

Filed at 10:22 A M
6-29 2016
Nora Paul
DEPUTY CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

UNITED STATES OF AMERICA

v.

ANTHONY HEATH,

Defendant

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CRIMINAL NO. 7:16-cr-20-HL

Violation: 18 U.S.C § 242 –
Deprivation of Rights Under
Color of Law

PLEA AGREEMENT

It is agreed by the United States of America, by and through its undersigned attorney, and defendant ANTHONY HEATH, along with his undersigned attorney, as follows:

(1)

Defendant acknowledges that Defendant has reviewed and discussed with his attorney the charges against him in this matter and that Defendant's attorney has explained to Defendant his understanding of the government's evidence.

(2)

Defendant understands that he is not required to plead guilty, and that he has the right to plead not guilty and to elect instead to be tried by a jury. Defendant understands that at a jury trial, he would enjoy a presumption of innocence, and that the government would have the burden of proving Defendant's guilt beyond a reasonable doubt. Defendant understands that he would be entitled to the services of a lawyer at all stages of such a trial. Defendant understands that he would be entitled to confront and to cross-examine the government's proof, and to present witnesses and evidence on his own behalf. Defendant understands that he would have

[Signature]
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the right to testify on his own behalf, but that he could not be compelled to do so. Defendant has discussed these rights with his attorney. Defendant is satisfied with the services of his lawyer. Defendant knowingly and voluntarily waives his right to plead not guilty and to proceed to trial.

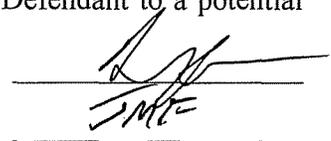
The Civil Rights Division of the United States Department of Justice, the United States Attorney for the Middle District of Georgia, and Defendant understand and agree that the Court should consider its sentence in light of the advisory Federal Sentencing Guidelines, as explained in United States v. Booker, 543 U.S. 220 (2005). Defendant knowingly and voluntarily waives any further objections that Defendant may have based on Booker, Apprendi v. New Jersey, 530 U.S. 466 (2000), and their progeny. Defendant therefore agrees that at sentencing the Court may determine any pertinent fact by a preponderance of the evidence and the Court may consider any reliable information, including hearsay. Defendant expressly waives any claim of right to an indictment, trial by jury, and/or proof beyond a reasonable doubt on any factual determinations that pertain to sentencing in this case.

(3)

Defendant being fully cognizant of his rights, and in exchange for the considerations to be made by the government as set forth in paragraph (4) below, agrees pursuant to Rule 11 of the Federal Rules of Criminal Procedure as follows:

(A) Defendant is guilty and will knowingly and voluntarily enter a plea of guilty to Counts One and Two of the Information, which charges Defendant with two felony counts of Deprivation of Rights Under Color of Law, in violation of Title 18, United States Code Section 242.

(B) That Defendant fully understands that his plea of guilty as to Counts One and Two of the Information, as set forth in Subparagraph (A), above, will subject Defendant to a potential



sentence on each count of a term of imprisonment of up to ten (10) years, a fine of up to \$250,000, a term of supervised release of up to three (3) years, and a \$100 mandatory assessment fee.

(C) Defendant acknowledges and understands that the Court is not bound by any estimate of the advisory sentencing range that Defendant may have received from his counsel, the government, or the Probation Office. Defendant further acknowledges and agrees that Defendant will not be allowed to withdraw his plea because he received an estimated guideline range from the government, Defendant's counsel, or the Probation Office which differed from the advisory guideline range computed by the Probation Office in the Presentence Report and found by the Court to be the correct advisory guideline range.

(D) Defendant understands fully and has discussed with his attorney that the Court will not be able to consider or determine an advisory guideline sentencing range until after a pre-sentence investigative report has been completed. Defendant understands and has discussed with his attorney that the he will have the opportunity to review the pre-sentence investigative report and challenge any facts reported therein. Defendant understands and has discussed with his attorney that any objections or challenges by Defendant or his attorney to the Pre-Sentence Report, the Court's evaluation and rulings on that Report, or the Court's sentence, will not be grounds for withdrawal of the plea of guilty.

(E) Defendant understands and has discussed with his attorney that after the Court considers the advisory guideline range for this case, the Court will have the discretion to impose a sentence that is more severe or less severe than the advisory guideline range.

