



U.S. Department of Justice

*United States Attorney
District of New Jersey*

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OJB/BK/PL AGR

October 6, 2017

Robert J. Fettweis, Esquire
Fleming Ruvoldt PLLC
250 Moonachie Road
Moonachie, New Jersey 07074

Re: Plea Agreement with Kwasi Mack

Dear Mr. Fettweis:

This letter sets forth the plea agreement between your client, Kwasi Mack ("Mack"), and the United States Attorney for the District of New Jersey ("this Office"). This Office's offer to enter into this plea agreement will expire if a signed copy of this plea agreement is not received by this Office on or before 6:00 p.m. on Wednesday, October 11, 2017, and if a guilty plea is not entered on or before Friday, October 13, 2017.

Charges

Conditioned on the understandings specified below, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, this Office will accept a guilty plea from Mack to Count One, Count Five, Count Six, Count Eight, Count Nine, Count Twelve, Count Thirteen, and Count Sixteen of the Sixth Superseding Indictment in *United States v. Corey Hamlet et al.*, Crim. No. 14-220 (MCA).

Count One of the Sixth Superseding Indictment charges that, between in or about 2003 and in or about November 2016, Mack, as a member of the NJ Grape Street Crips, knowingly and intentionally conspired and agreed with others to violate the Racketeer Influenced and Corrupt Organizations Act ("RICO") by conducting and participating, directly and indirectly, in the conduct of the affairs of the New Jersey set of the Grape Street Crips through a pattern of racketeering activity, in violation of Title 18, United States Code, Section 1962(d). Count One charges Mack with committing numerous acts of racketeering activity, including acts involving murder, robbery, witness tampering, extortion, and violations of the Controlled Substances Act. In

addition, Count One charges Mack with, among other things, certain acts taken in furtherance of the RICO conspiracy, including the Overt Acts ¶¶ 28(c), 28(d), 28(f), 28(p), 28(q), 28(z), 28(aa), 28(ee) through 28(jj), 28(mm) through 28(oo), 28(qq), 28(ss) through 28(vv), and 28(xx) through 28(bbb) (the “Mack Overt Acts”).

Count Five and **Count Six** of the Sixth Superseding Indictment charges that, on or about October 27, 2013, Mack, for the purpose of gaining entrance to, and maintaining and increasing position in, the NJ Grape Street Crips, an enterprise engaged in racketeering activity, together with others known and unknown, did knowingly and purposely attempt to murder Victim-1 and Victim-4, contrary to N.J.S.A. 2C:11-3(a)(1), 2C:11-3(a)(2), and 2C:5-1(a), in violation of Title 18, United States Code, Section 1959(a)(5), and Title 18, United States Code, Section 2.

Count Eight and **Count Nine** of the Sixth Superseding Indictment charges that, on or about October 27, 2013, Mack, for the purpose of gaining entrance to, and maintaining and increasing position in, the NJ Grape Street Crips, an enterprise engaged in racketeering activity, did knowingly and purposely assault Victim-1 and Victim-4 with a dangerous weapon, specifically, a firearm, contrary to N.J.S.A. 2C:12-1(b)(2) and 2C:2-6, in violation of Title 18, United States Code, Section 1959(a)(3), and Title 18, United States Code, Section 2.

Count Twelve of the Sixth Superseding Indictment charges that, on or about October 7, 2013, Mack, for the purpose of gaining entrance to, and maintaining and increasing position in, the NJ Grape Street Crips, an enterprise engaged in racketeering activity, did knowingly and purposely assault another with a dangerous weapon, specifically, a firearm, contrary to N.J.S.A. 2C:12-1(b)(2) and 2C:2-6, in violation of Title 18, United States Code, Section 1959(a)(3), and Title 18, United States Code, Section 2.

Count Thirteen of the Sixth Superseding Indictment charges that, on or about October 7, 2013, Mack, for the purpose of gaining entrance to, and maintaining and increasing position in, the NJ Grape Street Crips, an enterprise engaged in racketeering activity, together with others known and unknown, did knowingly and purposely conspire to assault another with a dangerous weapon, specifically, a firearm, contrary to N.J.S.A. 2C:12-1(b)(2) and 2C:5-2, in violation of Title 18, United States Code, Section 1959(a)(6).

Count Sixteen of the Sixth Superseding Indictment charges that, from in or around March 2013 through on or about November 10, 2013, Mack, did knowingly and intentionally conspire and agree with each other and others to distribute, and to possess with intent to distribute, one kilogram or more of

a mixture and substance containing a detectable amount of heroin, a Schedule I controlled substance, contrary to Title 21, United States Code, Sections 841(a) and (b)(1)(A), in violation of Title 21, United States Code, Section 846.

