

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

STEVEN RILEY

No. 15 CR 119

Judge Virginia Kendall

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, ZACHARY T. FARDON, and defendant STEVEN RILEY, and his attorney, GARY RAVITZ, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The indictment in this case charges defendant with unlawfully engaging in the business of dealing in firearms, in violation of Title 18, United States Code, Section 922(a)(1)(A) (Count One), and possession of a firearm by a convicted felon, in violation of Title 18, United States Code, Section 922(g)(1) (Counts Two through Seven).

3. Defendant has read the charges against him contained in the indictment, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes with which he has been charged.

Charges to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to Count Three of the indictment, which charges defendant with possession of a firearm by a convicted felon, in violation of Title 18, United States Code, Section 922(g)(1).

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in Count Three of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt and constitute relevant conduct under Guideline § 1B1.3:

On or about November 10, 2014, at Palos Hills, in the Northern District of Illinois, Eastern Division, STEVEN RILEY, previously having been convicted of a crime punishable by a term of imprisonment exceeding one year, did knowingly possess, in and affecting interstate commerce, a firearm, namely, a Marlin Model 336 30-30 rifle with an obliterated serial number; a Browning Gold Model 20-gauge shotgun bearing serial number 114MV01301; and a Winchester Model 94 30-30 rifle with an obliterated serial number; which firearm had traveled in interstate commerce prior to the defendant's possession of the firearm, in violation of Title 18, United States Code, Section 922(g)(1).

Specifically, on or about November 10, 2014, RILEY met with an individual in Palos Hills, Illinois, who unbeknownst to RILEY, was a confidential informant (the "CI") who was working at the direction of law enforcement agents from the

Bureau of Alcohol, Tobacco, Firearms and Explosives. On that day, RILEY possessed a Marlin Model 336 30-30 rifle with an obliterated serial number, a Browning Gold Model 20-gauge shotgun bearing serial number 114MV01301, a Winchester Model 94 30-30 rifle with an obliterated serial number, and 40 rounds of assorted ammunition. RILEY sold the Marlin rifle, the Browning shotgun, the Winchester rifle, and 40 rounds of assorted ammunition to the CI in exchange for \$2,500. RILEY acknowledges that all three of these firearms were manufactured outside of the State of Illinois, and therefore affected interstate commerce during at least one point in time.

RILEY further acknowledges that at the time he sold these firearms to the CI, he had previously been convicted of a crime punishable by a term of imprisonment exceeding one year. Specifically, on or about October 15, 2010, RILEY pled guilty to Possession of a Controlled Substance in violation of 720 ILCS 570/402(c), a Class 4 felony, punishable by more than one year imprisonment. On or about March 21, 2012, RILEY pled guilty to Manufacture or Delivery of a Controlled Substance in violation of 720 ILCS 570/401(d)(i), a Class 2 felony, punishable by more than one year imprisonment.

In addition, between on or about October 31, 2014, and on or about February 19, 2015, RILEY possessed and sold other firearms and assorted amounts of ammunition to the CI. RILEY had reason to believe that the firearms that he sold to the CI would be transported out of the United States because this is what the CI told RILEY would happen.

On or about October 31, 2014, the CI met with RILEY, who possessed a Winchester Model 101 12-gauge over under double barrel shotgun. RILEY sold the Winchester shotgun with an obliterated serial number to the CI in exchange for \$800.

On or about November 25, 2014, the CI met with RILEY, who possessed a Smith and Wesson Model B 30-60 caliber rifle, a Winchester Model 88 308 caliber rifle, and 21 rounds of Winchester-Western ammunition. RILEY sold the Smith and Wesson rifle with an obliterated serial number, the Winchester rifle with an obliterated serial number, and 21 rounds of Winchester-Western ammunition to the CI in exchange for \$1,800.

On or about December 23, 2015, the CI again met RILEY, who possessed a Savage Arms Model Stevens 58B 410 gauge bolt action shotgun. RILEY sold the Savage Arms shotgun to the CI in exchange for \$400.

On or about February 19, 2015, the CI met with RILEY, who possessed a Smith and Wesson Model 37 Airweight .38 Special 5-shot revolver bearing serial number 367047, and 10 rounds of ammunition, which RILEY sold to the CI in exchange for \$600.

On or about March 10, 2015, RILEY possessed a loaded Colt Model M1911A1 .45 caliber semi-automatic pistol bearing serial number CV01607, a loaded Walther Model P99 semi-automatic pistol with an obliterated serial number, and assorted ammunition. On that day, law enforcement executed a search warrant at RILEY's

residence in Hickory Hills, Illinois, and recovered these weapons from his possession.

Maximum Statutory Penalties

7. Defendant understands that the charge to which he is pleading guilty carry the following statutory penalties:

a. A maximum sentence of 10 years' imprisonment. This offense also carries a maximum fine of \$250,000. Defendant further understands that the judge also may impose a term of supervised release of not more than three years.

b. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the charge to which he has pled guilty, in addition to any other penalty or restitution imposed.

