

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA
3
4 UNITED STATES OF AMERICA,)
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6)
7)
8 Plaintiff,)
9)
10 vs.) CASE NO. 21-CR-239-GKF
11)
12)
13)
14 ALETA NECOLE THOMAS,)
15)
16)
17)
18 Defendant.)

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TRANSCRIPT OF PROCEEDINGS
DECEMBER 7, 2021
BEFORE THE HONORABLE BILLY ROY WILSON
UNITED STATES DISTRICT JUDGE
CHANGE-OF-PLEA HEARING

APPEARANCES:

For the Plaintiff: MS. KRISTIN HARRINGTON
U.S. Attorney's Office
110 W. 7th St., Ste 300
Tulsa, OK 74119

For the Defendant: MR. KEITH WARD
Keith A. Ward PLLC
1874 S. Boulder Ave.
Tulsa, OK 74119

PROCEEDINGS

DECEMBER 7, 2021:

THE COURT: Parties ready?

MS. HARRINGTON: Yes, Your Honor.

THE COURT: All right.

MR. WARD: Yes.

THE COURT: We're here in United States against Aleta Necole Thomas, case number 4:21-CR-00239-1. Ms. Thomas is present in court with her lawyer Mr. Ward. The prosecution is represented by Ms. Harrington. And I understand Ms. Williams is at counsel table with you?

MS. HARRINGTON: Yes, yes.

THE COURT: All right. If you-all will come around, please.

Can you swear the defendant, please.

(DEFENDANT SWORN.)

THE COURT: Since you're under oath, if you told me anything that wasn't true, you'd be subject to being prosecuted for perjury or false statement. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: I warn you not because I think you're going to tell me anything that's not true, but I'm obliged to warn you.

What is your full name?

THE DEFENDANT: Aleta Necole Thomas.

1 THE COURT: All right. How old are you?

2 THE DEFENDANT: Forty-three.

3 THE COURT: How much education do you have? You'll
4 need to drop your mask so I can understand you better.

5 THE DEFENDANT: I went to the twelfth grade, but I
6 didn't graduate.

7 THE COURT: Do you read, write, and understand
8 English well?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Are you taking any medication that might
11 affect your thinking today?

12 THE DEFENDANT: No, sir.

13 THE COURT: Are you under the influence of any kind
14 of drug, alcohol, or anything that would affect your thinking?

15 THE DEFENDANT: No, sir.

16 THE COURT: Your mind is clear?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Have you had all the time you need to
19 talk to your lawyer about what it means to plead guilty to
20 these allegations against you?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Have you gone over the federal sentencing
23 guidelines carefully with your lawyer?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Feel like you understand them in a

1 general way?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Have you had a meaningful
4 conversation with your client today?

5 MR. WARD: Not today; we met yesterday.

6 THE COURT: You feel like she's fully at herself
7 today?

8 MR. WARD: Yes, sir.

9 THE COURT: Feel like she understands the guidelines
10 in a general way?

11 MR. WARD: Yes, sir.

12 THE COURT: I find that Ms. Thomas is competent to go
13 forward with the proposed plea.

14 Are you satisfied with Mr. Ward as your lawyer?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Hundred percent?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: If you weren't satisfied any way
19 whatsoever, now would be the time to tell me. Do you
20 understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. I believe this is the second
23 superseding indictment. On Count 3, on May the 27th, 2020, in
24 the Northern District of Oklahoma, Ms. Thomas made false
25 statements and reports to influence the action of a financial

1 institution, Cross River Bank, upon an application and loan in
2 violation of the United States Code, Section 1041.

3 Count 4. On June 16, 2020, in the Northern District of
4 Oklahoma, Ms. Thomas made false statements and reports to
5 influence the action of a financial institution, First
6 Electronic Bank, upon an application and loan in violation of
7 U.S.C., Section 1014.

8 For both Counts 3 and 4, the maximum penalties are not
9 more than 30 years imprisonment, a \$1 million fine, or both of
10 those maximums; a special assessment of \$100 is mandatory;
11 supervised release of not more than five years.

12 Do I have the penalties right?

13 MS. HARRINGTON: Yes, Your Honor. I would just
14 clarify for the record that Ms. Thomas is charged in violation
15 of Title 18, United States Code, Section 1014 in both Counts 3
16 and Count 4. I heard as to Count 3, Section 1041, but I just
17 want to make sure that that's correct.

18 THE COURT: Do you agree with that?

19 MR. WARD: Yes, sir.

20 THE COURT: Okay. All right. You can plead guilty,
21 not guilty, or with the consent of the court you can plead no
22 contest. If you plead not guilty, there's certain rights. You
23 have a right to a lawyer. You have your lawyer here with you.
24 You'd have him with you at every critical stage of the
25 proceeding, including at a jury trial, that would be before 12

1 randomly selected voters of this division of this district.

