

FILED

APR - 6 2016

U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. ) N  
 )  
THOMAS CARROLL, )  
 )  
Defendant. )

**4:16CR00148 HEA**

**GUILTY PLEA AGREEMENT**

Come now the parties and hereby agree, as follows:

1. **PARTIES:**

The parties are the defendant , represented by defense counsel , and the United States of America (hereinafter "United States" or "Government"), represented by the Office of the United States Attorney for the Western District of Missouri<sup>1</sup> and the Civil Rights Division of the U.S. Department of Justice. This agreement does not, and is not intended to, bind any governmental office or agency other than the United States Attorney for the Western District of Missouri and the Civil Rights Division, as listed above.<sup>2</sup> The Court is neither a party to nor bound by this agreement. It is understood by the parties that the Court is neither a party to nor bound by these agreements, recommendations, and stipulations.

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<sup>1</sup> David Ketchmark, First Assistant United States Attorney for the Western District of Missouri, has been appointed as Special Attorney to the Attorney General based upon a recusal of the United States Attorney's Office for the Eastern District of Missouri.

<sup>2</sup> The United States Attorney's Office for the Eastern District of Missouri is bound by this agreement due to its recusal.

2. **GUILTY PLEA:**

Pursuant to Rule 11(c)(1)(A), Federal Rules of Criminal Procedure, in exchange for the defendant's voluntary plea of guilty to one count of Deprivation of Rights as charged in the Information, the Government agrees that no further federal prosecution will be brought in this District relative to the defendant's conduct on or about July 22-24, 2014, of which the Government is aware at this time.

3. **ELEMENTS:**

As to the sole count in the Information, the defendant admits to knowingly violating Title 18, United States Code, Section 242, and admits there is a factual basis for the plea and further fully understands that the elements of the crime are:

One, that the defendant acted under color of law;

Two, that the defendant deprived M.W. of a right protected and secured by the Constitution of the United States, that is, the right to be free from unreasonable seizure which includes the right to be free from unreasonable force;

Three, the defendant acted willfully; and

Four, the offense resulted in bodily injury to M.W.

4. **FACTS:**

A. **Stipulated Facts**

The parties agree to the facts set forth below and that the government would prove these facts beyond a reasonable doubt if the case were to go to trial. These facts may be considered as relevant conduct pursuant to Section 1B1.3 of the United States Sentencing Guidelines.

On or about July 22, 2014, the defendant, Thomas Carroll, was serving as a police officer for the St. Louis Metropolitan Police Department ("SLMPD"). While on-duty, the defendant

learned that his fellow SLMPD officers detained the victim, M.W. at Ballpark Village because M.W. was unlawfully in possession of a credit card that belonged to the defendant's daughter. The defendant responded to Ballpark Village where he confronted M.W., who was already under arrest, handcuffed, and seated in the backseat of another officer's patrol car. The defendant yelled at M.W., telling him that he made a "huge mistake" and "broke into the wrong girl's car."

Another police officer then drove M.W. to the Central Patrol police station, and the defendant followed behind in his own patrol car. M.W. was then placed in an interview room in the Detective Bureau, still handcuffed, and was shackled to the floor. Despite orders from a superior officer to stay away from M.W., the defendant entered the interview room and began yelling at M.W., questioning him about who broke into his daughter's car. The defendant threw M.W. into a chair, and then picked him up and threw him into a wall. While M.W. was on the ground, the defendant punched M.W. in the torso. M.W. was handcuffed throughout the assault. As a result, M.W. suffered bodily injury.

M.W. never posed a threat to the defendant. Nonetheless, the defendant assaulted M.W. knowing it was wrong and against the law to do so, and knowing that it violated his oath as police officer to uphold the laws of the State of Missouri and the United States Constitution.

B. Disputed Facts

The parties dispute additional facts that will be litigated at sentencing. It is the government's position that it can prove the following facts, among others, by a preponderance of the evidence at a sentencing hearing (and beyond a reasonable doubt at trial):

- (1) That while the defendant was assaulting M.W. in the interview room, the defendant brandished his gun, and put it into M.W.'s mouth, and threatened him;

- (2) That the defendant's conduct resulted in, at the very least, "bodily injury" as defined in Section 1B1.1 of the Sentencing Guidelines, *i.e.*, any significant injury, *e.g.*, an injury that is painful and obvious or is a type for which medical attention would ordinarily be sought;
- (3) That the defendant engaged in obstructive conduct in the days immediately after the assault of M.W.

It is because these facts are in dispute that the parties do not agree on the applicable sentencing guidelines.

**5. STATUTORY PENALTIES:**

The defendant understands that upon his plea of guilty to the one-count Information charging him with Deprivation of Rights, the maximum penalty the Court may impose is not more than ten years of imprisonment, a \$250,000.00 fine, up to a three-year term of supervised release, and a \$100.00 mandatory special assessment which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class C Felony.

