

1 PHILLIP A. TALBERT
 United States Attorney
 2 JASON HITT
 ROSS PEARSON
 3 DAVID SPENCER
 4 Assistant United States Attorneys
 501 I Street, Suite 10-100
 5 Sacramento, CA 95814
 Telephone: (916) 554-2700
 6 Facsimile: (916) 554-2900
 7 Attorneys for Plaintiff
 United States of America
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9 IN THE UNITED STATES DISTRICT COURT
 10 EASTERN DISTRICT OF CALIFORNIA
 11

12 UNITED STATES OF AMERICA,
 13 Plaintiff,
 14 v.
 15 RONALD YANDELL, et al.,
 16 Defendants.
 17

Case No. 2:19-cr-107-KJM

PLEA AGREEMENT FOR
 DEFENDANT BRANT DANIEL

18 I. INTRODUCTION
 19

20 A. Scope of Agreement

21 The defendant Brant Daniel (“defendant”) will plead guilty to Count Seventeen of the
 22 Superseding Indictment. Count Seventeen of the Superseding Indictment charges the defendant with a
 23 violation of 18 U.S.C. § 1959(a)(1) – Murder in Aid of Racketeering. This document contains the
 24 complete plea agreement between the United States Attorney’s Office for the Eastern District of
 25 California (the “government”) and the defendant regarding this case. This plea agreement is limited to
 26 the United States Attorney’s Office for the Eastern District of California and cannot bind any other
 27 federal, state, or local prosecuting, administrative, or regulatory authorities.

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1 **B. Court Not a Party**

2 The Court is not a party to this plea agreement. As to Count Seventeen of the Superseding
3 Indictment, the defendant understands the Court will sentence him to life in prison, the mandatory
4 sentence for that count.

5 **II. DEFENDANT'S OBLIGATIONS**

6 **A. Guilty Plea**

7 The defendant will plead guilty to Count Seventeen of the Superseding Indictment. Count
8 Seventeen charges the defendant with a violation of 18 U.S.C. § 1959(a)(1) – Murder in Aid of
9 Racketeering. The defendant agrees that he is in fact guilty of these charges and that the facts set forth
10 in the Factual Basis For Plea attached as Exhibit A are true and correct. Exhibit A is incorporated here
11 by reference.

12 The defendant agrees that this plea agreement will be filed with the Court and become a part of
13 the record of the case. The defendant understands and agrees that he will not be allowed to withdraw his
14 plea should the Court not follow the government's sentencing recommendations.

15 The defendant agrees that the statements made by him in signing this Agreement, including the
16 factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by
17 the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a
18 guilty plea pursuant to this Agreement. The defendant waives any rights under Rule 11(f) of the Federal
19 Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence, to the extent that these
20 rules are inconsistent with this paragraph or with this Agreement generally.

21 **B. Fine**

22 The parties agree that the defendant does not have the ability to pay a fine and is not likely to
23 become able to pay a fine. Therefore, imposition of a fine should be waived. U.S.S.G. § 5E1.2(a).

24 **C. Special Assessment**

25 The defendant agrees to pay a special assessment of \$100 at the time of sentencing by delivering
26 a check or money order payable to the United States District Court to the United States Probation Office
27 immediately before the sentencing hearing. If the defendant is unable to pay the special assessment at
28 the time of sentencing, he agrees to earn the money to pay the assessment, if necessary by participating

1 in the Inmate Financial Responsibility Program.

2 **D. Defendant's Violation of Plea Agreement or Withdrawal of Plea**

3 If the defendant violates this plea agreement in any way, withdraws his plea, or tries to withdraw
4 his plea, this plea agreement is voidable at the option of the government. The government will no longer
5 be bound by its representations to the defendant concerning the limits on criminal prosecution and
6 sentencing as set forth herein. One way a defendant violates the plea agreement is to commit any crime
7 or provide any statement or testimony which proves to be knowingly false, misleading, or materially
8 incomplete. Any post-plea conduct by a defendant constituting obstruction of justice will also be a
9 violation of the agreement. The determination whether the defendant has violated the plea agreement
10 shall be decided under a probable cause standard.

11 If the defendant violates the plea agreement, withdraws his plea, or tries to withdraw his plea, the
12 government shall have the right: (1) to prosecute the defendant on any of the counts to which he pleaded
13 guilty; (2) to reinstate any counts that may be dismissed pursuant to this plea agreement; and (3) to file
14 any new charges that would otherwise be barred by this plea agreement. The defendant shall thereafter
15 be subject to prosecution for any federal criminal violation of which the government has knowledge,
16 including perjury, false statements, and obstruction of justice. The decision to pursue any or all of these
17 options is solely in the discretion of the United States Attorney's Office.