If Mack enters a guilty plea and is sentenced on these charges, and otherwise fully complies with all of the terms of this agreement, then this Office will (1) not initiate any further criminal charges against Mack for the conduct set forth in the Sixth Superseding Indictment pending in *United States v. Corey Hamlet et al.*, Crim. No. 14-220 (MCA); and (2) at the time of sentencing, move to dismiss Count Four, Count Seven, Count Ten, Count Eleven, Count Fourteen, Count Fifteen, Count Seventeen and Count Twenty-Four of the Sixth Superseding Indictment as against Mack only. However, in the event that a guilty plea in this matter is not entered for any reason or the judgment of conviction entered as a result of this guilty plea does not remain in full force and effect, Mack agrees that any dismissed charges and any other charges or enhancements that are not time-barred by the applicable statute of limitations on the date this agreement is signed by Mack may be commenced against him, notwithstanding the expiration of the limitations period after Mack signs the agreement.

Should the Court at any time reject this plea under Federal Rule of Criminal Procedure 11(c)(1)(C) or act contrary to its terms, either party may elect to be relieved of the terms of this plea and the parties will be returned to the status prior to the entry of the plea. In the event that the court defers a decision to accept the plea until the Court has reviewed the presentence report, neither party will move to withdraw from this agreement unless or until the court ultimately determines to reject the proposed plea. This Office will advise the Court and the United States Probation Department of information related to sentencing, and such information may be used by the Court in determining Mack's sentence.

The parties agree that sentencing will take place after trial in *United States v. Hamlet et al.*, Crim. No. 14-220.

Sentencing

The violation of Title 18, United States Code, Section 1962(d), set forth in **Count One** carries a statutory maximum prison sentence of life, and a statutory maximum fine equal to the greatest of: (1) \$250,000, or (2) twice the gross amount of any pecuniary gain that any persons derived from the offense, or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

The violations of Title 18, United States Code, Section 1959(a)(5)

and Title 18, United States Code, Section 2, charged in **Count Five** and **Count Six** each carry a statutory maximum prison sentence of ten (10) years, and a statutory maximum fine equal to the greatest of: (1) \$250,000, or (2) twice the gross amount of any pecuniary gain that any persons derived from the offense, or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

The violations of Title 18, United States Code, Section 1959(a)(3), charged in **Count Eight**, **Count Nine**, and **Count Twelve** each carries a statutory maximum prison sentence of twenty (20) years, and a statutory maximum fine equal to the greatest of: (1) \$250,000, or (2) twice the gross amount of any pecuniary gain that any persons derived from the offense, or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

The violation of Title 18, United States Code, Section 1959(a)(6), charged in **Count Thirteen** carries a statutory maximum prison sentence of three (3) years, and a statutory maximum fine equal to the greatest of: (1) \$250,000, or (2) twice the gross amount of any pecuniary gain that any persons derived from the offense, or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

The violation of Title 21, United States Code, Section 846, set forth in **Count Sixteen** carries a statutory mandatory minimum prison sentence of ten (10) years, a statutory maximum prison sentence of life, and a statutory maximum fine equal to the greatest of: (1) \$10,000,000, or (2) twice the gross profits or other proceeds to Mack. Fines imposed by the sentencing judge may be subject to the payment of interest.

Fines imposed by the sentencing judge may be subject to the payment of interest. The sentencing judge may impose the sentence for each count consecutive to every other count.

Further, in addition to imposing any other penalty on Mack, the sentencing judge: (1) will order Mack to pay an assessment of \$100 per count (\$800 total) pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; (2) may order Mack to pay restitution pursuant to 18 U.S.C. § 3663 et seq.; (3) may deny Mack certain statutorily defined benefits, pursuant to 21 U.S.C. §§ 862 and 862a; and (4) must order forfeiture, pursuant to 18 U.S.C. § 1963(a) and 21 U.S.C. § 853.

