

1 BENJAMIN B. WAGNER
United States Attorney
2 KIMBERLY A. SANCHEZ
KATHLEEN A. SERVATIUS
3 MELANIE L. ALSWORTH
Assistant United States Attorney
4 2500 Tulare Street, Suite 4401
Fresno, CA 93721
5 Telephone: (559) 497-4000
Facsimile: (559) 497-4099
6

7 Attorneys for Plaintiff
8 United States of America
9

10 IN THE UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12

13 UNITED STATES OF AMERICA,
14 Plaintiff,
15 v.
16 VANESSA CAMERON,
17 Defendant.

CASE NO. 1:11-CR-00354 LJO

MEMORANDUM OF PLEA AGREEMENT
PURSUANT TO RULE 11(C)(1)(C) OF THE
FEDERAL RULES OF CRIMINAL PROCEDURE

Date: March 14, 2014
Time: 8:30 a.m.
Place: Courtroom Three
Honorable Lawrence J. O'Neill

18 Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the United States of
19 America, by and through Benjamin B. Wagner, the United States Attorney for the Eastern District of
20 California, and Assistant United States Attorneys Kimberly A. Sanchez, Kathleen A. Servatius, and Melanie
21 L. Alsworth, and Defendant, Vanessa Cameron, and her attorney, Galatea DeLapp, have agreed as follows:

22 1. Charges.

23 The defendant acknowledges that she has been charged in an indictment as follows:

24 COUNT 1: 21 U.S.C. §§ 846, 841(a)(1) - Conspiracy to Distribute and Possess With Intent to
25 Distribute Methamphetamine and Cocaine;

26 COUNTS 24, 26: 21 U.S.C. § 841(a)(1) – Distribution of Methamphetamine

27 The defendant further acknowledges that she has been charged in a superseding information as
28

1 follows:

2 COUNT 1: 21 U.S.C. §843(b) -- Using a Communication Facility to Facilitate the Commission
3 of a Felony

4 The defendant understands that he has a right to be charged by an indictment issued by a grand jury,
5 and he waives that right in agreeing to proceed by way of charges filed by the United States Attorney in a
6 superseding information.

7 2. Nature, Elements and Possible Defenses.

8 The defendant has read the charge against her contained in the information and the charge has been
9 fully explained to her by her attorney. Further, the defendant fully understands the nature and elements of
10 the crime in Count One of superseding information to which she is pleading guilty, together with the possible
11 defenses thereto, and has discussed them with her attorney.

12 COUNT 1:

13 The elements of the crime of Using a Communication Facility to Facilitate the Commission of a
14 Felony are:

15 First, the defendant used a communication facility, to wit, a telephone; and

16 Second, that the defendant used the telephone in committing or in causing or facilitating the
17 commission of a felony under subchapter II of Title 21, United States Code, to wit, conspiracy to distribute
18 500 grams and more of a mixture containing a detectable amount of methamphetamine or 50 grams and more
19 of actual methamphetamine.

20 3. Agreements by the Defendant.

21 (a) Defendant agrees that this plea agreement shall be filed with the court and become a part of
22 the record of the case.

23 (b) Defendant agrees to enter a plea of guilty to Count 1 of the superseding information which
24 charges her with a violation of 21 U.S.C. §843(b), Using a Communication Facility to Facilitate the
25 Commission of a Felony.

26 (c) Defendant recognizes that pleading guilty may have consequences with respect to her
27 immigration status if she is not a citizen of the United States. Under federal law, a broad range of crimes are
28 removable offenses, including the offense to which defendant is pleading guilty. Removal and other

1 immigration consequences are the subject of a separate proceeding, however, and defendant understands that
2 no one, including her attorney or the district court, can predict to a certainty the effect of her conviction on
3 his immigration status. Defendant nevertheless affirms that she wants to plead guilty regardless of any
4 immigration consequences that her plea may entail, even if the consequence is her automatic removal from
5 the United States.

6 (d) Defendant understands that pursuant to F.R.Crim.P. 11(c)(1)(C), the Court can accept the
7 plea agreement, reject the plea agreement, or defer its decision until the Court receives a presentence report.
8 Should the Court reject the plea agreement, the defendant has the right to withdraw her guilty plea. This is a
9 package plea agreement with co-defendant Shawn Cameron, so if the Court rejects his agreement, the
10 government and the defendant each have the right to invalidate or withdraw the plea.

