

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA
v.
JESSICA E. PLUSHKIS

No. 17 CR 50087-2

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 JESSICA E. PLUSHKIS, and her attorney, MICHAEL PHILLIPS, 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 superseding indictment in this case charges defendant with conspiracy to commit bank robbery, in violation of Title 18, United States Code, Section 371 (Count One); two counts of bank robbery, in violation of Title 18, United States Code, Section 2113(a) (Counts Two and Five); and two counts of bank theft, in violation of Title 18, United States Code, Section 2113(b) (Counts Three and Six).

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

4. Defendant fully understands the nature and elements of the crimes with which she 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 indictment: Counts Two and Five, each of which charges defendant with bank robbery, in violation of Title 18, United States Code, Section 2113(a).

Factual Basis

6. Defendant will plead guilty because she is in fact guilty of the charges contained in Counts Two and Five of the superseding indictment. In pleading guilty, defendant admits the following facts and that those facts establish her guilt beyond a reasonable doubt:

a. With respect to Count Two of the superseding indictment:

On or about December 23, 2017, at Algonquin, in the Northern District of Illinois, Western Division, defendant did aid and abet Daniel Plushkis, in taking from the person and presence of a bank employee, by intimidation, approximately \$4,350 in United States currency belonging to and in the care, custody, control, management, and possession of TCF Bank, 103 South Randall Road, Algonquin, Illinois (the "Algonquin TCF Bank"), the deposits of which were then insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Sections 2113(a) and 2.

Around 3:00 p.m. on December 23, 2017, defendant drove her husband, Daniel Plushkis (“Plushkis”), to the grocery store in which the Algonquin TCF Bank is located, knowing that Daniel intended to rob the Algonquin TCF Bank. Defendant agreed to wait in the vehicle while Daniel robbed the bank and drive Daniel away from the scene after the robbery. Defendant parked her vehicle in the back of the grocery store parking lot, and Daniel, before exiting the vehicle, put on a long, fake dark brown beard, mirrored sunglasses, and a tan and maroon colored glove. Daniel also took with him a manila envelope that had a handwritten note taped to it. The note read: “READ WHOLE NOTE[.] I HAVE A GUN. DO EXACTLY AS I SAY AND NO ONE WILL GET HURT. EMPTY BOTTOM DRAWER INTO THIS ENVELOPE. TOP DRAWER – ALL 100’S, 5’S, 10’S INTO THIS ENVELOPE[.] NO TRACKING DEVICES[.] NO INK BOMBS[.] NO EYE CONTACT WITH ANYONE ELSE[.] YOU HAVE 20 SECONDS[.]” After Daniel exited the vehicle, defendant remained parked in the parking lot, waiting to drive Daniel away after the bank robbery.

Defendant also acknowledges the following: After exiting the vehicle, Daniel entered the grocery store, approached the Algonquin TCF Bank counter, and handed the manila envelope and demand note to the teller (“Victim Teller 1”). Daniel also verbally demanded, “Give me everything in your bottom drawer.” Victim Teller 1 retrieved cash from the bank’s drawer and put it into the manila envelope. Daniel then said, “100s and 50s too,” and Victim Teller 1 removed additional cash from the drawer and put it in the manila envelope. Daniel grabbed the envelope and left the grocery store in which the Algonquin TCF Bank is located with a total of \$4,350 in

U.S. currency, which belonged to and was in the care, custody, control, management, and possession of the Algonquin TCF Bank. Defendant acknowledges that the deposits of the Algonquin TCF Bank were insured by the Federal Deposit Insurance Corporation at the time of the robbery.

After Daniel exited the grocery store, he began heading toward the vehicle in which defendant was waiting for him. Daniel, however, was tackled by a private citizen in the parking lot before he made it back to the vehicle. Defendant saw that Daniel had been tackled and quickly drove out of the parking lot to avoid being discovered by law enforcement. Defendant was pulled over by law enforcement for a traffic offense after she exited the parking lot. Defendant later gave consent for law enforcement officers to search her vehicle. Law enforcement officers found a tan and maroon colored glove, black face paint, and a notebook containing several draft robbery demand notes.

Defendant acknowledges that Daniel was taken into custody by law enforcement in the parking lot of the grocery store in which the Algonquin TCF Bank is located, and that law enforcement officers recovered the manila envelope Daniel used during the robbery. Defendant acknowledges that the envelope contained \$4,350 in U.S. currency that Daniel stole from the Algonquin TCF Bank.

b. With respect to Count Five of the superseding indictment:

On or about December 13, 2017, at Arlington Heights, in the Northern District of Illinois, Eastern Division, defendant did aid and abet Daniel Plushkis, in taking from the person and presence of a bank employee, by intimidation, approximately

\$2,676 in United States currency belonging to and in the care, custody, control, management, and possession of TCF Bank, 1860 South Arlington Heights Road, Arlington Heights, Illinois (the “Arlington Heights TCF Bank”), the deposits of which were then insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Sections 2113(a) and 2.

