

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEMETRIUS ANTONNIE BAILEY,

Defendant.

**Cr. No. 24-00039-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 the Defendant, Demetrius Antonnie Bailey, with the advice and counsel of his attorney, John C. Anderson. 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. The Defendant understands the Defendant's right to be represented by an attorney and is so represented. The Defendant has thoroughly reviewed all aspects of this case with the Defendant's attorney and is fully satisfied with that attorney's legal representation.

**RIGHTS OF THE DEFENDANT**

3. The Defendant further understands the Defendant's rights:
- a. to plead not guilty, or having already so pleaded, to persist in that plea;

- b. to have a trial by jury; and
- c. 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 the Defendant's own behalf, and
  - 4) to compel the attendance of witnesses for the defense.

**WAIVER OF RIGHTS AND PLEA OF GUILTY**

4. The Defendant agrees to waive these rights and to plead guilty to Counts 1-10 of the second superseding indictment, charging violations of 18 U.S.C. § 1951, that being conspiracy to interfere with commerce by robbery (Count 1); 18 U.S.C. §§ 1951 and 2, that being interference with commerce by robbery and aiding and abetting (Counts 2-8); 18 U.S.C. §§ 924(c)(1)(A)(ii) and 2, that being aiding and abetting using, carrying, and brandishing a firearm during and in relation to a crime of violence, and possessing and brandishing a firearm in furtherance of such crime (Count 9); and 18 U.S.C. §§ 922(g)(1) and 924, that being felon in possession of a firearm and ammunition (Count 10).

**SENTENCING**

5. The Defendant understands that the minimum and maximum penalties provided by law for these offenses are:

Counts 1-8: 18 U.S.C. §§ 1951 and 2: Conspiracy to Interfere with Commerce by Robbery; Interference with Interstate Commerce by Robbery; Aiding and Abetting:

- a. imprisonment for a period of not more than 20 years;
- b. a fine not to exceed the greater of \$250,000 or twice the pecuniary gain to the Defendant or pecuniary loss to the victim;

- c. a term of supervised release of not more than 3 years to follow any term of imprisonment. (If the Defendant serves a term of imprisonment, is then released on supervised release, and violates the conditions of supervised release, the Defendant's supervised release could be revoked — even on the last day of the term — and the 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.

Count 9: 18 U.S.C. §§ 924(c)(1)(A)(ii) and 2: Aiding and Abetting Using, Carrying, and Brandishing a Firearm During and in Relation to a Crime of Violence, and Possessing and Brandishing a Firearm in Furtherance of Such Crime:

- a. imprisonment for a period of not less than 7 years and not more than a term of life, to be imposed consecutively with any other term imposed;
- b. a fine not to exceed the greater of \$250,000 or twice the pecuniary gain to the Defendant or pecuniary loss to the victim;
- c. a term of supervised release of not more than 5 years to follow any term of imprisonment. (If the Defendant serves a term of imprisonment, is then released on supervised release, and violates the conditions of supervised release, the Defendant's supervised release could be revoked — even on the last day of the term — and the 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.

Count 10: 18 U.S.C. §§ 922(g)(1) and 924: Felon in Possession of a Firearm and Ammunition:

- a. imprisonment for a period of not more than 15 years, but if the Defendant is an armed career criminal under 18 U.S.C. § 924(e)—that is, if the Defendant has three previous convictions for a violent felony or a serious drug offense as defined in 18 U.S.C. § 924(e)(2)—then imprisonment for a period of not less than 15 years and not more than life;
- b. a fine not to exceed the greater of \$250,000.00 or twice the pecuniary gain to the Defendant or pecuniary loss to the victim;
- c. a term of supervised release of not more than 3 years to follow any term of imprisonment but if the Defendant is an armed career criminal under 18 U.S.C. § 924(e)—that is, if the Defendant has three previous convictions for a violent felony or a serious drug offense as defined in 18 U.S.C. § 924(e)(2)—then a term of supervised release of not more than 5 years to follow any term of imprisonment. (If the Defendant serves a term of imprisonment, is then released on supervised release, and violates the conditions of supervised release, the Defendant's supervised release could be revoked — even on the last day of the term — and the 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 that 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, the Defendant shall have the right to withdraw the 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, the Defendant understands that the United States would be required to prove, beyond a reasonable doubt, the following elements for violations of the charges listed below:

