

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT BOWLING GREEN

FILED
DISTRICT COURT CLERK
WESTERN DISTRICT OF KY
2017 JUN 16 AM 11:29

UNITED STATES OF AMERICA

PLAINTIFF

vs.

CRIMINAL ACTION NO. 1:15CR30-GNS

TREY ALEXANDER GWATHNEY-LAW

DEFENDANT

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c)(1)(A) and (C), the United States of America, by John E. Kuhn, Jr., United States Attorney for the Western District of Kentucky, and defendant, Trey Alexander Gwathney-Law, and his attorney, Patrick J. Bouldin, have agreed upon the following:

1. Defendant acknowledges that he has been charged in the Superseding Indictment in this case with violating 18 U.S.C. §§ 844(i), 924(c)(1)(A), 924(c)(1)(B)(ii) as well as 26 U.S.C. §§ 5861(d), 5861(f) and 5871.

2. Defendant has read the charges against him contained in the Superseding Indictment and the charges have been fully explained to him by his attorney. Defendant fully understands the nature and elements of the crimes with which he has been charged.

3. Defendant will enter a voluntary plea of guilty to Counts 1 and 2 of the Superseding Indictment in this case. Defendant will plead guilty because he is in fact guilty of the charges. The parties agree to the following factual basis for this plea:

On or about September 27, 2015, in the Western District of Kentucky, Simpson County, Kentucky, **GWATHNEY-LAW**, knowingly made a firearm, as defined in 26 U.S.C. §§ 5845(a)(8) and (f). The firearms are described as follows:

QUANTITY

4

DESCRIPTION

Glass bottle (one Mountain Dew, one Sprite, and two Dr. Pepper), containing a dark gas/oil mixture liquid with a cloth

wick stuffed in the bottle opening. Commonly referred to as a Molotov cocktail.

- 1 Glass Root Beer bottle, containing a dark gas/oil mixture liquid with a piece of green pyrotechnic fuse attached to the opening with an epoxy sealant. The bottle contained a silver CO² cartridge in the top of the bottle, under the pyrotechnic fuse. The CO² cartridge contained explosive powder and small pieces of paper which appeared to have been soaked in the same flammable liquid found inside the bottle. Commonly referred to as a Molotov cocktail.

On that same date and location, **Gwathney-Law** knowingly possessed a firearm, as defined in 26 U.S.C. §§ 5845(a)(8) and (f) – described above. The firearm was not registered to him in the National Firearms Registration and Transfer Record, as required by 26 U.S.C. § 5841.

4. Defendant understands that the charges to which he will plead guilty carry a combined maximum potential sentence of 20 years, a maximum fine of \$500,000.00, and three years' supervised release.

5. Defendant understands that if a term of imprisonment of more than one year is imposed, the Sentencing Guidelines require a term of supervised release and that he will then be subject to certain conditions of release. §§5D1.1, 5D1.2, 5D1.3.

6. Defendant understands that by pleading guilty, he surrenders certain rights set forth below. Defendant's attorney has explained those rights to him and the consequences of his waiver of those rights, including the following:

A. If defendant persists in a plea of not guilty to the charge against her, he has the right to a public and speedy trial. The trial could either be a jury trial or a trial by the judge sitting without a jury. If there is a jury trial, the jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that defendant is presumed innocent

and that it could not convict him unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt.

B. At a trial, whether by a jury or a judge, the United States 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. In turn, 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.

C. At a trial, defendant would have a privilege against self-incrimination and he could decline to testify, without any inference of guilt being drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

7. Defendant understands that the United States Attorney's Office has an obligation to fully apprise the District Court and the United States Probation Office of all facts pertinent to the sentencing process, and to respond to all legal or factual inquiries that might arise either before, during, or after sentencing. Defendant admits all acts and essential elements of the Superseding Indictment to which he pleads guilty.

8. Restitution is not an issue in this case.

9. Defendant acknowledges liability for the special assessment mandated by 18 U.S.C. § 3013 and will pay the assessment in the amount of \$200.00 to the United States District Court Clerk's Office by the date of sentencing.