Pursuant to 18 U.S.C. § 3583, the sentencing judge may, with respect to the offense charged in Count One of the Sixth Superseding

Indictment, require Mack to serve a term of supervised release of up to five (5) years. Should Mack be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Mack may be sentenced to not more than five (5) years' imprisonment on Count One, in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

Pursuant to 18 U.S.C. § 3583, the sentencing judge may, with respect to the offenses charged in Count Five, Count Six, Count Eight, Count Nine, and Count Twelve of the Sixth Superseding Indictment, require Mack to serve a term of supervised release of not more than three (3) years. Should Mack be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Mack may be sentenced to not more than two (2) years' imprisonment on each of Count Five, Count Six, Count Eight, Count Nine, and Count Twelve in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

Pursuant to 18 U.S.C. § 3583, the sentencing judge may, with respect to the offense charged in Count Thirteen of the Sixth Superseding Indictment, require Mack to serve a term of supervised release of up to one (1) year. Should Mack be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Mack may be sentenced to not more than one (1) year's imprisonment in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

Pursuant to 21 U.S.C. § 841, the sentencing judge must, with respect to the offense charged in Count Sixteen of the Sixth Superseding Indictment, require Mack to serve a term of supervised release of at least five (5) years, which will begin at the expiration of any term of imprisonment imposed. Should Mack be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Mack may be sentenced to not more than five (5) years' imprisonment in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

This Office and Mack agree that, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the sentence to be imposed on Mack should be as follows:

- with respect to Count One, a prison sentence of at least thirty-nine (39) and not more than forty-five (45) years, and a term of supervised release of five (5) years;
- with respect to Count Five, a prison sentence of ten (10) years, and a term of supervised release of three (3) years;
- with respect to Count Six, a prison sentence of ten (10) years, and a term of supervised release of three (3) years;
- with respect to Count Eight, a prison sentence of twenty (20) years, and a term of supervised release of three (3) years;
- with respect to Count Nine, a prison sentence of twenty (20) years, and a term of supervised release of three (3) years;
- with respect to Count Twelve, a prison sentence of twenty (20) years, and a term of supervised release of three (3) years;
- with respect to Count Thirteen, a prison sentence of three (3) years, and a term of supervised release of one (1) year;
- with respect to Count Sixteen, a prison sentence of at least thirty-nine (39) and not more than forty-five (45) years, and a term of supervised release of five (5) years;
- a special assessment of \$800 (\$100 per count);
- the sentences on all counts are to run concurrent to each other.

In short, pursuant to Rule 11(c)(1)(C), this Office and Mack agree to an overall prison sentence of at least thirty-nine (39) years' imprisonment and not more than forty-five (45) years' imprisonment, an overall sentence of supervised release of five (5) years, and a special assessment of \$800. Pursuant to Rule 11(c)(1)(C), this Office and Mack agree that no other sentence or fine is appropriate, beside those set forth in this paragraph. If the Court accepts this plea agreement, then Mack must be sentenced accordingly.

Rights of This Office Regarding Sentencing

Except as otherwise provided in this agreement, this Office reserves its right to take any position with respect to the appropriate sentence to be imposed on Mack by the sentencing judge, to correct any misstatements relating to the sentencing proceedings, and to provide the sentencing judge and the United States Probation Office all law and information relevant to sentencing, favorable or otherwise. In addition, this Office may inform the sentencing judge and the United States Probation Office of: (1) this agreement; and (2) the full nature and extent of Mack's activities and relevant conduct with respect to this case.

Stipulations

This Office and Mack agree to stipulate at sentencing to the statements set forth in the attached Schedule A, including that the appropriate sentence to be imposed is a stipulated prison term of at least thirty-nine (39) years' imprisonment and not more than forty-five (45) years' imprisonment, an overall sentence of supervised release of five (5) years, and a special assessment of \$800. The parties agree that a sentence at the stipulated prison term of at least thirty-nine (39) years' imprisonment and not more than forty-five (45) years' imprisonment is appropriate taking into account all of the factors under 18 U.S.C. § 3553(a), including the advisory Guidelines range determined by the Court. This agreement to stipulate, however, cannot and does not bind the sentencing judge, who may make independent factual findings and may reject any or all of the stipulations entered into by the parties. While the Court is not bound by the parties' stipulations, the Court is bound to sentence Mack to a stipulated prison term of at least thirty-nine (39) years' imprisonment and not more than forty-five (45) years' imprisonment under Federal Rule of Criminal Procedure 11(c)(1)(C), if the Court accepts the plea.

Waiver of Appeal and Post-Sentencing Rights

Mack knowingly and voluntarily waives the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255, which challenges the conviction or sentence imposed by the Court if the plea is accepted and the sentence is in accordance with the terms of this agreement.