#### **Count 1: 18 U.S.C. § 1951: Conspiracy to Interfere with Interstate Commerce by Robbery**

*First:* the Defendant agreed with at least one other person to obstruct, delay, or affect commerce or the movement of any article or commodity in commerce, by robbery or extortion;

*Second:* the Defendant knew the essential objective of the conspiracy;

*Third:* the Defendant knowingly and voluntarily participated in the conspiracy; and

*Fourth:* there was interdependence among the members of the conspiracy; that is, the members, in some way or manner, intended to act together for their shared mutual benefit within the scope of the conspiracy charged.

Counts 2-8: 18 U.S.C. § 1951: Interference with Interstate Commerce by Robbery:

*First:* the Defendant obtained property from another, without that person's consent;

*Second:* the Defendant did so by wrongful use of actual or threatened force, violence, or fear; and

*Third:* as a result of the Defendant's actions, interstate commerce, or an item moving in interstate commerce, was actually or potentially delayed, obstructed, or affected in any way or degree.

Counts 2-8: 18 U.S.C. § 2: Aiding and Abetting:

*First:* someone else committed the charged crime; and

*Second:* the Defendant intentionally associated himself in some way with the crime and intentionally participated in it as he would in something he wished to bring about. This means that the government must prove that the Defendant consciously shared the other person's knowledge of the underlying criminal act and intended to help him.

Count 9: 18 U.S.C. §§ 924(c)(1)(A)(ii) and 2: Aiding and Abetting Using, Carrying, and Brandishing a Firearm During and in Relation to a Crime of Violence, and Possessing and Brandishing a Firearm in Furtherance of Such Crime:

*First:* someone other than the Defendant committed the crime of using, carrying, and brandishing a firearm during and in relation to, or possessing and brandishing a firearm in furtherance of, the crime of interference with interstate commerce by robbery, as charged in Count 8, which is a crime of violence:

*Second:* the Defendant intentionally associated himself in some way with the crime and intentionally participated in it as he would in something he wished to bring about. This means the government must prove that the Defendant consciously shared the other person's knowledge of the underlying criminal act and intended to help him; and

*Third:* the Defendant knew in advance of the crime of violence that the other person would use, carry, and brandish a firearm during and in relation to, or possess a firearm in furtherance of, that crime.

Count 10: 18 U.S.C. §§ 922(g)(1) and 924: Felon in Possession of a Firearm and Ammunition:

*First:* the Defendant knowingly possessed a firearm or ammunition;

*Second:* the Defendant was convicted of a felony, that is, a crime punishable by imprisonment for a term exceeding one year, before he possessed the firearm or ammunition;

*Third:* at the time of possession, the Defendant knew that he was convicted of a crime punishable by imprisonment for a term exceeding one year; and

*Fourth:* before the Defendant possessed the firearm or ammunition, the firearm or ammunition had moved at some time from one state to another or from a foreign country to the United States.

**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(s) 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(s) to which I am pleading guilty beyond a reasonable doubt, including any facts alleged in the indictment 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:

**From on or about July 11, 2023, and continuing to on or about September 16, 2023, in Bernalillo County, in the District of New Mexico, I, Demetrius Antonnie Bailey, unlawfully, knowingly, and intentionally combined, conspired, confederated, agreed, and acted interdependently with a co-conspirator and with other persons to commit offenses defined in 18 U.S.C. § 1951(a), specifically, interference with commerce by robbery.**

