

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
At Albuquerque, NM

JAN 16 2025

MITCHELL R. ELFERS
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARTHUR PAT,

Defendant.

Cr. No. 25-99 KWR

PLEA AGREEMENT

1. Pursuant to Rule 11(c)(1)(C), Fed. R. Crim. P., the parties notify the Court of the following agreement between the United States of America, by the United States Attorney for the District of New Mexico, and Defendant, Arthur Pat, with the advice and counsel of his attorney, Hadley Brown. This agreement is limited to the United States Attorney's Office for the District of New Mexico and does not bind any other federal, state, or local agencies or prosecuting authorities.

REPRESENTATION BY COUNSEL

2. Defendant understands Defendant's right to be represented by an attorney and is so represented. Defendant has thoroughly reviewed all aspects of this case with Defendant's attorney and is fully satisfied with that attorney's legal representation.

RIGHTS OF THE DEFENDANT

- 3. Defendant further understands the Defendant's rights:
 - a. to be prosecuted by indictment;

- b. to plead not guilty, or having already so pleaded, to persist in that plea;
- c. to have a trial by jury; and
- d. at a trial:
 - 1) to confront and cross-examine adverse witnesses,
 - 2) to be protected from compelled self-incrimination,
 - 3) to testify and present evidence on Defendant's own behalf, and
 - 4) to compel the attendance of witnesses for the defense.

WAIVER OF RIGHTS AND PLEA OF GUILTY

4. Defendant agrees to waive these rights and to plead guilty to Count 1 of the Information, charging a violation of 18 U.S.C. §§ 1153 and 113(a)(6), that being Assault resulting in serious bodily injury, an Indian Country crime.

SENTENCING

5. The Defendant understands that the maximum penalties provided by law for this offense are:

- a. imprisonment for a period of not more than 10 years;
- b. a fine not to exceed the greater of \$250,000 or twice the pecuniary gain to Defendant or pecuniary loss to the victim;
- c. a term of supervised release of not more than three years to follow any term of imprisonment. (If Defendant serves a term of imprisonment, is then released on supervised release, and violates the conditions of supervised release, Defendant's supervised release could be revoked —

even on the last day of the term — and Defendant could then be returned to another period of incarceration and a new term of supervised release.);

- d. a mandatory special penalty assessment of \$100.00; and
- e. restitution as may be ordered by the Court.

6. The parties recognize that the federal sentencing guidelines are advisory and that the Court is required to consider them in determining the sentence it imposes.

7. The parties are aware the Court will decide whether to accept or reject this plea agreement. The Court may defer its decision as to acceptance or rejection until there has been an opportunity to consider the presentence report. Pursuant to Federal Rule of Criminal Procedure 11(c)(5), if the Court rejects this plea agreement, Defendant shall have the right to withdraw Defendant's plea of guilty.

8. Regardless of any other provision in this agreement, the United States reserves the right to provide to the United States Pretrial Services and Probation Office and to the Court any information the United States believes may be helpful to the Court, including but not limited to information about the recommendations contained in this agreement and any relevant conduct under U.S.S.G. § 1B1.3.

ELEMENTS OF THE OFFENSE

9. If this matter proceeded to trial, Defendant understands the United States would be required to prove, beyond a reasonable doubt, the following elements for violations of the charge listed below:

Count 1: 18 U.S.C. §§ 1153 & 113(a)(6), that being Assault resulting in serious bodily injury, an Indian Country crime:

First: Defendant assaulted John Doe;

Second: Defendant's assault caused Doe serious bodily injury. "Serious bodily injury" means bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

Third: This crime occurred in "Indian Country"; and

Fourth: Defendant is an "Indian."

DEFENDANT'S ADMISSION OF FACTS

10. By my signature on this plea agreement, I am acknowledging that I am pleading guilty because I am, in fact, guilty of the offense to which I am pleading guilty. I recognize and accept responsibility for my criminal conduct. Moreover, in pleading guilty, I acknowledge that if I chose to go to trial instead of entering this plea, the United States could prove facts sufficient to establish my guilt of the offense to which I am pleading guilty beyond a reasonable doubt, including any facts alleged in the information that increase the statutory minimum or maximum penalties. I specifically admit the following facts related to the charges against me, and declare under penalty of perjury that all of these facts are true and correct:

On the afternoon of January 22, 2024, I heard a commotion coming from a home about 350 yards away from mine. I subsequently drove to that home because my son (J.P.) was amongst the four people who were intoxicated and roughhousing in that home's front yard. I was upset that two of the other men were pushing J.P. I brought a handgun to the other home. None of the men had weapons as far as I could tell.

I unreasonably believed John Doe and one of the other men posed a danger to me. I thus fired multiple gunshots as a warning to Doe and the others before firing once in the direction of John Doe's leg, causing a gun shot wound to his knee. After the shooting, I went back to my home with J.P. When I got home, I told my daughter, K.P., to call police. She went to an area where she had phone reception and did so.

I agree that my act of bringing a handgun to the commotion and using that handgun was unreasonable. I also agree the gunshot to Doe's knee meets the definition of "serious bodily injury" under federal law.

