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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEREMY ELGUEZ,

Defendant.

CASE NO. 2:20-MJ-0053-AC

PLEA AGREEMENT

DATE: AUGUST 4, 2020
TIME: 9:30 AM
COURT: Hon. JOHN A. MENDEZ

I. INTRODUCTION

A. Scope of Agreement.

The Complaint in this case charges the defendant with two violations of 18 U.S.C. § 2115 – Burglary of a Post Office (“Counts One and Two”). This document contains the complete Plea Agreement between the United States Attorney’s Office for the Eastern District of California (the “government”) and the defendant regarding this case. This Plea Agreement is limited to the United States Attorney’s Office for the Eastern District of California and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities.

B. Court Not a Party.

The Court is not a party to this Plea Agreement. Sentencing is a matter solely within the discretion of the Court, and the Court may take into consideration any and all facts and circumstances concerning the criminal activities of defendant, including activities which may not have been charged in

1 the Complaint. The Court is under no obligation to accept any recommendations made by the
2 government, and the Court may in its discretion impose any sentence it deems appropriate up to and
3 including the statutory maximum stated in this Plea Agreement.

4 If the Court should impose any sentence up to the maximum established by the statute, the
5 defendant cannot, for that reason alone, withdraw his guilty pleas, and he will remain bound to fulfill all
6 of the obligations under this Plea Agreement. The defendant understands that neither the prosecutor,
7 defense counsel, nor the Court can make a binding prediction or promise regarding the sentence he will
8 receive.

9 **II. DEFENDANT'S OBLIGATIONS**

10 **A. Guilty Plea.**

11 The defendant will plead guilty to Counts One and Two – 18 U.S.C. § 2115 (Burglary of a Post
12 Office). The defendant agrees that he is in fact guilty of these charges and that the facts set forth in the
13 Factual Basis for Plea attached hereto as Exhibit A are accurate.

14 The defendant agrees that this Plea Agreement will be filed with the Court and become a part of
15 the record of the case. The defendant understands and agrees that he will not be allowed to withdraw his
16 pleas should the Court not follow the government's sentencing recommendations.

17 The defendant agrees that the statements made by him in signing this Agreement, including the
18 factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by
19 the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a
20 guilty plea pursuant to this Agreement. The defendant waives any rights under Fed. R. Crim. P. 11(f)
21 and Fed. R. Evid. 410, to the extent that these rules are inconsistent with this paragraph or with this
22 Agreement generally.

23 **B. Waiver of Indictment.**

24 The defendant acknowledges that under the United States Constitution, he is entitled to be
25 indicted by a grand jury on the charges to which he is pleading guilty and that pursuant to
26 Fed. R. Crim. P. 7(b), he agrees to waive any and all rights he has to being prosecuted by way of
27 indictment to the charges set forth in the Information. The defendant agrees that at a time set by the
28 Court, he will sign a written waiver of prosecution by Indictment and consent to proceed by Information

1 rather than by Indictment.

2 **C. Restitution.**

3 The Mandatory Victim Restitution Act requires the Court to order restitution to the victims of
4 certain offenses. Defendant agrees that his conduct is governed by the Mandatory Restitution Act
5 pursuant to 18 U.S.C. § 3663A(c)(1)(A)(ii) and agrees to pay the full amount of restitution to all victims
6 affected by this offense, including, but not limited to, the victims covered in the factual basis, victims
7 covered in those counts to be dismissed as part of the Plea Agreement pursuant to 18 U.S.C. §
8 3663A(a)(3), and other victims as a result of the defendant's conduct for the offenses charged from the
9 periods of June 2019 through March 2020. The government's position is that the restitution to be paid
10 to the victims is at least \$16,827.03. The defendant may argue to the Court that he believes the
11 restitution amount is otherwise, pursuant to relevant legal authorities.

12 Restitution payments shall be by cashier's or certified check made payable to the Clerk of the
13 Court. Defendant further agrees that he will not seek to discharge any restitution obligation or any part
14 of such obligation in any bankruptcy proceeding.

15 **D. Fine.**

16 The defendant reserves the right to argue to Probation and at sentencing that he is unable to pay a
17 fine, and that no fine should be imposed. The defendant understands that it is his burden to affirmatively
18 prove that he is unable to pay a fine, and agrees to provide a financial statement under penalty of perjury
19 to the Probation Officer and the government in advance of the issuance of the draft Presentence
20 Investigation Report, along with supporting documentation. The government retains the right to oppose
21 the waiver of a fine. If the Court imposes a fine, the defendant agrees to pay such fine if and as ordered
22 by the Court, up to the statutory maximum fine for the defendant's offenses.

