

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 5:15-cr-25

WILLIAM HOUGHTON

**PLEA AGREEMENT**

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by Vanita Gupta, Principal Acting Deputy Assistant Attorney General, Civil Rights Division, the undersigned Trial Attorneys for the Civil Rights Division, Jared Fishman and Maura D. White, and the defendant, WILLIAM HOUGHTON, and the attorney for the defendant, Mark O'Mara, mutually agree as follows:

**A. Particularized Terms**

1. Counts Pleading To

The defendant shall enter a plea of guilty to Counts One, Two, and Three of the Information. Count One charges the defendant with deprivation of rights under color of law, specifically the right not to be subjected to cruel and unusual punishment, in violation of 18 U.S.C. § 242. Count Two charges the defendant with knowingly making and delivering a statement on March 22, 2014, which he knew to be false, to wit: a United States Government Federal Bureau of Prisons Incident Report (BOP Incident Report), in violation of 18 U.S.C. § 1018. Count Three charges the defendant with knowingly making and delivering a statement

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on April 4, 2014, which he knew to be false, to wit: a United States Government Federal Bureau of Prisons Incident Report, in violation of 18 U.S.C. § 1018.

2. Maximum Penalties

Count One carries a maximum sentence of one year imprisonment, a fine of \$100,000, a term of probation not more than five years, a term of supervised release of not more than one year, and a special assessment of \$25 per misdemeanor count for individuals. Count Two carries a maximum sentence of one year imprisonment, a fine of \$100,000, a term of probation not more than five years, a term of supervised release of not more than one year, and a special assessment of \$25 per misdemeanor count for individuals. Count Three carries a maximum sentence of one year imprisonment, a fine of \$100,000, a term of probation not more than five years, a term of supervised release of not more than one year, and a special assessment of \$25 per misdemeanor count for individuals. With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offense, and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense, or to the community, as set forth below.

3. Elements of the Offenses

The defendant acknowledges understanding the nature and elements of the offense with which defendant has been charged and to which defendant is pleading guilty. The elements of Count One are:

First: the defendant was acting under color law when he committed the acts charged in the Information;

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Second: the defendant deprived R.L.C. of a right secured or protected by the Constitution or laws of the United States, namely, the right not to be subjected to cruel and unusual punishment; and

Third: the defendant acted willfully.

The elements of Counts Two and Three are:

First: the defendant was a public officer, namely, a federal corrections officer employed by the United States Federal Bureau of Prisons; and

Second: the defendant was authorized by the United States to make or give a certificate or writing; and

Third: the defendant knowingly made and delivered a Bureau of Prisons Incident Report; and

Fourth: the Bureau of Prisons Incident Report contained a statement that the defendant knew to be false.

4. Indictment Waiver

Defendant will waive the right to be charged by way of indictment before a federal grand jury.

5. No Further Charges

If the Court accepts this plea agreement, the United States agrees not to charge defendant with committing any other federal criminal offenses known to the United States Department of Justice, Civil Rights Division at the time of the execution of this agreement, related to conduct giving rise to this plea agreement. Furthermore, at sentencing, the United States will dismiss all counts

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pertaining to the defendant in the indictment under 5:15-cr-25, namely, Counts One, Two, Three, and Four.

6. Mandatory Restitution to Victim of Offense of Conviction

Pursuant to 18 U.S.C. § 3663A, defendant agrees to make full restitution to R.L.C.

7. Guidelines Sentence

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States will recommend to the Court that the defendant be sentenced within the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines, as adjusted by any departure the United States has agreed to recommend in this plea agreement. The parties understand that such a recommendation is not binding on the Court and that, if it is not accepted by this Court, neither the United States nor the defendant will be allowed to withdraw from the plea agreement, and the defendant will not be allowed to withdraw from the plea of guilty.

8. Future Law Enforcement Employment

The defendant agrees that during the period of probation and/or supervised release, he will not to seek or hold any law enforcement officer position, including, but not limited to local, municipal, state or federal police or corrections positions or that of a private security guard.

