

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Criminal Action No. 1:21-cr-00085-DDD

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. HAROLD R. ORTIZ,

Defendant.

---

**PLEA AGREEMENT**

---

The United States of America (the government), by and through Sonia J. Dave, Special Assistant United States Attorney for the District of Colorado, and the defendant, Harold R. Ortiz, personally and by counsel, Natalie Stricklin, submit the following Plea Agreement pursuant to D.C.COLO.LCrR 11.1. This agreement binds only the Criminal Division of the United States Attorney's Office for the District of Colorado and the defendant.

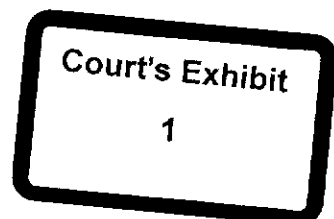
**I. AGREEMENT**

**A. Defendant's Plea of Guilty:**

The defendant agrees to

- (1) plead guilty to Count 1 of the Indictment charging a violation of Title 18 United States Code §§ 115(a)(1)(B), 115(b)(4); and
- (2) waive certain appellate and collateral attack rights, as explained in detail below.

**Government's Obligations:**



Provided the defendant does not engage in prohibited conduct or otherwise implicate USSG §§ 3C1.1 and 3E1.1, cmt. n.4 between the guilty plea and sentencing in this case, the government agrees that the defendant should receive a two level reduction for acceptance of responsibility pursuant to USSG § 3E1.1(a) and agrees to file a motion requesting that the defendant receive a one level reduction for acceptance of responsibility pursuant to USSG § 3E1.1(b).

The government agrees to recommend a sentence at the low-end of the applicable guideline range for the criminal history and a total offense level calculated by the Court at sentencing.

**Defendant's Waiver of Appeal:**

The defendant is aware that 18 U.S.C. § 3742 affords the right to appeal the sentence, including the manner in which that sentence is determined. Understanding this, and in exchange for the concessions made by the government in this agreement, the defendant knowingly and voluntarily waives the right to appeal any matter in connection with this prosecution, conviction, or sentence (including the restitution order), unless it meets one of the following criteria:

- (1) the sentence exceeds the maximum penalty provided in the statute of conviction, 18 U.S.C. §§ 115(a)(1)(B), 115(b)(4);
- (2) the sentence exceeds the top end of the advisory guideline range from the Sentencing Guidelines that applies for the defendant's criminal history (as determined by the district court) at a total offense level of 19; or
- (3) the government appeals the sentence imposed.

If any of these three criteria apply, the defendant may appeal on any ground that is properly available in an appeal that follows a guilty plea.

The defendant also knowingly and voluntarily waives the right to challenge this prosecution, conviction, or sentence (including the restitution order) in any collateral attack (including, but not limited to, a motion brought under 28 U.S.C. § 2255. This waiver provision does not prevent the defendant from seeking relief otherwise available in a collateral attack on any of the following grounds:

- (1) the defendant should receive the benefit of an explicitly retroactive change in the sentencing guidelines or sentencing statute;
- (2) the defendant was deprived of the effective assistance of counsel; or
- (3) the defendant was prejudiced by prosecutorial misconduct.

## II. ELEMENTS OF THE OFFENSE(S)

The parties agree that the elements of 18 U.S.C. §§ 115(a)(1)(B), 115(b)(4) are as follows:

### Count One: 18 U.S.C. §§ 115(a)(1)(B), 115(b)(4)

1. The defendant threatened to assault or murder a United States official;
2. in making such threat, the defendant intended to instill fear in the United States official;
3. that, at the time of the threat, the person threatened was a United States official; and
4. the defendant acted with the intent to retaliate against the United States official on account of the performance of his or her official duties.

*See United States v. Maxton*, 13-cr-00411-PAB, Document 175, page 23 of 36.

## III. STATUTORY PENALTIES

The maximum penalties for a violation of Count 1 of the Indictment are: not more than 10 years' imprisonment; maximum term of supervised release of three years; maximum fine of \$250,000; \$100 mandatory victim's fund assessment fee.

#### **IV. COLLATERAL CONSEQUENCES**

The conviction may cause the loss of civil rights, including, but not limited to, the rights to possess firearms, vote, hold elected office, and sit on a jury.

#### **V. STIPULATION OF FACTS**

The factual basis for this plea is set forth below. Because the Court must, as part of its sentencing methodology, compute the advisory guideline range for the offense of conviction, consider relevant conduct, and consider the other factors set forth in 18 U.S.C. § 3553, additional facts may be included below which are pertinent to those considerations and computations. To the extent the parties disagree about the facts set forth below, the stipulation of facts identifies which facts are known to be in dispute at the time of the execution of the plea agreement.

This stipulation of facts does not preclude either party from presenting non-contradictory additional facts which are relevant to the Court's guideline computation, to other 18 U.S.C. § 3553 factors, or to the Court's overall sentencing decision.

The parties stipulate that the following facts are true and correct:

On February 26, 2021, defendant called the Social Security Administration ("SSA") in regards to his Social Security benefits. The SSA claims specialist who answered the phone advised defendant that he was no longer entitled to receive benefits. Defendant then began yelling and demanded to speak with a manager, at which point the SSA claims specialist advised defendant that he had to calm down or she would disconnect the call. Defendant then yelled "You fucking bitch! You cunt! I'm going to stand outside your building and blow all of your fucking heads off! You're dealing with a crazy person!" The SSA claims specialist then attempted to initiate the call trace feature to record the call,

however the call trace feature malfunctioned and the call was disconnected. Defendant called the SSA back after being disconnected and was transferred to a district manager. The district manager told defendant that threats would not be tolerated. Defendant then stated that he was crazy and the claims specialist should know how to talk to crazy people. After assisting defendant with the issue regarding his benefits, the district manager repeated to defendant that he cannot threaten SSA employees. Defendant responded "Denver PD will not come to my house because they know I will kill them! They know I am crazy." The district manager then ended the call.