23 **E. Special Assessment.**

24 The defendant agrees to pay a special assessment of \$200 at the time of sentencing by delivering
25 a check or money order payable to the United States District Court to the United States Probation Office
26 immediately before the sentencing hearing. If the defendant is unable to pay the special assessment at
27 the time of sentencing, he agrees to earn the money to pay the assessment, if necessary by participating
28 in the Inmate Financial Responsibility Program.

F. Violation of Plea Agreement by Defendant/Withdrawal of Pleas.

If the defendant violates this Plea Agreement in any way, withdraws his pleas, or tries to withdraw his pleas, this Plea Agreement is voidable at the option of the government. If the government elects to void the agreement based on the defendant's violation, the government will no longer be bound by its representations to the defendant concerning the limits on criminal prosecution and sentencing as set forth herein. A defendant violates the Plea Agreement by committing any crime or providing or procuring any statement or testimony which is knowingly false, misleading, or materially incomplete in any litigation or sentencing process in this case, or engages in any post-plea conduct constituting obstruction of justice. Varying from stipulated Guidelines application or agreements regarding arguments as to 18 United States Code section 3553, as set forth in this agreement, personally or through counsel, also constitutes a violation of the Plea Agreement. The government also shall have the right (1) to prosecute the defendant on any of the counts to which he pleaded guilty; (2) to reinstate any counts that may be dismissed pursuant to this Plea Agreement; and (3) to file any new charges that would otherwise be barred by this Plea Agreement. The defendant shall thereafter be subject to prosecution for any federal criminal violation of which the government has knowledge. The decision to pursue any or all of these options is solely in the discretion of the United States Attorney's Office.

By signing this Plea Agreement, the defendant agrees to waive any objections, motions, and defenses that the defendant might have to the government's decision. Any prosecutions that are not time-barred by the applicable statute of limitations as of the date of this Plea Agreement may be commenced in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Plea Agreement and the commencement of any such prosecutions. The defendant agrees not to raise any objections based on the passage of time with respect to such counts including, but not limited to, any statutes of limitation or any objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth Amendment to any counts that were not time-barred as of the date of this Plea Agreement. The determination of whether the defendant has violated the Plea Agreement will be under a probable cause standard.

In addition, (1) all statements made by the defendant to the government or other designated law enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal,

whether before or after this Plea Agreement, shall be admissible in evidence in any criminal, civil, or administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by the defendant before or after this Plea Agreement, or any leads derived therefrom, should be suppressed. By signing this Plea Agreement, the defendant waives any and all rights in the foregoing respects.

G. Asset Disclosure.

The defendant agrees to make a full and complete disclosure of his assets and financial condition, and will complete the United States Attorney's Office's "Authorization to Release Information" and "Financial Affidavit" within five (5) weeks from the entry of the defendant's change of pleas, including supporting documentation. The defendant also agrees to have the Court enter an order to that effect. The defendant understands that if he fails to complete truthfully and provide the described documentation to the United States Attorney's office within the allotted time, he will be considered in violation of the agreement, and the government shall be entitled to the remedies set forth in section II.F above, above.

III. THE GOVERNMENT'S OBLIGATIONS

A. Dismissals/Other Charges.

The government agrees not to bring any other charges arising from the conduct outlined in the Factual Basis attached hereto as Exhibit A except if this agreement is voided as set forth herein, or as provided in paragraphs II.F (Violation of Plea Agreement by Defendant/Withdrawal of Plea(s)), VI.B (Guideline Calculation and Parties' Recommendation), and VII.B (Waiver of Appeal and Collateral Attack) herein.

B. Recommendations.

1. Incarceration Range.

The government will recommend that the defendant be sentenced within the applicable guideline range as determined by the Court.

2. Acceptance of Responsibility.

The government will recommend a two-level reduction (if the offense level is less than

16) or a three-level reduction (if the offense level reaches 16) in the computation of his offense level if the defendant clearly demonstrates acceptance of responsibility for his conduct as defined in U.S.S.G. § 3E1.1. This includes the defendant meeting with and assisting the probation officer in the preparation of the pre-sentence report, being truthful and candid with the probation officer, and not otherwise engaging in conduct that constitutes obstruction of justice within the meaning of U.S.S.G § 3C1.1, either in the preparation of the pre-sentence report or during the sentencing proceeding.

C. Use of Information for Sentencing.

The government is free to provide full and accurate information to the Court and Probation, including answering any inquiries made by the Court and/or Probation and rebutting any inaccurate statements or arguments by the defendant, his attorney, Probation, or the Court. The defendant also understands and agrees that nothing in this Plea Agreement bars the government from defending on appeal or collateral review any sentence that the Court may impose.