This Office will not file any appeal, motion or writ which challenges the conviction or sentence imposed by the Court if that sentence is in accordance with the terms of this agreement, and includes a period of

incarceration of at least thirty-nine (39) years' imprisonment and not more than forty-five (45) years' imprisonment. Furthermore, if the Court accepts the terms of this plea agreement, both parties waive the right to file an appeal, collateral attack, writ, or motion claiming that the Court erred in doing so.

Both parties reserve the right to oppose or move to dismiss any appeal, collateral attack, writ, or motion barred by the preceding paragraphs and to file or to oppose any appeal, collateral attack, writ or motion not barred by the preceding paragraph.

Immigration Consequences

Mack understands that, if he is not a citizen of the United States, his guilty plea to the charged offenses will likely result in his being subject to immigration proceedings and removed from the United States by making him deportable, excludable, or inadmissible, or ending his naturalization. Mack understands that the immigration consequences of this plea will be imposed in a separate proceeding before the immigration authorities. Mack wants and agrees to plead guilty to the charged offenses regardless of any immigration consequences of this plea, even if this plea will cause his removal from the United States. Mack understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, Mack waives any and all challenges to his guilty plea and to his sentence based on any immigration consequences, and agrees not to seek to withdraw his guilty plea, or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any immigration consequences of his guilty plea.

Other Provisions

This agreement is limited to the United States Attorney's Office for the District of New Jersey and cannot bind other federal, state, or local authorities. However, this Office will bring this agreement to the attention of other prosecuting offices, if requested to do so.

This agreement was reached without regard to any civil or administrative matters that may be pending or commenced in the future against Mack. This agreement does not prohibit the United States, any agency thereof (including the Internal Revenue Service and Immigration and Customs Enforcement) or any third party from initiating or prosecuting any civil or administrative proceeding against Mack.

No provision of this agreement shall preclude Mack from pursuing in an appropriate forum, when permitted by law, an appeal, collateral attack,

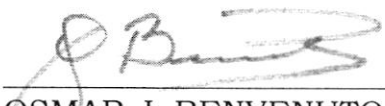
writ, or motion claiming that Mack received constitutionally ineffective assistance of counsel.

No Other Promises

This agreement constitutes the plea agreement between Mack and this Office and supersedes any previous agreements between them. No additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties.

Very truly yours,

WILLIAM E. FITZPATRICK
Acting United States Attorney

By: 

OSMAR J. BENVENUTO
BARRY A. KAMAR
Assistant United States Attorneys

APPROVED:



THOMAS J. EICHER
Chief, Criminal Division

I have received this letter from my attorney, Robert J. Fettweis, Esquire. I have read it. My attorney and I have discussed it and all of its provisions, including those addressing the charges, sentencing, stipulations, waiver, forfeiture, and immigration consequences, as well as the impact Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure has upon this agreement. I understand this letter fully. I hereby accept its terms and conditions and acknowledge that it constitutes the plea agreement between the parties. I understand that no additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties. I want to plead guilty pursuant to this plea agreement.

AGREED AND ACCEPTED:

KWASI MACK

Date:

I have discussed with my client this plea agreement and all of its provisions, including those addressing the charges, sentencing, stipulations, waiver, forfeiture, and immigration consequences, as well as the impact Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure has upon this agreement. My client understands this plea agreement fully and wants to plead guilty pursuant to it.

ROBERT J. FETTWEIS, ESQUIRE

Date:

Plea Agreement With Kwasi Mack ("Mack")

Schedule A

Factual Stipulations

1. This Office and Mack agree to stipulate to the following facts:

a. For purposes of determining Mack's relevant conduct, Mack stipulates that he committed the conduct set forth in each of the Mack Overt Acts.

b. Since at least 2010, Mack has served as second-in-command of the New Jersey set of the Grape Street Crips (the "NJ Grape Street Crips"). In that role, Mack was an organizer and leader over at least 75 members of the NJ Grape Street Crips. In addition, Mack had the authority to initiate new members into, and to promote members within, the NJ Grape Street Crips. As such, Mack was an organizer or leader of criminal activity that involved five or more participants.

c. From at least in or about 2003 through on or about February 6, 2007, Mack distributed narcotics, including heroin, at the James Baxter Terrace public-housing complex.

d. On or about August 14, 2006, Mack used two firearms to attempt to kill a rival gang-member near the intersection of Court Street and Broad Street in Newark, New Jersey. In the process, Mack successfully murdered the rival gang-member and crippled an individual who was with the rival gang-member.