Due to said call the SSA office, located at 1500 Champa Street in Denver, Colorado was closed on Monday, March 1, 2021 and Tuesday March 2, 2021. As a result of the office closure, numerous dire need appointments were cancelled.<sup>1</sup>

Prior to the above February 26, 2021 call, defendant also called the SSA on February 23, 2021. During this call, defendant stated that in 2018 he had almost committed suicide and he was very upset now too. The SSA employee on the call asked defendant whether he was having suicidal thoughts and whether he needed a wellness check or for her to call 911. Defendant stated "don't you call the cops on me! I have guns and I will shoot them (the cops)." Defendant also stated that he has previously had physical altercations with police before. He stated that he had "hurt cops with his hands." The SSA employee suggested sending medical personnel/paramedics instead of police officers and defendant said "no! I will shoot them too!"<sup>2</sup>

---

<sup>1</sup> Dire need appointments service the homeless, and others in need, who cannot conduct business online or over the telephone. Six (6) Dire need appointments were cancelled for March 1, 2021 and March 2, 2021. Additionally, sensitive mailings and listing were put on hold which impacted service delivery.

<sup>2</sup> The government does not believe that the 2A6.1(b)(2) enhancement applies to the above set of telephone calls.

## VI. ADVISORY GUIDELINE CALCULATION

The parties understand that the imposition of a sentence in this matter is governed by 18 U.S.C. § 3553. In determining the particular sentence to be imposed, the Court is required to consider seven factors. One of those factors is the sentencing range computed by the Court under advisory guidelines issued by the United States Sentencing Commission. In order to aid the Court in this regard, the parties set forth below their estimate of the advisory guideline range called for by the United States Sentencing Guidelines. To the extent that the parties disagree about the guideline computations, the recitation below identifies the matters which are in dispute.

The Guideline calculation below is the good-faith estimate of the parties, but it is only an estimate. The parties understand that the government also has an independent obligation to assist the Court in making an accurate determination of the correct guideline range. To that end, the government may argue that facts identified in the presentence report, or otherwise identified during the sentencing process, affect the estimate below.

- a) Under Section U.S.S.G. § 2A6.1, the base offense level is **12**.
- b) As there was a substantial disruption of public, governmental, or business functions or services, there is a **+4** increase in level. § 2A6.1(b)(4)(A). Additionally, as the victim was a government officer or employee and the offense was motivated because of the victim's status, there is an increase of **+6** levels. § 3A1.2(b).
- c) There are no victim-related, role-in-offense, obstruction, grouping, and/or multiple-count adjustments.
- d) The adjusted offense level is **22**.
- e) Defendant should receive a decrease in the offense level by **-3** based upon his responsibility. § 3E1.1. The resulting total offense level is **19**.
- f) The parties understand that the defendant's criminal history

computation is tentative and based on the defendant's prior convictions. The parties believe the defendant is in criminal history Category IV.

- g) The career offender/criminal livelihood/armed career criminal adjustments do not apply.
- h) The advisory guideline range resulting from these calculations is 46 to 57 months. However, in order to be as accurate as possible, with the criminal history category undetermined at this time, the offense level(s) estimated above could conceivably result in a range from 30 months (bottom of Category I) to 78 months (top of Category VI). The guideline range would not exceed, in any case, the cumulative statutory maximums applicable to the counts of conviction.
- i) Pursuant to guideline § 5E1.2, assuming the estimated offense level above is correct, the fine range for this offense would be \$10,000 to \$100,000, plus applicable interest and penalties.
- j) Pursuant to guideline § 5D1.2, if the Court imposes a term of supervised release, that term is at least one year, but not more than three years.


The parties understand that the Court is free, upon consideration and proper application of all 18 U.S.C. § 3553 factors, to impose that reasonable sentence which it deems appropriate in the exercise of its discretion and that such sentence may be less than that called for by the advisory guidelines (in length or form), within the advisory guideline range, or above the advisory guideline range up to and including imprisonment for the statutory maximum term, regardless of any computation or position of any party on any 18 U.S.C. § 3553 factor.

#### **VII. ENTIRE AGREEMENT**

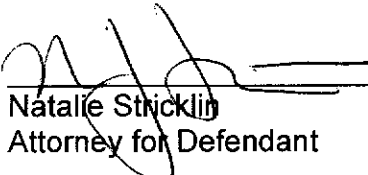
The agreement disclosed to the Court is the entire agreement. There are no other promises, agreements or "side agreements," terms, conditions, understandings, or assurances, express or implied. In entering this agreement, neither the government nor

the defendant has relied, or is relying, on any other terms, promises, conditions or assurances.

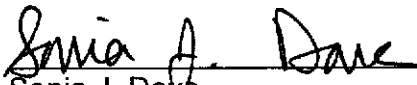
Date: 7-13-2021

  
\_\_\_\_\_  
Harold R. Ortiz  
Defendant

Date: 7/13/21

  
\_\_\_\_\_  
Natalie Stricklin  
Attorney for Defendant

Date: 7/13/21

  
\_\_\_\_\_  
Sonia J. Dave  
Special Assistant U.S. Attorney