IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	
v.	Case No. 1:20-CR-150
WILLIAM ANDERSON BURGAMY IV	Hon. T.S. Ellis, III
Defendant.	

PLEA AGREEMENT

G. Zachary Terwilliger, United States Attorney for the Eastern District of Virginia; Raj Parekh, Assistant United States Attorney; the defendant, William Anderson Burgamy IV; and the defendant's counsel have entered into an agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of the agreement are as follows:

1. Offense and Maximum Penalties

The defendant agrees to waive indictment and plead guilty to a four-count Criminal Information ("Information") charging the defendant with the following:

a. Count One: Conspiracy to distribute controlled substances, including oxycodone, hydrocodone, and amphetamine, among other controlled substances, in violation of Title 21, United States Code, Sections 841(a)(1) and 846. The maximum penalties for Count One are 20 years of imprisonment, a $1,000,000 fine, forfeiture of assets as outlined below, special assessments pursuant to 18 U.S.C. § 3013 and 3014, and a supervised release term of at least three years.

b. Count Two: Committing money laundering by concealing and disguising the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, to wit: conspiracy to distribute controlled substances, as is more fully alleged in Count One of the Information, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i). The maximum penalties for Count Two are 20 years of imprisonment, a fine up to $500,000 or twice the value the property involved (whichever is greater), forfeiture of assets as outlined below, special assessments pursuant to 18 U.S.C. § 3013 and 3014, and a supervised release term of three years.

c. Count Three: Conspiracy to carry and possess firearms during and in relation to, and in furtherance of, the conspiracy to distribute controlled substances, as is more fully alleged in Count One of the Information, in violation of Title 18, United States Code, Sections 924(o) and 924(c)(1). The maximum penalties for Count Three are 20 years of imprisonment, a $250,000 fine, forfeiture of assets as outlined below, special assessments pursuant to 18 U.S.C. § 3013 and 3014, and a supervised release term of three years.

d. Count Four: Conspiracy to use explosives, including Molotov cocktails, to commit the conspiracy to distribute controlled substances, as is more fully alleged in Count One of the Information, in violation of Title 18, United States Code, Sections 844(h)(1) and (m). The maximum penalties for Count Four are 20 years of imprisonment, a $250,000 fine, forfeiture of assets as outlined below, special assessments pursuant to 18 U.S.C. § 3013 and 3014, and a supervised release term of three years.

The defendant understands that any supervised release term is in addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

2. Detention Pending Sentencing

The defendant understands that this case is governed by 18 U.S.C. §§ 3143(a)(2) and 3145(c). These provisions provide that a judicial officer shall order that a person who has been found guilty of an offense of this kind (*i.e.*, at a minimum, Count One of the Information) be detained unless there are statutory justifications why such person's detention would not be appropriate.

3. Factual Basis for the Plea

The defendant will plead guilty because the defendant is in fact guilty of the charged offenses. The defendant admits the facts set forth in the Statement of Facts filed with this plea agreement and agrees that those facts establish guilt of the offenses charged beyond a reasonable doubt. The Statement of Facts, which is hereby incorporated into this plea agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(c) of the Sentencing Guidelines.

4. Assistance and Advice of Counsel

The defendant is satisfied that the defendant's attorney has rendered effective assistance. The defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. The defendant understands that the rights of criminal defendants include the following:

a. the right to plead not guilty and to persist in that plea;

b. the right to a jury trial;

c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings; and

d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

5. Role of the Court and the Probation Office

The defendant understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximum described above but that the Court will determine the defendant's actual sentence in accordance with 18 U.S.C. § 3553(a). The defendant understands that the Court has not yet determined a sentence and that any estimate of the advisory sentencing range under the U.S. Sentencing Commission's Sentencing Guidelines Manual the defendant may have received from the defendant's counsel, the United States, or the Probation Office, is a prediction, not a promise, and is not binding on the United States, the Probation Office, or the Court. Additionally, pursuant to the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220 (2005), the Court, after considering the factors set forth in 18 U.S.C. § 3553(a), may impose a sentence above or below the advisory sentencing range, subject only to review by higher courts for reasonableness. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence.

Further, in accordance with Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the United States and the defendant will recommend to the Court that the following provisions of the Sentencing Guidelines apply:

With respect to Count One:

a. Pursuant to Section 2D1.1(a)(5), the Base Offense Level is determined by the Drug Quantity Table;

b. Pursuant to Section 2D1.1(c), relating to Drug Quantity, the defendant was personally involved in the distribution of, or it was reasonably foreseeable to the defendant that his co-conspirator distributed in furtherance of the conspiracy, at least 700 KG but less than 1,000 KG of Converted Drug Weight, which corresponds to a Base Offense Level of 28;

c. Pursuant to Section 2D1.1(b)(1), a two-level enhancement applies because the defendant possessed dangerous weapons, including firearms;

d. Pursuant to Section 2D1.1(b)(2), a two-level enhancement applies because the defendant made a credible threat to use violence or directed the use of violence; and

e. Pursuant to Section 2D1.1(b)(7), a two-level enhancement applies because the defendant distributed controlled substances through mass-marketing by means of an interactive computer service.