10. At the time of sentencing:

- the United States will move to dismiss Counts 3 and 4 of the Superseding Indictment;
- the parties will agree that a sentence of 20 years in prison followed by three years of Supervised Release is the appropriate disposition in this case; and
- the United States will agree that a fine at the lowest end of the applicable Guideline Range is appropriate, and is to be due and payable on the date of sentencing, based upon a determination of the defendant's ability to pay – as reflected in the presentence investigation report.¹

11. Defendant is aware of his right to appeal his conviction and that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. Unless based on claims of ineffective assistance of counsel or prosecutorial misconduct, the Defendant knowingly and voluntarily waives the right (a) to directly appeal his conviction and the resulting sentence pursuant to Fed. R. App. P. 4(b) and 18 U.S.C. § 3742, and (b) to contest or collaterally attack his conviction and the resulting sentence under 28 U.S.C. § 2255 or otherwise.

12. Defendant waives and agrees to waive any rights under the Speedy Trial Act and understands and agrees that sentencing may be delayed so that at sentencing the Court will have the benefit of all relevant information.

13. Defendant agrees to interpose no objection to the United States transferring evidence or providing information concerning defendant and this offense, to other state and federal agencies or other organizations, including, but not limited to the Internal Revenue Service, other law enforcement agencies, and any licensing and regulatory bodies, or to the entry of an order under Fed. R. Crim. P. 6(e) authorizing transfer to the Examination Division of the

¹ The defendant acknowledges that he has read the Notice and Penalty Pages attached to the Superseding Indictment, and that he understands the interest and penalty provisions applicable to the fine imposed and included in the Judgment entered by the Court, said Notice and Penalty Pages are incorporated herein by reference.

Internal Revenue Service of defendant's documents, or documents of third persons, in possession of the Grand Jury, the United States Attorney, or the Criminal Investigation Division of the Internal Revenue Service.

14. If the Court refuses to accept this agreement dismiss Counts 3 and 4 or impose a sentence in accordance with its terms pursuant to Fed. R. Crim. P. 11(c)(1)(A) or (C), this Agreement will become null and void and neither party shall be bound thereto. The defendant will be allowed to withdraw the plea of guilty and the United States will be free to pursue all charges and, upon conviction, seek imposition of any sentence supported by the facts and law.

15. Defendant agrees that the disposition provided for within this Agreement is fair, taking into account all aggravating and mitigating factors. Defendant states that he has informed the United States Attorney's Office and the Probation Officer, either directly or through his attorney, of all mitigating factors. Defendant will not oppose imposition of a sentence incorporating the disposition provided for within this Agreement, nor argue for any other sentence. If Defendant argues for any sentence other than the one to which he has agreed, he is in breach of this Agreement. Defendant agrees that the remedy for this breach is that the United States is relieved of its obligations under this Agreement, but Defendant may not withdraw his guilty plea because of his breach.

16. This document and the supplemental plea agreement state the complete and only Plea Agreements between the United States Attorney for the Western District of Kentucky and defendant in this case, and are binding only on the parties to this Agreement, supersedes all prior understandings, if any, whether written or oral, and cannot be modified other than in writing that are signed by all parties or on the record in Court. No other promises or inducements have been

or will be made to defendant in connection with this case, nor have any predictions or threats been made in connection with this plea.

AGREED:

JOHN E. KUHN, JR.
United States Attorney

By:



Jo E. Lawless
Assistant United States Attorney

6/16/17

Date

I have read this Agreement and carefully reviewed every part of it with my attorney. I fully understand it and I voluntarily agree to it.

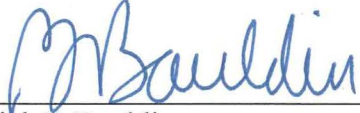


Trey Alexander Gwathney-Law
Defendant

6/16/17

Date

I am the defendant's counsel. I have carefully reviewed every part of this Agreement with the defendant. To my knowledge my client's decision to enter into this Agreement is an informed and voluntary one.



Patrick J. Bouldin
Counsel for Defendant

6/16/17

Date

JEK:JEL:170528