2 At jury trial, you could confront your accusers, you'd see
3 the people on the stand that say you violated the law, and
4 through your lawyer you'd cross-examine them, you and your
5 lawyer could examine other evidence offered by the prosecutor
6 to see if you think an objection would be in order.

7 And when the prosecution rested its case, if you wanted
8 to, but only if you wanted to, you could present evidence. I
9 say only if you wanted to, because you don't have to prove
10 anything or introduce any evidence whatsoever. The prosecution
11 has a burden of proving you guilty beyond a reasonable doubt
12 throughout the trial, and there's no burden on you to introduce
13 anything or submit any evidence or prove anything. Do you
14 understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: At the trial, if you wanted to, I said if
17 you wanted to, you could present evidence, you could. You
18 could be sworn and testify in your own defense or you could --
19 and you and your lawyer could get out subpoenas, force people
20 to come to testify and you could offer other evidence. And if
21 -- on the other hand, you could offer other evidence but you
22 could remain silent if you wanted to, because you have that
23 right under the Fifth Amendment, and if you remain silent, the
24 prosecutor couldn't say anything negative about it in front of
25 the jury. And if you and your lawyer asked me, I would

1 instruct the jury that they couldn't hold that -- that it
2 couldn't hold it against you in any way, the fact that you had
3 remained silent, but if you plead guilty and I accept that plea
4 of guilty, you lose all those rights, because a plea of guilty
5 in open court is the strongest proof known to law.

6 And if you plead guilty and I accept it, you'll be
7 convicted on that plea and there won't be any other proceedings
8 to determine whether or not you're guilty; we go on to
9 sentencing. Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: And to a certain extent you give up your
12 -- if you plead guilty, you give up your right against
13 self-incrimination under the Fifth Amendment because I'm going
14 to ask the prosecutor to tell us what she thinks she could
15 prove against you, and I'm going to ask you some questions
16 about that and you'll be obliged to answer me. Do you
17 understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Now, the guidelines are kind of
20 complicated. And the presentence report will come up with a
21 sentencing guideline range. That's a window which I've got to
22 consider sentencing you in, I'm not bound by it, but I've got
23 to consider it. And if your sentencing guideline range turns
24 out to be larger than you thought it was going to be, that will
25 not give you the right to withdraw your plea of guilty. Do you

1 understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Now, if you get a term in the federal
4 correction institution, you'll undoubtedly get a term of
5 supervised release after you get out of the FCI, and if you
6 violate a term or a condition of supervised release, get
7 charged with that and convicted of that, you'll get a separate
8 sentence and it will be stacked on top of whatever you get for
9 these basic charges. Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: I understand there's a considerable
12 amount of restitution; is that correct?

13 MS. HARRINGTON: Yes, Your Honor.

14 THE COURT: Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. I have read over the plea
17 agreement. Have you been over every line in that plea
18 agreement with your lawyer?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you feel like you understand the plea
21 agreement?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that you waive a whole
24 lot of rights in the plea agreement?

25 THE DEFENDANT: Yes.

1 THE COURT: You give up your right to plea -- to
2 appeal, you give up your right to -- in most instances to
3 plea -- you give up your right to appeal unless my sentence is
4 more than the statute allows, but you give up your right to
5 collaterally attack the sentence itself, incompetent counsel,
6 prosecutorial abuse, and there are a lot of other waivers.
7 You've been over all of them and you understand them?

8 THE DEFENDANT: Yes.

9 THE COURT: Does the prosecutor think there are any
10 other waivers I need to talk about?

11 MS. HARRINGTON: That covers the primary waivers,
12 Your Honor, yes, sir.

13 THE COURT: Do you think this plea agreement is in
14 your best interest?

15 THE DEFENDANT: Yes.

16 THE COURT: And there's no other agreement that gets
17 you to plead guilty other than this written plea agreement; is
18 that right?

19 THE DEFENDANT: Yes.

20 THE COURT: No threats against you to get you to
21 plead guilty?

22 THE DEFENDANT: No, sir.

23 THE COURT: All right. I want to tentatively accept
24 the plea agreement. I'll mark it as Court's Exhibit A and A-1.
25 I say "tentatively," because if something comes up in the

1 presentence report or otherwise get information that makes me
2 think that I should not have accepted the plea agreement, I
3 reserve the right to withdraw my approval, but if I do that, I
4 will give you the right to withdraw your plea of guilty. Do
5 you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. If you-all will stand to one
8 side, we'll have the prosecutor come up and tell us what she
9 thinks she can prove if this case went to trial.

