

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v.

CASE NO.3:15-cr-93-J-32MCR

ESTHELA CLARK

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by A. Lee Bentley, III, United States Attorney for the Middle District of Florida, and the defendant, Esthela Clark, and the attorney for the defendant, Thomas M. Bell, Esquire, mutually agree as follows:

A. Particularized Terms

1. Count Pleading To

The defendant shall enter a plea of guilty to Count Seven of the Indictment. Count Seven charges the defendant with forced labor, in violation of 18 U.S.C. § 1589(a).

2. Maximum Penalties

Count Seven carries a maximum sentence of not more than twenty (20) years' imprisonment, a fine of not more than \$250,000, or both the maximum imprisonment and the maximum fine, a term of supervised release of not more

Defendant's Initials E . C

AF Approval BA

than three (3) years, and a special assessment of \$100. A violation of the terms and conditions of supervised release carries a maximum sentence of not more than two (2) years' imprisonment as well as the possibility of an additional term of supervised release. With respect to certain offenses, the 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 offense, 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 Seven are:

- First: The defendant provided or obtained the labor or services of a person;
- Second:
- (a) through threats of serious harm to, or physical restraint against, that person or another person; or
 - (b) through a scheme, plan, or pattern intended to cause the person to believe that non-performance would result in serious harm to, or physical restraint against, that person or another person; or
 - (c) through the abuse or threatened abuse of the law or legal process; and

Third: The defendant acted knowingly.

4. Counts Dismissed

At the time of sentencing, the remaining counts against the defendant, Counts One through Six, Eight and Nine, will be dismissed pursuant to Fed. R. Crim. P. 11(c)(1)(A).

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. Guideline Stipulation

The United States and the Defendant stipulate and agree that the advisory guideline applicable to the Defendant's offense of conviction shall be USSG §2H4.1. The Defendant understands that this stipulation is not binding on the Court, and if the Court does not accept this stipulation, the Defendant shall not be free to withdraw her guilty plea.

7. Mandatory Restitution to Victim of Offense of Conviction

Pursuant to 18 U.S.C. § 1593, defendant agrees to make full restitution to Y.L. in an amount either agreed upon prior to sentencing or in an amount to be determined by the Court at sentencing.

8. Acceptance of Responsibility - 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 recommend 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.

9. Forfeiture of Assets

On January 12, 2016, the United States Department of Homeland Security, U.S. Customs & Border Protection, completed an administrative forfeiture of a 2003 aluminum/silver Chevrolet Avalanche truck, Florida Tag No. H721PV, VIN 3GNEC13T73G317421, which it alleges was used to commit or to facilitate the commission of the offense charged in Count Seven of the Indictment.

The defendant did not contest the administrative forfeiture of these assets and expressly waives any right he may have to challenge such forfeiture.

The defendant also hereby agrees that the forfeiture described herein is not excessive and, in any event, the defendant waives any constitutional claims that the defendant may have that the forfeiture constitutes an excessive fine. Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty this Court may impose upon the defendant in addition to forfeiture.

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 (18 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(s) to which the defendant is pleading provide(s) 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 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 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 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.

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 24 day of March, 2017.

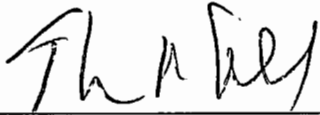
A. LEE BENTLEY, III
United States Attorney



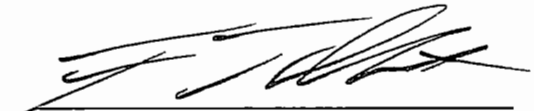
ESTHELA CLARK
Defendant



LAURA COFER TAYLOR
Assistant United States Attorney
Jacksonville Division



THOMAS M. BELL
Attorney for Defendant



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Acting Chief, Jacksonville Division

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PERSONALIZATION OF ELEMENTS

1. Between on or about November 27, 2012, and on or about January 12, 2015, at Duval County, in the Middle District of Florida, Missouri, and elsewhere, did you provide or obtain the labor or services of Y.L.?
2. Did you do so through threats of serious harm to, or physical restraint against, Y.L. or another person; through a scheme, plan, or pattern intended to cause Y.L. to believe that non-performance would result in serious harm to, or physical restraint against, Y.L. or another person; or through the abuse or threatened abuse of the law or legal process?
3. Did you act knowingly?

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FACTUAL BASIS

The investigation of the defendant, Esthela Clark ("Clark") began when a detective from the Jacksonville Sheriff's Office made contact with Homeland Security Investigations ("HSI"). The detective advised that a concerned citizen had contacted him about her dealings with the victim identified in the indictment, Y.L. The concerned citizen subsequently spoke with HSI agents and relayed information regarding her observations of Clark's treatment of Y.L. Based upon this information, HSI began its investigation.

Agents subsequently interviewed Y.L. During those interviews, Y.L. relayed that she was 26 years old (in 2015), and she was from Guadalajara, Jalisco, Mexico. She had no identification with her at the time because Clark had taken her identification. Y.L. arrived in Jacksonville on December 2, 2012, after Clark paid "coyotes" to smuggle Y.L. into the United States. Y.L. reported that she met Clark through a friend in Mexico. Clark explained to Y.L. that Clark and

Defendant's Initials E. C.

her boyfriend were looking for a woman to be a surrogate mother. The plan was for the surrogate to come to the United States, and the surrogacy would take place in a legal and medically supervised fashion. The surrogacy would include legal adoption papers and full medical care. Once Y.L. delivered a child, Y.L. would be paid three to four thousand dollars and returned to Mexico.

