

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA

v.

MARIO J. ANDERSON

No. 17 CR 50002-2

Judge Philip G. Reinhard

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, JOHN R. LAUSCH, JR., and defendant MARIO J. ANDERSON, and his attorney, BRENDAN CAVER, 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 superseding information in this case charges defendant with conspiracy to commit Hobbs Act robbery, in violation of Title 18, United States Code, Section 1951(a), Hobbs Act robbery, in violation of Title 18, United States Code, Section 1951(a) (Counts 2 and 3); and using, carrying and brandishing a firearm during and in relation to a crime of violence, in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii) (Count 4).

3. Defendant has read the charges against him contained in the superseding information, 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 superseding information: Count 1, which charges defendant with conspiracy to commit Hobbs Act robbery, in violation of Title 18, United States Code, Section 1951(a); Counts 2 and 3, which charge defendant with Hobbs Act robbery, in violation of Title 18, United States Code, Section 1951(a); and Count 4, which charges defendant with using, carrying and brandishing a firearm during and in relation to a crime of violence, in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii). In addition, as further provided below, defendant agrees to the entry of a forfeiture judgment.

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts 1, 2, 3 and 4 of the superseding information. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt, and establish a basis for forfeiture of the property described elsewhere in this Plea Agreement:

a. With respect to Count 1 of the superseding information:

Between at least December 10, 2016 and January 6, 2017, at Cherry Valley, in the Northern District of Illinois, Western Division, and elsewhere, defendant

conspired with Narcellus J. Taylor, Jr., also known as “J.T.” (“Taylor”) and Herman L. Doss, Jr., also known as “H.D.,” (“Doss”), and with others, to obstruct, delay, and affect commerce by robbery, as “commerce” and “robbery” are defined in Title 18, United States Code, Section 1951(b), that is to unlawfully take and obtain property from the person and in the presence of employees of several businesses against those employees’ will, by means of actual and threatened force, violence, and fear of injury to those employees. It was further part of the conspiracy that:

i. Taylor and others identified certain cellular telephone and electronic stores to target for robberies of cellular phones and computers, and selected and paid others including defendant and Doss, to commit the robberies at Taylor’s direction.

ii. Taylor directed and traveled with others, including defendant and Doss, to the robbery locations, and conducted surveillance and communicated with other individuals by cellular telephone while the robberies were ongoing.

iii. Defendant and others entered cellular telephone stores in order to steal cellular telephones and computers from the person and presence of store employees.

iv. After the robberies had been completed, Taylor collected the stolen cellular phones and laptop computers from defendant, Doss, and others

and transported the stolen items to Chicago where Taylor sold the stolen items to other individuals.

v. Taylor determined the amounts that each individual, including defendant and Doss, received from the proceeds of the sales of the cellular phones and computers taken during the robberies based on their respective roles in the robberies.

vi. On December 10, 2016, defendant, Taylor, and others robbed Simply Mac, located at 2710 LaPorte, Suite 140, Valparaiso, Indiana.

vii. On December 16, 2016, defendant, Taylor, Doss, and others robbed Simply Mac, located at 7200 Harrison Avenue, Cherry Valley, Illinois.

viii. On December 17, 2016, defendant, Taylor, Doss, and others robbed Simply Mac, located at 2710 LaPorte, Suite 140, Valparaiso, Indiana.

ix. On January 6, 2017, defendant, Taylor, Doss, and S.G. robbed Simply Mac, located at 7200 Harrison Avenue, Cherry Valley, Illinois.

All in violation of Title 18, United States Code, Section 1951(a).

b. With respect to Count 2 of the superseding information:

On December 16, 2016, at Cherry Valley, in the Northern District of Illinois, Western Division, defendant obstructed, delayed, and affected commerce by robbery, as “commerce” and “robbery” are defined in Title 18, United States Code, Section 1951(b), in that defendant, unlawfully took and obtained property from the person and in the presence of employees of Simply Mac, located at 7200 Harrison Avenue,

Cherry Valley, Illinois, against those employees' will, by means of actual and threatened force, violence, and fear of injury to those employees, in violation of Title 18, United States Code, Section 1951(a).

c. With respect to Count 3 of the superseding information:

On or about January 6, 2017, at Cherry Valley, in the Northern District of Illinois, Western Division, defendant obstructed, delayed, and affected commerce by robbery, as "commerce" and "robbery" are defined in Title 18, United States Code, Section 1951(b), in that defendant, unlawfully took and obtained property from the person and in the presence of employees of Simply Mac, located at 7200 Harrison Avenue, Cherry Valley, Illinois, against those employees' will, by means of actual and threatened force, violence, and fear of injury to those employees, in violation of Title 18, United States Code, Section 1951(a).

d. With respect to Count 4 of the superseding information:

On January 6, 2017, at Cherry Valley, in the Northern District of Illinois, Western Division, defendant, during and in relation to a crime of violence, namely the offense described in Count 3 of the superseding information, knowingly used, carried and brandished firearms, namely, a chrome Smith and Wesson, 9 mm semi-automatic pistol, Model 659 bearing serial number A806493 ("Smith and Wesson 9mm pistol"), a black Glock 19, 9mm semi-automatic pistol bearing serial number PPX492 ("Glock 9mm pistol"), a black Armscor of the Philippines Model M1911-A1 FS, .45 caliber semi-automatic pistol, bearing serial number RIA1582610 ("Armscor

pistol”), and a Charter Arms Bulldog, model 44 special, revolver, bearing serial number 920166 (“Charter Arms revolver”), in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

e. Specifically, regarding Counts 1 through 4 of the superseding information, between December 10, 2016 and January 6, 2017, defendant conspired with Taylor, Doss and others to commit robberies of retail stores and obtain computers and cell phones that defendant, Taylor, and Doss then sold to other individuals in Chicago, Illinois for cash. Taylor determined the amounts that each conspirator, including defendant and Doss, would receive from the proceeds of the sales of the computers and cell phones taken during the robberies based on their respective roles in the robberies.

f. As part of the conspiracy, on December 10, 2016, defendant, Taylor, B.P. and Y.O. drove from Chicago to the Valparaiso Simply Mac in defendant’s Chevy Equinox. B.P. had looked up the Valparaiso Simply Mac on her phone as a possible target. B.P. entered the store first and was on the phone with defendant, Taylor, and Y.O. Defendant and Taylor then entered the store, while Y.O. stayed in the car as the getaway driver. Defendant, Taylor, and B.P. forced employees into the back room and placed approximately \$50,000 worth of Mac Books and iPhones into laundry style bags that defendant and Taylor carried out of the store as they fled. Defendant, Taylor, and B.P. returned to the Equinox with the stolen items where Y.O. was waiting. Y.O. then drove the Equinox away from Valparaiso Simply Mac.

g. As part of the conspiracy, on December 15, 2016, defendant, Taylor and B.P. met. Defendant told Taylor that defendant was broke and needed money. Defendant, B.P. and Taylor checked news reports regarding the December 10, 2016 Valparaiso Simply Mac robbery on B.P.'s phone and Taylor's computer and learned that the investigating agency had indicated that they had no leads on suspects for that robbery. B.P. stated that she wanted to rob the Valparaiso Simply Mac again. Defendant, Taylor and B.P. then looked up Simply Mac stores in Michigan, Springfield and Cherry Valley, Illinois. Defendant, Taylor and B.P. discussed it and decided to rob the Cherry Valley Simply Mac on December 16, 2016.

h. As part of the conspiracy and with respect to Count 3 of the superseding information, on December 16, 2016, defendant, Taylor, Doss, B.P., P.W., H.D., T.H., C.T., K.B., and Y.O. traveled from Chicago to the Cherry Valley Simply Mac in Taylor's Equinox, Doss's Ford Taurus and Odom's Oldsmobile sedan. Defendant, Taylor and Doss waited outside in the vehicles while B.P., P.W., T.H., K.B., and Y.O. entered the store wearing masks and with their hands in their pockets to imply that they had guns. After entering the store, B.P., P.W., H.D., T.H., K.B., and Y.O. forced the employees to the back of the store and pepper sprayed some of the employees. They took two computers and fled when one of the employees told them he triggered the silent alarm. C.T. remained outside the store during the robbery and punched an employee who was returning to the store as the robbery was occurring. C.T. took the employee's cell phone after punching him.