IV. ELEMENTS OF THE OFFENSE

At a trial, the government would have to prove beyond a reasonable doubt the following elements of the offenses to which the defendant is pleading guilty. For Counts One and Two, Post Office Burglary, in violation of 18 U.S.C. § 2115:

First, the defendant forcibly broke into a post office; and

Second, the defendant intended to commit in the post office a larceny or other depredation.

The defendant fully understands the nature and elements of the crimes charged in the ~~Complaint~~ ^{Information} to which he is pleading guilty, together with the possible defenses thereto, and has discussed them with his attorney.

V. MAXIMUM SENTENCE

A. Maximum Penalty.

The maximum sentence that the Court can impose is five ~~months~~ years of incarceration, a fine of \$250,000, a three year period of supervised release and a special assessment of \$100 for each count. By signing this Plea Agreement, the defendant also agrees that the Court can order the payment of restitution for the full loss caused by the defendant's wrongful conduct. The defendant agrees that the restitution order is not restricted to the amounts alleged in the specific counts to which he is pleading

1 guilty. The defendant further agrees, as noted above, that he will not attempt to discharge in any present
2 or future bankruptcy proceeding any restitution imposed by the Court.

3 **B. Violations of Supervised Release.**

4 The defendant understands that if he violates a condition of supervised release at any time during
5 the term of supervised release, the Court may revoke the term of supervised release and require the
6 defendant to serve up to two additional years imprisonment.

7 **VI. SENTENCING DETERMINATION**

8 **A. Statutory Authority.**

9 The defendant understands that the Court must consult the Federal Sentencing Guidelines and
10 must take them into account when determining a final sentence. The defendant understands that the
11 Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the
12 Sentencing Guidelines and must take them into account when determining a final sentence. The
13 defendant further understands that the Court will consider whether there is a basis for departure from the
14 guideline sentencing range (either above or below the guideline sentencing range) because there exists
15 an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into
16 consideration by the Sentencing Commission in formulating the Guidelines. The defendant further
17 understands that the Court, after consultation and consideration of the Sentencing Guidelines, must
18 impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

19 **B. Guideline Calculation and Parties' Recommendation.**

20 The government and the defendant have no agreement as to the applicable guidelines range,
21 except that the government will not argue in favor of an adjustment under U.S.S.G. § 3B1.1. The
22 defendant is free to recommend to the Court whatever sentence he believes is appropriate under 18
23 U.S.C. § 3553(a). The government is not obligated to recommend any specific sentence, so long as the
24 recommendation is within the applicable guidelines range as determined by the Court.

25 **VII. WAIVERS**

26 **A. Waiver of Constitutional Rights.**

27 The defendant understands that by pleading guilty he is waiving the following constitutional
28 rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to

1 be assisted at trial by an attorney, who would be appointed if necessary; (d) to pursue any affirmative
2 defenses, Fourth Amendment or Fifth Amendment claims, constitutional challenges to the statutes of
3 conviction, and other pretrial motions that have been filed or could be filed; (e) to subpoena witnesses to
4 testify on his behalf; (f) to confront and cross-examine witnesses against him; and (g) not to be
5 compelled to incriminate himself.

6 **B. Waiver of Appeal and Collateral Attack.**

7 The defendant understands that the law gives the defendant a right to appeal his guilty plea,
8 conviction, and sentence. The defendant agrees as part of his pleas, however, to give up the right to
9 appeal the guilty pleas, conviction, and the sentence imposed in this case as long as the sentence does
10 not exceed the statutory maximums for the offenses to which he is pleading guilty. The defendant
11 understands that this waiver includes, but is not limited to, any and all constitutional and/or legal
12 challenges to the defendant's conviction and guilty pleas, including arguments that the statutes to which
13 defendant is pleading guilty are unconstitutional, and any and all claims that the statement of facts
14 attached to this agreement is insufficient to support the defendant's pleas of guilty. The defendant
15 specifically gives up the right to appeal any order of restitution the Court may impose.

16 Notwithstanding the defendant's waiver of appeal, the defendant will retain the right to appeal if
17 one of the following circumstances occurs: (1) the sentence imposed by the District Court exceeds the
18 statutory maximum; and/or (2) the government appeals the sentence in the case. The defendant
19 understands that these circumstances occur infrequently and that in almost all cases this Agreement
20 constitutes a complete waiver of all appellate rights.

21 In addition, regardless of the sentence the defendant receives, the defendant also gives up any
22 right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any
23 aspect of the guilty pleas, conviction, or sentence, except for non-waivable claims.