I am an enrolled member of the Navajo Nation, which makes me an Indian under federal law. I acknowledge this crime occurred at a location in Bread Springs, New Mexico, which I agree to be "Indian Country" under federal law.

11. By signing this agreement, Defendant admits that there is a factual basis for each element of the crime to which Defendant is pleading guilty and agrees to affirm the facts set forth above during the plea colloquy. Defendant agrees the Court may rely on any of these facts, as well as facts in the presentence report, to determine Defendant's sentence, including, but not limited to, the advisory guideline offense level.

RECOMMENDATIONS

12. The United States and Defendant recommend as follows:

- a. Defendant and the United States have made an AGREEMENT pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), that a specific sentence of supervised probation for four years, with the first year spent on home detention at a home *not* in Bread Springs is the appropriate disposition in this case. This agreement takes into account Defendant's acceptance of responsibility, with no further reduction to occur.
- b. The remaining components of Defendant's sentence, including but not limited to any fine or restitution and the conditions of probation, shall be imposed by the Court after the presentation of evidence and/or argument by the parties.

- c. If the Court accepts the plea agreement, it must inform Defendant that the agreed upon disposition will be included in the judgment, and the Court is bound by the terms of the plea agreement once the Court accepts the plea agreement.

DEFENDANT'S ADDITIONAL AGREEMENT

13. Defendant understands Defendant's obligation to provide the United States Pretrial Services and Probation Office with truthful, accurate, and complete information. Defendant represents that he has complied with and will continue to comply with this obligation.

14. Defendant agrees that any financial records and information provided by Defendant to the Probation Office, before or after sentencing, may be disclosed to the United States Attorney's Office for use in the collection of any unpaid financial obligation.

15. Except under circumstances where the Court, acting on its own, rejects this plea agreement (or functionally rejects it, as described below under the heading Violation or Rejection of Plea Agreement), Defendant agrees that, upon Defendant's signing of this plea agreement, the facts he has admitted under this plea agreement as set forth above, as well as any facts to which Defendant admits in open court at Defendant's plea hearing, shall be admissible against Defendant under Federal Rule of Evidence 801(d)(2)(A) in any subsequent proceeding, including a criminal trial, and Defendant expressly waives his rights under Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 with regard to the facts Defendant admits in conjunction with this plea agreement. The Court has not acted on its own if its rejection of the plea agreement occurs after Defendant has expressly or implicitly suggested to the Court a desire or willingness to withdraw his plea or not to be bound by the terms of this plea agreement.

16. By signing this plea agreement, Defendant waives the right to withdraw Defendant's plea of guilty pursuant to Federal Rule of Criminal Procedure 11(d) unless (1) the Court rejects the plea agreement pursuant to Federal Rule of Criminal Procedure 11(c)(5) or (2) Defendant can show a fair and just reason as those terms are used in Rule 11(d)(2)(B) for requesting the withdrawal.

17. Defendant recognizes that this plea agreement has already conferred a benefit on Defendant. Consequently, in return for the benefit conferred on Defendant by entering into this agreement, Defendant agrees not to seek any sentence other than the specific sentence of supervised probation for four years, with the first year spent on home detention at a home *not* in Bread Springs, as agreed to by the parties pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure.

18. Defendant will not willfully fail to appear for any court appearance in this matter, nor willfully fail to surrender as ordered for service of any sentence.

19. Defendant agrees not to engage in conduct that would constitute a new crime. Offenses that would be excluded for sentencing purposes under U.S.S.G. § 4A1.2(c) are not within the scope of this paragraph's agreement.

20. Defendant agrees not to engage in conduct that would constitute obstructing or impeding the administration of justice under U.S.S.G. § 3C1.1.

RESTITUTION

21. The parties agree that, as part of Defendant's sentence, the Court will enter an order of restitution pursuant to the Mandatory Victim's Restitution Act, 18 U.S.C. § 3663A, if

applicable; if § 3663A is not applicable, the Court will enter an order of restitution pursuant to 18 U.S.C. §§ 3663 and 3664.

22. No later than July 1 of each year after sentencing, until restitution is paid in full, Defendant shall provide the Asset Recovery Unit, United States Attorney's Office, 201 Third Street NW, Suite 900, Albuquerque, New Mexico 87102, (1) a completed and signed financial statement provided to Defendant by the United States Attorney's Office and/or the United States Probation Office and (2) a copy of Defendant's most recent tax returns.

FORFEITURE

23. Defendant agrees to forfeit, and hereby forfeits, whatever interest Defendant may have in any asset derived from or used in the commission of the offense in this case.

24. Defendant voluntarily and immediately agrees to the administrative, civil, or criminal forfeiture to the United States all of Defendant's right, title, and interest in the following assets and properties:

- a. a Black Taurus nine-millimeter G2 handgun, model no. PT111, serial no. TMW74550.

25. Defendant consents to the prompt entry of a preliminary order of forfeiture and entry of a final order of forfeiture, pursuant to Fed. R. Crim. P. 32.2, without further notice to Defendant. Defendant also agrees to fully assist the United States in the forfeiture of the above-described property and to take whatever steps are necessary to pass clear title to the United States, including but not limited to execution of any documents necessary to transfer Defendant's interest in the above-described property to the United States.