11 (e) Defendant knowingly and voluntarily waives her Constitutional and statutory rights to appeal her
12 plea, sentence and conviction except as set forth within this paragraph. The defendant is aware that Title 18,
13 United States Code, Section 3742 affords a defendant the right to appeal any sentence imposed.
14 Acknowledging this, the defendant knowingly and voluntarily agrees to waive all Constitutional and
15 statutory rights to appeal her conviction and sentence, including, but not limited to an express waiver of
16 appeal of this plea (including any venue and statute of limitations issues) and to attack collaterally his mental
17 competence, and her plea, or her sentence, including but not limited to, filing a motion under 28 U.S.C.
18 §2255, 28 U.S.C. §2241, or 18 U.S.C. §3742, or otherwise.

19 If the defendant's conviction on the counts to which she is pleading guilty is ever vacated at the
20 defendant's request, or her sentence is ever reduced at her request, the government shall have the following
21 rights : (1) to prosecute the defendant on any count to which she pleaded guilty; (2) to reinstate any counts
22 that may be dismissed under this agreement; and (3) to file any new charges that would otherwise be barred
23 by this agreement. The decision to pursue any or all of these options is solely in the discretion of the United
24 States Attorney's Office. By signing this agreement, the defendant agrees to waive any objections, motions,
25 and defenses she might have to the government's decision, including Double Jeopardy. In particular, she
26 agrees not to raise any objections based on the passage of time with respect to such counts including, but not
27 limited to, any statutes of limitation or any objections based on the Speedy Trial Act or the Speedy Trial
28 Clause of the Sixth Amendment.

1 (f) Defendant further acknowledges that her plea of guilty is voluntary and that no force, threats,
2 promises or representations have been made to anybody, nor agreement reached, other than those set forth
3 expressly in this agreement, to induce the defendant to plead guilty. She acknowledges that her ability to
4 plead guilty to the terms set forth in this agreement is a benefit to her.

5 (g) The Defendant agrees pursuant to F.R.Crim.P. 11(c)(1)(C) to a noncustodial probationary
6 sentence.

7 (h) Forfeiture: Defendant agrees to forfeit to the United States voluntarily and immediately all of his
8 right, title, and interest to any and all assets subject to forfeiture pursuant to 21 U.S.C. § 853(a). Those assets
9 include, but are not limited to, the following: \$1,140 in U.S. Currency and a 2005 GMC Sierra C1550,
10 California License Plate Number 7S49399, VIN 2GTEC13TX51137807.

11 Defendant agrees that the above-listed asset was involved in the commission of a violation of 21
12 U.S.C. § 841(a)(1).

13 Defendant agrees to fully assist the government in the forfeiture of the listed assets and to take
14 whatever steps are necessary to pass clear title to the United States. Defendant shall not sell, transfer,
15 convey, or otherwise dispose of any of his assets, including but not limited to, the above-listed asset.

16 Defendant agrees not to file a claim to any of the listed property in any civil proceeding,
17 administrative or judicial, which may be initiated. Defendant agrees to waive his right to notice of any
18 forfeiture proceeding involving this property, and agrees to not file a claim or assist others in filing a claim in
19 that forfeiture proceeding.

20 The defendant waives oral pronouncement of forfeiture at the time of sentencing and any defects in
21 such pronouncement that pertain to forfeiture, and waives any defenses to forfeiture, including any defense
22 predicated on the Ex Post Facto, Double Jeopardy, and Excessive Fines Clauses of the United States
23 Constitution. The defendant knowingly and voluntarily waives any right to a jury trial in any criminal or
24 civil forfeiture proceeding.

25 (i) Defendant agrees to waive all rights under the "Hyde Amendment," Section 617, P.L. 105-
26 119 (Nov. 26, 1997), to recover attorneys' fees or other litigation expenses in connection with the
27 investigation and prosecution of all charges in the above-captioned matter and of any related allegations
28 (including without limitation any charges to be dismissed pursuant to this Agreement and any charges

1 previously dismissed).

