

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA

v.

BRUCE WALKER

No. 17 CR 50086-2

Judge Frederick J. Kapala

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, JOHN R. LAUSCH, JR., and defendant BRUCE WALKER, and his attorney, PAUL GAZIANO, 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 information in this case charges defendant with conspiracy to commit an offense against the United States, namely stealing a firearm from a licensed firearms dealer, in violation of Title 18, United States Code, Section 371 (Count One); possessing a stolen firearm, in violation of Title 18, United States Code, Section 922(j) (Count Two); and possessing a firearm as a felon, in violation of Title 18, United States Code, Section 922(g)(1) (Count Three).

3. Defendant has read the charges against him contained in the information, 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 information: Count One, which charges defendant with conspiracy to commit an offense against the United States, namely stealing a firearm from a licensed firearms dealer, in violation of Title 18, United States Code, Section 371; and Count Two, which charges defendant with possessing a stolen firearm, in violation of Title 18, United States Code, Section 922(j).

Factual Basis

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

a. With respect to Count One of the information:

On or about April 18, 2017, in Cook County, in the Northern District of Illinois, Manteno, Illinois, and elsewhere, defendant did knowingly conspire with Individual A, who is named in the information, and Individual B, whose identity is known to defendant, to commit an offense against the United States, namely stealing a firearm from a dealer of firearms licensed under the provisions of Title 18, United States Code, Chapter 44, in violation of Title 18, United States Code Section 924(m), all in violation of Title 18, United States Code, Section 371. It was part of the conspiracy

that defendant, Individual A, and Individual B agreed to steal a firearm, and did steal a firearm, from the premises of Company A, a federally-licensed firearms dealer located in Manteno, Illinois. It was further part of the conspiracy that defendant, Individual A, and Individual B agreed to steal a firearm from the premises of Company B, a federally-licensed firearms dealer located in Tinley Park, Illinois.

In the early hours of April 18, 2017, defendant, Individual A, and Individual B obtained a stolen vehicle and drove the stolen vehicle from Cook County, Illinois to Company A in Manteno, Illinois. Defendant, Individual A, and Individual B used a hammer to shatter one of Company A's glass exterior doors and unlawfully enter the premises of Company A. Defendant, Individual A, and Individual B attempted to break into a firearms safe located inside Company A's office, but they were not successful in opening the safe. On the way out of Company A's premises, Individual A stole a Springfield Armory, model Saint, 5.56 caliber rifle, with serial number ST072962 (the "Saint Rifle") and a 30-round magazine, which were both contained in a rifle case hidden behind the interior door leading to Company A's office. Defendant, Individual A, and Individual B also stole boxes of firearm ammunition from Company A before fleeing the premises. Defendant, Individual A, and Individual B then returned to Cook County, Illinois with the stolen Saint Rifle, stolen magazine, and stolen ammunition.

About 3 hours later, defendant, Individual A, and Individual B attempted to break into a second federally-licensed firearms dealer, namely Company B, located in Tinley Park, Illinois. Defendant, Individual A, and Individual B traveled to Company

B in the same stolen vehicle used in the burglary of Company A. Defendant and Individual A attempted to break into Company B by using a metal baseball bat and other tools to shatter the front glass door and a front window of Company B. Defendant and Individual A, however, were unable to obtain entry to Company B. Defendant and Individual A then fled back to the stolen vehicle, where their getaway driver was waiting.

b. With respect to Count Two of the information:

On or about April 18, 2017, in Cook County, in the Northern District of Illinois, and elsewhere, defendant did knowingly possess a stolen firearm, which previously had been shipped and transported in interstate commerce, namely the Saint Rifle, knowing and having reasonable cause to believe that the firearm was stolen; in violation of Title 18, United States Code, Section 922(j).

On that date, defendant, Individual A, and Individual B broke into Company A's premises and stole the Saint Rifle, along with a 30-round magazine, and numerous boxes of ammunition from Company A. Defendant, Individual A, and Individual B then returned to Cook County, Illinois with the stolen Saint Rifle, stolen magazine, and stolen ammunition. Defendant, Individual A, and Individual B jointly possessed the Saint Rifle in Cook County, knowing that the firearm was stolen. Defendant acknowledges that the Saint Rifle had been shipped and transported in interstate commerce prior to April 18, 2017.