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9. Acceptance of Responsibility

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant's offense level prior to operation of subsection (a) is level 16 or greater, and if the defendant complies with the provisions of USSG §3E1.1(b) and all terms of this Plea Agreement, including but not limited to, the timely submission of the financial affidavit referenced in Paragraph B.5., the United States agrees to file a motion pursuant to USSG §3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States, and the defendant agrees that the defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

10. Cooperation - Substantial Assistance to be Considered

Defendant agrees to cooperate fully with the United States in the investigation and prosecution of other persons, and to testify, subject to a

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prosecution for perjury or making a false statement, fully and truthfully before any federal court proceeding or federal grand jury in connection with the charges in this case and other matters, such cooperation to further include a full and complete disclosure of all relevant information, including production of any and all books, papers, documents, and other objects in defendant's possession or control, and to be reasonably available for interviews which the United States may require. If the cooperation is completed prior to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States, warranting the filing of a motion at the time of sentencing recommending (1) a downward departure from the applicable guideline range pursuant to USSG §5K1.1, or (2) the imposition of a sentence below a statutory minimum, if any, pursuant to 18 U.S.C. §3553(e), or (3) both. If the cooperation is completed subsequent to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States, warranting the filing of a motion for a reduction of sentence within one year of the imposition of sentence pursuant to Fed. R. Crim. P. 35(b). In any case, the defendant understands that the determination as to whether "substantial assistance" has been provided or what type of motion related thereto will be filed, if any, rests solely with the United States, and the defendant agrees that defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

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11. Use of Information - Section 1B1.8

Pursuant to USSG §1B1.8(a), the United States agrees that no self-incriminating information which the defendant may provide during the course of defendant's cooperation and pursuant to this agreement shall be used in determining the applicable sentencing guideline range, subject to the restrictions and limitations set forth in USSG §1B1.8(b).

12. Cooperation - Responsibilities of Parties

a. The government will make known to the Court and other relevant authorities the nature and extent of defendant's cooperation and any other mitigating circumstances indicative of the defendant's rehabilitative intent by assuming the fundamental civic duty of reporting crime. However, the defendant understands that the government can make no representation that the Court will impose a lesser sentence solely on account of, or in consideration of, such cooperation.

b. It is understood that should the defendant knowingly provide incomplete or untruthful testimony, statements, or information pursuant to this agreement, or should the defendant falsely implicate or incriminate any person, or should the defendant fail to voluntarily and unreservedly disclose and provide full, complete, truthful, and honest knowledge, information, and cooperation regarding any of the matters noted herein, the following conditions shall apply:

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(1) The defendant may be prosecuted for any perjury or false declarations, if any, committed while testifying pursuant to this agreement, or for obstruction of justice.

(2) The United States may prosecute the defendant for the charges which are to be dismissed pursuant to this agreement, if any, and may either seek reinstatement of or refile such charges and prosecute the defendant thereon in the event such charges have been dismissed pursuant to this agreement. With regard to such charges, if any, which have been dismissed, the defendant, being fully aware of the nature of all such charges now pending in the instant case, and being further aware of defendant's rights, as to all charges pending in such cases (those offenses punishable by imprisonment for a term of over one year), to not be held to answer to said felony charges unless on a presentment or indictment of a grand jury, and further being aware that all such felony charges in the instant case have heretofore properly been returned by the indictment of a grand jury, does hereby agree to reinstatement of such charges by rescission of any order dismissing them or, alternatively, does hereby waive, in open court, prosecution by indictment and consents that the United States may proceed by information instead of by indictment with regard to any felony charges which may be dismissed in the instant case, pursuant to this plea agreement, and the defendant further agrees to waive the statute of limitations and any speedy trial claims on such charges.

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(3) The United States may prosecute the defendant for any offenses set forth herein, if any, the prosecution of which in accordance with this agreement, the United States agrees to forego, and the defendant agrees to waive the statute of limitations and any speedy trial claims as to any such offenses.