26. Defendant agrees to waive the right to notice of any forfeiture proceeding involving the above-described property.

27. Defendant knowingly and voluntarily waives the right to a jury trial on the forfeiture of the above-described property. Defendant knowingly and voluntarily waives all constitutional, legal, and equitable defenses to the forfeiture of said property in any proceeding. Defendant agrees to waive any jeopardy defense or claim of double jeopardy, whether constitutional or statutory, and agrees to waive any claim or defense under the Eighth Amendment to the United States Constitution, including any claim of excessive fine, to the forfeiture of said property by the United States or any State or its subdivisions.

WAIVER OF APPEAL RIGHTS AND POST-CONVICTION RIGHTS

28. Defendant is aware that 28 U.S.C. § 1291 and 18 U.S.C. § 3742 afford the right to appeal a conviction and the sentence imposed. Acknowledging that, Defendant knowingly waives the right to appeal his conviction and any sentence imposed in conformity with this Fed. R. Crim. P. 11(c)(1)(C) plea agreement, as well as any order of restitution entered by the Court. This waiver extends to any challenge to the manner in which the sentence was determined or imposed, including the district court's authority to make findings supporting the sentence.

29. Defendant also waives the right to appeal any sentence imposed below or within the guideline range upon a revocation of supervised release in this cause number but may nonetheless appeal the determination of the revocation guideline range.

30. Defendant also waives the right to appeal the denial of any motion filed under 18 U.S.C. § 3582(c) where such denial rests upon the court's determination that a sentence reduction is not warranted under the factors set forth in 18 U.S.C. § 3553(a).

31. In addition, Defendant agrees to waive any collateral attack to Defendant's conviction and any sentence pursuant to 28 U.S.C. §§ 2241, 2255, or any other extraordinary writ, except on the issue of defense counsel's ineffective assistance.

GOVERNMENT'S ADDITIONAL AGREEMENT

32. Provided Defendant fulfills Defendant's obligations as set out above, the United States agrees that:

- a. The United States will not bring additional criminal charges against the Defendant arising out of the facts forming the basis of the present information.

VOLUNTARY PLEA

33. Defendant agrees and represents that this plea of guilty is freely and voluntarily made and is not the result of force, threats, or promises (other than the promises set forth in this agreement and any addenda). Defendant also represents that he is pleading guilty because he is in fact guilty.

VIOLATION OR REJECTION OF PLEA AGREEMENT

34. Defendant agrees that if the Court finds by a preponderance of the evidence that Defendant has violated any provision of this agreement, the United States will be released from its obligations under the agreement. In such a case, or where the Court has rejected the plea agreement or has functionally rejected it by failing to accept the agreement within six months of its entry (except where the United States, in its sole discretion, agrees to an extension of that time) the United States is released from its obligations under the plea agreement and Defendant will thereafter be subject to prosecution for any criminal violation, including but not limited to

any crime(s) or offense(s) contained in or related to the charges in this case, as well as perjury, false statement, obstruction of justice, and any other crime committed by Defendant during this prosecution.

35. Defendant further agrees that in the event the Court finds Defendant has breached this plea agreement, thus releasing the United States of its obligations under the agreement, such events do not constitute a fair and just reason under Rule 11(d)(2)(B) for withdrawing the guilty plea entered pursuant to this agreement.

36. Following the Court's finding of a breach of this agreement by Defendant, or rejection or functional rejection of the agreement by the Court, should the United States choose to pursue any charge that was either dismissed or not filed as a result of this agreement, Defendant waives any defense to that charge or charges based on the lapse of time between the entry of this agreement and such event.

SPECIAL ASSESSMENT

37. At the time of sentencing, the Defendant will tender to the United States District Court, District of New Mexico, 333 Lomas Blvd. NW, Suite 270, Albuquerque, New Mexico 87102, a money order or certified check payable to the order of the **United States District Court** in the amount of **\$100** in payment of the special penalty assessment described above.

ENTIRETY OF AGREEMENT

38. This document and any addenda are a complete statement of the agreement in this case and may not be altered unless done so in writing and signed by all parties. This agreement is effective upon signature by Defendant and an Assistant United States Attorney.

AGREED TO AND SIGNED this 10th day of January, 2025.

ALEXANDER M.M. UBALLEZ
United States Attorney



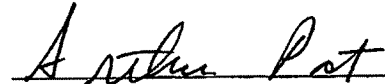
Zach Jones
Assistant United States Attorney
Albuquerque, New Mexico 87102
(505) 346-7274

I have carefully discussed every part of this agreement with my client. Further, I have fully advised my client of my client's rights, of possible defenses, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of the relevant sentencing guidelines provisions, and of the consequences of entering into this agreement. In addition, I have explained to my client the elements to each offense to which she/he is pleading guilty. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one.



Hadley Brown
Attorney for Defendant

I have carefully discussed every part of this agreement with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. My attorney has advised me of my rights, of possible defenses, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of the relevant sentencing guidelines provisions, and of the consequences of entering into this agreement.



Arthur Pat
Defendant