

AF Approval 

Chief Approval 

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:19-cr-380-T-30CPT

DAVID ALLEN BOILEAU

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by Maria Chapa Lopez, United States Attorney for the Middle District of Florida, and the defendant, David Allen Boileau, and the attorney for the defendant, Adam Allen, Esq., mutually agree as follows:

A. Particularized Terms

1. Count Pleading To

The defendant shall enter a plea of guilty to Count One of the Information. Count One charges the defendant with Interference with Housing Rights, in violation of 42 U.S.C. § 3631(a) and (c).

2. Maximum Penalties

Count One carries a maximum sentence of one year imprisonment, a maximum fine of \$100,000, a term of supervised release of not more than one year, and a special assessment of \$25. With respect to certain offenses, the

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Court shall order the defendant to make restitution to any victim of the offense, and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offenses, or to the community, as set forth below.

3. Elements of the Offense

The defendant acknowledges understanding the nature and elements of the offense with which defendant has been charged and to which defendant is pleading guilty. The elements of Count One are:

First: the defendant used or threatened force;

Second: the defendant willfully intimidated, injured, or interfered with, or attempted to intimidate, injure, or interfere with, a victim;

Third: because of the victim's race, color, religion, sex, handicap, familial status, or national origin; and

Fourth: because the victim was enjoying a housing right, to wit, occupying a dwelling.

4. Indictment Waiver

Defendant will waive any right to be charged for this offense by way of Indictment before a federal grand jury.

5. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

6. Mandatory Restitution to Victim of Offense of Conviction

The defendant acknowledges that pursuant to 18 U.S.C. § 3663A, the Court shall order the defendant to make restitution to the victim of the offense. The Court will determine restitution at the time of sentencing, or within 90 days of the sentencing hearing.

7. Guidelines Sentence

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States will recommend to the Court that the defendant be sentenced within the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines, as adjusted by any departure the United States has agreed to recommend in this plea agreement. The parties understand that such a recommendation is not binding on the Court and that, if it is not accepted by this Court, neither the United States nor the defendant

will be allowed to withdraw from the plea agreement, and the defendant will not be allowed to withdraw from the plea of guilty.

8. Acceptance of Responsibility – Two or Three Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will not oppose the defendant's request to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant's offense level prior to operation of subsection (a) is level 16 or greater, and if the defendant complies with the provisions of USSG §3E1.1(b) and all terms of this Plea Agreement, including but not limited to, the timely submission of the financial affidavit referenced in Paragraph B.5., the United States agrees to file a motion pursuant to USSG §3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot

and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

B. Standard Terms and Conditions

1. Restitution, Special Assessment and Fine

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663A, for all offenses described in 18 U.S.C. § 3663A(c)(1); and the Court may order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. The defendant further understands that compliance with any restitution payment plan imposed by the Court in no way precludes the United States from simultaneously pursuing other statutory remedies for collecting restitution (28 U.S.C. § 3003(b)(2)), including, but not limited to, garnishment and execution, pursuant to the Mandatory Victims Restitution Act, in order to ensure that the defendant's restitution obligation is satisfied.

On each count to which a plea of guilty is entered, the Court shall impose a special assessment pursuant to 18 U.S.C. § 3013. The special assessment is due on the date of sentencing.

The defendant understands that this agreement imposes no limitation as to fine.

2. Supervised Release

The defendant understands that the offense to which the defendant is pleading provides for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

3. Immigration Consequences of Pleading Guilty

The defendant has been advised and understands that, upon conviction, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

4. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities,

if any, not limited to the count(s) to which defendant pleads, to respond to comments made by the defendant or 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 to any limitations set forth herein, if any.

5. Financial Disclosures

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit to the United States Attorney's Office within 30 days of execution of this agreement an affidavit reflecting the defendant's financial condition. The defendant promises that his financial statement and disclosures will be complete, accurate and truthful and will include all assets in which he has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, dependent, nominee or other third party. The defendant further agrees to execute any documents requested by the United States needed to obtain from any third parties any records of assets owned by the defendant, directly or through a nominee, and, by the execution of this Plea Agreement, consents to the release of the defendant's tax returns for the previous five years. The defendant similarly agrees and authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office, the

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financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court. The defendant expressly authorizes the United States Attorney's Office to obtain current credit reports in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

6. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw

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defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

7. Defendant's Waiver of Right to Appeal the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by 18 U.S.C. § 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. § 3742(a).

8. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

9. Filing of Agreement

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

10. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense or offenses to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation

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and advice received from defendant's undersigned counsel (if any). The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense or offenses to which defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel (if any), defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offenses to which defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

11. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty. The defendant certifies that defendant does hereby admit that the facts set forth in

the attached "Factual Basis," which is incorporated herein by reference, are true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

FACTS

From January 2019, through March 2019, David Allen Boileau used force and threatened the use of force to intimidate and interfere with R.A.— a Muslim woman originally from the Republic of Iraq—because of R.A.'s religion and national origin and because she had been occupying her dwelling in Boileau's neighborhood. R.A. is a widowed, single mother of four children who had immigrated to the United States from Iraq in 2015 through a refugee visa. After immigrating to the United States, R.A. purchased a house for her family on Pinehurst Drive in Holiday, Florida, which is within the Middle District of Florida. Upon learning that R.A. was a Muslim and of Middle Eastern heritage, Boileau immediately suspected R.A. was a member of ISIS and took several actions aimed at intimidating R.A. and interfering with her peaceful and legal occupation of her dwelling.

The actions taken by Boileau to intimidate R.A. because of her religion and country of origin included:

- (a) On January 21, 2019, Boileau tossed a handful of metal screws onto a car parked on R.A.'s property.

(b) On January 21, 2019, Boileau verbalized negative and derogatory comments to his neighbor, L.C., about R.A. and Iraqis, including how they do not belong in the United States.

(c) On January 22, 2019, Boileau peered into R.A.'s yard through her privacy fence and into her residence.

(d) On January 22, 2019, Boileau opened R.A.'s mailbox and examined the mail inside her mailbox.

(e) On January 22, 2019, Boileau entered R.A.'s fenced, back yard without invitation.

(f) On January 22, 2019, Boileau knocked on the front window of R.A.'s residence, yelled "hey," and looked into her front window.

(g) On January 22, 2019, Boileau entered R.A.'s residence through the unlocked backdoor without invitation, walked around her residence, looked into each of her rooms, and eventually exited through R.A.'s front door.

In addition to the above-described actions, on January 21 and January 22, 2019, law enforcement and several of R.A.'s neighbors reported hearing Boileau make these statements:

- (a) “The U.S. needs to rid the country of all of them.” (referring to R.A. and people of Middle Eastern heritage that practice the Muslim faith)
- (b) “We will get rid of them one way or another.” (referring to R.A. and people of Middle Eastern heritage that practice the Muslim faith)
- (c) “[Boileau] will take care of that family.” (referring to R.A. and her family)
- (d) “There are dirty people that live in that house.” (referring to R.A. and her family).

Boileau’s pattern of conduct toward R.A. continued from January 21, 2019, to March 2019. In the course of that conduct, Boileau used his presence and gestures to convey physically-threatening messages to R.A. and her family. For example, on March 18, 2019, R.A. was standing outside her house with her children speaking to a friend when Boileau approached them and yelled “get the fuck out of my country!” and “get the fuck out of my neighborhood!” At the time, Boileau was using both of his hands to signal R.A. and her friend to come towards him. Feeling intimidated by Boileau’s words and arm gestures, R.A. and her friend grabbed R.A.’s children and ran inside R.A.’s house.

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Between January 21, 2019 and March 2019, Boileau acquired a shotgun and ammunition from a neighbor, which he obtained to “protect himself” from R.A. and her family who he believed were terrorists and members of ISIS. When questioned by law enforcement, Boileau stated that he believed R.A. was a “terrorist” and a member of “ISIS.” He confirmed that the above-described conduct towards R.A. and her family was aimed at “get[ing] them to move.”

As a result of Boileau’s conduct, R.A. was terrified and extremely concerned for her family’s safety. R.A. reported that her children were scared to be in their own house—one child was even afraid to go to the bathroom alone in their home and another child reported being scared that someone was looking in the windows. At one point, R.A. and her children left their house to stay at R.A.’s parents’ house because they did not feel safe in their home. R.A.’s son no longer walked to the school bus stop and R.A.’s sister no longer visited R.A. at R.A.’s house because of their fear of Boileau.

12. Entire Agreement

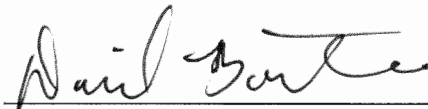
This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

13. Certification

The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that defendant fully understands its terms.

DATED this 4 day of September, 2019.

MARIA CHAPA LOPEZ
United States Attorney



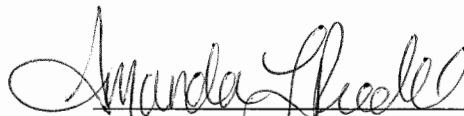
David Allen Boileau
Defendant



Francis D. Murray
Assistant United States Attorney



Adam Allen
Attorney for Defendant



Amanda L. Riedel
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Acting Chief, Special Victims Section