

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

LABAR SPANN, also known as
“Bro Man,” and “B”

No. 15 CR 279

Judge John J. Tharp, Jr.

PLEA AGREEMENT

1. This Plea Agreement between the Acting United States Attorney for the Northern District of Illinois, JOEL R. LEVIN, and defendant LABAR SPANN, and his attorney, TOD URBAN, 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 indictment in this case charges defendant with possession of a firearm by a felon, in violation of Title 18, United States, Section 922(g)(1) (Count One), obstruction of justice, in violation of Title 18, United States Code, Sections 1512(b)(1), 1512(b)(2)(A), and 1512(c)(2) (Counts Two, Three, and Five), and possession with intent to distribute of a quantity of cocaine base, in violation of Title 21, United States Code, Section 841(a)(1) (Count Four).

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

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

Charges to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following counts of the superseding indictment: Count One, which charges defendant with possession of a firearm by a felon, in violation of Title 18, United States, Section 922(g)(1); Counts Two, Three, and Five, which charges defendant with obstruction of justice, in violation of Title 18, United States Code, Sections 1512(b)(1), 1512(b)(2)(A), and 1512(c)(2), respectively; and Count Four, which charges defendant with possession with intent to distribute of a quantity of cocaine base, in violation of Title 21, United States Code, Section 841(a)(1).

Factual Basis

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

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

On or about September 14, 2014, at Lyons, in the Northern District of Illinois, Eastern Division, LABAR SPANN, also known as “Bro Man” and “B,” previously having been convicted of a crime punishable by a term of imprisonment exceeding one year, did knowingly possess in and affecting interstate commerce a firearm, namely, a loaded Glock 19, model 19C, .9 mm caliber handgun, bearing serial number

GRD632, which firearm had traveled in interstate commerce prior to the defendant's possession of the firearm, in violation of Title 18, United States Code, Sections 922(g)(1).

More specifically, on or about September 14, 2014, SPANN, Ladonah Hampton, and Individual A traveled to Midwest Sporting Goods in Lyons, Illinois, to rent and shoot a firearm. Hampton had a valid FOID card and was able to rent a firearm at Midwest Sporting Goods. Hampton rented a Glock 19 model 19C, 9 millimeter handgun bearing serial number GRD632. Hampton also purchased three targets, one box of ammunition, and the range fee for three people. Hampton also paid the rental fee for three safety goggles and three ear protectors in order for herself, SPANN, and Individual A to shoot the Glock firearm on the firing range.

Once inside the range, SPANN loaded and fired the weapon first, Hampton fired next, and Individual A fired last. SPANN reloaded the firearm each time before both Hampton and Individual A fired the weapon.

During the visit to Midwest Sporting Goods, SPANN posted numerous videos and photographs to his Instagram profile, "alfrescorealnagger." In particular, SPANN posted one photograph of a shooting target depicting the silhouette of a person with holes in the head and chest. SPANN posted a caption related to the photograph that read: "y'all know I had to go first just to show my bitch how this shit work lmao I do this shis." SPANN's post related to his firing of the Glock 19C, how he showed

Hampton and Individual A how to shoot a gun, and to show how he knew how to shoot a gun.

Shortly after SPANN's post, Individual A posted a similar photograph to Individual A's Instagram profile of a shooting target with holes in the head and chest. Individual A posted a caption with that photograph that stated "Just Fucked dude up sum decent." SPANN responded to that caption with "You know I had to go first just to show my bitch how this shit work." SPANN was referring to him shooting the Glock 19C first and showing Individual A how to fire the weapon.

Defendant acknowledges that the Glock 19, model 19C, 9 millimeter handgun, bearing serial number GRD632, was manufactured outside the state of Illinois and had traveled in interstate commerce prior to SPANN's possession of the firearm.

Prior to September 14, 2014, SPANN had been previously convicted of a felony and was not lawfully allowed to possess the Glock 19, model 19C, 9 millimeter handgun, bearing serial number GRD632.

b. With respect to Counts Two, Three, and Five of the superseding indictment:

Between on or about January 23, 2015, and on or about January 29, 2015, at Chicago, in the Northern District of Illinois, Eastern Division, LABAR SPANN, also known as "Bro Man" and "B," with others known and unknown, corruptly persuaded Ladonah Hampton, and attempted to do so, and engaged in misleading conduct

towards her, with the intent to influence, delay, and prevent the testimony of Ladonah Hampton in an official proceeding, namely the proceeding before the Special February 2014 Grand Jury, in violation of Title 18, United States Code, Section 1512(b)(1).

