

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA

v.

SETH LASHAWN HUNTER

No. 18 CR 50072

Judge Frederick J. Kapala

**PLEA AGREEMENT**

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, JOHN R. LAUSCH, JR., and defendant SETH LASHAWN HUNTER, and his attorney, JILL TRANEL, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

**Charges in This Case**

2. The indictment in this case charges defendant with attempted possession with intent to distribute 100 grams or more of heroin, in violation of Title 21, United States Code, Section 846 (Count One); and attempted possession with intent to distribute fentanyl, in violation of Title 21, United States Code, Section 846 (Count Two).

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 the following counts of the indictment: Count One, which charges defendant with attempted possession with intent to distribute 100 grams or more of heroin, in violation of Title 21, United States Code, Section 846; and Count Two, which charges defendant with attempted possession with intent to distribute fentanyl, in violation of Title 21, United States Code, Section 846.

### **Factual Basis**

6. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts One and Two 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 pursuant to Guideline § 1B1.3:

a. With respect to Count One of the indictment and relevant conduct:

On or about June 25, 2018, at Rockford, in the Northern District of Illinois, Western Division, defendant did attempt to knowingly and intentionally possess with intent to distribute a controlled substance, namely 100 grams or more of a mixture and substance containing a detectable amount of heroin, a Schedule I Controlled Substance, in violation of Title 21, United States Code, Section 841(a)(1), all in violation of Title 21, United States Code, Section 846.

On or about June 20, 2018, defendant arranged for Individual A, whose identity is known to defendant, to ship a package containing approximately 250 grams of heroin from Long Beach, California to defendant in Rockford, Illinois via the United States Postal Service. Defendant arranged for the package to be delivered to a fictitious person, namely “Curtis Reynolds,” at the address of defendant’s sister’s residence on Orchard Avenue in Rockford. Defendant arranged for his sister to accept the package on defendant’s behalf and to keep the package for defendant until he could travel to Rockford to retrieve it. Defendant traveled to Rockford over the weekend of June 22-24, 2018 to retrieve the package of heroin. Law enforcement officers, however, intercepted the package before it was delivered to defendant’s sister’s residence. Defendant intended to distribute the heroin contained in the package after he received the package. Between March 2018 and May 2018, defendant arranged to have additional packages shipped from various California cities via the United States Postal Service to his sister’s residence in Rockford under the fictitious name, “Curtis Reynolds.”

b. With respect to Count Two of the indictment:

On or about June 25, 2018, at Rockford, in the Northern District of Illinois, Western Division, defendant did attempt to knowingly and intentionally possess with intent to distribute a controlled substance, namely a mixture and substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide), a Schedule II Controlled Substance, in violation of Title

21, United States Code, Section 841(a)(1), all in violation of Title 21, United States Code, Section 846.

On or about June 20, 2018, defendant arranged for Individual A, whose identity is known to defendant, to ship a package containing approximately 998 pills designed to look like pharmaceutically-manufactured oxycodone but containing detectable amounts of fentanyl and acetyl fentanyl from Long Beach, California to defendant in Rockford, Illinois via the United States Postal Service. Defendant arranged for the package to be delivered to a fictitious person, namely “David Smith,” at the address of a residence of defendant’s family member on Westchester Drive in Rockford. Defendant traveled to Rockford over the weekend of June 22-24, 2018 to retrieve the package containing fentanyl and acetyl fentanyl pills. Law enforcement officers, however, intercepted the package before it was delivered to defendant’s family member’s residence. Defendant intended to distribute the pills containing fentanyl and acetyl fentanyl contained in the package after he received the package.

**Maximum Statutory Penalties**

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

a. Count One carries a maximum sentence of 40 years’ imprisonment, and a statutory mandatory minimum sentence of 5 years. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a term of probation on this count. Count One also carries a maximum fine of \$5,000,000.

Defendant further understands that with respect to Count One the judge also must impose a term of supervised release of at least four years, and up to any number of years, including life.

b. Count Two carries a maximum sentence of 20 years' imprisonment. Count Two also carries a maximum fine of \$1,000,000. Defendant further understands that with respect to Count Two, the judge also must impose a term of supervised release of at least three years, and up to any number of years, including life.

c. Pursuant to Title 18, United States Code, Section 3013, defendant will be assessed \$100 on each count to which he has pled guilty, in addition to any other penalty imposed.

d. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is 60 years' imprisonment, and the minimum sentence is 5 years' imprisonment. In addition, defendant is subject to a total maximum fine of \$6,000,000, a period of supervised release, and special assessments totaling \$200.