(F) Defendant agrees to provide a check for the mandatory assessment at the time of sentencing.



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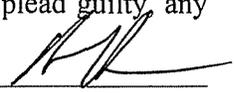
(G) **Waiver of Appeal:** Defendant understands that Title 18, United States Code, Section 3742, ordinarily allows for a direct appeal after sentencing, followed by the Court of Appeals' limited review of a defendant's sentence. Once this agreement is accepted and sentence is imposed by the District Court, Defendant by this agreement forever waives any right to an appeal or any other court review of Defendant's sentence; this waiver includes any collateral attack on the District Court's sentence. However, in the event that the District Court imposes a sentence that exceeds the advisory guideline range, then Defendant shall retain the right to pursue a timely appeal, limited to sentencing issues only, directly to the Court of Appeals.

Defendant and the government agree that nothing in this plea agreement shall affect the government's right or obligation to appeal as set forth in Title 18, United States Code, Section 3742(b). If, however, the government notices an appeal of Defendant's sentence, then Defendant shall have the right to cross-appeal from the sentence.

(H) Defendant and the government stipulate and agree that, during the investigation and prosecution of this matter, there was no detected or identified biological evidence that is subject to DNA testing. Defendant further agrees that all evidence obtained in this investigation and prosecution may be destroyed or returned to its rightful owner.

(I) Defendant agrees not to pursue or initiate any civil claims or suits against the United States, its agencies, or employees, whether or not presently known to Defendant, arising out of the investigation, prosecution, or cooperation covered by this agreement.

(J) By signing this agreement, Defendant expressly and voluntarily waives the protection of Federal Rule of Evidence 410. Thus, in the event that he violates the plea agreement or, at any time after signing this agreement, withdraws his offer to plead guilty, any

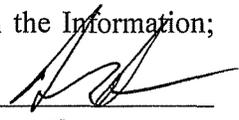




statements he has made or makes in conjunction with, or following, this plea agreement – including the statements contained in the Stipulation of Fact, which is included below; any statements he makes to law enforcement that are not covered by a proffer agreement; any re-arraignment colloquies related to this case; any testimony he gives before a grand jury or another tribunal; and any leads from such statements, testimony, or colloquies – shall be admissible for all purposes against him in any and all criminal proceedings. By signing this agreement, Defendant admits that the statements listed above will be admissible against him for any and all purposes if, for any reason, he fails to plead guilty, his plea of guilty is voided, or he withdraws his guilty plea.

(K) Defendant agrees to provide complete, candid, and truthful statements to law enforcement officers regarding Defendant's involvement, and the involvement of anyone else, in the offenses in the present Information, as well as any and all criminal violations about which Defendant has knowledge or information. Such information will be provided pursuant to and covered by this agreement. Defendant further agrees to provide complete, candid, and truthful testimony regarding such matters in any proceeding. Defendant understands that this agreement does not require Defendant to implicate any particular individual or individuals or to "make a case;" rather, it requires Defendant to be truthful and to testify truthfully whenever called upon.

(L) The United States of America and Defendant hereby agree that if Defendant breaches this agreement by, for example, failing to cooperate; withholding information; providing false information; committing perjury; or failing to testify in any judicial proceeding in connection with the individuals, matters, and transactions referred to in the Information, would: (a) not relieve Defendant of his plea of guilty; (b) permit the government to reinstate and proceed with prosecution on any other charges arising from the matters referred to in the Information;





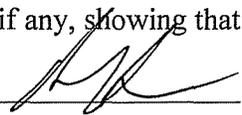
(c) permit the government to instigate and proceed with the prosecution of any other offenses arising from a breach of this agreement, including perjury, false declaration, false statement, and/or obstruction of justice; and (d) permit the government to use against Defendant in any subsequent judicial proceeding any and all statements made by Defendant. If a legitimate issue arises as to whether or not there has been a breach of this agreement, that issue shall be determined by the United States District Court for the Middle District of Georgia. The burden of establishing such a breach shall be upon the United States and shall be established by a preponderance of the evidence. The Federal Rules of Evidence shall not apply in any hearing to establish such a breach, and evidence shall be admitted and excluded at the Court's discretion.