2 (j) The defendant understands that the Court must consult the Federal Sentencing Guidelines (as
3 promulgated by the Sentencing Commission pursuant to the Sentencing Reform Act of 1984, 18 U.S.C. §§
4 3551-3742 and 28 U.S.C. §§ 991-998, and as modified by *United States v. Booker* and *United States v.*
5 *Fanfan*, 543 U.S. 220 (2005), and must take them into account when determining a final sentence.
6 Defendant understands that the Court will determine a non-binding and advisory guideline sentencing range
7 for this case pursuant to the Sentencing Guidelines. Defendant further understands that the Court will
8 consider whether there is a basis for departure from the guideline sentencing range (either above or below the
9 guideline sentencing range) because there exists an aggravating or mitigating circumstance of a kind, or to a
10 degree, not adequately taken into consideration by the Sentencing Commission in formulating the
11 Guidelines. Defendant further understands that the Court, after consultation and consideration of the
12 Sentencing Guidelines, must impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C.
13 § 3553(a).

14 4. Agreements by the Government.

15 (a) If the United States Probation Office determines that a three-level reduction in defendant's
16 offense level for full and clear demonstration of acceptance of responsibility is appropriate under U.S.S.G. §
17 3E1.1, the government will not oppose such a reduction and will so move under §3E1.1(b), so long as the
18 defendant pleads guilty, meets with and assists the probation officer in the preparation of the pre-sentence
19 report, is truthful and candid with the probation officer, and does not otherwise engage in conduct that
20 constitutes obstruction of justice within the meaning of U.S.S.G § 3C1.1, either in the preparation of the pre-
21 sentence report or during the sentencing proceeding.

22 Recommendations

23 (b) The government agrees pursuant to F.R.Crim.P. 11(c)(1)(C) to a noncustodial probationary
24 sentence.

25 (c) The defendant acknowledges and understands that the government makes no other
26 representations to her regarding fines, whether any other specific offense characteristics apply to her conduct
27 her criminal history or criminal history points under Chapter Four or whether additional enhancements or
28 reductions under Chapter Three or Five of the United States Sentencing Guidelines apply and defendant

1 understands that the government is free to comment and to make recommendations to the court and the
2 probation office regarding those matters.

3 5. Factual Basis.

4 Defendant will plead guilty because she is in fact guilty of the crimes set forth in Count 1 of the
5 superseding information. Defendant also agrees that the following are the facts of this case, although she
6 acknowledges that, as to other facts, the parties may disagree:

7 On April 19, 2010, the defendant used her phone to assist her husband and codefendant (hereinafter
8 "codefendant A") in arranging for receipt of the payment for 55.5 grams of 96.1 % pure methamphetamine
9 (containing 53.3 grams of actual methamphetamine) sold to a confidential informant on April 14, 2010 and
10 to assist her husband in arranging for the delivery of 55.3 grams of 96% pure methamphetamine (containing
11 53 grams of actual methamphetamine) to a confidential informant on April 19, 2010.

12 On April 24, 2010, the defendant used her phone to facilitate the collection of drug debts owed to
13 codefendant A. On that date, the CI went to the defendant's residence and paid the defendant and
14 codefendant A for the 2 ounces of methamphetamine received on April 19, 2010.

15 6. Potential Sentence.

16 The following is the maximum potential sentence which defendant faces:

17 (a) Imprisonment.

18 Mandatory Minimum: None.

19 Maximum: Four years prison.

20 (b) Fine.

21 Maximum: \$250,000

22 (c) Both such fine and imprisonment.

23 (d) Term of Supervised Release:

24 Minimum: None.

25 Maximum: 1 year.

26 (Should the defendant violate any of the terms of his supervised release, he can be returned to prison
27 for the period of supervised release actually imposed by the Court or one year, whichever is less.)

28 (f) Penalty Assessment.

1 Mandatory: One Hundred dollars (\$100.00).

2 (g) Pursuant to 21 U.S.C. § 862, the defendant may become temporarily or permanently
3 ineligible for any and all federal benefits¹ and, pursuant to 21 U.S.C. § 862a, shall be ineligible for the
4 following government benefits:

5 (1) assistance under any State program funded under part A of title IV of the Social Security Act (42
6 U.S.C. § 601 et seq.);

7 (2) benefits under the food stamp program (as defined in section 3h of the Food Stamp Act) (7 U.S.C.
8 § 2012(h)) or any State program carried out under the Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.).

