

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

CARLEOUS CLAY

No. 15 CR 576

Judge Virginia Kendall

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, JOHN R. LAUSCH, JR., and defendant CARLEOUS CLAY, and his attorney, MATTHEW MCQUAID, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The superseding indictment in this case charges defendant with kidnapping, in violation of Title 18, United States Code, Section 1201(a)(1) (Count 1), attempted murder, in violation of Title 18, United States Code 1512(a)(1)(C) (Count 2), using fire to commit another felony, in violation of Title 18, United States Code, Section 844(h)(1) (Count 3), carjacking, in violation of Title 18, United States Code, Section 2119(2) (Count 4), bank robbery, in violation of Title 18, United States Code, Section 2113(a) and (e) (Count 5), attempted bank robbery, in violation of Title 18, United States Code, Section 2113(a) and (e) (Count 6), robbery, in violation of Title 18, United States Code, Section 1951(a) (Count 7), attempted robbery, in violation of

Title 18, United States Code, Section 1951(a) (Count 8), and transporting a stolen vehicle in interstate commerce, in violation of Title 18, United States Code, Section 2312 (Count 9).

3. Defendant has read the charges against him contained in the superseding indictment, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes with which he has been charged.

Charges to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following counts of the superseding indictment: Count 1, which charges defendant with kidnapping, in violation of Title 18, United States Code, Section 1201(a); Count 2, which charges defendant with attempted murder, in violation of Title 18, United States Code, Section 1512(a)(1)(C); and Count 3, which charges defendant with using fire to commit another felony, in violation of Title 18, United States Code, Section 844(h)(1).

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts 1, 2, and 3 of the superseding indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt:

With respect to Counts 1 through 3 of the superseding indictment:

From on or about September 17, 2015, to on or about September 18, 2015, at Lansing, in the Northern District of Illinois, and elsewhere, defendant CARLEOUS CLAY did unlawfully and willfully seize, confine, kidnap, abduct, carry away, and transport Victim A in interstate commerce from the State of Illinois to the State of Indiana, and did hold Victim A for purposes of robbery, sexual assault, and otherwise, in violation of Title 18, United States Code, Section 1201(a)(1).

On or about September 18, 2015, at Lansing, in the Northern District of Illinois, and elsewhere, defendant CARLEOUS CLAY did knowingly and intentionally attempt to kill Victim A, by strangulation and by setting her on fire, with the intent to prevent the communication by Victim A to a law enforcement officer of the United States of information relating to the commission and possible commission of a Federal offense, namely, the Federal offenses charged in Counts 1, 3, 4, 5, 6, 7, 8, and 9 of the Superseding Indictment, in violation of Title 18, United States Code, Section 1512(a)(1)(C).

On or about September 18, 2015, at Lansing, in the Northern District of Illinois, and elsewhere, defendant CARLEOUS CLAY did knowingly use fire to commit any felony which may be prosecuted in a court of the United States, namely, the felony kidnapping charged in Count 1 and the felony attempted murder charged

in Count 2 of the Superseding Indictment, in violation of Title 18, United States Code, Section 844(h)(1).

Specifically, on or about September 17, 2015, defendant burglarized the home of Victim A, who lived in Lansing, Illinois. When defendant first broke into Victim A's home, no one was home. Defendant ransacked Victim A's home, looking for items of value, and carried them back to his home, which was several blocks away. Defendant then returned to Victim A's home to steal more property from Victim A. While defendant was inside Victim A's home the second time, at approximately 11:30 p.m., Victim A returned home, parked her car in the detached garage, and began to unload groceries from the trunk of her car. Defendant then exited the back door of Victim A's home, threatened Victim A with a hammer, and demanded money. Victim A gave defendant money from her wallet, and defendant brought Victim A inside her home.

While in the house, defendant demanded more money from Victim A. Victim A offered defendant her credit and debit cards. Defendant then willfully abducted Victim A and took her to the bank to use her debit card to get money from her bank account. Using Victim A's car, defendant drove Victim A across state lines into Indiana to an ATM machine at First Merchants Bank, located at 707 Ridge Road in Munster, Indiana. Defendant forced Victim A to tell him her ATM pin number, which he used to withdraw approximately \$140 from Victim A's bank account. Defendant next drove to an ATM machine at BMO Harris Bank, located at 915 Ridge Road in Munster, Indiana, where he attempted to withdraw additional money from Victim

A's bank account. After not being able to withdraw money from BMO Harris Bank, defendant drove across state lines again, back into Illinois, and back to Victim A's home.