(4)

In exchange for the consideration set forth in Paragraph (3) above, the Civil Rights Division of the United States Department of Justice and the United States Attorney for the Middle District of Georgia agree as follows:

(A) That they will accept the plea of guilty by Defendant as provided in Paragraph (3)(A), above, in full satisfaction of all federal criminal charges known to the United States Attorney at the time of Defendant's guilty plea that might have been brought solely in this district against Defendant.

(B) That if Defendant affirmatively manifests an acceptance of responsibility as contemplated by the Sentencing Guidelines, and continues to do so through the time of sentencing, the government will recommend to the Court that Defendant receive a downward adjustment in the advisory guideline range. The decision whether Defendant will receive any sentence reduction for acceptance of responsibility rests within the Court's discretion. The United States expressly reserves its right to furnish to the Court information, if any, showing that



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Defendant has not accepted responsibility, including, but not limited to, denying Defendant's involvement, giving conflicting statements as to Defendant's involvement, or engaging in additional criminal conduct, including personal use of a controlled substance.

(C) Pursuant to Section 1B1.8 of the United States Sentencing Guidelines, the government agrees that any self-incriminating information that was previously unknown to the government and is provided to the government by Defendant in connection with Defendant's plea agreement will not be used in determining the advisory guideline range. Further, the government agrees not to bring additional charges against Defendant, with the exception of charges resulting from, or related to, violent criminal activity, as defined in 18 U.S.C. § 924e(2)(B)(1), based on any information provided by Defendant in connection with Defendant's cooperation, which information was not known to the government prior to said cooperation. This does not restrict the government's use of information previously known or independently obtained for such purposes.

(5)

Nothing herein limits the sentencing discretion of the Court.

(6)

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





(7)

As an aid to this Court, the Civil Rights Division of the United States Department of Justice, the United States Attorney, and Defendant, by and through Defendant's counsel, enter into the following Stipulation of Fact. This stipulation is entered into in good faith with all parties understanding that the stipulation is not binding on the Court. Under U.S.S.G. Policy Statement Section 6B1.4(d), this Court may accept this stipulation as written or in its discretion with the aid of the Pre-Sentence Report determine the facts relevant to sentencing. **Subject to the above paragraph, the Civil Rights Division of the United States Department of Justice, the United States Attorney, and Defendant stipulate and agree that the following facts are true and could be proved by the United States at trial beyond a reasonable doubt:**

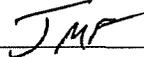
Count One

1. Anthony Heath (hereinafter "Heath") won a special election to become the sheriff of the Berrien County Sheriff's Office (BCSO) in October 2007 and has served in that capacity continuously since then.

2. Prior to his election as Sheriff, Heath had been a trooper with the Georgia State Patrol, a deputy sheriff with the BCSO, and a police officer with the Nashville Police Department. In 1996, Heath received basic training at the police academy, which included training on the use of force. Heath also has received use of force training every year since attending the academy.

3. On January 12, 2012, two BCSO deputies set up a road block within Berrien County. The deputies were searching for M.V., an individual who had been banned from traveling through Berrien County. When M.V. saw the deputies at the road block, he ran away on foot, and the BCSO deputies gave chase.





4. Heath and several BCSO deputies joined the search for M.V. About an hour or so after the chase began, Heath saw M.V. and called out to him, "You better not run or I will beat your a**," or words to that effect. M.V. responded by running into a nearby wooded area.

5. Heath and multiple BCSO deputies followed M.V. into the woods. A BCSO deputy eventually saw M.V. and arrested him without incident. The location of M.V.'s arrest is within Berrien County.

6. A BCSO deputy reported to Heath and the other deputies that M.V. was in custody. Heath responded by ordering the deputies to wait and to hold M.V. for him in the woods.

7. Heath arrived at the location where M.V. had been arrested. M.V. was lying face-down on the ground, with his hands handcuffed behind his back. M.V. did not pose a threat to Heath or any other person and was not being verbally or physically aggressive or resisting arrest.

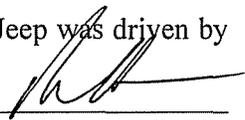
8. Upon his arrival, Heath kicked M.V. in the ribs at least once, punched him in the head with a closed fist multiple times, and forcefully kned him in the ribs multiple times.