Sentencing Guidelines Calculations

8. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

9. For purposes of calculating the Sentencing Guidelines, the parties agree and disagree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the

Guidelines Manual currently in effect, namely the November 2015 Guidelines Manual.

b. Offense Level Calculations.

i. Pursuant to Guideline § 2K2.1(a)(4)(A), the base offense level is 20 because the defendant committed the instant offense subsequent to sustaining one felony conviction of a controlled substance offense, namely the conviction set forth below in paragraph 9(c)(iii).

ii. Pursuant to Guideline § 2K2.1(b)(1)(B), the offense level is increased by 4 because the offense including relevant conduct involved between 8 and 24 firearms;

iii. Pursuant to Guideline § 2K2.1(b)(4)(B), the offense level is increased by 4 because at least one of the firearms had an altered or obliterated serial number;

iv. It is the government's position that the offense level should be increased by 4 pursuant to Guideline § 2K2.1(b)(5) because the defendant engaged in trafficking of firearms. Defendant disagrees that this enhancement applies. Both parties are free to present evidence and argument as to their respective positions at sentencing;

v. Pursuant to Guideline § 2K2.1(b)(6)(A), the offense level is increased by 4 because defendant transferred the firearms with reason to believe that the firearms would be transported out of the United States.

vi. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

vii. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government and stipulated below, defendant's criminal history points equal 3 and defendant's criminal history category is II:

i. On or about June 2, 2010, defendant was sentenced to 18 months' supervision in the Circuit Court of McLean County, as a result of a

conviction for Consumption of Liquor by a Minor. Pursuant to Guideline § 4A1.2(c)(2), defendant receives zero criminal history points for this conviction.

ii. On or about October 15, 2010, defendant was sentenced to 24 months' probation in the Circuit Court of Cook County, as a result of a conviction for Possession of a Controlled Substance. Pursuant to Guideline § 4A1.1(c), defendant receives one criminal history point for this conviction.

iii. On or about March 21, 2012, defendant was sentenced to 24 months' probation in the Circuit Court of Cook County, as a result of a conviction for Manufacture or Delivery of a Controlled Substance. Pursuant to Guideline § 4A1.1(c), defendant receives one criminal history point for this conviction.

iv. On or about June 17, 2013, defendant was sentenced to 4 months' supervision in the Circuit Court of Cook County, as a result of a conviction for Retail Theft. Pursuant to Guideline § 4A1.1(c), defendant receives one criminal history point for this conviction.

d. Anticipated Advisory Sentencing Guidelines Range.

Based on the facts now known to the government, it is the government's position that the anticipated offense level is 33, which, when combined with the anticipated criminal history category of II, results in an anticipated advisory sentencing guidelines range of 151 to 188 months' imprisonment, but pursuant to Guideline § 5G1.1(a), the applicable guideline sentence is the statutory maximum sentence of 120 months' imprisonment, in addition to any term of supervised release, fine, and restitution the Court may impose. It is defendant's position that the anticipated

offense level is 29, which, when combined with the anticipated criminal history category of II, results in an anticipated advisory sentencing guidelines range of 97 to 120 months' imprisonment, pursuant to Guideline § 5G1.1(c)(1), in addition to any supervised release, fine, and restitution the Court may impose.

e. Defendant and his attorney and the government acknowledge that the above guidelines calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional guidelines provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

10. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement

will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

11. Each party is free to recommend whatever sentence it deems appropriate.

12. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

13. The parties further agree, pursuant to Title 18, United States Code, Section 3583(d), that the sentence to be imposed by the Court shall include, as a condition of any term of supervised release or probation imposed in this case, a requirement that defendant repay the United States \$6,100 as compensation for government funds that defendant received during the investigation of the case.

14. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

15. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code,

Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

16. After sentence has been imposed on the count to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment as to defendant.

Forfeiture

17. Defendant acknowledges that on or about April 27, 2015, administrative forfeiture proceedings were commenced against certain property, including a Colt Model M1911A1 .45 caliber semi-automatic pistol bearing serial number CV01607; a Walther Model P99 semi-automatic pistol with an obliterated serial number; and 1,872 rounds of ammunition. By signing this plea agreement, defendant acknowledges that he had notice of the administrative forfeiture proceeding, relinquishes any right, title, and interest he may have had in this property, and understands that declarations of forfeiture have been or will be entered, thereby extinguishing any claim he may have had in the seized property.

18. Defendant understands that forfeiture shall not be treated as satisfaction of any fine, cost of imprisonment, or any other penalty the Court may impose upon defendant in addition to the forfeiture judgment.

19. Defendant agrees to waive all constitutional, statutory, and equitable challenges in any manner, including, but not limited to, direct appeal or a motion brought under Title 28, United States Code, Section 2255, to any forfeiture carried out in accordance with this agreement on any grounds, including that the forfeiture

constitutes an excessive fine or punishment. The waiver in this paragraph does not apply to a claim of involuntariness or ineffective assistance of counsel. Defendant further agrees not to challenge or seek review of the civil or administrative forfeiture of any property identified in this agreement subject to forfeiture, and will not assist any third party with regard to such challenge or review.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

20. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 15 CR 119.

21. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

Waiver of Rights

22. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering

each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

viii. With respect to forfeiture, defendant understands that if the case were tried before a jury, he would have a right to retain the jury to determine whether the government had established the requisite nexus between the defendant's offense and any specific property alleged to be subject to forfeiture.

b. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial, and may only appeal the validity of this plea of guilty and the sentence

imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

23. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

24. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

25. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for

obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

26. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

27. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

28. Defendant understands that, if convicted, 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.

Conclusion

29. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

30. Defendant understands that his compliance with each part of this Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

31. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

32. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

33. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

ZACHARY T. FARDON
United States Attorney

STEVEN RILEY
Defendant

JORDAN M. PALMORE
Assistant U.S. Attorney

GARY RAVITZ
Attorney for Defendant