9 7. Waiver of Rights.

10 Defendant understands that by pleading guilty she surrenders certain rights, including the following:

11 (a) If defendant persisted in a plea of not guilty to the charges against her, she would have the
12 right to be represented by an attorney at all stages of the proceedings, and would have a right to a public and
13 speedy trial. The trial could be either a jury trial or a trial by a judge sitting without a jury. Defendant has a
14 right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury,
15 defendant, the government and the judge all must agree that the trial be conducted by the judge without a
16 jury.

17 (b) If the trial were a jury trial, the jury would be composed of twelve lay persons selected at
18 random. Defendant and her attorney would have a say in who the jurors would be by removing prospective
19 jurors for cause where actual bias or other disqualification is shown, or without cause by exercising
20 peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either
21 guilty or not guilty. The jury would be instructed that defendant is presumed innocent and that it could not
22 convict her unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt.

23 (c) If the trial were held before a judge without a jury, the judge would find the facts and
24 determine, after hearing all the evidence, whether or not she was persuaded of the defendant's guilt beyond a
25

26 _____
27 ¹ The term "federal benefits" does not include any retirement, welfare, Social Security, health,
28 disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments
or services are required for eligibility, but refers to the issuance of any grant, contract, loan, professional
license, or commercial license provided by an agency or appropriated funds of the United States. 21 U.S.C.
§ 862(d)(1).

1 reasonable doubt.

2 (d) At a trial, whether by a jury or a judge, the government would be required to present its
3 witnesses and other evidence against defendant. Defendant would be able to confront those government
4 witnesses and her attorney would be able to cross-examine them. In turn, defendant could present witnesses
5 and other evidence on her own behalf. If the witnesses for defendant would not appear voluntarily, he could
6 require their attendance through the subpoena power of the Court. At trial, the defendant would also have the
7 right to assistance of legal counsel. If he could not afford legal counsel, one would be appointed for her by
8 the court at no expense to her.

9 (e) At a trial, defendant would have a privilege against self-incrimination so that he could decline to
10 testify, and no inference of guilt could be drawn from this refusal to testify. Defendant understands that by
11 pleading guilty she is waiving all of the rights set forth above and defendant's attorney has explained those
12 rights to her and the consequences of her waiver of those rights.

13 8. Questions by Court.

14 Defendant understands that if the court questions her under oath, on the record and in the presence of
15 counsel, about the offense to which she has pleaded guilty, his answers, if false, may later be used against her
16 in a prosecution for perjury.

17 9. Entire Agreement.

18 This plea of guilty is freely and voluntarily made and not the result of force or threats or of promises
19 apart from those set forth in this plea agreement. There have been no representations or promises from
20 anyone as to what sentence this Court will impose.

21 10. Court not a Party.

22 It is understood by the parties that the sentencing court is neither a party to nor bound by this
23 agreement and the sentencing judge is free to impose the maximum penalties as set forth in paragraph 6.
24 Further, in making its sentencing decision, the Court may take into consideration any and all facts and
25 circumstances concerning the criminal activities of defendant, including activities which may not have been
26 charged in the indictment.

27 11. Presentence Report.

28 Defendant understands that the United States Probation Office is not a party to this agreement and

1 will conduct an independent investigation of defendant's activities and his background. It will then prepare a
2 presentence report which it will submit to the Court as its independent sentencing recommendation. In
3 addition, the government will fully apprise the Probation Office, as well as the Court, of the full and true
4 nature, scope and extent of the defendant's criminal activities, including information on her background and
5 criminal history.

6
7 Dated: 1/22/14

BENJAMIN B. WAGNER
United States Attorney

8
9 *Kimberly A. Sanchez*
KIMBERLY A. SANCHEZ
KATHLEEN A. SERVATIUS
MELANIE L. ALSWORTH
ASSISTANT U.S. ATTORNEYS

10
11
12 *Vanessa Cameron*
VANESSA CAMERON
DEFENDANT

13
14 *Galatea De Lapp*
GALATEA DELAPP
ATTORNEY FOR DEFENDANT
15
16
17
18
19
20
21
22
23
24
25
26
27
28