9. During and after the beating, M.V. experienced pain in his ribs and ear and had difficulty breathing. Heath bruised his hand when he punched M.V. in the head.

10. Heath recalls this incident and admits that he had no legitimate law enforcement reason to strike M.V. during the arrest. Heath further admits that he knew at the time of the beating that it was not lawful to strike M.V.

Count Two

11. On October 1, 2014, Heath and other officers from the BCSO and several other law enforcement agencies participated in a high-speed chase of a white Jeep that contained two individuals who were suspected of committing a crime earlier that day. The Jeep was driven by



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J.H. During the chase, the passenger of the Jeep shot at several law enforcement vehicles, and several law enforcement officers shot at the Jeep. At least one of these law enforcement shots struck J.H. in his left thigh and his right calf. The bullet that struck J.H. in his left leg fractured his left femur.

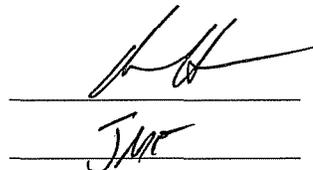
12. Heath eventually ended the chase on Highway 64 in Berrien County by administering a precision immobilization technique (PIT) maneuver. The Jeep rolled into and came to a stop on an embankment on the side of the highway.

13. J.H. exited the driver's side of the Jeep, lay down on the ground, and surrendered, holding his hands up in the air. J.H. could not walk because of his fractured leg. At no point after he exited the Jeep did J.H. verbally or physically resist arrest or otherwise present a threat to Heath or any other person.

14. Heath approached J.H. and kicked him at least twice. Heath then picked J.H. up from the ground, and he and J.H. fell several feet down the embankment. Heath then sat on top of J.H. and punched him approximately ten to twelve times in the face and head.

15. After punching J.H., Heath walked away. Neither Heath nor any other law enforcement officer handcuffed J.H. at that time. Despite being left unattended and uncuffed, J.H. did not attempt to flee or get up from the ground or otherwise attempt to resist or threaten Heath or any other person. After about thirty seconds, Heath and another law enforcement officer returned to J.H., handcuffed him, and walked away again. Again, J.H. did not flee or move or otherwise attempt to resist or threaten Heath or any other person.

16. Approximately one minute later, Heath returned to J.H. and picked him up off of the ground. Heath punched J.H. once again, delivering an uppercut to J.H.'s head.



17. Heath punched J.H. with sufficient force to cause his own hand to become swollen and bruised. Heath's punches caused J.H. to bleed from his mouth and to feel pain.

18. Heath recalls this incident and admits that he had no legitimate law enforcement reason to strike J.H. during the arrest. Heath further admits that he knew at the time that his strikes against J.H. were not lawful.

(8)

ACCEPTANCE OF PLEA AGREEMENT

Defendant understands and has fully discussed with his attorney that this agreement shall become effective only upon the Court's acceptance of this agreement and the Court's acceptance of the plea of guilty by Defendant.

SO AGREED, this 27th day of June, 2016.

G.F. PETERMAN III
Acting United States Attorney
Middle District of Georgia

VANITA GUPTA
Principal Deputy Assistant Attorney General
U.S. Department of Justice

BY:



STEPHEN J. CURRAN

MARY J. HAHN

Trial Attorneys
Criminal Section
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601 D. St. NW
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Washington D.C. 20579

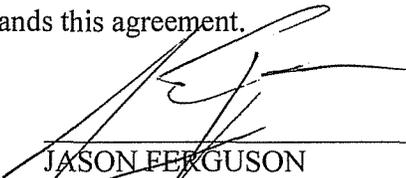


I, ANTHONY HEATH, have read this agreement and had this agreement read to me by my attorney, I have discussed this agreement with my attorney and I fully understand it and agree to its terms.



ANTHONY HEATH
DEFENDANT

I, JASON FERGUSON, attorney for Defendant ANTHONY HEATH, have explained the Information and the government's evidence received through discovery and our investigation of the charge to Defendant. I believe Defendant understands the charge against Defendant and evidence that would be presented against Defendant at trial. I have read this agreement, have been given a copy of it for my file, and have explained it to Defendant. To the best of my knowledge and belief, Defendant understands this agreement.



JASON FERGUSON
ATTORNEY FOR DEFENDANT