**Count 2**

**On July 11, 2023, in the District of New Mexico, I, Demetrius Antonnie Bailey, robbed the Harbor Freight Tools store located at 10131 Coors Blvd NW in Albuquerque, New Mexico, with a co-conspirator. Specifically, my co-conspirator and I entered the Harbor Freight Tools store separately and gathered items from the store as if shopping, including two ½ inch digital torque wrenches and a 48-inch gooseneck wrecking bar that I understand are worth approximately \$918.97. My co-conspirator and I then left the store with the items at the same time without paying. When a security guard attempted to intercept us at the door to the store, my co-conspirator and I wrongfully used force, violence, or fear against the guard to obtain property belonging to the store, namely, my co-conspirator brandished a replica handgun at the guard and I threatened the guard. I have since learned that at the time I robbed the Harbor Freight Tools store, it sold items that travelled in interstate commerce. I now know and do not dispute that my actions disrupted the normal business of the store thereby affecting interstate commerce.**

**Count 3**

**On August 26, 2023, in the District of New Mexico, I robbed the Metro by T-Mobile store located at 2400 Juan Tabo Blvd NE in Albuquerque, New Mexico, with a co-conspirator. Specifically, my co-conspirator and I entered the Metro by T-Mobile store, and my co-conspirator pointed a replica handgun at two employees, demanding money, and then took money from the cash registers. My co-conspirator and I then ordered the two employees to get on the ground at the back of the store, took cash and electronics, including approximately twenty iPhones that I understand are worth approximately \$20,000, and left the store without paying. I wrongfully used force, violence, or fear against store employees to obtain money and property belonging to the store. I have since learned that at the time I robbed the Metro by T-Mobile store, it sold items that travelled in interstate commerce. I now know and do not dispute that my actions disrupted the normal business of the store thereby affecting interstate commerce.**



Count 4

On September 1, 2023, in the District of New Mexico, I robbed the T-Mobile store located at 3301 Coors Blvd NW in Albuquerque, New Mexico, with a co-conspirator. Specifically, my co-conspirator and I entered the T-Mobile store, and my co-conspirator pointed a replica handgun at two employees. My co-conspirator and I ordered the two employees to go lie down at the back of the store, where we took multiple iPhones and other merchandise, which I understand are worth a total of approximately \$41,000. My co-conspirator and I then left the store without paying. I wrongfully used force, violence, or fear against store employees to obtain property belonging to the store. I have since learned that at the time I robbed the T-Mobile store, it sold items that travelled in interstate commerce. I now know and do not dispute that my actions disrupted the normal business of the store thereby affecting interstate commerce.

Count 5

On September 9, 2023, in the District of New Mexico, I robbed the Metro by T-Mobile store located at 2225 Wyoming Blvd NE in Albuquerque, New Mexico, with a co-conspirator. Specifically, my co-conspirator and I entered the Metro by T-Mobile store, and my co-conspirator pointed a replica handgun at two employees and demanded one of them open the cash register. My co-conspirator and I then forced the two employees to go to the back room and stand in the corner while we took merchandise from the store and left without paying. I understand that the merchandise we took has a value of approximately \$6,000. I wrongfully used force, violence, or fear against store employees to obtain money and property belonging to the store. I have since learned that at the time I robbed the Metro by T-Mobile store, it sold items that travelled in interstate commerce. I now know and do not dispute that my actions disrupted the normal business of the store thereby affecting interstate commerce.

Count 6

On September 12, 2023, in the District of New Mexico, I robbed the Verizon store located at 11012 Montgomery Blvd NE in Albuquerque, New Mexico, with a co-conspirator. Specifically, my co-conspirator and I entered the Verizon store, and my co-conspirator brandished a replica handgun at the Verizon employee. My co-conspirator and I forced the employee to go into the back room and open the safe, from which we took cellular phones and cash that I understand are worth at least approximately \$3,449.76. We then left the store without paying. I wrongfully used force, violence, or fear against a store employee to obtain money and property belonging to the store. I have since learned that at the time I robbed the Verizon store, it sold items that travelled in interstate commerce. I now know and do not dispute that my actions disrupted the normal business of the store thereby affecting interstate

commerce.