Once back at Victim A's home, defendant demanded more money from her. Victim A had no more money to give. Defendant forced Victim A into the trunk of her car with her groceries, and he drove back across state lines into Indiana. After making a stop at a store, defendant drove to the parking lot of a vacant commercial business located at 280 Melton Road in Burns Harbor, Indiana. While in the parking lot, defendant took Victim A out of the trunk and told her to get into the back seat of the car, where he forced her to perform oral sex on him. Also while in the back seat of the car, defendant forcibly raped Victim A by penetrating her vagina with his penis.

After defendant raped Victim A, he attempted to force Victim A back into the trunk of her car. When she resisted, defendant strangled Victim A until she passed out on the ground in the parking lot. Hearing that Victim A was still breathing and gagging, defendant went back to the car, grabbed lighter fluid, and squeezed it onto Victim A's body. Defendant used a lighter to set Victim A on fire. Defendant acknowledges that when he set Victim A on fire, he knowingly attempted to kill her. Defendant immediately got back into Victim A's car and drove from Indiana to Michigan, again crossing state lines.

Defendant acknowledges that one of the reasons why he attempted to kill Victim A was to prevent her from reporting the kidnapping and other crimes to a law

enforcement officer, including a federal law enforcement officer. Defendant further acknowledges that, as a result of his attack on Victim A, she sustained permanent and life-threatening bodily injuries.

7. Defendant, for purposes of computing his sentence under Guideline § 1B1.2, stipulates to having committed the following additional offense:

On or about April 3, 2017, in the Northern District of Illinois, Eastern Division, defendant CARLEOUS CLAY did unlawfully and willfully seize, confine, kidnap, and hold for his benefit an officer and employee of the United States and any agency in any branch of the United States Government, namely, an employee of the Chicago Metropolitan Correctional Center of the Federal Bureau of Prisons, while the employee was engaged in and on account of the performance of her official duties, in violation of Title 18, United States Code, Section 1201(a)(5).

Specifically, on or about April 3, 2017, defendant was in pretrial confinement at the Metropolitan Correctional Center (“MCC”) of the Federal Bureau of Prisons located in Chicago, Illinois. On that day, defendant entered the office of Victim B, who was a case manager employed by the Federal Bureau of Prisons. Victim B’s office was located on a residential floor of the MCC where inmates could access her office. Defendant pretended to make a complaint about another inmate to Victim B. When Victim B reached for her office phone to call a Lieutenant about the problem, defendant grabbed Victim B’s wrist to prevent her from dialing the phone, and he told Victim B that he had a knife.

When defendant entered Victim B's office, he had a note that he had written to Victim B, but Victim B reached for the phone before he had a chance to give her the note. The note read as follows:

[Victim B's name.] Listen here you little bitch. I have a knife!!! If you wanna go home tonight you will do what I say. If you try to push that button I promise you that before anybody can help you I will kill you. Put your hands on the desk and don't move. If you scream, I will kill you. I'm getting life in prison anyway so I don't have anything to lose. Please don't try me. My intent is not to hurt you.

Instead of giving the note to Victim B, defendant pushed Victim B to the floor and stated words to the effect of, "Get on the ground or I will fucking kill you." Victim B attempted to alert the MCC staff, but defendant grabbed Victim B's radio and threw it on the floor. Defendant demanded Victim B's keys, which he took from Victim B's belt. Defendant used the keys to lock himself inside the office with Victim B. While defendant was locking the door, Victim B was able to reach the radio, and she called for help. Defendant heard what she did, became agitated, put a homemade knife to Victim B's throat, and repeated that he would "fucking kill" her. Defendant ordered Victim B to go back on the radio and tell the other MCC staff members not to respond. Victim B transmitted on the radio words to the effect of, "Don't respond. He has a knife. He's going to kill me." Defendant got on the radio himself and said words to the effect of, "I'm going to kill her if you come in. Don't come in."

Defendant ordered Victim B to get back on the floor, face down, with her arms out in front of her, which she did. Defendant straddled Victim B, grabbed her by the hair, and put the knife to her throat. From outside the door of Victim B's office, an

MCC staff member ordered defendant to drop the knife and come to the door. Defendant refused. Multiple MCC staff members entered Victim B's office with a key and deployed their canisters of oleoresin capsicum, commonly known as "pepper spray." MCC staff members pulled defendant off of Victim B and removed her from the room.

Defendant acknowledges that he knowingly seized and confined Victim B while she was engaged in and on account of the performance of her official duties. Defendant further acknowledges that at the time of the attack on Victim B, he had hidden in his socks four strips of white cloth, each approximately three feet in length or more, which he intended to use to tie up Victim B.