18 By signing this plea agreement, the defendant agrees to waive any objections, motions, and
19 defenses that the defendant might have to the government's decision to exercise the options stated in the
20 previous paragraph. Any prosecutions that are not time-barred by the applicable statute of limitations as
21 of the date of this plea agreement may be commenced in accordance with this paragraph,
22 notwithstanding the expiration of the statute of limitations between the signing of this plea agreement
23 and the commencement of any such prosecutions. The defendant agrees not to raise any objections
24 based on the passage of time with respect to such counts including, but not limited to, any statutes of
25 limitation or any objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth
26 Amendment to any counts that were not time-barred as of the date of this plea agreement.

27 In addition, the defendant shall assert no claim under the United States Constitution, any statute,
28 Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or

1 any other federal rule, that statements made by the defendant before or after this plea agreement, or any
2 leads derived therefrom, should be suppressed. By signing this plea agreement, the defendant waives
3 any and all rights in the foregoing respects.

4 **III. THE GOVERNMENT'S OBLIGATIONS**

5 **A. Recommendations**

6 1. Incarceration Recommendation

7 The government will recommend that the defendant be sentenced to life in prison, which the
8 defendant understands is the mandatory sentence in this case.

9 2. Acceptance of Responsibility

10 The government will recommend a two-level reduction (if the offense level is less than 16) or a
11 three-level reduction (if the offense level reaches 16) in the computation of defendant's offense level if
12 he clearly demonstrates acceptance of responsibility for his conduct as defined in U.S.S.G. § 3E1.1.
13 This includes the defendant meeting with and assisting the probation officer in the preparation of the
14 pre-sentence report, being truthful and candid with the probation officer, and not otherwise engaging in
15 conduct that constitutes obstruction of justice within the meaning of U.S.S.G § 3C1.1, either in the
16 preparation of the pre-sentence report or during the sentencing proceeding.

17 **B. Use of Information for Sentencing**

18 The government is free to provide full and accurate information to the Court and the United
19 States Probation Office ("Probation"), including answering any inquiries made by the Court and/or
20 Probation, and rebutting any inaccurate statements or arguments by the defendant, his attorney,
21 Probation, or the Court. The defendant also understands and agrees that nothing in this Plea Agreement
22 bars the government from defending on appeal or collateral review any sentence that the Court may
23 impose.

24 **C. Imprisonment in the Bureau of Prisons**

25 As part of this Plea Agreement, the United States agrees to seek imprisonment for the defendant
26 in the Bureau of Prisons for the rest of his life and request that the BOP to accept a jurisdictional shift
27 from the State of California and the defendant's undischarged California prison sentence.
28

1 **D. Restitution**

2 The parties agree that no further restitution is required in this case because the defendant Daniel
3 has already been ordered to pay and has satisfied the restitution order for this same conduct after
4 pleading guilty to second-degree murder for this same homicide in the Monterey County Superior Court
5 case captioned *People v. Daniel*, Case No. SS170099.

6 **E. Dismissal**

7 The United States will move to dismiss the RICO conspiracy charged in Count One against the
8 defendant at the time of sentencing.

9 **IV. ELEMENTS OF THE OFFENSE**

10 At a trial, the government would have to prove beyond a reasonable doubt the following
11 elements of the offenses to which the defendant is pleading guilty.

12 Count Seventeen – Murder in Aid of Racketeering – 18 U.S.C. § 1959(a)(1):

13 (1) On or about October 29, 2016, an enterprise affecting interstate commerce existed;

14 (2) Second, the charged enterprise, the Aryan Brotherhood, engaged in a pattern of
15 racketeering activity;

16 (3) Third, the the defendant intentionally committed or aided and abetted in murder in
17 violation of California law, as defined below; and

18 (4) Fourth, the defendant’s purpose in committing the murder was to gain entrance to, or to
19 maintain, or to increase his position in the enterprise.

20 An “enterprise” is a group of people who have associated together for a common purpose of
21 engaging in a course of conduct over a period of time. This group of people, in addition to having a
22 common purpose, must have some sort of framework, formal or informal, for carrying out the
23 enterprise’s objectives.

