

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

ROBERT RYAN JUSTIN BIBBS

No. 15 CR 578

Judge Rebecca R. Pallmeyer

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, ZACHARY T. FARDON, and LESLIE CALDWELL, Assistant Attorney General for the Criminal Division, and defendant ROBERT RYAN JUSTIN BIBBS, and his attorney, DONNA HICKSTEIN FOLEY, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(C) and 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 conspiracy to kill a person in a foreign country, in violation of 18 U.S.C. §§ 956 and 2 (Count One), conspiracy to commit foreign murder of a national of the United States, in violation of 18 U.S.C. §§ 1117 and 2 (Count Two), and solicitation of a crime of violence, in violation of 18 U.S.C. § 373 (Count Three).

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.

Charge to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following count of the indictment: Count Two, which charges defendant with conspiracy to commit foreign murder of a national of the United States, in violation of 18 U.S.C. §§ 1117 and 2.

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in Count Two of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt:

Beginning not later than on or about August 2, 2014, and continuing until on or about August 12, 2014, at Chicago, in the Northern District of Illinois, and elsewhere, defendant ROBERT RYAN JUSTIN BIBBS, also known as "Ryan Bibbs," aided, abetted, counseled, commanded, induced, and procured the conspiracy of Heather L. Mack and Tommy E. Schaefer, nationals of the United States, to kill and attempt to kill Sheila A. Von Wiese, a national of the United States, while Von Wiese was outside of the United States but in the jurisdiction of the Republic of Indonesia.

More specifically, defendant and Schaefer are cousins and close friends, and were in frequent communication in 2014. Through his communications with Schaefer, defendant learned that Schaefer was involved in a romantic relationship with Mack,

and Schaefer informed defendant that Mack and her mother, Von Wiese, were wealthy. In 2014, defendant met Mack through Schaefer.

In approximately 2014, Schaefer informed defendant that Mack wanted someone to kill Von Wiese, and offered Schaefer approximately \$50,000 to do so. In approximately late July or early August 2014, defendant had a conversation with Heather Mack at defendant's home in Chicago. During the conversation, Mack stated that she wished her mother was dead, and asked defendant whether he knew someone that would kill her mother in exchange for money.

During late July or early August 2014, defendant also had conversations with Schaefer, during which Schaefer acknowledged that he and Mack continued to discuss a plan to kill Von Wiese. Defendant believed that Schaefer and Mack were serious about murdering Von Wiese. Defendant also believed that Schaefer would receive a portion of Von Wiese's estate through Mack, and would use these funds to provide for family members, including defendant.

On or about July 24, 2014, defendant received a text message from Schaefer stating, "She's really tryna knock her mom off," which defendant understood to mean that Mack again expressed interest in her mother's murder. Later that same day, defendant and Schaefer exchanged a series of text messages. Schaefer wrote that "we gotta talk." After defendant asked, "About what," Schaefer replied, "Bukko bucks. Yo mind bouta be blown." About ten minutes later, Schaefer sent a message to defendant that included the phrase "bang bang," emoji depicting dozens of money bags, and the

phrase "we on in a month." A short time later, Schaefer sent more messages to defendant, including some stating: "I'm too geeked . . . When I say pack yo bags it's for real this time . . . I'm telling you g you can start celebrating . . . Fo if someone robbed me right now I would asked them if they needed anything else." Defendant understood Schaefer's messages to mean that Mack intended to kill Von Wiese and that Schaefer expected to receive proceeds from Von Wiese's estate as a result.

Defendant was aware that Mack and Von Wiese had traveled to Indonesia in early August 2014 for a vacation. Based on his previous conversations with Schaefer, defendant believed that Mack would kill her mother while the two were overseas. Defendant also knew that Schaefer intended to travel to Indonesia to join Mack.

While Schaefer waited for his flight to depart O'Hare International Airport, he and defendant exchanged text messages. During these messages, Schaefer wrote, "Get a passport nigga . . . So we can take off . . . I come back for a week or two then it's off to Italy . . . On chief . . . In about a year or so I'll have all that money . . . Not all of it . . . A couple mil prob." Defendant understood Schaefer's messages to mean that Von Wiese's murder was imminent, that Schaefer expected to receive millions of dollars as a result of the murder, and that Schaefer would spend some of this money on defendant.

After Schaefer arrived in Bali, he sent additional messages to defendant in Chicago. During these messages, Schaefer informed defendant that Mack had unsuccessfully attempted to kill Von Wiese. Defendant then provided advice to

Schaefer via text message on alternative ways to kill Von Wiese, including by drowning her.

A short time later, Schaefer sent defendant a message stating, in part, "She wants me to right now . . . While she snoozing," which defendant understood to mean that Mack asked Schaefer to help her kill Von Wiese while Von Wiese was asleep. Defendant sent a response to Schaefer, stating, "Go sit on her face wit a pillow then," by which defendant meant that Schaefer should go and suffocate Von Wiese.