Maximum Statutory Penalties

8. Defendant understands that the charges to which he is pleading guilty carry the following statutory penalties:

a. Count 1 carries a maximum sentence of life imprisonment. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a term of probation on this count. Count 1 also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count 1 the judge also may impose a term of supervised release of not more than five years.

b. Count 2 carries a maximum sentence of 30 years' imprisonment. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a term of probation on this count. Count 2 also carries a maximum fine

of \$250,000. Defendant further understands that with respect to Count 2, the judge also may impose a term of supervised release of not more than five years.

c. Count 3 carries a statutory mandatory sentence of 10 years' imprisonment that is required to be consecutive to any other sentence. Count 3 also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count 3 the judge also may impose a term of supervised release of not more than three years.

d. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court. The Court also may order restitution to any persons as agreed by the parties.

e. Pursuant to Title 18, United States Code, Section 3013, defendant will be assessed \$100 on each count to which he has pled guilty, in addition to any other penalty or restitution imposed.

f. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is life imprisonment, and the minimum sentence is 10 years' imprisonment. In addition, defendant is subject to a total maximum fine of \$750,000, a period of supervised release, and special assessments totaling \$300, in addition to any restitution ordered by the Court.

Sentencing Guidelines Calculations

9. Defendant understands that in determining a sentence, the Court is obligated to calculate the applicable Sentencing Guidelines range, and to consider

that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a), which include: (i) the nature and circumstances of the offense and the history and characteristics of the defendant; (ii) the need for the sentence imposed to reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense, afford adequate deterrence to criminal conduct, protect the public from further crimes of the defendant, and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (iii) the kinds of sentences available; (iv) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (v) the need to provide restitution to any victim of the offense.

10. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2016 Guidelines Manual.

b. Offense Level Calculations.

Count 1

i. The base offense level is 32, pursuant to Guideline § 2A4.1(a).

ii. The offense level is increased by four levels, pursuant to Guideline § 2A4.1(b)(2), because Victim A sustained permanent or life-threatening bodily injuries.

iii. The offense level is increased by two levels, pursuant to Guideline § 2A4.1(b)(3), because defendant used a dangerous weapon.

iv. The offense level is increased by six levels, pursuant to Guideline § 2A4.1(b)(5), because defendant sexually exploited Victim A.

v. Therefore, the total offense level for Count 1 is 44.

Count 2

vi. The base offense level is 33, pursuant to Guideline § 2A2.1(a)(1).

vii. The offense level is increased by four levels, pursuant to Guideline § 2A4.1(b)(2), because Victim A sustained permanent or life-threatening bodily injuries.

viii. The offense level is increased by two levels, pursuant to Guideline § 3A1.3, because defendant physically restrained Victim A in the course of the offense.

ix. Therefore, the total offense level for Count 1 is 39.

Stipulated Offense

x. The base offense level is 32, pursuant to Guideline § 2A4.1(a).

xi. The offense level is increased by two levels, pursuant to Guideline § 2A4.1(b)(3), because defendant used a dangerous weapon.

xii. The offense level is increased by six levels, pursuant to Guideline § 3A1.2(c)(2), because defendant assaulted a prison official, knowing that Victim B was a prison official, in a manner that created a substantial risk of serious bodily injury, while in the custody or control of a prison or other correctional facility.

xiii. Therefore, the total offense level for Count 1 is 40.

Grouping

xiv. Counts 1 and 2 are grouped pursuant to Guideline § 3D1.2(b) (Group 1). The offense level for Group 1 is 44, pursuant to Guideline § 3D1.3(a), because Count 1 is the most serious count in Group 1.

xv. The Stipulated Offense is not grouped with Counts 1 and 2 because it involved a different victim (Group 2). The offense level for Group 2 is 40.

xvi. Pursuant to Guideline § 3D1.4(a), Group 1 counts as one Unit, and Group 2 counts as one Unit because it is 1 to 4 levels less serious than Group 1.

xvii. Therefore, the combined offense level for Counts 1 and 2 and the Stipulated Offense is 46.

xviii. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government and stipulated below, defendant's criminal history points equal 16 and defendant's criminal history category is VI:

i. On or about February 9, 2001, defendant was convicted of attempting to escape while awaiting a felony trial in the 20th Circuit Court of Michigan, and sentenced to 270 days' imprisonment and 3 years' probation. Pursuant to Guideline § 4A1.2(e), defendant receives zero criminal history points for this sentence.

ii. On or about February 9, 2001, defendant was convicted of breaking and entering a vehicle to steal property in the 20th Circuit Court of

Michigan, and sentenced to 106 days' imprisonment and 3 years' probation. On or about August 20, 2001, defendant was convicted of violating his probation and sentenced to 300 days' imprisonment. Pursuant to Guideline § 4A1.1(a) and 4A1.2(k)(1), defendant receives 3 criminal history points for this sentence.

iii. On or about January 14, 2002, defendant was convicted of possessing a firearm when committing a felony (Count 2) and larceny from a person (Count 4) in the 20th Circuit Court of Michigan and sentenced to a range of 42 - 120 months' imprisonment on Count 4 and a consecutive 24 months' imprisonment on Count 2. Pursuant to Guideline § 4A1.1(a), defendant receives 3 criminal history points for this sentence.