24 “Racketeering activity” refers to certain felonies under state or federal law, including any crimes
25 involving murder, robbery, or drug trafficking.

26 To prove that the defendant committed murder, the government must prove beyond a reasonable
27 doubt that:

28 (1) The defendant committed an act that caused the death of Zachary Scott; and

1 (2) When the defendant acted, he had a state of mind called malice aforethought.¹

2 The defendant fully understands the nature and elements of the crimes charged in Count
3 Seventeen of the Superseding Indictment to which he is pleading guilty, together with the possible
4 defenses to this charge, and has discussed them with his attorneys.

5 **V. MAXIMUM SENTENCE**

6 **A. Maximum Penalty on Count Seventeen**

7 The maximum sentence that the Court can impose is a mandatory minimum sentence of life in
8 prison, a fine of up to \$250,000, a period of supervised release of up to 5 years, and a special assessment
9 of \$100.²

10 **B. Violations of Supervised Release**

11 The defendant understands that if he violates a condition of supervised release at any time during
12 the term of supervised release, the Court may revoke the term of supervised release and require the
13 defendant to serve up to 5 additional years in prison per revocation.

14 **VI. SENTENCING DETERMINATION**

15 **A. Statutory Authority**

16 The defendant understands that the Court must consult the Federal Sentencing Guidelines and
17 must take them into account when determining a final sentence. The defendant understands that the
18 Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the

19 _____
20 ¹ The state of mind called “malice aforethought” can be either express malice or implied
malice. Proof of either is sufficient to establish the state of mind required for murder.

21 a. The defendant had express malice if he unlawfully intended to kill.

22 b. The defendant had implied malice if:

23 i. He intentionally committed the act;

24 ii. The natural and probable consequences of the act were dangerous to human life;

25 iii. At the time he acted, he knew his act was dangerous to human life; and

26 iv. He deliberately acted with conscious disregard for human life.

27 Cal. Penal Code §§ 182, 187, 188, and 189.

28 ² Death is a possible penalty on this charge but the United States has announced its
intention to not seek the death penalty. ECF 1675.

1 Sentencing Guidelines and must take them into account when determining a final sentence. Although no
2 upward or downward departure is available due to the mandatory life sentence in this case, the defendant
3 further understands that the Court will consider whether there is a basis for departure from the guideline
4 sentencing range (either above or below the guideline sentencing range) because there exists an
5 aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration
6 by the Sentencing Commission in formulating the Guidelines. The defendant further understands that
7 the Court, after consultation and consideration of the Sentencing Guidelines, must impose a sentence
8 that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a). In this case, the defendant
9 understands that the Court must sentence him to life in prison.

10 **B. Sentencing Arguments**

11 The parties agree that the mandatory minimum sentence on Count Seventeen eliminates any
12 basis to argue for a departure from the Sentencing Guidelines under the sentencing factors under 18
13 U.S.C. § 3553 to arrive at a different sentence.

14 **VII. WAIVERS**

15 **A. Waiver of Constitutional Rights**

16 The defendant understands that by pleading guilty he is waiving the following constitutional
17 rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to
18 be assisted at trial by an attorney, who would be appointed if necessary; (d) to subpoena witnesses to
19 testify on his behalf; (e) to confront and cross-examine witnesses against his; and (f) not to be compelled
20 to incriminate himself.

21 **B. Waiver of Appeal and Collateral Attack**

22 The defendant understands that the law gives his a right to appeal his guilty plea, conviction, and
23 sentence. The defendant agrees as part of his pleas, however, to give up the right to appeal any aspect of
24 the guilty pleas, conviction, or sentence imposed in this case.

25 In addition, regardless of the sentence the defendant receives, the defendant also gives up any
26 right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any
27 aspect of the guilty plea, conviction, or sentence imposed in this case.

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1 If the defendant ever attempts to vacate his plea, dismiss the underlying charges, or modify or set
2 aside his sentence on any of the counts to which he is pleading guilty, the government shall have the
3 rights set forth in paragraph II.D (Defendant’s Violation of Plea Agreement) of this Plea Agreement.

4 **C. Waiver of Attorneys’ Fees and Costs**

5 The defendant agrees to waive all rights under the “Hyde Amendment,” Section 617, P.L. 105-
6 119 (Nov. 26, 1997), to recover attorneys’ fees or other litigation expenses in connection with the
7 investigation and prosecution of all charges in the above-captioned matter and of any related allegations
8 (including without limitation any charges to be dismissed pursuant to this plea agreement and any
9 charges previously dismissed).