(4) The government may use against the defendant the defendant's own admissions and statements and the information and books, papers, documents, and objects that the defendant has furnished in the course of the defendant's cooperation with the government.

(5) The defendant will not be permitted to withdraw the guilty pleas to those counts to which defendant hereby agrees to plead in the instant case but, in that event, defendant will be entitled to the sentencing limitations, if any, set forth in this plea agreement, with regard to those counts to which the defendant has pled; or in the alternative, at the option of the United States, the United States may move the Court to declare this entire plea agreement null and void.

**B. Standard Terms and Conditions**

1. Restitution, Special Assessment and Fine

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense, pursuant to 18 U.S.C. §3663A, for all offenses described in 18 U.S.C. §3663A(c)(1); and the Court may order the defendant to

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make restitution to any victim of the offense, pursuant to 18 U.S.C. §3663, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. The defendant further understands that compliance with any restitution payment plan imposed by the Court in no way precludes the United States from simultaneously pursuing other statutory remedies for collecting restitution (18 U.S.C. §3003(b)(2)), including, but not limited to, garnishment and execution, pursuant to the Mandatory Victims Restitution Act, in order to ensure that the defendants' restitution obligation is satisfied.

On each count to which a plea of guilty is entered, the Court shall impose a special assessment pursuant to 18 U.S.C. §3013. To ensure that this obligation is satisfied, the Defendant agrees to deliver a check or money order to the Clerk of the Court in the amount of \$75.00, payable to "Clerk, U.S. District Court" within ten days of the change of plea hearing.

The defendant understands that this agreement imposes no limitation as to fine.

2. Supervised Release

The defendant understands that the offense to which the defendant is pleading provides for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

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3. Immigration Consequences of Pleading Guilty


The defendant has been advised and understands that, upon conviction, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

4. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

5. Financial Disclosures

Pursuant to 18 U.S.C. §3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit to the United States Attorney's Office and United States Department of Justice Civil Rights Division within 30 days of execution of this agreement an affidavit reflecting the defendant's financial condition. The defendant promises that his financial statement and disclosures will be complete, accurate and truthful and will include


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all assets in which he has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, dependent, nominee or other third party. The defendant further agrees to execute any documents requested by the United States needed to obtain from any third parties any records of assets owned by the defendant, directly or through a nominee, and, by the execution of this Plea Agreement, consents to the release of the defendant's tax returns for the previous five years. The defendant similarly agrees and authorizes the United States to provide to, and obtain from, the United States Probation Office, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court. The defendant expressly authorizes the United States to obtain current credit reports in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

6. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by

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the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

7. Defendant's Waiver of Right to Appeal the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by

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18 U.S.C. §3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. §3742(a).

8. Civil Rights Division Agreement

It is further understood that this agreement is limited to the Civil Rights Division of the United States Department of Justice and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

9. Filing of Agreement

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

10. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense or offenses to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice

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received from defendant's undersigned counsel (if any). The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense or offenses to which defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel (if any), defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offenses to which defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

11. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty. The defendant certifies that defendant does hereby admit that the facts set forth in the attached "Factual Basis," which is incorporated herein by reference, are

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true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

12. Entire Agreement

This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.


13. Certification

The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that defendant fully understands its terms.


DATED this 13 day of January 2016

  
\_\_\_\_\_  
WILLIAM HOUGHTON  
Defendant

  
\_\_\_\_\_  
Jared Fishman  
Trial Attorney  
Civil Rights Division  
U.S. Department of Justice

  
\_\_\_\_\_  
Madra D. White  
Trial Attorney  
Civil Rights Division  
U.S. Department of Justice

  
\_\_\_\_\_  
Mark O'Mara, Esq.  
Attorney for Defendant HOUGHTON

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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 5:15-cr-25

WILLIAM HOUGHTON

PERSONALIZATION OF ELEMENTS

Count One:

1. On or about March 22, 2014, were you a duly sworn corrections officer with the United States Federal Bureau of Prisons at BOP Coleman, acting under color of law when you committed the acts charged in the Information?
2. Did you deprive R.L.C. of a right secured or protected by the Constitution or laws of the United States, namely, the right to be free from unreasonable seizure, which includes the right to be free from excessive force by one acting under color of law?
3. Did you act willfully by assaulting R.L.C.?