i. As part of the conspiracy, after the December 16, 2016 robbery, defendant, Taylor, Doss, and B.P. returned to Taylor's residence in Chicago where they discussed robbing the Valparaiso Simply Mac again on December 17, 2016. After they discussed the fact that the store may have additional security after the first robbery, Doss suggested that they bring a gun for this robbery. Defendant and Taylor agreed and Doss agreed to bring his Smith and Wesson 9mm handgun to the robbery. On December 17, 2016, defendant, Taylor, Doss, P.W., T.H., C.T., and B.P. drove from Chicago to the Valparaiso Simply Mac in defendant's Chevy Equinox and Doss's Ford Taurus. On the way from Chicago to Valparaiso, defendant stated that they needed to tie up the employees in the store during the robbery, so they stopped and bought zip ties at a home repair store on the way. When they arrived at the Valparaiso Simply Mac, P.W. went into the store first and reported to B.P. that there was a security guard in the store. B.P. then used defendant's cellphone to call the police and report a false emergency at a local gas station to divert police attention away from the Valparaiso Simply Mac. Defendant, Taylor, Doss, C.T. and T.H. entered the store wearing masks. Taylor entered the store first and was carrying Doss's Smith and Wesson 9mm handgun. Defendant, Taylor, and Doss immediately approached the security guard and Taylor held Doss's gun on the security guard while Doss took the security guard's .40 caliber Glock handgun and then gave it to Taylor. After obtaining the security guard's gun, defendant, Taylor, Doss, C.T. and T.H. forced the security guard and other employees to the back room. Defendant and T.H. tied up

the store employees using the zip ties. Defendant, Taylor, Doss, C.T. and T.H. obtained 30 Mac Books, 15 iPads, 2 iPhones and 2 iWatches valued at approximately \$69,500 in addition to the security guard's .40 caliber Glock handgun. C.T. carried one of the camouflage bags containing the stolen items out of the store during the robbery. After the robbery, Taylor gave the security guard's .40 caliber handgun to defendant.

j. As part of the conspiracy, on January 5, 2017, defendant, Taylor, Doss, and S.G. planned to rob the Cherry Valley Simply Mac on January 6, 2017. Defendant recruited S.G. because they wanted another driver. Defendant, Taylor and Doss agreed to pay S.G. between \$300 and \$500 for her role in the robbery.

k. As part of the conspiracy and with respect to Counts 3 and 4 of the superseding information, on January 6, 2017, defendant, Taylor, Doss, and S.G. drove from Chicago to the Cherry Valley Simply Mac in defendant's Jeep Cherokee and Taylor's Cadillac sedan. Taylor drove the Jeep Cherokee with Doss as a passenger and followed defendant who was driving the Cadillac with S.G. as a passenger. Defendant, Taylor, and Doss, each brought firearms for use in the robbery. Defendant brought his Charter Arms revolver, Taylor brought his Glock 9mm pistol and Armscor pistol, and Doss brought his Smith and Wesson 9mm pistol. When they arrived at the Cherry Valley Simply Mac, S.G. went inside to check the security and while she was inside, she was on the phone with defendant. S.G. then left the store for a brief period before going back in a second time. While S.G. was

inside the store, defendant, Taylor, and Doss sat in the Jeep Cherokee and discussed taking one of the four handguns into the store. Doss agreed to take Taylor's Glock 9mm pistol into the store and defendant and Taylor agreed to carry the four laundry style bags into the store.

l. After S.G. came out of the store the second time and returned to the Cadillac, Taylor, and Doss entered the store. Doss displayed the Glock 9mm handgun and ordered the employees and customers in the store to go into the back room of the store. In the back room, Doss forced the three employees and two customers to face the wall. Defendant and Taylor went into an inventory room where they stole approximately 86 Apple products, including I-Phones and Apple computers, with a retail value in excess of \$80,000. They also took an I-Phone from each of the customers and from an employee.

m. After defendant, Taylor and Doss left the Simply Mac store, they loaded the stolen items into the Jeep Cherokee. Taylor drove the Jeep Cherokee with defendant and Doss as passengers. S.G. followed them in the Cadillac. They drove back towards Chicago and stopped for gas at a gas station in Carpentersville. Doss got out of the Jeep Cherokee at the gas station and left with S.G. in Taylor's Cadillac. When Taylor began driving away from the gas station, defendant and Taylor observed a state police vehicle in the gas station parking lot. Taylor attempted to flee from the state police trooper and drove the Jeep Cherokee at speeds exceeding 100 miles per hour in an attempt to elude the trooper. The Jeep Cherokee eventually became

disabled and stopped in the middle lane of Interstate Highway 90 (I- 90). Defendant and Taylor were taken into custody at that time.