10 **VIII. ENTIRE PLEA AGREEMENT**


11 Other than this plea agreement and any supplement, no agreement, understanding, promise, or
12 condition between the government and the defendant exists, nor will such agreement, understanding,
13 promise, or condition exist unless it is committed to writing and signed by the defendant, counsel for the
14 defendant, and counsel for the United States.

IX. APPROVALS AND SIGNATURES

A. Defense Counsel

I have read this plea agreement and have discussed it fully with my client. The plea agreement accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to plead guilty as set forth in this plea agreement.

Dated: 12/13/23



JOHN P. BALAZS, Esq.
TIMOTHY WARRINER, Esq.
Counsel for Defendant

B. Defendant

I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my case. No other promises or inducements have been made to me, other than those contained in this plea agreement. In addition, no one has threatened or forced me in any way to enter into this plea agreement. Finally, I am satisfied with the representation of my attorney in this case.

Dated: Dec 13, 2023



BRANT DANIEL
Defendant

C. Attorney for United States

I accept and agree to this plea agreement on behalf of the government.

Dated: DECEMBER 15, 2023

PHILLIP A. TALBERT
United States Attorney



JASON HITT
ROSS PEARSON
DAVID SPENCER
Assistant United States Attorneys

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4 **EXHIBIT "A"**
5 **Factual Basis for Plea**

6 If this matter proceeded to trial, the United States would establish the following facts beyond a
7 reasonable doubt:

8 **Summary of Count Seventeen – Murder of Zachary Scott in aid of Racketeering**

9 On October 29, 2016, at about 9:30 a.m., Aryan Brotherhood member Brant Daniel murdered
10 Zachary Scott on the B yard at Salinas Valley prison.

11 CDCR officers first realized an assault was underway at about 9:30 a.m., when they saw Daniel
12 and another inmate striking Scott in his face and upper torso.

13 CDCR officers immediately coordinated a response to quell the attack. As staff moved on the
14 assailants, they repeatedly ordered Daniel and the other inmate to stop and to "get down," meaning to
15 lay prone on the ground. Ignoring these commands, Daniel and the other inmate continued to strike
16 Scott in his face and upper torso. Subsequent evidence revealed that Daniel was armed with a prison-
17 made weapon and had inflicted severe puncture wounds to Scott's body.

18 CDCR officers moved closer and repeatedly commanded Daniel and the other inmate to stop
19 their assault. The commands did not stop them. Once Scott fell to the ground, Daniel issued strong
20 blows with his weapon to Scott's upper torso. Daniel only stopped his attack when officers deployed
21 grenades toward him.

22 After Daniel and the other inmate stopped their attack, Scott stood up. Responding officers
23 could see that his face was bleeding profusely and that his white t-shirt was soaked in blood. Scott took
24 about five steps away from DANIEL and the other inmate and then fell back on the ground. As officers
25 took control of the scene, Scott sat up, disoriented. He spit up blood and uttered, "I can't breathe."
26 Scott died soon afterward.

27 Officers found a prison-made weapon near Daniel. The weapon was more than eight inches long
28 and about one-inch wide.

As officers moved in to restrain DANIEL, he said, "Yeah I did it. It was me. I did it, and that's
all I have to say about that." DANIEL then yelled an announcement to the other inmates while laying
prone on the B yard: "In 72 hours, all you woods are gonna have 14 days to get off this weak-ass PC
yard."

CDCR Investigative Services Unit Investigator C. Bittner works at Salinas Valley and knew
Daniel well at that time. He would testify at trial that Daniel's pronouncement, while killing Scott, was
a message to the other white inmates that, after three days passed ("72 hours"), they would have "14
days" to assault another disfavored inmate. Doing so would require CDCR to transfer the prisoners
committing assaults out of the Salinas Valley B facility. Daniel compared this B yard facility to those
that house gang dropouts and sex offenders. Such prison yards are called "PC" – protective custody –
yards. Inmates on PC yards are considered subject to a "green light," or universally targeted for murder,
by the Aryan Brotherhood because these PC inmates have committed acts deemed unacceptable by the
enterprise: they cooperated with law enforcement by leaving the gang or they engaged in sex offenses
such as child molestation.