#### **Sentencing Guidelines Calculations**

8. Defendant understands that in determining a sentence, the Court is obligated to calculate the applicable Sentencing Guidelines range, and to consider that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a), which include: (i) the nature and circumstances of the offense and the history and characteristics of the defendant; (ii)

the need for the sentence imposed to reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense, afford adequate deterrence to criminal conduct, protect the public from further crimes of the defendant, and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (iii) the kinds of sentences available; (iv) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (v) the need to provide restitution to any victim of the offense.

9. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points, except as specified below:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of the offense. The following statements regarding the calculation of the Sentencing Guidelines are based on the November 2016 Guidelines Manual.

b. **Offense Level Calculations.**

i. Pursuant to Guideline § 3D1.2(d), Counts One and Two are to be grouped as closely related counts for purposes of the sentencing guidelines calculations. Under Guideline § 3D1.3(b), the offense level applicable to the group is the offense level corresponding to the aggregated quantity of controlled substances involved in the offenses.

ii. The base offense level for grouped Counts One and Two is at least 24, pursuant to Guideline §§ 2D1.1(a)(5) and (c)(8), because the offense involved a total amount of controlled substances equivalent to at least 100 kilograms of marijuana. Defendant acknowledges that the base offense level may increase beyond Level 24 based on additional laboratory test results and defendant's relevant conduct, among other things.

iii. The government reserves its right to argue that a 2 level enhancement for obstructing or impeding the administration of justice applies pursuant to Guideline § 3C1.1.

iv. If the Court determines at the time of sentencing that defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct 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 that may be imposed in this case, a two-level reduction in the offense level will be appropriate. The government reserves the right to take whatever position it deems appropriate at the time of sentencing with respect to whether defendant has accepted responsibility within the meaning of Guideline § 3E1.1(a).

v. If the Court determines that defendant has fully accepted responsibility within the meaning of Guideline § 3E1.1(a), and that the offense level is 16 or higher prior to the application of any reduction for acceptance of responsibility

pursuant to § 3E1.1(a), the government will move for an additional one-level reduction in the offense level pursuant to Guideline § 3E1.1(b) because 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.

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 5 and defendant's criminal history category is III:

i. On or about September 15, 1989, defendant was convicted in Winnebago County Circuit Court of misdemeanor battery, and was sentenced to conditional discharge. Pursuant to Guideline § 4A1.2(d), this conviction does not receive any criminal history points due to its age.

ii. On or about October 29, 1990, defendant was convicted in Winnebago County Circuit Court of burglary, and was sentenced to probation. Pursuant to Guideline § 4A1.2(e), this conviction does not receive any criminal history points due to its age.

iii. On or about December 9, 1991, defendant was convicted in Winnebago County Circuit Court of obtaining a substance by fraud. Pursuant to Guideline § 4A1.2(e), this conviction does not receive any criminal history points due to its age.

iv. On or about December 22, 1995, defendant was convicted in the United States District Court for the Central District of Illinois of conspiracy to distribute cocaine base and four counts of possession with intent to distribute cocaine base, and was sentenced to a total of 360 months' imprisonment followed by a total of 10 years' supervised release. On or about January 4, 2016, defendant's sentence was reduced to 315 months' imprisonment. This conviction receives 3 criminal history points pursuant to Guideline § 4A1.1(a).

v. An additional 2 criminal history points are added because defendant committed the instant offenses while under a criminal justice sentence, namely federal supervised release resulting from the conviction described in paragraph 9(c)(iv).

d. 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. Defendant understands that his admission of guilt in this case may be used against him in a proceeding to revoke his supervised release in United States District Court for the Central District of Illinois Case No. 1:94-CR-10006. Defendant

understands that any sentence imposed in Case No. 1:94-CR-10006 may be imposed consecutively to the sentence imposed in this case.

14. Defendant agrees to pay the special assessment of \$200 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

15. The government agrees not to file an information against defendant pursuant to Title 21, United States Code, Section 851 seeking enhancement of defendant's sentence on the basis of a prior conviction for a felony drug offense.

### **Acknowledgments and Waivers Regarding Plea of Guilty**

#### **Nature of Agreement**

16. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 18 CR 50072.

17. 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,

including the United States Attorney's Office for the Central District of Illinois, except as expressly set forth in this Agreement.

### **Waiver of Rights**

18. 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.

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.

19. 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**

20. 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.

21. 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.

22. For the purpose of monitoring defendant's compliance with his obligations to pay a fine during any term of supervised release 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 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**

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

24. 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.

25. Defendant understands that the government has the right to seek defendant's truthful testimony before a grand jury or a district court.

### **Conclusion**

26. 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.

27. 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.

28. 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.

29. 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.

30. 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: \_\_\_\_\_

\_\_\_\_\_  
JOHN R. LAUSCH, JR.  
United States Attorney

\_\_\_\_\_  
SETH LASHAWN HUNTER  
Defendant

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TALIA BUCCI  
Assistant U.S. Attorney

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JILL TRANEL  
Attorney for Defendant