n. The Jeep Cherokee that defendant and Taylor were driving that day contained Taylor's loaded Glock 9mm pistol between the front passenger seat and the center console and Doss's loaded Smith and Wesson 9mm pistol in a draw-string bag on the floor board area of the front passenger area. The Smith and Wesson firearm had previously been reported as stolen. Taylor's Armscor pistol and defendant's Charter Arms revolver were in the rear of the Jeep Cherokee, wrapped together in a scarf. Taylor's Armscor pistol had previously been reported as stolen. The rear cargo area of the Jeep Cherokee, also contained 86 boxes of Apple products that defendant, Taylor and Doss took from the Cherry Valley Simply Mac on January 6, 2017. The Jeep Cherokee also contained 5 cellphones that defendant, Taylor and Doss had taken from the victims of the robbery on January 6, 2017.

o. Defendant admits that the businesses that defendant and his co-conspirators robbed and attempted to rob as part of the conspiracy as charged in Count 1 of the superseding information were all engaged in the sale of products, including laptop computers and cellphones that were previously transported in interstate commerce and the robberies and attempted robberies alleged as part of the conspiracy alleged in Count One of the superseding information and in Counts Two and Three of the superseding information, delayed and affected commerce, as commerce is defined in Title 18, United States Code, Section § 1951(b)(3).

Maximum Statutory Penalties

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

a. Counts 1 through 3 each carry a maximum sentence of 20 years' imprisonment. Counts 1 through 3 also each carry a maximum fine of \$250,000. Defendant further understands that with respect to Counts 1 through 3 the judge also may impose a term of supervised release of not more than three years.

b. Count 4 carries a maximum sentence of life imprisonment, and a statutory mandatory minimum sentence of 7 years. The sentence of imprisonment on Count 4 is required to be consecutive to any other sentence. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a term of probation on this count. Count 4 also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count 4 the judge also may impose a term of supervised release of not more than five years.

c. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court.

d. 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 or restitution imposed.

e. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is life imprisonment, and the minimum sentence is 7

years' imprisonment. In addition, defendant is subject to a total maximum fine of \$1,000,000, a period of supervised release, and special assessments totaling \$400, in addition to any restitution ordered by the Court.

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:

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 2016 Guidelines Manual.

b. Offense Level Calculations.

i. Pursuant to Guideline § 1B1.2(d), a conviction on a count charging conspiracy to commit more than one offense shall be treated as if the defendant had been convicted on a separate count of conspiracy for each offense that the defendant conspired to commit. In pleading guilty to Count 1 of the superseding information, defendant has admitted to conspiring to commit 4 separate robberies, including the robberies charged in Counts 2 and 3. Therefore, pursuant to § 1B1.2(d), each robbery that defendant conspired to commit as charged in Count 1 will be counted as a separate offense.

Count 2 – *December 16, 2016 Cherry Valley Simply Mac Robbery*

ii. The base offense for Count 2 is 20, pursuant to Guideline § 2B3.1(a)(1).

iii. The offense level for Count 2 is increased by 2 levels to level 22 pursuant to Guideline § 2B3.1(b)(3)(A) because a victim sustained a bodily injury.

iv. The offense level for Count 2 is increased by 2 levels to level 24 pursuant to Guideline § 2B3.1(b)(4)(B) because a victim was physically restrained.

Count 3 – January 6, 2017 Cherry Valley Simply Mac Robbery

v. The base offense for Count 3 is 20, pursuant to Guideline § 2B3.1(a)(1).

vi. Pursuant to Application Note 4 of Guideline § 2K2.1, the enhancement for the use of a firearm in the offense pursuant to Guideline § 2B3.1(b)(2) is not applied to Count 4 because defendant is also subject to a sentence for Count 4 under Guideline § 2K2.4.

vii. The offense level for Count 3 is increased by 2 levels to level 22 pursuant to Guideline § 2B3.1(b)(4)(B) because a victim was physically restrained.

viii. The offense level for Count 3 is increased by 1 level to level 23 pursuant to Guideline § 2B3.1(b)(7)(C) because the loss was more than \$20,000.

Conspiracy Offense 1 – December 10, 2016 Valparaiso Simply Mac Robbery

ix. The base offense for Conspiracy Offense 1 is 20, pursuant to Guideline § 2B3.1(a)(1).

x. The offense level for Conspiracy Offense 1 is increased by 1 level to level 21 pursuant to Guideline § 2B3.1(b)(7)(C) because the loss was more than \$20,000.

xi. The offense level for Conspiracy Offense 1 is increased by 2 levels to level 23 pursuant to Guideline § 2B3.1(b)(4)(B) because a victim was physically restrained.