Defendant acknowledges the following: Around 6:45 p.m. on December 13, 2017, Daniel entered the grocery store in which the Arlington Heights TCF Bank is located wearing a long, fake black beard, a dark-colored hat, multi-colored sunglasses, black gloves, and black face paint. Daniel approached the Arlington Heights TCF Bank counter and handed the teller (“Victim Teller 2”) a manila envelope with a handwritten note taped on it. The note demanded that the teller give Daniel the money in the bank’s cash drawer, and the note stated that Daniel had a gun. After handing Victim Teller 2 the envelope and note, Daniel began counting backward from 15. Victim Teller 2 took approximately \$2,676 in U.S. currency from the bank’s cash drawer and put it in the envelope. While Victim Teller 2 was retrieving the money, another teller at the Arlington Heights TCF Bank (“Victim Teller 3”) attempted to push the bank’s silent alarm. Daniel, however, saw Victim Teller 3’s movement and stated, “Don’t even try it, don’t touch it.” Daniel took back the envelope containing the cash and left the grocery store with the cash. The deposits of the Arlington Heights TCF Bank were insured by the Federal Deposit Insurance Corporation at the time of the robbery.

Defendant admits that she purchased a fake, white beard, black-colored hair spray, and black face paint from a party store a few hours before the Arlington Heights TCF Bank robbery. Defendant admits that she purchased those items for Daniel, knowing that he intended to use them as part of his disguise in committing a bank robbery on December 13, 2017.

Maximum Statutory Penalties

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

a. Count Two carries a maximum sentence of 20 years' imprisonment. Count Two also carries a maximum fine of \$250,000. Defendant understands that with respect to Count Two the judge may impose a term of probation of 1-5 years. Defendant further understands that with respect to Count Two, the judge also may impose a term of supervised release of not more than three years.

b. Count Five carries a maximum sentence of 20 years' imprisonment. Count Five also carries a maximum fine of \$250,000. Defendant understands that with respect to Count Five the judge may impose a term of probation of 1-5 years. Defendant further understands that with respect to Count Five the judge also may impose a term of supervised release of not more than three 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 she 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 40 years' imprisonment. In addition, defendant is subject to a total maximum fine of \$500,000, a period of supervised release, and special assessments totaling \$200, 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 2018 Guidelines Manual.

b. **Offense Level Calculations.**

i. With respect to Counts Two and Five:

1. The base offense level is 20, pursuant to Guideline §§ 2B3.1(a) and 2X2.1.

2. Pursuant to Guideline § 2B3.1(b)(1), 2 levels are added because the property of a financial institution was taken.

3. Pursuant to Guideline § 2B3.1(b)(2)(F), 2 levels are added because a threat of death was made.

ii. Under Guidelines §§ 3D1.1-3D1.2, each of Counts Two and Five count as one Unit, equaling a total of 2 Units. As a result, 2 levels are added to the highest offense level, pursuant to Guideline § 3D1.4(a).

iii. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for her criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for her 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 her ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

iv. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of her 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, 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 23, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 46 to 57 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

e. Defendant and her 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 her 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 her 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 her 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 the victims of Counts Two and Five in an amount to be determined by the Court at sentencing, which amount shall reflect credit for any funds repaid prior to sentencing. Defendant acknowledges that the amounts of restitution owed to the Algonquin TCF Bank and the Arlington Heights TCF Bank are \$4,350 and \$2,676, respectively, and that additional amounts of restitution may be owed to the victim tellers in amounts to be determined by the Court at sentencing. The parties agree that the \$4,350 recovered by law enforcement on December 23, 2017 in the parking lot outside the Algonquin TCF Bank shall be applied to the restitution owed to the Algonquin TCF Bank.

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), she is required to notify the Court and the

United States Attorney's Office of any material change in economic circumstances that might affect her ability to pay restitution.

15. 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.

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.

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

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

18. 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 50087.

19. 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

20. Defendant understands that by pleading guilty she 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 her, and if she does, she 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 her 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 her

unless, after hearing all the evidence, it was persuaded of her guilt beyond a reasonable doubt and that it was to consider each count of the superseding 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 her attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in her own behalf. If the witnesses for defendant would not appear voluntarily, she 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 she could decline to testify, and no inference of guilt could be drawn from her refusal to testify. If defendant desired to do so, she could testify in her own behalf.

b. **Appellate rights.** Defendant further understands she is waiving all appellate issues that might have been available if she had exercised her 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.

21. Defendant understands that by pleading guilty she 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 her, and the consequences of her waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

22. 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 her, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

23. 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 her financial circumstances, including her 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 her 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.

24. For the purpose of monitoring defendant's compliance with her 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

25. 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.

26. Defendant understands that pursuant to Title 12, United States Code, Sections 1785(d) and 1829, her conviction in this case will prohibit her from directly or indirectly participating in the affairs of any financial institution insured by the National Credit Union Share Insurance Fund or the Federal Deposit Insurance

Corporation, except with the prior written consent of the National Credit Union Administration Board or the FDIC and, during the ten years following her conviction, the additional approval of this Court. Defendant further understands that if she knowingly violates this prohibition, she may be punished by imprisonment for up to five years, and a fine of up to \$1,000,000 for each day the prohibition is violated.

27. 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

28. 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.

29. Defendant understands that her compliance with each part of this Agreement extends throughout the period of her sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event she 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.

30. 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.

31. Defendant and her 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.

32. Defendant acknowledges that she has read this Agreement and carefully reviewed each provision with her attorney. Defendant further acknowledges that she understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

JOHN R. LAUSCH, JR.
United States Attorney

JESSICA E. PLUSHKIS
Defendant

TALIA BUCCI
Assistant U.S. Attorney

MICHAEL PHILLIPS
Attorney for Defendant