24 Notwithstanding the government's agreements in paragraph III.A above, if the defendant ever
25 attempts to vacate his pleas, dismiss the underlying charges, or modify or set aside his sentence on any
26 of the counts to which he is pleading guilty, the government shall have the rights set forth in Section II.F
27 herein.
28

C. Waiver of Attorneys' Fees and Costs.

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

D. Impact of Plea on Defendant's Immigration Status.

Defendant recognizes that pleading guilty may have consequences with respect to his immigration status if he is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including offense(s) to which the defendant is pleading guilty. The defendant and his counsel have discussed the fact that the charge to which the defendant is pleading guilty is an aggravated felony, or a crime that is likely to be determined to be an aggravated felony under 8 USC § 1101(a)(43), and that while there may be arguments that defendant can raise in immigration proceedings to avoid or delay removal, it is virtually certain that defendant will be removed. Removal and other immigration consequences are the subject of a separate proceeding, however, and defendant understands that no one, including his attorney or the district court, can predict to a certainty the effect of his conviction on his immigration status. Defendant nevertheless affirms that he wants to plead guilty regardless of any immigration consequences that his pleas may entail, even if the consequence is his automatic removal from the United States.

VIII. ENTIRE PLEA AGREEMENT

Other than this Plea Agreement, no agreement, understanding, promise, or condition between the government and the defendant exists, nor will such agreement, understanding, promise, or condition exist unless it is committed to writing and signed by the defendant, counsel for the defendant, and counsel for the United States.

IX. APPROVALS AND SIGNATURES

A. Defense Counsel.

I have read this Plea Agreement and have discussed it fully with my client. The Plea Agreement accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to

1 plead guilty as set forth in this Plea Agreement.

2 Dated: 8/3/2020

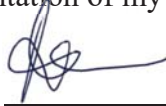


3 HANNAH LABAREE
4 Attorney for Defendant

5 **B. Defendant:**

6 I have read this Plea Agreement and carefully reviewed every part of it with my attorney. I
7 understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully
8 understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my
9 case. No other promises or inducements have been made to me, other than those contained in this Plea
10 Agreement. In addition, no one has threatened or forced me in any way to enter into this Plea
11 Agreement. Finally, I am satisfied with the representation of my attorney in this case.

12 Dated: 8/3/2020



13 for Jeremy Elguez

14 JEREMY ELGUEZ
15 Defendant

16 **C. Attorney for United States:**

17 I accept and agree to this Plea Agreement on behalf of the government.

18 Dated:

19 MCGREGOR W. SCOTT
20 United States Attorney



21 TANYA B. SYED
22 Assistant United States Attorney
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EXHIBIT "A"

Factual Basis for Pleas

On or about August 23, 2019, JEREMY ELGUEZ used a crowbar like instrument and/or a prying tool to forcibly break into the Butte City Post Office in Butte County with the intent to steal mail, packages, and other items located in the Butte City Post Office. Among the items stolen from the Butte City Post Office was a Pitney Bowes Machine. As of March 6, 2020, JEREMY ELGUEZ's cell phone location data indicated that he was residing at a certain address (hereinafter, "JEREMY ELGUEZ's residence"). On March 7, 2020, a search warrant was executed at JEREMY ELGUEZ's residence. The individual listed on the lease stated that JEREMY ELGUEZ had been residing at JEREMY ELGUEZ's residence for the past two to three weeks. JEREMY ELGUEZ's identification and other personal effects (including his clothing) were also found at JEREMY ELGUEZ's residence. On March 7, 2020, stolen mail was found at JEREMY ELGUEZ's residence. This included mail and post office box applications stolen from the Butte City Office. A crowbar like instrument and a prying tool was also found at JEREMY ELGUEZ's residence.

On or about September 9, 2019, JEREMY ELGUEZ used a crowbar like instrument and/or a prying tool to forcibly break into the Vina Post Office in Tehama County with the intent to steal mail, packages, postal money orders, and other items located in the Vina Post Office. Among the items stolen from the Vina Post Office were 100 postal money orders. On March 7, 2020, images of some of the postal money orders stolen from the Vina Post Office were found on JEREMY ELGUEZ's cellular phone.

