

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

|   |   |                            |
|---|---|----------------------------|
| <b>UNITED STATES OF AMERICA,</b>        | ) |                            |
|   | ) |                            |
| <b>Plaintiff,</b>                       | ) | <b>CRIMINAL ACTION</b>     |
| <b>v.</b>                               | ) |                            |
|   | ) | <b>No. 09-20005-25-KHV</b> |
| <b>CARLOS DOZAL-ALVAREZ,</b>            | ) |                            |
|   | ) |                            |
| <b>Defendant.</b>                       | ) |                            |
| <hr style="width:45%; margin-left:0;"/> |   |                            |

**ORDER**

This matter is before the Court on defendant's letter (Doc. #391) received September 29, 2009, which the Court construes as a pro se motion for new counsel. Defendant primarily complains that his counsel has not kept him adequately informed about certain issues such as a potential state court probation violation. Defendant also asserts that he is not guilty of the charges in the indictment because he was not in the Kansas City area during the charged time period.

To warrant a substitution of counsel, defendant must show good cause, such as a conflict of interest, a complete breakdown of communication or an irreconcilable conflict. United States v. Porter, 405 F.3d 1136, 1140 (10th Cir.), cert. denied, 546 U.S. 980 (2005). Good cause for substitution of counsel consists of more than a mere strategic disagreement between a defendant and his attorney. Id. Rather, defendant must show a total breakdown in communications. Id. To do so, defendant must put forth evidence of a severe and pervasive conflict with his attorney or evidence that he had such minimal contact with the attorney that meaningful communication was not possible. Id.

Defendant has not shown that substitution of counsel is warranted. In the present motion, defendant alleges that counsel has not communicated with him recently, but it is not clear that consultation was necessary. A pretrial motions hearing is set for December 17, 2009. See Order (Doc. #379). Counsel therefore has ample time to meet and confer with defendant about the pretrial motions

and any other pertinent issues. To the extent defendant still has concerns about the adequacy of counsel's representation, he may raise them at the hearing on December 17, 2009.

**IT IS THEREFORE ORDERED** that defendant's letter (Doc. #391) received September 29, 2009, which the Court construes as a pro se motion for new counsel, be and hereby is **OVERRULED**.

Dated this 24th day of November, 2009, at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Judge