

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
) No. 07 cr 524-3
) Judge John Darrah
)
)
DEWANZEL SINGLETON)

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and defendant DEWANZEL SINGLETON, and his attorney, LORILEE GATES, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The indictment in this case charges defendant with conspiracy to possess with intent to distribute and to distribute five kilograms or more of mixtures containing cocaine, in violation of Title 21, United States Code, Section 846 (Count One); use of a telephone in furtherance of the conspiracy charged in Count One, in violation of Title 21, United States Code, 843(b) (Count Two); and forfeiture allegations.

3. Defendant has read the charges against him contained in the 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.

Charge to Which Defendant is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to Count One of the indictment. Count One charges defendant with conspiracy to possess with intent to distribute and to distribute five kilograms or more of mixtures containing cocaine, in violation of Title 21, United States Code, Section 846. In addition, as further provided below, defendant agrees to the entry of a forfeiture judgment.

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in Count One of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt, and establish a basis for forfeiture of the property described elsewhere in this Plea Agreement:

Beginning at least as early as in or about 1995, and continuing until in or about October 2003, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant conspired with LaKeith Cross, Martin Caldwell, and with others known and unknown knowingly and intentionally to distribute and to possess with intent to distribute a controlled substance, namely, in excess of 5 kilograms of mixtures containing cocaine, a Schedule II Narcotic Drug Controlled Substance, in violation of Title 21, United States Code, Section 841(a)(1), all in violation of Title 21, United States Code, Section 846.

Specifically, defendant admits that from at least in or about 2000 and continuing until in or about October 2003, defendant and Lakeith Cross conspired with Martin Caldwell by receiving wholesale quantities of cocaine from Caldwell at locations in Chicago, Illinois and

elsewhere on multiple occasions. Often, defendant and his partner, Lakeith Cross, received cocaine from Caldwell on a “front,” meaning defendant received cocaine from Caldwell without Caldwell requiring full payment for the narcotics immediately. Defendant and Cross, who was Caldwell’s cousin, caused the cocaine they received from Caldwell to be transported to the East St. Louis, Illinois, area, and caused the cocaine to be distributed to others in the East St. Louis area.

Defendant and Caldwell often talked on the telephone in furtherance of their drug trafficking. For instance, on September 21, 2002, at approximately 4:41 p.m., defendant and Caldwell spoke on the telephone. Defendant asked Caldwell if Caldwell was “straight up,” meaning, did Caldwell have cocaine to supply. Caldwell responded, “yup.” Defendant then told Caldwell that defendant was going to “try to go an extra one, too,” meaning that defendant wanted to obtain an additional quantity of cocaine from Caldwell. Thereafter, Caldwell supplied defendant with wholesale quantities of cocaine.

A few days later, on or about September 23, 2002, after defendant had received cocaine from Caldwell, defendant called Caldwell and complained about the quality of the cocaine defendant had received from Caldwell. Specifically, defendant said, “Looks like it could have been a mixed deal or something,” meaning that the cocaine defendant had received appeared to have been mixed with a cutting agent to dilute the purity of the cocaine. Later, on September 24, 2002, at approximately 4:30 p.m., defendant called Caldwell and again complained that “a couple weren’t right,” meaning that some of the cocaine defendant received from Caldwell was not of good quality.

In all, Caldwell supplied defendant at least between 15 and 50 kilograms of cocaine during the period of the conspiracy.

Maximum Statutory Penalties

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

a. A maximum sentence of life imprisonment, and a statutory mandatory minimum sentence of 10 years, if applicable. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a term of probation for this offense. This offense also carries a maximum fine of \$4,000,000. Defendant further understands that the judge also must impose a term of supervised release of at least five years, and up to any number of years, including life.

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

Sentencing Guidelines Calculations

8. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

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 2007 Guidelines Manual.

b. **Offense Level Calculations.**

i. Because the amount of cocaine involved in the offense of conviction was between fifteen kilograms and fifty kilograms, the base offense level is 34, pursuant to Guideline §2D1.1(a)(3) and (c)(3);

ii. 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.

iii. If the Court determines that Guideline §5C1.2 and Title 18, United States Code, Section 3553(f) are applicable, the Court shall impose a sentence without regard to any statutory minimum sentence, and the offense level shall be reduced by two levels, pursuant to Guideline §2D1.1(b)(11).