On or about September 11, 2019, JEREMEY ELGUEZ used a crowbar like instrument and/or a prying tool to forcibly break into the Bangor Post Office in Butte County with the intent to steal mail, packages, and other items located in the Bangor Post Office. The Bangor Post Office video surveillance showed JEREMY ELGUEZ burglarizing the Bangor Post Office. The Bangor Post Office video surveillance also captured video of the vehicle used during the burglary, which was registered to JEREMY ELGUEZ. On January 7, 2020, in texts found on JEREMY ELGUEZ's cellular phone, JEREMY ELGUEZ's was asked if "the bangor spot is the one they got on camera" and JEREMY

1 ELGUEZ replied “Yes it was Bangor lol I was slippen.” JEREMY ELGUEZ further stated “So I didn’t
2 switch my plates!”

3 On or about September 12, 2019, JEREMY ELGUEZ used a crowbar like instrument and/or a
4 prying tool to forcibly break into the Stirling City Post Office in Butte County with the intent to steal
5 mail, packages, and other items located inside the Stirling City Post Office. Blood DNA found within
6 the safe of the Post Office was positively matched to the DNA of JEREMY ELGUEZ.

7 Between on or about January 19, 2020 and on or about January 21, 2020, JEREMY ELGUEZ
8 used a crowbar like instrument and/or a prying tool to forcibly break into the Meridian Post Office in
9 Sutter County with the intent to steal mail, packages, and other items located in the Meridian Post
10 Office. A search of JEREMY ELGUEZ’s cell phone revealed searches for the Meridian Post Office and
11 determining whether the post office was open that weekend. JEREMY ELGUEZ also exchanged a
12 series of texts regarding scoping out a post office and needing “a flat head screw driver or something to
13 pry with!” on January 19, 2020.

14 Between on or about February 1, 2020 and on or about February 3, 2020, JEREMY ELGUEZ
15 used a crowbar like instrument and/or a prying tool to forcibly break into the Glenn Post Office in Glenn
16 County with the intent to steal mail, packages, and other items located in the Glenn Post Office.
17 JEREMY ELGUEZ stated in a text on January 28, 2020 that he was planning to “hunt for a p.o.” On
18 March 7, 2020, mail stolen from the Glenn Post Office was found in JEREMY ELGUEZ’s residence,
19 including mail from victim K.H..

20 Between on or about February 1, 2020 and on or about February 2, 2020, JEREMY ELGUEZ
21 used a crowbar like instrument and/or a prying tool to forcibly break into the Artois Post Office in Glenn
22 County with the intent to steal mail, packages, and other items located in the Artois Post Office. A
23 package containing a Nikon Camera and two Nikon Lenses (18-55 and 55-200) was reported stolen
24 from the Artois Post Office. A search of JEREMY ELGUEZ’s cell phone revealed photos of a package,
25 and of a Nikon camera. It also revealed a search for the “altros post office” on February 3, 2020 and a
26 search for “where to sell my digital camera in Yuba City” on February 4, 2020. Entity #1 confirmed
27 that the entity had sent a \$80,000 check to a post office box at the Artois Post Office. Victim #1
28 confirmed that she did not receive the check for \$80,000, as well as two missing parcels.

1 On or about February 28, 2020, JEREMY ELGUEZ used a crowbar like instrument and/or a
2 prying tool to forcibly break into the Cassel Post Office in Shasta County with the intent to steal mail,
3 packages, and other items located in the Cassel Post Office. On March 7, 2020, mail stolen from the
4 Cassel Post Office was found in JEREMEY ELGUEZ'S residence.

5 On or about March 1, 2020, JEREMY ELGUEZ used a crowbar like instrument and/or a prying
6 tool to forcibly break into the Butte City Post Office in Glenn County with the intent to steal mail,
7 packages, and other items located in the Butte City Post Office. On March 7, 2020, mail stolen from the
8 Butte City Post Office in was found in JEREMY ELGUEZ's residence, including mail for victims A.C.,
9 T.S., and M.S.

10 On or about March 1, 2020, JEREMY ELGUEZ used a crowbar like instrument to forcibly break
11 into the Glenn Post Office in Glenn County with the intent to steal mail, packages, and other items
12 located in the Glenn Post Office. On March 7, 2020, mail stolen from the Glenn Post Office was found
13 in JEREMY ELGUEZ's residence.

14 Entity #2 issued a check and posted it via the United States Postal Service. On or about August
15 1, 2019, JEREMY ELGUEZ unlawfully had in his possession the check, which was stolen from the
16 mail. On or about August 1, 2019, JEREMY ELGUEZ knowingly deposited this check, reflecting an
17 amount of \$350,000, into his checking account in an attempt to obtain moneys in the control of a
18 financial institution.

19
20 I have reviewed the entire factual basis in Exhibit A above and, as far as my own conduct and
21 personal knowledge is concerned, I adopt it as my own true statement.

22
23 DATED: 8/3/2020 _____

 _____
for Jeremy Elguez

24 JEREMY ELGUEZ, Defendant
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