Between on or about January 23, 2015, and January 29, 2015, at Chicago, in the Northern District of Illinois, Eastern Division, LABAR SPANN, also known as “Bro Man” and “B,” with others known and unknown, corruptly persuaded Ladonah Hampton, and attempted to do so, and engaged in misleading conduct towards her, with the intent to cause and induce Ladonah Hampton to withhold testimony from an official proceeding, namely, the proceeding before the Special February 2014 Grand Jury, in violation of Title 18, United States Code, Section 1512(b)(2)(A).

Between on or about January 23, 2015, and January 29, 2015, at Chicago, in the Northern District of Illinois, Eastern Division, LABAR SPANN, also known as “Bro Man” and “B,” and Ladonah Hampton, with others known and unknown, corruptly obstructed, influenced and impeded, and attempted to obstruct, influence and impede any official proceeding, namely, the proceeding before the Special February 2014 Grand Jury, in violation of Title 18, United States Code, Sections 1512(c)(2) and 2.

More specifically, on or about January 23, 2015, law enforcement spoke with Hampton about the September 14, 2014, trip to Midwest Sporting Goods with SPANN

and Individual A and served Hampton with a grand jury subpoena. Hampton truthfully stated to law enforcement, in summary, that she, SPANN, and Individual A went to Midwest Sporting Goods to shoot a gun at the range. Hampton truthfully stated to law enforcement that SPANN loaded the firearm, fired it, Hampton fired next, and Individual A fired last.

Several hours after Hampton spoke to law enforcement informing them that SPANN fired the gun, Hampton, using her Instagram account, sent SPANN a message to his Instagram account stating, "Call me real quick, it's important @alfrescorealnagger [xxx-xxx]-9637." Shortly thereafter, Hampton deleted the message.

On or about January 29, 2015, Hampton appeared at the E.M. Dirksen United States Courthouse located at 219 S. Dearborn Street in Chicago in response to the grand jury subpoena before the Special February 2014 Grand Jury requiring her testimony. At approximately 10:43 a.m., SPANN, using his Instagram account, began a private message chat with another Instagram user. During that chat, the Instagram user was providing SPANN with updates on Hampton's movements in and around the Dirksen United States Courthouse, specifically, that Hampton had arrived in the building by 10:43 a.m. The Instagram user informed SPANN that Hampton had sent the Instagram user a text message and that she was "not folding," meaning Hampton was not going to be truthful with the agents or the Special

February 2014 Grand Jury about SPANN possessing the gun at Midwest Sporting Goods. SPANN replied later in the chat, “Whatever she do just don’t say I touch shit,” meaning that Hampton should not tell law enforcement or the grand jurors that SPANN possessed the firearm on September 14, 2014.

Hampton testified at approximately 1:30 p.m. before the Special February 2014 Grand Jury, that SPANN did not shoot the gun at the range. Her testimony was false.

Between approximately February 2, 2015, and approximately February 6, 2015, just a few days after Hampton concluded her testimony before the grand jury, SPANN and Hampton exchanged numerous text messages with each other. SPANN was using a Kyocera cellular phone and Hampton was using a phone with the phone number, [xxx-xxx]-9436. During the text messaging exchanges, Hampton told SPANN she never told the agents or the grand jurors that SPANN possessed the gun at Midwest Sporting Goods that she rented. SPANN asked Hampton if she could obtain the grand jury transcript of her testimony to give to him. Hampton said she would ask her attorney in an attempt to get the grand jury transcript to give to SPANN.

c. With respect to Count Four of the superseding indictment:

On or about May 14, 2015, at Chicago, in the Northern District of Illinois, Eastern Division, LABAR SPANN, also known as “Bro Man” and “B,” did knowingly

and intentionally possess with intent to distribute a controlled substance, namely, a quantity of a mixture and substance containing a detectable amount of cocaine base, a Schedule II Controlled Substance, in violation of Title 21, United States Code, Section 841(a)(1).

More specifically, on or about May 14, 2015, SPANN was present inside a bedroom of a residence in Chicago that SPANN frequented. SPANN previously placed 98 small green ziplock baggies containing a total of approximately 9.3 grams of cocaine base in a dresser/nightstand inside a bedroom in the residence. SPANN possessed the 98 baggies of cocaine base with the intent to distribute them at a later date.

Maximum Statutory Penalties

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

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

b. Counts Two, Three, and Five each carry a maximum sentence of 10 years' imprisonment. Counts Two, Three, and Five each also carry a maximum fine of \$250,000. Defendant further understands that with respect to Counts Two,

Three, and Five, the judge also may impose a term of supervised release of not more than three years.

c. Count Four carries a maximum sentence of 30 years' imprisonment. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a term of probation on this count. Count Four also carries a maximum fine of \$2,000,000. Defendant further understands that with respect to Count Four the judge also must impose a term of supervised release of at least six years, and up to any number of years, including life.