EXHIBIT "A"
Factual Basis – Continued

When Daniel addressed the "woods" present on the B yard, he used a shortened version of the term "Peckerwoods," a common slang term for non-affiliated white inmates who are expected to function under the Aryan Brotherhood and are subordinate to AB members. "Woods" do not have the same status as gang-affiliated AB associates. However, while these subordinate white inmates are incarcerated, they are expected to act in accordance with the enterprise's codes of conduct or be subject to its discipline.

While officers collected evidence and documented the crime scene, Daniel made a number of spontaneous, incriminating statements to Investigator Bittner. This is part of their exchange:

Daniel: That's the one that went in his back. I hit him too hard. It's not even broke. The knuckle is, though. It happens. It came out his chest. I hit him so hard, it went in his back and out his chest.

Bittner: Right through him.

Daniel: Right through him. 'Cause Simlick. You remember Simlick? The one that locked up? If he was here on that day right now, he would have been number two. I was gonna hit this one and that one.

Bittner: Simlick

Daniel: Two of them. You guys would have had a double homicide.

According to Investigator Bittner, when Daniel said, "It's not even broke. The knuckle is, though," Bittner understood Daniel to be describing an injury to Daniel's hand. He was saying that he hit Scott hard enough to break Daniel's own knuckle.

Daniel said, "I hit him so hard, it went in his back and out his chest." Bittner understood Daniel to be explaining that, when Daniel struck Scott with his prison-made weapon, Daniel used so much force that the weapon entered Scott's back, penetrated it, and then poked through Scott's chest.

Importantly, when Daniel mentioned "Simlick" and made comments about him, Bittner understood DANIEL to say that, if the inmate whose last name was Simlick had been housed on the B facility at Salinas Valley prison that day, then Daniel would have also murdered Simlick. Bittner was aware of Simlick's request for protective custody on October 24, just four days before Scott's murder based upon Simlick's concerns for his safety because he believed he was targeted for murder.

Dr. Venus Azar of the Monterey County Sheriff's Office, Coroner Division, conducted Scott's autopsy. Dr. Azar concluded that Scott's death was caused by seventeen stab wounds throughout his arms, shoulders, abdomen, chest, ribcage, and face.

A short time after the murder, CDCR investigators seized a kite authored by Daniel and addressed to another person. The kite is signed by "Scoops," Daniel's known moniker.

EXHIBIT "A"
Factual Basis – Continued

In coded language deciphered by Investigator Bittner based upon his familiarity with Daniel, Daniel's handwriting, and the various contextual references made in the kite to AB associates and activities at Salinas Valley prison at the time, Daniel explains that he killed Scott because Scott failed to carry out a killing of another inmate that Daniel had assigned to Scott as a white inmate subordinate to Daniel and the AB at Salinas Valley prison.

In particular, DANIEL writes, "-Now, lil Dog [Zachary Scott's moniker] peed when I got at em to do Jimmy [Identified as Inmate Jimmie Jones] in cell. He let all kind of shit fall out." Daniel also explains that, after failing to murder "Jimmy," one month later, Scott flushed valuable drugs that Daniel had given Scott to hold. "Bro that was it for me, I had to smoke em..!" In this passage, Daniel explains that Scott failed to carry out Daniel's order "to do Jimmy in cell" – that is, kill an inmate in his cell (as opposed to out on the prison yard). For failing to follow this order from Daniel, Daniel "had to smoke [kill]" Scott.

In the kite, Daniel also explains why he issued the 14-day warning to the remaining white inmates on the yard that day. "-Now my 14 day call was to see the weak lock up & give those others a time limit to get their job done." Daniel's admission here is consistent with Investigator Bittner's understanding that Daniel's announcement to other white inmates after murdering Scott was a directive to them that they had 14 days to assault inmates on that yard who were not in compliance with the enterprise's expected codes of conduct, as interpreted and enforced through Daniel.

In short, Daniel's intercepted kite about the Scott murder corroborates that Scott was killed because he failed to carry out a hit assigned by an AB member and then lost valuable drugs belonging to Daniel and, by extension, the AB.

On June 7, 2017, Daniel pled guilty to murdering Scott, a violation of California Penal Code § 187.

As part of this Plea Agreement, the defendant admits that he willfully, deliberately, and with premeditation, murdered Zachary Scott to maintain his status within the Aryan Brotherhood.

I have reviewed the Factual Basis in Exhibit A and, as far as my own conduct is concerned, I adopt it as a true and correct statement of my crimes.

Dated:

Dec 13, 2023

Brant Daniel
BRANT DANIEL
Defendant