Y.L. agreed to this arrangement, and prior to departing Mexico, Clark had Y.L. visit a medical doctor in Mexico to insure Y.L. could bear a child. Once Y.L. agreed, Clark provided Y.L. with bus fare from Guadalajara to the border of the United States. The bus transport is corroborated by a copy of Y.L.'s bus ticket. Y.L. left her home on November 27, 2012, and Y.L. arrived in the United States in Jacksonville on December 2, 2012. The journey from Mexico to the United States was accomplished through smugglers, and Y.L. provided the telephone numbers of her smugglers. Y.L. advised that she was instructed to phone Clark from these numbers during periods of the journey, and Clark would facilitate payments to the smugglers at different stages of the journey. Analysis of toll records confirmed contact between a number associated with Clark and a number provided for one of the smugglers as well as between the smugglers during the relevant time periods. In addition, financial investigation revealed a \$500 Money Gram that Y.L. obtained in Houston, Texas, when she arrived there.

Once Y.L. arrived in Jacksonville, Y.L. began staying with Clark in a one-bedroom condominium off of Arlington Expressway. Clark told Y.L. that she was not allowed to leave because Y.L. spoke no English, the area was dangerous, and Y.L. would most likely be killed. Clark also advised Y.L. that Clark read Tarot cards, and if Y.L. ever tried to hide anything from Clark, Clark would find out. During the time that Y.L. resided with Clark in the condominium, Y.L. slept on a mattress on the dining room floor.

Y.L. relayed that Clark began trying to inseminate Y.L. about a week after Y.L. arrived in the United States. Contrary to what Clark told Y.L. in Mexico, no medical supervision took place. Instead, Clark's boyfriend and Clark would engage in sex, Clark's boyfriend would ejaculate into a condom, and Clark would then use a syringe to try to inseminate Y.L. on the dining room floor. This would take place three to four times per day during periods when Y.L. was ovulating. These attempts continued until approximately September 2013. Although Y.L. never visited a doctor, Y.L. did visit the All Women's Health Center in February and March 2013. The records maintained by that center included a photocopy of Y.L.'s Mexican voter registration card described below.

By March 2013, Y.L. had not conceived a child, and Clark became psychologically and physically abusive. Clark used these tools to force Y.L. to engage in domestic labor for Clark. Y.L. advised that she was like a "maid: for

Clark. Y.L. was responsible for caring for Clark's dog, doing household chores, cleaning, and doing Clark's shopping, all without pay. Y.L provided numerous examples of Clark's abuse. For example, Clark advised Y.L. that she was not conceiving because she was too fat. Clark would not permit Y.L. to eat anything other than beans, and Y.L. lost 65 pounds. Photographs of Y.L. prior to leaving Mexico and after Y.L. was no longer with Clark document the significant weight loss. Clark also told Y.L. that if she attempted to escape, Clark would insure that her family and child in Mexico would be harmed. Clark would prohibit Y.L. from changing clothes for long periods of time. Clark would often force Y.L. to undress because Clark was paranoid. Y.L. also relayed that Clark had been physically violent to her on four to five occasions when Y.L. refused to comply with Clark's instructions. On the last occasion, I.M. observed and photographed the injuries from this violence. The photographic depiction of Y.L.'s injury took place on January 27, 2015.

At one point, Clark and her boyfriend travelled to Missouri where Clark's boyfriend had work. At some point during this stay, a man named Juan Pablo learned of Y.L.'s plight and provided her with money and a phone to facilitate communication with Y.L.'s family. When Clark learned of this, Clark took the phone and money away and beat Y.L. Y.L.'s mother corroborated that she

received a concerned call on her phone from a man named Juan Pablo who was concerned about Y.L.'s plight.

At another point while she was with Clark, Y.L.'s brother contacted Clark about Y.L. Clark advised Y.L.'s brother that Y.L. owed her \$3,000, the cost of bringing Y.L. to America, but that the debt was now thousands of dollars more.

At yet another point while Y.L. was with Clark, Clark assisted in obtaining false identification documents for Y.L. so that Y.L. could earn money in outside employment as well. Using a false social security card that Clark provided, Y.L. obtained brief employment with two Mexican restaurants. One paid Y.L. in cash, and financial records from another establish payments of \$570.96 to Y.L. under a false name and social security number.

Clark also confiscated Y.L.'s Mexican birth certificate from Y.L. Clark obtained the birth certificate from Y.L. in Mexico by telling Y.L. that Clark needed the birth certificate to obtain a passport for Y.L. Clark never obtained a passport, but refused on multiple occasions to return Y.L.'s birth certificate. In addition, after Y.L.'s interactions with the man she knew as Juan Pablo, Clark told Y.L. that she needed Y.L.'s Mexican voter's registration card because Juan Pablo was pressing charges against her, and Clark's boyfriend had to pay between \$3,000 and \$6,000 for a bond to keep Y.L. out of jail. A check of Missouri court records revealed that no charges were ever lodged against Y.L. in Missouri.

In December 2014, I.M. permitted Y.L. to use I.M.'s mobile phone to contact Y.L.'s family in Mexico. During this call, Y.L.'s family members informed Y.L. that Clark had met with them, told them that Y.L. had a new boyfriend, that Y.L. no longer lived with Clark, and that Y.L. wanted nothing to do with Y.L.'s family anymore.

An HSI agent in Mexico also interviewed Y.L.'s family members. During these interviews, Y.L.'s sister corroborated why Y.L. had gone to America. Y.L.'s mother and sisters also relayed that they had confronted Clark about their family member during one of Clark's trips to Mexico. One of Y.L.'s sisters had recorded the interaction. The sister advised that Clark informed them that Y.L. could not speak with her family because that caused stress which interfered with the attempts at insemination. At one point on the recording, Clark permits Y.L.'s family members to speak to Y.L., and Y.L. can be heard crying.