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, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government and assuming defendant successfully completes all of the requirements of the "safety valve" pursuant to Guideline §5C1.2 and Title 18, United States Code, Section 3553(f), the anticipated offense level would be 30, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory Sentencing Guidelines range of 97 to 121 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose. Defendant also acknowledges that he is subject to a statutory minimum sentence of 10 years' imprisonment, if the Court determines that it applies.

e. Defendant and his attorney and the government acknowledge that the above Guideline 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 Guideline 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.

f. Both parties expressly acknowledge that this plea 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 Plea 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 Plea Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

10. The government is free to recommend whatever sentence it deems appropriate within the applicable guidelines range.

11. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Plea 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.

12. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

13. After sentence has been imposed on the count to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining count of the indictment as to this defendant.

Forfeiture

14. The indictment charges that defendant is liable to the United States for approximately \$1,000,000, which funds are subject to forfeiture because those funds constitute proceeds of the violations alleged in Count One. By entry of a guilty plea to Count One of the indictment, defendant acknowledges that the property identified above is subject to forfeiture.

15. Defendant further acknowledges that in August 2007, civil complaints were filed against certain property in the United States District Court for the Southern District of Illinois alleging that certain property was subject to forfeiture, including,

(I) in the matter of 07-M-3054DGM, the following: (a) account 003484146794, (b) certificate of deposit number 91000069455786; (c) certificate of deposit number 91000013817639; (d) account 003541226641; (e) account 003475086119;

(II) in the matter of 07-586-GPM, the following: (a) real property located at 2913 Edge Lake Court, Swansea, Illinois; (b) 213 North 63d Street, Centreville, Illinois; (c) 904 South 25th St., Granite City, Illinois; (d) 3952 Veracruz Drive, Decatur, Georgia; and (e) 4242 West Page Boulevard, St. Louis, Missouri; and

(III) in the matter of 07-580 WDS, the following: One 2007 Lincoln Mark LT pickup, VIN: 5LTPW18567FJ02040.

16. The defendant agrees to the entry of a forfeiture judgment as follows: in the amount of \$56,462.85, and forfeiting any right, title, or ownership interest he has in the real property located at 904 South 25th Street, Granite City, Illinois, and one 2007 Lincoln Mark LT pickup, VIN: 5LTPW18567FJ02040, in that this property is subject to forfeiture because it represents property derived from any proceeds obtained, directly or indirectly, as a result of the defendant's violations of Title 21, United States Code, Section 846 as specified in Count One, and because it represents property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of said violations.

17. Prior to sentencing, the defendant agrees to the entry of a preliminary order of forfeiture relinquishing any right, title or ownership interest that he has in the above property. The defendant understands that the government may satisfy this forfeiture judgment with substitute assets pursuant to Title 21, United States Code, Section 853(p). Any attempt on the part of the defendant to transfer, convey, or otherwise conceal property prior to the satisfaction of this judgment shall be deemed to violate this Plea Agreement. If such conveyances are discovered prior to the imposition of sentence, the defendant understands that, among other things, there will be no reduction in his base offense level for acceptance of responsibility under Guideline § 3E1.1.

18. The defendant understands that forfeiture of this property shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon the defendant in addition to the forfeiture judgment.

19. Within five days of the entry of a forfeiture judgment as provided in paragraph 16 above, the government agrees to dismiss the three civil complaints pending in the Southern District of Illinois against defendant and referenced in paragraph 15 above.

Presentence Investigation Report/Post-Sentence Supervision

20. 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 charge against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to the issue of sentencing. 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.

21. For the purpose of monitoring defendant's compliance with his obligations to pay a fine during any term of supervised release 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 to which defendant is sentenced. Defendant also agrees that a certified copy of this Plea 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).

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Plea Agreement

22. This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 07 cr 524.

23. This Plea 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

24. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

g. **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. Defendant has a right to a jury trial. 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 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.

h. **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 10 calendar days of the entry of the judgment of conviction.

i. 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.

Other Terms

25. 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.

Conclusion

26. Defendant understands that this Plea Agreement will be filed with the Court, will become a matter of public record and may be disclosed to any person.

27. Defendant understands that his compliance with each part of this Plea 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. 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.

28. Should the judge refuse to accept defendant's plea of guilty, this Plea Agreement shall become null and void and neither party will be bound thereto.

29. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Plea Agreement to cause defendant to plead guilty.

30. Defendant acknowledges that he has read this Plea 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: _____

PATRICK J. FITZGERALD
United States Attorney

DEWANZEL SINGLETON
Defendant

ANDREW PORTER
LISA NOLLER
Assistant U.S. Attorneys

LORILEE GATES
Attorney for Defendant