#### Count 7

On September 16, 2023, in the District of New Mexico, I robbed the JC Penney located at 6600 Menaul Blvd NE in Albuquerque, New Mexico, with a co-conspirator. Specifically, my co-conspirator and I entered the JC Penney and went directly to the men's Levi department, where we each grabbed a stack of Levi jeans. We then moved towards the exit of the store to leave without paying. When an employee attempted to intercept us, we wrongfully used force, violence, or fear against them to obtain property belonging to the store, namely, I pushed the employee and my co-conspirator pointed a replica firearm at the employee's stomach. My co-conspirator and I took approximately 35 pairs of jeans that I understand are valued at \$2,432.50. I have since learned that at the time I robbed the JC Penney, it sold items that travelled in interstate commerce. I now know and do not dispute that my actions disrupted the normal business of the store thereby affecting interstate commerce.

#### Counts 8 and 9

On September 16, 2023, in the District of New Mexico, I robbed the Metro by T-Mobile store located at 4408 Menaul Blvd NE in Albuquerque, New Mexico, with a co-conspirator. Specifically, my co-conspirator entered the Metro by T-Mobile store and brandished a Hi-Point 9mm handgun, serial number P1792048, loaded with approximately four 9mm bullets, at a store employee, and told the employee to face the wall behind the counter and to put his hands on the wall. I then entered the store, and my co-conspirator ordered the employee to go to the back area of the business and lay flat on the ground. My co-conspirator and I took items from cabinets, including approximately 60-70 cellphones, \$200 cash from the front register, and multiple cellphone accessories, and left without paying. I wrongfully used force, violence, or fear against a store employee to obtain money and property belonging to the store. I have since learned that at the time I robbed the Metro by T-Mobile store, it sold items that travelled in interstate commerce. I now know and do not dispute that my actions disrupted the normal business of the store thereby affecting interstate commerce.

My co-conspirator used, carried, and brandished a firearm during and in relation to, and possessed and brandished a firearm in furtherance of, the robbery of the Metro by T-Mobile store on September 16, 2023. In participating in this robbery, I intentionally associated myself with the crime and intentionally participated in it as something I wished to bring about, and consciously shared my co-conspirator's knowledge of the underlying criminal act and intended to help him. I also knew in advance of the robbery that my co-conspirator would use or carry, and brandish a firearm during and in relation to, and possess and brandish a firearm in furtherance of, that crime.

**Count 10**

I further admit that on September 28, 2023, I possessed a Ruger 9E 9mm handgun, serial number 33778816, and approximately 16 9mm bullets. Prior to September 28, 2023, I had been convicted of at least one felony offense, including:

- (1) possession of a controlled substance,
- (2) second degree robbery (two convictions),
- (3) theft (four convictions),
- (4) property damage,
- (5) fraudulent use of credit/debit device,
- (6) theft/stealing of any credit card or letter of credit, and
- (7) resisting/interfering with arrest for a felony,

and I knew that I was a convicted felon at the time I possessed the firearm. I have been informed, and I do not contest, that the firearm I possessed met the federal definition of a “firearm” and was not manufactured in New Mexico and therefore affected interstate commerce. Further, I have been informed, and I do not contest, that the ammunition I possessed was also not manufactured in New Mexico and therefore affected interstate commerce.

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

**RECOMMENDATIONS**

12. The United States and the Defendant recommend as follows:

- a. The 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 **between 10 and 22 years’ imprisonment** is the appropriate disposition in this case. It is the intent of the parties that this sentence of up to twenty-two years’ imprisonment includes the 7 years’ mandatory

consecutive sentence for Count 9. This agreement takes into account the Defendant's acceptance of responsibility, with no further reduction to occur.

- b. The remaining components of the Defendant's sentence, including but not limited to any fine or restitution and the length and conditions of supervised release, 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 the 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. The Defendant understands the Defendant's obligation to provide the United States Pretrial Services and Probation Office with truthful, accurate, and complete information. The Defendant represents that the Defendant has complied with and will continue to comply with this obligation.