Maximum Statutory Penalties

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

a. Count One carries a maximum sentence of 5 years' imprisonment. Count One also carries a maximum fine of \$250,000. Defendant understands that with respect to Count One the judge may impose a term of probation of not less than 1 nor more than 5 years. Defendant further understands that with respect to Count One the judge also may impose a term of supervised release of not more than 3 years.

b. Count Two carries a maximum sentence of 10 years' imprisonment. Count Two also carries a maximum fine of \$250,000. Defendant understands that with respect to Count Two the judge may impose a term of probation of not less than 1 nor more than 5 years. Defendant further understands that with respect to Count Two, the judge also may impose a term of supervised release of not more than three years.

c. Defendant further understands that the Court must order restitution to the victims of the offense charged in Count One in an amount determined by the Court.

d. 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.

e. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is 15 years' imprisonment. In addition, defendant is

subject to a total maximum fine of \$500,000, a period of supervised release, and special assessments totaling \$200, in addition to any restitution ordered by the Court.

Sentencing Guidelines Calculations

8. 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.

9. 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 2018 Guidelines Manual.

b. Offense Level Calculations.

i. With respect to Count Two:

1. The base offense level is 20, pursuant to Guideline § 2K2.1(a)(4)(B) because the offense involved a semiautomatic firearm that is capable of accepting a large capacity magazine.

2. Pursuant to Guideline § 2K2.1(b)(4)(A), 2 levels are added because a firearm was stolen.

3. Pursuant to Guideline § 2K2.1(b)(6)(B), 4 levels are added because the defendant used or possessed a firearm in connection with another felony offense.

ii. With respect to Count One: The base offense level is 26, pursuant to Guideline § 2X1.1(a) and § 2K2.1.

iii. Pursuant to Guideline §§ 3D1.1-3D1.3, Counts One and Two are grouped as closely-related counts for purposes of calculating the sentencing guidelines range, and the offense level applicable to the group is the highest offense level of the counts in the group.

iv. 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.

v. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

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 14 and defendant's criminal history category is VI:

i. On or about October 13, 2017, defendant was convicted in Cook County Circuit Court of possessing a firearm as a felon, and was sentenced to 4 years' imprisonment. Pursuant to Guideline § 4A1.1(a), this conviction results in 3 criminal history points.

ii. On or about December 4, 2015, defendant was convicted in Cook County Circuit Court of aggravated battery to a peace officer, and was sentenced

to 3 years' imprisonment. Pursuant to Guideline § 4A1.1(a), this conviction results in 3 criminal history points.

iii. On or about October 31, 2013, defendant was convicted in Cook County Circuit Court of criminal damage to government property greater than \$500 and escape/violation of electronic monitoring, and was sentenced to 2 years' imprisonment on each count, to be served concurrently. Pursuant to Guideline § 4A1.1(a), these convictions result in a total of 3 criminal history points.

iv. On or about November 15, 2011, defendant was convicted in Cook County Circuit Court of theft, and was sentenced to 5 years' imprisonment. Pursuant to Guideline § 4A1.1(a), this conviction results in 3 criminal history points.

v. An additional 2 criminal history points are added pursuant to Guideline § 4A1.1(d), because defendant committed the instant offense while under a criminal justice sentence of parole.

d. Anticipated Advisory Sentencing Guidelines Range.

Therefore, based on the facts now known to the government, the anticipated offense level is 23, which, when combined with the anticipated criminal history category of VI, results in an anticipated advisory sentencing guidelines range of 92 to 115 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

e. 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.

10. 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

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

12. 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.

13. Regarding restitution, defendant acknowledges that pursuant to Title 18, United States Code, Section 3663A, the Court must order defendant, together with any jointly liable co-defendants, to make full restitution to Company A and Company B in amounts to be determined by the Court at sentencing, which amount shall reflect credit for any funds repaid prior to sentencing.

14. 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.

15. Defendant agrees to pay the special assessment of \$200 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

16. 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.

17. After sentence has been imposed on the counts to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining count of the information and the original indictment as to defendant.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

18. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 17 CR 50086.

19. 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

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

a. **Right to be charged by indictment.** Defendant understands that he has a right to have the charges prosecuted by an indictment returned by a concurrence of twelve or more members of a grand jury consisting of not less than

sixteen and not more than twenty-three members. By signing this Agreement, defendant knowingly waives his right to be prosecuted by indictment and to assert at trial or on appeal any defects or errors arising from the information, the information process, or the fact that he has been prosecuted by way of information.

b. **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 information 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.

c. **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.

21. 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

22. 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.

23. 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.

24. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release or probation 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 or probation 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

25. 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.

26. 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.

27. Defendant understands that the government has the right to seek defendant's truthful testimony before a grand jury or a district court.

Conclusion

28. 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.

29. 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.

30. 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.

31. 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.

32. 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

BRUCE WALKER
Defendant

TALIA BUCCI
Assistant U.S. Attorney

PAUL GAZIANO
Attorney for Defendant