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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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United States of America,

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CR 09-667-PHX-JAT

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Plaintiff,

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CV 11-0648-PHX-JAT

11

vs.

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ORDER

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Andrew Beltran,

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Defendant.

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To cure the procedural defects in the December 15, 2011 Order,

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IT IS ORDERED that the Clerk of the Court shall file a copy of this Order in both
case numbers listed above.

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IT IS FURTHER ORDERED that the December 15, 2011 Order (Doc. 23 in CV 11-
648 and Doc. 65 in CR 09-667) is vacated as is the corresponding judgment (Doc. 24 in CV
11-648).

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IT IS FURTHER ORDERED that the Report and Recommendation (Doc. 16 in CV
11-648) is accepted and adopted; the motion to vacate sentence is granted as specified below,
and the Clerk of the Court shall enter judgment granting the motion in CV 11-648.

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IT IS FURTHER ORDERED that as a result of the Court accepting the Report and
Recommendation, which recommended the Judgment in CR 09-667 at Doc. 35 be vacated,
the Judgment is vacated and CR 09-667 is re-opened.

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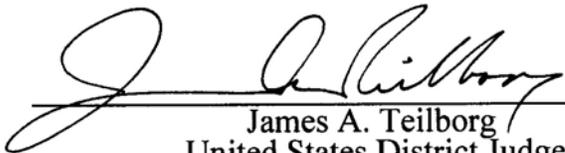
IT IS FURTHER ORDERED that the Government's motion to dismiss the indictment

1 in CR 09-667 (Doc. 64), without prejudice, is granted; the indictment is dismissed, without
2 prejudice. As a result of this Order, the Clerk of the Court shall close the criminal case.

3 IT IS FURTHER ORDERED that Beltran be released from custody, if applicable.

4 IT IS FINALLY ORDERED that, given that the Report and Recommendation found
5 that counsel's legal advice was objectively unreasonable, and had been so under controlling
6 Ninth Circuit precedent since 2005, the Court will forward a copy of this Order and the
7 Report and Recommendation to the Arizona State Bar for a determination of whether Jerry
8 Hernandez's representation of Mr. Beltran violated the duty of competence.

9 DATED this 11th day of January, 2012.

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12 _____
13 James A. Teilborg
14 United States District Judge
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