14. The Defendant agrees that any financial records and information provided by the 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), the Defendant agrees that, upon the Defendant's signing of this

plea agreement, the facts that the Defendant has admitted under this plea agreement as set forth above, as well as any facts to which the Defendant admits in open court at the Defendant's plea hearing, shall be admissible against the Defendant under Federal Rule of Evidence 801(d)(2)(A) in any subsequent proceeding, including a criminal trial, and the Defendant expressly waives the Defendant's rights under Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 with regard to the facts the 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 the Defendant has expressly or implicitly suggested to the Court a desire or willingness to withdraw his or her plea or not to be bound by the terms of this plea agreement.

16. By signing this plea agreement, the Defendant waives the right to withdraw the 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) the Defendant can show a fair and just reason as those terms are used in Rule 11(d)(2)(B) for requesting the withdrawal.

17. The 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.

18. The 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.

19. 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**

20. The parties agree that, as part of the 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.

21. No later than July 1 of each year after sentencing, until restitution is paid in full, the Defendant shall provide the Asset Recovery Unit, United States Attorney's Office, P.O. Box 607, Albuquerque, New Mexico 87103, (1) a completed and signed financial statement provided to the Defendant by the United States Attorney's Office and/or the United States Probation Office and (2) a copy of the Defendant's most recent tax returns.

**FORFEITURE**

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

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

- a. a Ruger 9E 9mm handgun, serial number 33778816, and
- b. approximately 16 9mm bullets.

24. The Defendant 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 the Defendant's interest in the above-described property to the United States.

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

26. The Defendant knowingly and voluntarily waives the right to a jury trial on the forfeiture of the above-described property. The Defendant knowingly and voluntarily waives all constitutional, legal, and equitable defenses to the forfeiture of said property in any proceeding. The 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.

#### **IMMIGRATION REMOVAL AND OTHER IMMIGRATION CONSEQUENCES**

27. The Defendant recognizes that pleading guilty may have consequences with respect to the Defendant's immigration status if the Defendant is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including the offense(s) to which the Defendant is pleading guilty. Removal and other immigration consequences are the subject of a separate proceeding, however, and the Defendant understands that no one, including the Defendant's attorney or the district court, can predict to a certainty the effect of the Defendant's conviction on the Defendant's immigration status. The Defendant nevertheless affirms that the Defendant wants to plead guilty regardless of any immigration consequences that the Defendant's plea may entail, even if the consequence is the Defendant's automatic removal from the United States.



**WAIVER OF APPEAL RIGHTS AND POST-CONVICTION RIGHTS**

28. The 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, the Defendant knowingly waives the right to appeal the Defendant's conviction(s) 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. The 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. The 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, the Defendant agrees to waive any collateral attack to the Defendant's conviction(s) 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 that the Defendant fulfills the 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 indictment.

#### **VOLUNTARY PLEA**

33. The 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). The Defendant also represents that the Defendant is pleading guilty because the Defendant is in fact guilty.

#### **VIOLATION OR REJECTION OF PLEA AGREEMENT**

34. The Defendant agrees that if the Court finds by a preponderance of the evidence that the 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 the 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 the Defendant during this prosecution. If the Defendant has pleaded guilty to any lesser-included offense(s), the Defendant's violation of this plea agreement will result in reinstatement of the greater offense(s). The Defendant waives any claim that the Defendant's guilty plea under the rejected agreement bars prosecution of any additional offenses on double-jeopardy grounds.

35. The Defendant further agrees that in the event the Court finds that 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(s) entered pursuant to this agreement.

36. Following the Court's finding of a breach of this agreement by the 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, the 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 **\$1,000** 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 the Defendant and an Assistant United States Attorney.

AGREED TO AND SIGNED this 21<sup>st</sup> day of March, 2025.

HOLLAND S. KASTRIN  
Acting United States Attorney

  
\_\_\_\_\_  
MARIA ELENA STITELER  
NATASHA MOGHADAM  
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.

  
\_\_\_\_\_  
JOHN C. ANDERSON  
Attorney for the 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.

  
\_\_\_\_\_  
DEMETRIUS ANTONNIE BAILEY  
Defendant