Conspiracy Offense 2 – December 17, 2016 Valparaiso Simply Mac Robbery

xii. The base offense for Conspiracy Offense 2 is 20, pursuant to Guideline § 2B3.1(a)(1).

xiii. The offense level for Conspiracy Offense 2 is increased by 6 levels to level 26 pursuant to Guideline § 2B3.1(b)(2)(B) because a firearm was otherwise used as part of the offense.

xiv. The offense level for Conspiracy Offense 2 is increased by 2 levels to level 28 pursuant to Guideline § 2B3.1(b)(4)(B) because a victim was physically restrained.

xv. The offense level for Conspiracy Offense 2 is increased by 1 level to level 29 pursuant Guideline § 2B3.1(b)(6) because a firearm was taken as part of the offense.

xvi. The offense level for Conspiracy Offense 2 is increased by 1 level to level 30 pursuant to Guideline § 2B3.1(b)(7)(C) because the loss was more than \$20,000.

Grouping

xvii. Pursuant to Guideline § 3D1.4(a), Conspiracy Offense 2 comprises one unit as the group with the highest offense level (30). Pursuant to Guideline § 3D1.4(b), Counts 2 and 3 and Conspiracy Offense 1 each comprise one-half unit, as they are each from 5 to 8 levels less serious than Conspiracy Offense 2. Together, Counts 2 and 3 and Conspiracy Offenses 1 and 2 comprise 2.5 units,

mandating a 3 level increase to Conspiracy Offense 2, the group with the highest offense level, pursuant to Guideline § 3D1.4. Thus, defendant's combined offense level for Counts 1 through 3 is 33.

xviii. 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.

xix. 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 0 and defendant's criminal history category is I.

d. Anticipated Advisory Sentencing Guidelines Range.

Therefore, based on the facts now known to the government, the anticipated offense level is 30, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 97 to 121 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose. Defendant also acknowledges that he is subject to a statutory minimum sentence of 7 years' imprisonment on Count 4 that must be imposed consecutively to any sentence imposed for Counts 1 through 3.

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. Regarding restitution, defendant acknowledges that pursuant to Title 18, United States Code, Section 3663A, the Court must order defendant, together with any jointly liable co-defendants, to make full restitution to victims in an amount

to be determined by the Court at sentencing, which amount shall reflect credit for any funds repaid prior to sentencing.

14. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect his ability to pay restitution.

15. Defendant agrees to pay the special assessment of \$300 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

16. 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.

Forfeiture

17. Defendant understands that by pleading guilty, he will subject to forfeiture to the United States all right, title, and interest that he has in any property used or intended to be used, in any manner or part, to commit or facilitate commission of the offense.

18. Defendant agrees to forfeiture of the following specific property to the United States: a chrome Smith and Wesson, 9 mm semi-automatic pistol, Model 659

bearing serial number A806493, a black Glock 19, 9mm semi-automatic pistol bearing serial number PPX492, a black Armscor of the Philippines Model M1911-A1 FS, .45 caliber semi-automatic pistol, bearing serial number RIA1582610, and a Charter Arms Bulldog, model 44 special, revolver, bearing serial number 920166. In doing so, defendant admits that the property described above represents property which facilitated the offense, as alleged in the superseding information. Defendant consents to the immediate entry of a preliminary order of forfeiture as to this specific property, thereby extinguishing any right, title, or interest defendant has in it. If any of the specific property is not yet in the custody of the United States, defendant agrees to seizure of that property so that it may be disposed of according to law.

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

20. 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.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

21. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 17 CR 50002-2.

22. 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

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

a. **Right to be charged by indictment.** Defendant understands that he has a right to have the charges prosecuted by an indictment returned by a concurrence of twelve or more members of a grand jury consisting of not less than sixteen and not more than twenty-three members. By signing this Agreement, defendant knowingly waives his right to be prosecuted by indictment and to assert at

trial or on appeal any defects or errors arising from the information, the information process, or the fact that he has been prosecuted by way of information.

b. **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 superseding information 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 defendant's offense and any specific property alleged to be subject to forfeiture.

c. **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.

24. 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

25. 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.

26. 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.

27. 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

28. 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.

29. 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

30. 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.

31. 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.

32. 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.

33. 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.

34. 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

MARIO J. ANDERSON
Defendant

JOSEPH C. PEDERSEN
Assistant U.S. Attorney

BRENDAN CAVER
Attorney for Defendant