Count Two:

1. On or about March 22, 2014, were you a duly sworn public official, namely, a corrections officer with the United States Federal Bureau of Prisons at BOP Coleman when you committed the acts charged in the information?

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2. Were you authorized to draft a Bureau of Prisons Incident Report (BOP Incident Report) as part of your official duties?
3. Did you draft a BOP Incident on March 22, 2014 in connection with the R.L.C. assault that contained a statement that you knew to be false?

Count Three:

1. On or about April 4, 2014, were you a duly sworn public official, namely, a corrections officer with the United States Federal Bureau of Prisons at BOP Coleman when you committed the acts charged in the information?
2. Were you authorized to draft a Bureau of Prisons Incident Report (BOP Incident Report) as part of your official duties?
3. Did you draft a BOP Incident on April 4, 2014 in connection with the R.L.C. assault that contained a statement that you knew to be false?

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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

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CASE NO. 5:15-cr-25

WILLIAM HOUGHTON

FACTUAL BASIS

On or about March 22, 2014, the defendant WILLIAM HOUGHTON (HOUGHTON), a duly sworn law enforcement officer and federal corrections officer with the United States Federal Bureau of Prisons, was on duty and working in his official capacity at Federal Bureau of Prison Coleman (BOP Coleman) in the Middle District of Florida. At approximately 12:36 p.m., HOUGHTON was walking on the recreation yard at BOP Coleman with Defendant Eddie Rodas-Castro (RODAS-CASTRO), also a federal corrections officer. HOUGHTON and RODAS-CASTRO were approached by the victim, R.L.C., an inmate at BOP Coleman. There was a fence separating the Defendants and R.L.C. and they engaged in a conversation about the fact that HOUGHTON had confiscated R.L.C.'s pinochle cards approximately one hour prior. During this conversation, R.L.C. did not make any aggressive movements, show signs of imminent violence towards either defendant, or clench his fists. HOUGHTON radioed the tower guards nearby to open the gate 25 that separated the Defendants from R.L.C.

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When the gate opened, HOUGHTON charged R.L.C., grabbed him, placed him in a headlock, and began striking him ~~in the head area~~ as they fell to the ground. HOUGHTON continued to punch R.L.C. ~~in the face and head~~ several times while he was on the ground. During the assault, HOUGHTON and RODAS-CASTRO continuously told R.L.C. to "stop resisting" even though he was not resisting in any way. Neither Defendant ever ordered R.L.C. to the ground while he was at the fence line or while he was at the gate prior to them entering. Additionally, the Defendants never gave him any verbal commands to submit to handcuffs before the assault began. ~~After R.L.C. was handcuffed by RODAS-CASTRO, HOUGHTON punched him again in his face.~~ As a result of this assault, R.L.C. sustained bruises and abrasions to the right side of his face, several abrasions to his left elbow, and an abrasion to the left wrist.

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Following the assault, HOUGHTON prepared a BOP Incident Report dated March 22, 2014 and made the following entry, knowing it to be false:

"[R.L.C.] then followed me down to Gate 25 with his fists clinched and once the gate opened came at me attempting to swing his right closed fist at me."

Later, on April 4, 2014 to, HOUGHTON prepared a second BOP Incident Report and made the following entry, knowing it to be false:

"I quickly attempted to turn Inmate [R.L.C.] around to place hand restraints on him and he very swiftly raised his fists up, from being clinched at his side to about shoulder level, in what I perceived to be an attempted strike or swing at my throat and lower facial area, while he was resisting my actions to place him in hand restraints."

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Both BOP incident reports were false because R.L.C. was not aggressive, nor did he display signs of imminent violence or clinch his fists. Furthermore, the statements were false because Houghton intentionally omitted the fact that Houghton struck R.L.C.

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