Schaefer then sent a series of messages to defendant, asking in part, "What would you do?" Defendant replied "If it's no cameras then," followed by an emoji indicating "okay," by which defendant meant that Schaefer should carry out the murder as long as no cameras were present, to mitigate the risk of being observed. Defendant also counseled Schaefer to be careful, and sent messages intended to encourage Schaefer to kill Von Wiese.

Defendant sent Schaefer these messages because defendant believed that Schaefer and Mack were about to kill Von Wiese, and defendant thought the two would reduce the likelihood of being caught and prosecuted if they followed his advice. Defendant also believed that Schaefer would become wealthy as a result of Von Wiese's murder, and that Schaefer might share some of the proceeds with defendant.

A short time later, Schaefer entered the hotel room occupied by Mack and Von Wiese and bludgeoned Von Wiese to death. Schaefer and Mack subsequently stuffed Von Wiese's body into a suitcase, placed the suitcase into a taxi cab, and fled the

resort where they had been staying. Defendant, Schaefer, Mack, and Von Wiese were all United States citizens at the time of Von Wiese's death.

Maximum Statutory Penalties

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

a. A maximum sentence of life imprisonment. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a term of probation for this offense. 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 five years.

b. Defendant further understands that the Court must order restitution to the victim's estate in an amount determined by the Court.

c. 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 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. The base offense level is 43, pursuant to Guideline §§ 2A1.1 and 2A1.5(c)(1).

ii. The offense level is decreased by 3 levels pursuant to § 3B1.2, because defendant's role in the offense falls between that of a minimal participant and a minor participant.

iii. 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, the Human Rights and Special Prosecutions Section, 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.

iv. 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, defendant's criminal history points equal zero 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 37, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 210 to 262 months' imprisonment, 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. This Agreement will be governed, in part, by Fed. R. Crim. P. 11(c)(1)(C). That is, the parties have agreed that the sentence imposed by the Court shall include a term of imprisonment in the custody of the Bureau of Prisons of no more than 20 years. Other than the agreed maximum term of imprisonment, the parties have agreed that the Court remains free to impose the sentence it deems appropriate, and that the parties are free to recommend any sentence. If the Court accepts this Agreement and imposes a term of incarceration of not more than 20 years, defendant may not withdraw this plea as a matter of right under Fed. R. Crim. P. 11(d) and (e). If, however, the Court refuses to impose a sentence of 20 years or less, thereby rejecting this Agreement, or otherwise refuses to accept defendant's plea of guilty, either party has the right to withdraw from this Agreement.

12. Regarding restitution, defendant acknowledges that pursuant to Title 18, United States Code, Section 3663A, the Court must order defendant to make full restitution to the estate of Sheila A. Von Wiese in an amount to be determined by

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

13. 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, the United States Attorney's Office, and the Human Rights and Special Prosecutions Section of any material change in economic circumstances that might affect his ability to pay restitution.

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.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

17. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney, the Human Rights and Special Prosecutions Section, and defendant regarding defendant's criminal liability in *United States v. Robert Ryan Justin Bibbs*, 15 CR 578.

18. 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 the Human Rights and Special Prosecutions Section of the Criminal Division 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

19. 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. **Waiver of appellate and collateral rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial. Defendant is aware that Title 28, United States Code, Section 1291, and Title 18, United States Code, Section 3742, afford a defendant the right to appeal his conviction and the sentence imposed. Acknowledging this, defendant knowingly waives the right to appeal his conviction, any pre-trial rulings by the Court, and any part of the sentence (or the manner in which that sentence was determined), including any term of imprisonment and fine within the maximums provided by law, and including any order of restitution, in exchange for the

concessions made by the United States in this Agreement. In addition, defendant also waives his right to challenge his conviction and sentence, and the manner in which the sentence was determined, in any collateral attack or future challenge, including but not limited to a motion brought under Title 28, United States Code, Section 2255. The waiver in this paragraph does not apply to a claim of involuntariness or ineffective assistance of counsel, nor does it prohibit defendant from seeking a reduction of sentence based directly on a change in the law that is applicable to defendant and that, prior to the filing of defendant's request for relief, has been expressly made retroactive by an Act of Congress, the Supreme Court, or the United States Sentencing Commission.

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

Presentence Investigation Report/Post-Sentence Supervision

21. Defendant understands that the United States Attorney's Office and the Human Rights and Special Prosecutions Section in their 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.

22. 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, the United States Attorney's Office, and the Human Rights and Special Prosecutions Section 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.

23. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office, the United States Attorney's Office, and the Human Rights and Special Prosecutions Section 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

24. Defendant agrees to cooperate with the United States Attorney's Office and the Human Rights and Special Prosecutions Section 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 and the Human Rights and Special Prosecutions Section.

25. 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

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. 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.

29. 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

ROBERT RYAN JUSTIN BIBBS
Defendant

BOLLING W. HAXALL
Assistant U.S. Attorney

DONNA HICKSTEIN FOLEY
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LESLIE R. CALDWELL
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CHRISTINE B. DUEY
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