iv. On or about November 27, 2007, defendant was convicted of resisting and obstructing a police officer in the 58th Circuit Court of Michigan and sentenced to 25 days' imprisonment. Pursuant to Guideline § 4A1.2(c)(1), defendant receives zero criminal history points for this sentence.

v. On or about December 5, 2008 defendant was convicted of attempting to assault/resist/obstruct a police officer in the 58th Circuit Court of Michigan and sentenced to 120 days' imprisonment. Pursuant to Guideline § 4A1.1(b) and 4A1.2(c)(1), defendant receives 2 criminal history points for this sentence.

vi. On or about July 2, 2009, defendant was convicted of attempted armed robbery in the Circuit Court of Madison County, Illinois and

sentenced to 11 years' imprisonment. Pursuant to Guideline § 4A1.1(a), defendant receives 3 criminal history points for this sentence.

vii. On or about October 11, 2010, defendant was convicted of assault with intent to rob while armed in the 17th Circuit Court of Michigan and sentenced to 4 years and 10 months' imprisonment to run concurrent with the sentence in paragraph 10(c)(vi) above. Pursuant to Guideline § 4A1.1(a), defendant receives 3 criminal history points for this sentence.

viii. Pursuant to Guideline § 4A1.1(d), defendant receives 2 criminal history points because defendant committed the instant offense while under a criminal justice sentence, namely parole for the conviction listed in paragraph paragraph 10(c)(vi) above.

d. **Career Offender.** Defendant is a career offender, pursuant to Guideline § 4B1.1, based upon two convictions for a crime of violence as set forth in subsections 10(c)(vi) and 10(c)(vii) above. Defendant's offense level, however, remains 44, pursuant to Guideline § 4B1.1(b)(1), because that offense level is higher than the career offender offense level of 37. Also, pursuant to Guideline § 4B1.1(b), defendant's criminal history category is VI.

Count 3

e. Pursuant to Guideline § 2K2.4(a), the guideline sentence for Count 3 is a statutory mandatory sentence of 10 years' imprisonment that is required to run consecutive to any other sentence.

f. **Anticipated Advisory Sentencing Guidelines Range.**

Therefore, based on the facts now known to the government, the anticipated offense level is 44, which, when combined with the anticipated criminal history category of VI, results in an anticipated advisory guidelines sentence of life imprisonment, in addition to any supervised release, fine, and restitution the Court may impose. Defendant also acknowledges that he is subject to a statutory minimum sentence of 10 years' imprisonment for his conviction on Count 3, which must run consecutive to any other sentence imposed.

g. Defendant and his attorney and the government acknowledge that the above guidelines calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional guidelines provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

11. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

12. Each party is free to recommend whatever sentence it deems appropriate.

13. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

14. Regarding restitution, defendant acknowledges that pursuant to Title 18, United States Code, Section 3663A, the Court must order defendant to make full restitution to Victim A in an amount to be determined by the Court at sentencing, which amount shall reflect credit for any funds repaid prior to sentencing. Defendant also agrees to pay additional restitution to Victim B, arising from the stipulated

offense conduct set forth above, in an amount to be determined by the Court at sentencing, pursuant to Title 18, United States Code, Sections 3663(a)(3) and 3664.

15. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect his ability to pay restitution.

16. Defendant agrees to pay the special assessment of \$300 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

17. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code, Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

18. Defendant agrees to waive and abandon any right, title, or interest he has in the following property: a ring seized from defendant on or about September 20, 2015. Defendant understands that the government, after publication of notice to any others who may have an interest in the property, will seek an order of abandonment from the Court, thereby authorizing the United States to dispose of such property according to law. Defendant understands that abandonment of this property shall not be treated as satisfaction of any fine, cost of imprisonment, or any other penalty the

Court may impose, except that the value of this property may be applied to any restitution entered in this case.

19. After sentence has been imposed on the counts to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the superseding indictment in case 15 CR 576, the original indictment in case 15 CR 576, and the indictment in case 18 CR 280.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

20. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 15 CR 576.

21. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

Waiver of Rights

22. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the superseding indictment

separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

b. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed.

Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

23. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

24. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

25. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of

justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

26. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

27. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

28. Defendant understands that, if convicted, 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.

Conclusion

29. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

30. Defendant understands that his compliance with each part of this Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

31. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

32. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

33. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

JOHN R. LAUSCH, JR.
United States Attorney

CARLEOUS CLAY
Defendant

ANGEL M. KRULL
RONALD DEWALD
Assistant U.S. Attorney

MATTHEW MCQUAID
Attorney for Defendant