With respect to Count Two:

a. Pursuant to Section 2S1.1(a)(1), the Base Offense Level is 34;

b. Pursuant to Section 2S1.1(b)(2)(B), a two-level enhancement applies because the defendant will be convicted under 18 U.S.C. § 1956; and

c. Pursuant to Section 2S1.1(b)(3), a two-level enhancement applies because the offense involved sophisticated laundering.

With respect to Count Three:

a. Pursuant to Section 2K2.1(a)(3), the Base Offense Level is 22 because the offense involved a semiautomatic firearm that is capable of accepting a large capacity magazine (*i.e.*, more than 15 rounds of ammunition);

b. Pursuant to Section 2K2.1(b)(1)(B), a four-level enhancement applies because the offense involved eight loaded firearms; and

c. Pursuant to Section 2K2.1(b)(3)(B), a two-level enhancement applies because the offense involved destructive devices, specifically, Molotov cocktails.

With respect to Count Four:

a. Pursuant to Section 2K1.3(a)(4), the Base Offense Level is 16 because the defendant was a prohibited person at the time he committed the offense.

The United States and the defendant agree that the defendant has assisted the government in the investigation and prosecution of the defendant's own misconduct by timely notifying authorities of the defendant's intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently. If the defendant qualifies for a two-level decrease in offense level pursuant to Section 3E1.1(a) of the Sentencing Guidelines and the offense level prior to the operation of that section is a level 16 or greater, the government agrees to file, pursuant to Section 3E1.1(b) of the Sentencing Guidelines, a motion prior to, or at the time of, sentencing for an additional one-level decrease in the defendant's offense level.

Any stipulation on a Guideline provision does not limit the parties' arguments as to 18 U.S.C. § 3553(a). The parties understand that these stipulations are not binding on the Probation Office or the Court. The parties have no agreement as to the applicability or inapplicability of any other sections of the Sentencing Guidelines. The parties are permitted to argue for or against the applicability or inapplicability of any other sections of the Sentencing Guidelines.

6. Waiver of Venue

The defendant has been advised that venue for the four offenses charged in the Criminal Information may lie in the District of Maryland, the District of Nebraska, or elsewhere, and if so, the defendant could not be compelled to answer said charges in the Eastern District of Virginia. The defendant hereby agrees to waive any challenges to venue and consents to being charged by Criminal Information with said offenses in the Eastern District of Virginia.

7. Waiver of Appeal, FOIA and Privacy Act Rights

The defendant also understands that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and any sentence within the statutory maximum described above (or the manner in which that sentence was determined) on the grounds set forth in 18 U.S.C. § 3742 or on any ground whatsoever other than an ineffective assistance of counsel claim that is cognizable on direct appeal, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). The defendant also hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

8. Special Assessment

Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of $100 per count of conviction.

9. Payment of Monetary Penalties

The defendant understands and agrees that, pursuant to 18 U.S.C. § 3613, whatever monetary penalties are imposed by the Court will be due immediately and subject to immediate enforcement by the United States as provided for in Section 3613. Furthermore, within 14 days of a request, the defendant agrees to provide all of the defendant's financial information to the United States and the Probation Office and, if requested, to participate in a pre-sentencing debtor's examination and/or complete a financial statement under penalty of perjury. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. Until restitution is paid in full, the defendant will be referred to the Treasury Offset Program so that any federal payment or transfer of returned property to the defendant will be offset and applied to pay the defendant's unpaid restitution. If the defendant is incarcerated, the defendant agrees to voluntarily participate in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments.

10. Immunity from Further Prosecution in this District

The United States will not further criminally prosecute the defendant in the Eastern District of Virginia for the specific conduct described in the Information or Statement of Facts, except that the United States may prosecute the defendant for any crime of violence or conspiracy to commit, or aiding and abetting, a crime of violence not charged in the Information as an offense. In such a prosecution the United States may allege and prove conduct described in the Information or Statement of Facts. "Crime of violence" has the meaning set forth in 18 U.S.C. § 16.

11. Forfeiture Agreement

The defendant understands that the forfeiture of assets is part of the sentence that must be imposed in this case. The defendant agrees to forfeit all interests in any drug related, fraud related and/or money laundering-related asset that the defendant owns or over which the defendant exercises control, directly or indirectly. This includes any property that is traceable to, derived from, fungible with, or a substitute for the following: (1) property that constitutes the proceeds of the offenses; and (2) property facilitating the offenses.

