

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

United States of America,
Plaintiff,

vs.

Case No. 16-10121-02-JTM

Tessa M. Smith,
Defendant.

MEMORANDUM AND ORDER

The matter is before the court on counsel's motion to withdraw from the representation of defendant Tessa Smith. The court hereby denies the motion without prejudice.

While the motion does indicate a copy of the pleading was contemporaneously sent by certified mail to Smith at a specific address in Wichita, identified as her "last known mailing address," the motion fails to comply with D.Kan.R. 83.3.5(a) in two respects. First, under Subsection (4), an attorney seeking to withdraw must "file either: (A) proof of personal service of the motion to withdraw or the certified mail receipt, signed by the client; or (B) an affidavit indicating that the client received a copy of the motion to withdraw." Second, the motion does not explicitly indicate that counsel advanced the warnings required by Subsection (1). Under that provision, the attorney must submit

evidence that the withdrawing attorney provided the client with notice of: (i) the admonition that the client is personally responsible for complying with all orders of the court and time limitations established by the rules of procedure or by court order; and (ii) the dates of any pending trial, hearings, conferences, and deadlines; and (C) provides the court with a current mailing address and phone number for the client.

See United States v. Reulet, 2016 WL 393728 (D.Kan. Feb. 2, 2016).

IT IS ACCORDINGLY ORDERED this 25th day of October, 2016, that counsel's Motion to Withdraw is denied without prejudice.

s/ J. Thomas Marten
J. THOMAS MARTEN, District Judge