**6. SENTENCING PROCEDURES:**

The defendant acknowledges, understands and agrees to the following:

- a. In determining the appropriate sentence, the Court will consult and consider the United States Sentencing Guidelines promulgated by the United States Sentencing Commission; these Guidelines, however, are advisory in nature, and the Court may impose a sentence either less than or greater than the defendant's applicable Guidelines range, unless the sentence imposed is unreasonable;
- b. The Court will determine the defendant's applicable Sentencing Guidelines range at the time of sentencing;
- c. In addition to a sentence of imprisonment, the Court may impose a term of supervised release of up to three years;
- d. If the defendant violates a condition of his supervised release, the Court may revoke his supervised release and impose an additional period of imprisonment of up to two years without credit for time previously

spent on supervised release. In addition to a new term of imprisonment, the Court also may impose a new period of supervised release, the length of which cannot exceed three years, less the term of imprisonment imposed upon revocation of the defendant's first supervised release;

e. The Court may impose any sentence authorized by law, including a sentence that is outside of, or departs from, the applicable Sentencing Guidelines range;

f. Any sentence of imprisonment imposed by the Court will not allow for parole;

g. The Court is not bound by any recommendation regarding the sentence to be imposed or by any calculation or estimation of the Sentencing Guidelines range offered by the parties or the United States Probation Office;

h. The defendant may not withdraw his guilty plea solely because of the nature or length of the sentence imposed by the Court; and

i. The Court may order restitution to be paid to victim of the offense to which he is pleading guilty, and all other uncharged related criminal activity.

7. **PREPARATION OF PRESENTENCE REPORT:**

The defendant understands the United States will provide to the Court and the United States Probation Office an account of the offense conduct. This may include information concerning the background, character, and conduct of the defendant, including the entirety of his criminal activities. The defendant understands these disclosures are not limited to the count to which he has pleaded guilty. The United States may respond to comments made or positions taken by the defendant or the defendant's counsel and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject only to any limitations set forth in this plea agreement. The United States and the defendant expressly reserve the right to speak to the

Court at the time of sentencing pursuant to Rule 32(i)(4) of the Federal Rules of Criminal Procedure.

**8. WITHDRAWAL OF PLEA:**

Either party reserves the right to withdraw from this plea agreement for any or no reason at any time prior to the entry of the defendant's plea of guilty and its formal acceptance by the Court. In the event of such withdrawal, the parties will be restored to their pre-plea agreement positions to the fullest extent possible. However, after the plea has been formally accepted by the Court, the defendant may withdraw his plea of guilty only if the Court rejects the plea agreement or if the defendant can show a fair and just reason for requesting the withdrawal. The defendant understands that if the Court accepts his plea of guilty and this plea agreement but subsequently imposes a sentence that is outside the defendant's applicable Sentencing Guidelines range, or imposes a sentence that the defendant does not expect, like or agree with, he will not be permitted to withdraw his plea of guilty.

**9. APPLICATION OF SENTENCING GUIDELINES:**

The parties acknowledge that the United States Sentencing Guidelines (Guidelines) will be applied by the Court to calculate the applicable sentence in this case and used on an advisory basis. The defendant further waives any right to have facts that determine the offense level under the Guidelines alleged in an indictment and found by a jury beyond a reasonable doubt; agrees that facts that determine the offense level will be found by the Court at sentencing by a preponderance of the evidence and agrees that the Court may consider any reliable evidence, including hearsay; and the defendant agrees to waive all constitutional challenges to the validity of the Guidelines.

10. EFFECT OF NON-AGREEMENT ON GUIDELINE APPLICATION:

The parties understand, acknowledge, and agree that there are no agreements between the parties with respect to any Sentencing Guidelines issues and the parties are free to advocate their respective positions at the sentencing hearing.

11. WAIVER OF APPEAL AND POST-CONVICTION RIGHTS:

A. Appeal: The defendant has been fully apprised by defense counsel of the defendant's rights concerning appeal and fully understands the right to appeal the sentence under Title 18, United States Code, Section 3742.

(1) Non-Sentencing Issues: The parties waive all rights to appeal all non-jurisdictional, non-sentencing issues, including, but not limited to, any issues relating to pretrial motions, discovery and the guilty plea.

(2) Sentencing Issues: In the event the Court accepts the plea and sentences the defendant, then, as part of this agreement, the parties hereby waive all rights to appeal all sentencing issues.

B. Habeas Corpus: The defendant agrees to waive all rights to contest the conviction or sentence in any post-conviction proceeding, including one pursuant to Title 28, United States Code, Section 2255, except for claims of prosecutorial misconduct or ineffective assistance of counsel.

C. Right to Records: The defendant waives all rights, whether asserted directly or by a representative, to request from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including any records that may be

sought under the Freedom of Information Act, Title 5, United States Code, Section 522, or the Privacy Act, Title 5, United States Code, Section 552(a).