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

e. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is 70 years' imprisonment. In addition, defendant is subject to a total maximum fine of \$3,000,000, a period of supervised release, and special assessments totaling \$500.

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.**

Count One

i. The base offense level for Count One is 20, pursuant to Guideline § 2K2.1(a)(4)(A), because defendant committed the instant offense subsequent to sustaining one felony conviction of a crime of violence.

Counts Two, Three, and Five

ii. The base offense level for each of Counts Two, Three, and Five is 14, pursuant to Guideline § 2J1.2(a).

Count Four

iii. The base offense level for Count Four is 16, pursuant to Guideline §§ 2D1.1(a)(5) and (c)(12), because the instant offense involved at least 5.6 grams but less than 11.2 grams of cocaine base.

Grouping

iv. Pursuant to Guideline §§ 3D1.1(a)(1) and § 3D1.2, Counts Two, Three, and Five group together, and Count One and Count Four each constitute a separate group.

v. Pursuant to Guideline § 3D1.3(a), the offense level for the group containing Counts Two, Three, and Five equals 14.

vi. Pursuant to Guideline §§ 3D1.4(a) Count One has the highest offense level of 20, and equals one unit. Count Four is between 1 and 4 levels

less serious and equals one additional unit. The group containing Counts Two, Three, and Five is between 5 and 8 levels less serious than Count One and equals one-half additional unit. Accordingly, the total number of units equals two and one-half, which results in a three-level increase in the offense level.

vii. Therefore, the total combined offense level is 23.

Acceptance of Responsibility

viii. 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 that may be imposed in this case, a two-level reduction in the offense level is appropriate.

ix. 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 12 and defendant's criminal history category is V:

i. On or about March 8, 1996, defendant was convicted of manufacture/delivery of a controlled substance in the Circuit Court of Cook County in criminal case number 96CR0525701 and sentenced to 1 year probation. Pursuant to Guideline § 4A1.2(e), defendant receives zero criminal history points for this conviction.

ii. On or about March 12, 1998, defendant was convicted of manufacture/delivery of a controlled substance in the Circuit Court of Cook County in criminal case number 96CR00276801 and sentenced to five years' imprisonment. Defendant was released from prison on May 15, 1998. Pursuant to Guideline § 4A1.2(e), defendant receives zero criminal history points for this conviction.

iii. On or about May 19, 2000, defendant was convicted of aggravated battery of a peace officer in the Circuit Court of Cook County in criminal case number 98CR2647301 and sentenced to 30 months' probation. Pursuant to

Guideline § 4A1.2(e), defendant receives zero criminal history points for this conviction.

iv. On or about September 3, 2009, defendant was convicted of armed robbery in the Circuit Court of Cook County in criminal case number 03CR2651902 and sentenced to six years' imprisonment. Pursuant to Guideline § 4A1.1(a), defendant receives three criminal history points for this conviction.

v. On or about September 3, 2009, defendant was convicted of causing contraband to be brought in to a penal institution in the Circuit Court of Cook County in criminal case number 07CR1868801 and sentenced to three years' imprisonment. Pursuant to Guideline § 4A1.1(a), defendant receives three criminal history points for this conviction.

vi. On or about September 3, 2009, defendant was convicted of communicating with/detain a witness in the Circuit Court of Cook County in criminal case number 07CR1896801 and sentenced to two years' imprisonment. Pursuant to Guideline § 4A1.1(a), defendant receives three criminal history points for this conviction.

vii. On or about November 8, 2010, defendant was convicted of criminal damage to state property in the Circuit Court of Cook County in criminal case number 09 CR1602201 and sentenced to two years' imprisonment. Pursuant to

Guideline § 4A1.1(a), defendant receives three criminal history points for this conviction.

d. Anticipated Advisory Sentencing Guidelines Range.

Therefore, based on the facts now known to the government, the anticipated offense level is 20, which, when combined with the anticipated criminal history category of V, results in an anticipated advisory sentencing guidelines range of 63 to 78 months' imprisonment, in addition to any supervised release and fine the Court may impose.

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

10. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

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

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

13. Defendant agrees to pay the special assessment of \$500 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

14. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 15 CR 279.

15. 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

16. 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 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 his attorney would be able to cross-examine them.

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

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

b. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

17. 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

18. 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.

19. 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.

20. For the purpose of monitoring defendant's compliance with his obligations to pay a fine 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

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

22. 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

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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: _____

JOEL R. LEVIN
Acting United States Attorney

LABAR SPANN
Defendant

PETER S. SALIB
Assistant U.S. Attorney

TOD URBAN
Attorney for Defendant