The assets subject to forfeiture include, but are not limited to: (1) a monetary judgment in the amount of not less than $300,000.00, representing the minimum amount of proceeds the defendant obtained as a result of his involvement in the offenses to which the defendant is pleading guilty; (2) $19,202.00 in cash that was seized from the defendant's residence on April 9, 2020; (3) all eight loaded firearms that were seized from the defendant's residence on April 9, 2020, to include: one Panther Arms Model AR-15 rifle (serial number FH243489), one Hanover Armory Model AR-15 rifle (serial number 200191), one FN Herstal SCAR Model 17S rifle (serial number HC59137), one Keltec KSG 12 gauge shotgun (serial number XXMD79), one Remington 870 12 gauge shotgun (serial number RS78405N), one H&K VP9 pistol (serial number 224-066042), one Glock Model 19 Gen 4 pistol (serial number BKHW204), and one Sig Sauer P365 pistol (serial number NRA005114); (4) any and all firearm magazines, extended magazines, and ammunition that were seized from the defendant's residence on April 9, 2020; and (5) any electronic devices, including cellular phones, computers, and/or other data storage devices, which facilitated the commission of the charged offenses. The defendant understands that if the proceeds of the offenses are not available to the United States to be forfeited, the Court must enter a forfeiture money judgment in the amount of the proceeds. *United States v. Blackman*, 746 F.3d 137 (4th Cir. 2014). The defendant acknowledges that as a result of defendant's acts or omissions, the actual proceeds the defendant obtained as a result of the offenses may not be available, and the defendant therefore stipulates that one or more of the factors listed at 21 U.S.C. § 853(p)(1) are present in this case.

The defendant further agrees to waive all interest in the assets in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. The defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument (the Information), announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Defendant admits and agrees that the conduct described in the charging instrument (the Information) and Statement of Facts provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government.

12. Waiver of Further Review of Forfeiture

The defendant further agrees to waive all constitutional and statutory challenges to forfeiture in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The defendant also waives any failure by the Court to advise the defendant of any applicable forfeiture at the time the guilty plea is accepted as required by Rule 11(b)(1)(J). The defendant agrees to take all steps as requested by the United States to pass clear title to forfeitable assets to the United States, and to testify truthfully in any judicial forfeiture proceeding. The defendant understands and agrees that all property covered by this agreement is subject to forfeiture as proceeds of illegal conduct, property facilitating illegal conduct, property involved in illegal conduct giving rise to forfeiture, and substitute assets for property otherwise subject to forfeiture.

13. The Defendant's Obligations Regarding Assets Subject to Forfeiture

Upon request by the government, the defendant agrees to identify all assets in which the defendant had any interest or over which the defendant exercises or exercised control, directly or indirectly, within the past three years. The defendant agrees to take all steps as requested by the United States to obtain from any other parties by any lawful means any records of assets owned at any time by the defendant. The defendant agrees to undergo any polygraph examination the United States may choose to administer concerning such assets and to provide and/or consent to the release of the defendant's tax returns for the previous five years.

14. Breach of the Plea Agreement and Remedies

This agreement is effective when signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this plea agreement at the date and time scheduled with the Court by the United States (in consultation with the defendant's attorney). If the defendant withdraws from this agreement, or commits or attempts to commit any additional federal, state or local crimes, or otherwise violates any provision of this agreement, then:

a. The United States will be released from its obligations under this agreement. The defendant, however, may not withdraw the guilty plea entered pursuant to this agreement;

b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this agreement is signed. Notwithstanding the subsequent expiration of the statute of limitations, in any such prosecution, the defendant agrees to waive any statute-of-limitations defense; and

c. Any prosecution, including the prosecution that is the subject of this agreement, may be premised upon any information provided, or statements made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before or after the date of this agreement, including the Statement of Facts accompanying this agreement or adopted by the defendant and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), the Sentencing Guidelines or any other provision of the Constitution or federal law.

Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence.

15. Nature of the Agreement and Modifications

This written agreement, and any addenda thereto, constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and the defendant's attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, and any addenda thereto, to cause the defendant to plead guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

G. Zachary Terwilliger
United States Attorney

By: ______________________________
Raj Parekh
Assistant United States Attorney

Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending Criminal Information. Further, I fully understand all rights with respect to Title 18, United States Code, Section 3553 and the provisions of the Sentencing Guidelines Manual that may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and voluntarily agree to it.

Date: 7/10/2020 ______________________________
WILLIAM ANDERSON BURGAMY IV
Defendant

Defense Counsel Signature: I am counsel for the defendant (WILLIAM ANDERSON BURGAMY IV) in this case. I have fully explained to the defendant the defendant's rights with respect to the pending Criminal Information. Further, I have reviewed Title 18, United States Code, Section 3553 and the Sentencing Guidelines Manual, and I have fully explained to the defendant the provisions that may apply in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date: 7/10/2020 ______________________________
Elizabeth Mullin, Esq.
Counsel for the Defendant