e. On or about October 10, 2011, Mack used an assault rifle to attempt to kill a gang-member who had previously cooperated in a murder investigation and whose loyalty to the gang was in question. In the process, Mack shot eight (8) individuals (the "Columbus Day Shooting"). At least two of those individuals suffered permanent or life-threatening bodily injury.

f. Thereafter, in or about late October 2011, Mack was prosecuted by the Essex County Prosecutor's Office for participating in the Columbus Day Shooting. During that criminal case, Mack learned the identity of the sole witness who had identified him as one of the shooters (the "Sole Witness"). Mack gave the order that the Sole Witness be murdered. Although substantial steps were taken to murder the Sole Witness, the murder never took place.

g. In or about 2012 or 2013, Mack ordered that Victim-2 be murdered. Following Mack's orders, on or about May 3, 2013, Victim-2 was murdered.

h. In or about October 5, 2013, Mack ordered that Victim-1 be murdered. Following Mack's orders, on or about October 27, 2013, Victim-1 and Victim-4 were repeatedly shot and suffered life-threatening injuries.

i. In or about 2013, Mack and others planned to kidnap a major heroin-trafficker in order to rob him.

j. On or about October 7, 2013, Mack and others participated in the attempted shooting of rival gang-members in retaliation for the then recent-murder of a fellow-gang-member. During the shooting, Mack discharged 14 rounds from a 9mm firearm intending to kill one or more members of a rival gang,

k. Between July 2013 and on or about October 7, 2013, Mack conspired with others to distribute more than three, but less than ten kilograms of heroin. Mack maintained a premises for the purpose of distributing controlled substances and knowingly involved individuals who were less than 18 years in the controlled substance offense.

l. From 2003 through 2013, Mack possessed firearms in furtherance of the RICO and narcotics conspiracies.

m. From 2003 through 2013, Mack used violence, made credible threats to use violence, and directed the use of violence in furtherance of the RICO and narcotics conspiracies.

n. From 2003 through 2013, Mack used or attempted to use a person less than eighteen years of age to commit the RICO and narcotics conspiracies.

o. From 2003 through 2013, Mack committed the offenses charged in Count One and Count Sixteen of the Sixth Superseding Indictment as part of a pattern of criminal conduct engaged in as a livelihood.

p. The foregoing activities were in furtherance of, and facilitated by, the NJ Grape Street Crips, an enterprise, as defined in Title 18, United States Code, Section 1961(4).

q. As a member of the NJ Grape Street Crips, Mack agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

U.S. Sentencing Guidelines

2. This Office and Mack recognize that the United States Sentencing Guidelines are not binding upon the Court.

3. This Office and Mack nevertheless agree that Mack's combined offense level—even after a three-point reduction for acceptance of responsibility—is 43 or higher.

Rule 11(c)(1)(C)

4. Nevertheless, in order to resolve the case short of trial, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the parties agree that the following sentence is reasonable taking into account all of the factors under 18 U.S.C. § 3553(a):

- with respect to Count One, a prison sentence of at least thirty-nine (39) and not more than forty-five (45) years, and a term of supervised release of five (5) years;
- with respect to Count Five, a prison sentence of ten (10) years, and a term of supervised release of three (3) years;
- with respect to Count Six, a prison sentence of ten (10) years, and a term of supervised release of three (3) years;
- with respect to Count Eight, a prison sentence of twenty (20) years, and a term of supervised release of three (3) years;
- with respect to Count Nine, a prison sentence of twenty (20) years, and a term of supervised release of three (3) years;
- with respect to Count Twelve, a prison sentence of twenty (20) years, and a term of supervised release of three (3) years;
- with respect to Count Thirteen, a prison sentence of three (3) years, and a term of supervised release of one (1) year;
- with respect to Count Sixteen, a prison sentence of at least thirty-nine (39) and not more than forty-five (45) years, and a term of supervised release of five (5) years;
- a special assessment of \$800 (\$100 per count);

- the sentences on all counts are to run concurrent to each other (the “Stipulated Sentence”).

The parties further agree that neither party will argue for a sentence above or below the Stipulated Sentence. Furthermore, should the Court reject this agreement, either party may elect to be relieved of the terms of this plea, and the parties will be returned to the status prior to entry of the plea.

5. If the sentencing court sentences Mack to a term of imprisonment within the Stipulated Sentence, both parties waive the right to file an appeal, collateral attack, writ, or motion claiming that the sentencing court erred in doing so. Otherwise, both parties reserve the right to file, oppose, or take any position in any appeal, collateral attack, or proceeding involving post-sentencing motions or writs.