. CR 05-1035-SJO

Plaintiff,

APPLICATION TO TRANSFER MISDEMEANOR

CASE TO MAGISTRATE JUDGE AND

v.

[PROPOSED] ORDER; DECLARATION OF

BRIAN M. HOFFSTADT

DWIGHT WAYNE SITYAR,

Defendant.

Priority ☒
 Send ☐
 Enter ☐
 Closed ☐
 JS-5/JS-6 ☐
 JS-2/JS-3 ☐
 Scan Only ☐

LOGGED

2005 DEC 6 PM 3:44

Following arraignment and assignment of this criminal case to the Honorable S. James Otero, defendant Dwight Wayne Sityar ("defendant") has expressed a desire to enter his plea of guilty to a single misdemeanor count of criminal copyright infringement before a United States Magistrate Judge -- namely, the Honorable Carolyn Turchin, to whom the other related misdemeanor cases in this matter have previously been assigned. As detailed in the attached declaration of Assistant United States Attorney Brian M. Hoffstadt, Judge Turchin's clerk has expressed Judge Turchin's willingness to accept this case for disposition with the other misdemeanor cases in this matter. Because all of these misdemeanor cases arise out of the same set of facts -- namely,

cc: Magistrate Judge Turchin
 Probation office
 Pretrial Service

ENTER ON ICMS

DEC - 8 2005

25

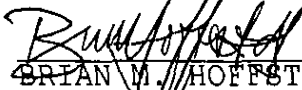
1 the illegal distribution of the motion picture *Star Wars: Episode*
2 *III -- Revenge of the Sith* -- the government believes that they
3 should be handled and sentenced by the same judge, in this case,
4 Judge Turchin. Accordingly, the government makes this
5 application to have the instant case transferred to Judge
6 Turchin.

7 DATED: December 2, 2005

Respectfully submitted,

8 DEBRA WONG YANG
United States Attorney

9 THOMAS P. O'BRIEN
10 Assistant U. S. Attorney
Chief, Criminal Division

11 
12 ~~BRIAN M. HOFFSTADT~~
Assistant United States Attorney


13
14 Attorneys for Plaintiff
United States of America

15 [PROPOSED] ORDER

16
17 FOR GOOD CAUSE SHOWN, IT IS HEREBY ORDERED that the matter
18 of United States v. Dwight Wayne Sityar, CR 05-1035-WJO, be
19 transferred to the Honorable Carolyn Turchin, who will take the
20 defendant's waiver of hearing before a District Court in this
21 misdemeanor case and otherwise dispose of the case.

22 IT IS SO ORDERED.

23 DATED: 12/6, 2005

24 
HONORABLE S. JAMES OTERO
United States District Judge

DECLARATION OF BRIAN M. HOFFSTADT

I, Brian M. Hoffstadt, declare as follows:

1. I am the Assistant United States Attorney assigned to the handle the matters of United States v. Dwight Wayne Sityar, CR 05-1035-SJO and United States v. Ramon Valdez, CR 05-1032-CT (M). These cases -- along with the cases of United States v. Stephani Gima, CR 05-1036(M), United States v. Joel Dimanno, CR 05-1037(M), United States v. Michael Fousse, CR 05-1034(M), United States v. Jessie Lumada, CR 05-1033(M), United States v. Albert Valente, CR 05-930 -- are cases in which the government has charged a single misdemeanor offense of criminal copyright infringement against each of the defendants.

2. All seven of these cases involve a related series of acts. Albert Valente is charged with taking a copy of *Star Wars: Episode III -- Revenge of the Sith* from the post-production facility at which he worked, prior to its release in theatres in May 2005. Valente distributed the film onto Jessie Lumada, who distributed a copy to Ramon Valdez, who distributed a copy to Michael Fousse and Dwight Sityar, who distributed a copy to Stephani Gima, who distributed a copy to Joel Dimaano. An eighth defendant is charged with the felony crime of uploading the film onto the Internet before it opened in theatres. See United States v. Marc Hoaglin, CR 05-1001-ER.

SCANNED

SCANNED

3. On November 21, 2005, defendant Sityar was arraigned but did not at that time request that his case be tried before a Magistrate Judge, even though that option is available to him because he is charged with a misdemeanor. His case was assigned to the Honorable S. James Otero.

4. On November 28, 2005, the remaining defendants charged with misdemeanors were arraigned (except Albert Valente, who is yet to be arraigned), and all of them consented to be tried before a Magistrate Judge. The low-number case, United States v. Ramon Valdez, CR 05-1032-CT (M), was assigned to the Honorable Carolyn Turchin.

5. The government has filed notices of related cases with respect to the other misdemeanor cases, and Judge Turchin's clerk has informed me that the Judge is willing to accept all of those cases.

6. On November 30, 2005, I spoke with Anthony Solis, defense counsel for Dwight Sityar. Mr. Solis informed me that he and his client wish to have the case heard before Judge Turchin with the other defendants charged with misdemeanors.

7. On November 30, 2005, I spoke with Deborah Malone, clerk to Judge Turchin. She informed me that Judge Turchin would

////

////

be open to having Dwight Sityar's case transferred to her court, to be heard with the other, related misdemeanor cases.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 2, 2005


BRIAN M. HOFFSTADT

SCANNED

CERTIFICATE OF SERVICE

I, **YOLANDA AGUAYO**, declare:

That I am a citizen of the United States and
resident or employed in Los Angeles County, California; that my business address is the Office of
the United States Attorney, United States Courthouse, 312 North Spring Street, Los Angeles,
California 90012; that I am over the age of eighteen years, and I am not a party to the above-
entitled action;

That I am employed by the United States Attorney for the Central District of California
who is a member of the Bar of United States District Court for the Central District of California,
at whose discretion I served a copy of: **APPLICATION TO TRANSFER MISDEMEANOR
CASE TO MAGISTRATE JUDGE AND (PROPOSED) ORDER; DECLARATION OF
BRIAN M. HOFFSTADT**

Service was:

☐ Placed in a closed envelope,
for collection and interoffice delivery
addressed as follows:

☒ Placed in a sealed envelope
for collection and mailing via
United States Mail, addressed
as follows:

☐ By hand delivery addressed
as follows:

☐ By facsimile as follows:

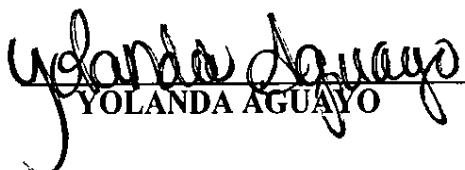
☐ By messenger as follows:

☐ By federal express as follows:

ANTHONY SOLIS, ESQ.
Law Offices
550 S. Hope Street
Suite 660
Los Angeles, CA 90071

This Certificate is executed on December 2, 2005, Los Angeles, California.

I certify under penalty of perjury that the foregoing is true and correct.


YOLANDA AGUAYO