12. **OTHER:**

A. **Disclosures Required by the United States Probation Office:**

The defendant agrees to truthfully complete and sign forms as required by the United States Probation Office prior to sentencing and consents to the release of these forms and any supporting documentation by the United States Probation Office to the government.

B. **Possibility of Detention:** As part of this agreement, the parties agree that defendant is subject to immediate detention pursuant to the provisions of Title 18, United States Code, Section 3143.

13. **ACKNOWLEDGMENT & WAIVER OF THE DEFENDANT'S RIGHTS:**

In pleading guilty, the defendant acknowledges, fully understands and hereby waives his rights, including but not limited to: the right to plead not guilty to the charges; the right to be tried by a jury in a public and speedy trial; the right to file pretrial motions, including motions to suppress evidence; the right at such trial to a presumption of innocence; the right to require the government to prove the entire case against the defendant beyond a reasonable doubt; the right not to testify; the right not to present any evidence; the right to be protected from compelled self-incrimination; the right at trial to confront and cross-examine adverse witnesses; the right to testify and present evidence and the right to compel the attendance of witnesses. The defendant further understands that by this guilty plea, the defendant expressly waives all the rights set forth in this paragraph.

The defendant fully understands that the defendant has the right to be represented by counsel, and if necessary, to have the Court appoint counsel at trial and at every other stage of the proceeding. The defendant's counsel has explained these rights and the consequences of the waiver of these rights. The defendant fully understands that, as a result of the guilty plea, no trial will, in fact, occur and that the only action remaining to be taken in this case is the imposition of the sentence.

The defendant is fully satisfied with the representation received from defense counsel. The defendant has reviewed the government's evidence and discussed the government's case and all possible defenses and defense witnesses with defense counsel. Defense counsel has completely and satisfactorily explored all areas which the defendant has requested relative to the government's case and any defenses.

**14. VOLUNTARY NATURE OF THE GUILTY PLEA AND PLEA AGREEMENT:**

This document constitutes the entire agreement between the defendant and the government, and no other promises or inducements have been made, directly or indirectly, by any agent of the government concerning any plea to be entered in this case. In addition, the defendant states that no person has, directly or indirectly, threatened or coerced the defendant to do or refrain from doing anything in connection with any aspect of this case, including entering a plea of guilty.

The defendant acknowledges that the defendant has voluntarily entered into both the plea agreement and the guilty plea. The defendant further acknowledges that this guilty plea is made of the defendant's own free will and that the defendant is, in fact, guilty.

15. CONSEQUENCES OF POST-PLEA MISCONDUCT:

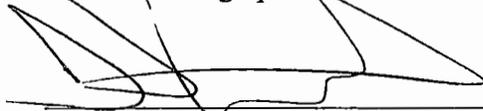
After pleading guilty and before sentencing, if defendant commits any crimes, violates any conditions of release, violates any term of this guilty-plea agreement, intentionally provides misleading, incomplete or untruthful information to the U.S. Probation Office or fails to appear for sentencing, the United States will be released from its obligations under this agreement. The Government may also, in its discretion, proceed with this agreement and may advocate for any sentencing position supported by the facts, including but not limited to, obstruction of justice and denial of acceptance of responsibility.

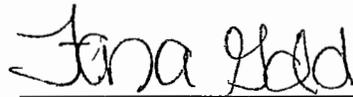
16. NO RIGHT TO WITHDRAW GUILTY PLEA:

Pursuant to Rule 11(c) and (d), Federal Rules of Criminal Procedure, the defendant understands that there will be no right to withdraw the plea entered under this agreement, except where the Court rejects those portions of the plea agreement which deal with charges the government agrees to dismiss or not to bring or as set forth in Paragraph 2 above.

4/6/16  
Date

4/6/16  
Date

  
\_\_\_\_\_  
David M. Ketchmark  
First Assistant United States Attorney  
Western District of Missouri

  
\_\_\_\_\_  
Fara Gold  
Trial Attorney  
Civil Rights Division, Criminal Section

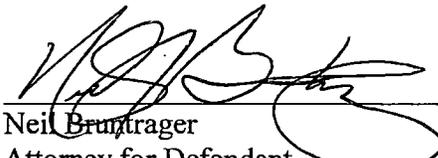
I have consulted with my attorney and fully understand all of my rights with respect to the offense charged in the Information. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines. I have read this plea agreement and carefully reviewed every part of it with my attorneys. I understand this plea agreement and I voluntarily agree to it.

Dated 4/6/16

  
\_\_\_\_\_  
Thomas Carroll  
Defendant

I am defendant Thomas Carroll's attorney. I have fully explained his rights with respect to the offenses charged in the Information. Further, I have reviewed with him the provisions of the Sentencing Guidelines which might apply in this case. I have carefully reviewed every part of this plea agreement with him. To my knowledge, Thomas Carroll's decision to enter into this plea agreement is an informed and voluntary one.

Dated 4/6/2016

  
\_\_\_\_\_  
Neil Bruntrager  
Attorney for Defendant