10 MS. HARRINGTON: Thank you, Your Honor. The
11 government at this time would move to incorporate by reference
12 the factual basis contained in the written plea agreement as
13 set forth on page 12 of the written plea agreement. In
14 summation, the government would submit that if this case were
15 to go to jury trial, the government would present evidence to
16 show that on or about May 27, 2020, in the Northern District of
17 Oklahoma, Ms. Thomas made false statements and reports for the
18 purpose of influencing Cross River Bank, which was also known
19 as Blue Fin Capital Inc., which was federally insured on a
20 Paycheck Protection Program or PPP loan application by
21 knowingly and intentionally submitting a PPP borrower
22 application form that falsely stated that Coming Correct
23 Community Ministry had an average monthly payroll of \$35,000;
24 had 26 employees, and an Employer Identification Number of
25 10-9690847.

1 Ms. Thomas further certified falsely that this business
2 was in operation on February 15, 2020 and had employees for
3 whom it paid payroll taxes or independent contractors as
4 reported on 1099 forms.

5 Ms. Thomas also knowingly and intentionally falsely
6 certified that all of the information contained in the borrower
7 application was true and correct, and that all of the
8 information contained in the supporting documentation was true
9 and correct.

10 Moving on to Count 4 of the second superseding indictment.
11 The government anticipates that the evidence would show on June
12 16, 2020, in the Northern District of Oklahoma, Ms. Thomas
13 falsely stated and reported for the purpose of influencing
14 First Electronic Bank, also known as Fundbox, which was
15 federally insured on a Paycheck Protection Program loan
16 application, Ms. Thomas falsely stated that Coming Correct
17 Ministries II had an average monthly payroll of \$45,000; had 25
18 employees, and was in operation on February 15 of 2020 and had
19 employees for whom it paid payroll taxes or independent
20 contractors as indicated on IRS Form 1099.

21 Additionally, Ms. Thomas knowingly and intentionally
22 falsely stated to First Electronic Bank that all of the
23 information in her borrower application form and all the
24 supporting documentation was true and correct.

25 And that's the sum and substance of the case, Your Honor.

1 THE COURT: What happened to the money? Does she
2 still have the money?

3 MS. HARRINGTON: Your Honor, in this case the
4 government was able to seize about \$220,000. That's the
5 subject of the forfeiture provisions that are contained in the
6 written plea agreement. A number -- quite a bit of the money
7 was withdrawn in large cash withdrawals. Quite a bit of the
8 money was used to purchase consumer products and food items. A
9 large portion of it was used to pay rent in advance, some one
10 or two years in advance. Other amounts of money was used to
11 gamble in casinos. And some of it the government does not know
12 the whereabouts of that money.

13 THE COURT: Did she win in the casinos?

14 MS. HARRINGTON: I'm not sure I'm in a position to
15 answer that. I believe some, yes, Your Honor; I believe in
16 other instances not. In any case...

17 THE COURT: Thank you.

18 MS. HARRINGTON: You're welcome.

19 THE COURT: Will you-all come back around, please.

20 Ms. Thomas, do you have any questions of me or do you want
21 a recess to talk to your lawyer some more before I ask you how
22 you plead?

23 THE DEFENDANT: No.

24 THE COURT: How do you plead to the counts I
25 mentioned earlier?

1 THE DEFENDANT: Guilty.

2 THE COURT: Is that because you are in truth and in
3 fact guilty?

4 THE DEFENDANT: Yes.

5 THE COURT: Could you hear what the prosecutor said
6 she could prove against you?

7 THE DEFENDANT: Yes.

8 THE COURT: Is that accurate?

9 THE DEFENDANT: Yes.

10 THE COURT: Hundred percent?

11 THE DEFENDANT: I didn't gamble the money away. No,
12 I didn't gamble the money away. It was not used at casinos.

13 THE COURT: You don't -- do what now?

14 THE DEFENDANT: I did not gamble the money at
15 casinos.

16 THE COURT: But everything else she said was true?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay. Do you know of any reason I
19 shouldn't accept this plea of guilty?

20 THE DEFENDANT: No.

21 MR. WARD: No, sir, I know of no reason.

22 THE COURT: Okay. I find that the offenses charged
23 in Counts 3 and 4 were committed, and that Ms. Thomas who is
24 before me actually committed the crime. I further find that
25 she's entering this plea voluntary, with full knowledge of

1 facts, and the plea of guilty is accepted.

2 When will the sentencing be?

3 THE DEPUTY COURT CLERK: May 25th, '22 at 11:30 a.m.

4 THE COURT: All right. May the 25th, 2022 at
5 11:30 a.m. Is that satisfactory with the defense?

6 MR. WARD: Yes.

7 THE COURT: The prosecution?

8 MS. HARRINGTON: Yes, Your Honor.

9 THE COURT: All right. Is there anything else we
10 need to tend to?

11 MS. HARRINGTON: No, sir.

12 MR. WARD: No, sir.

13 THE COURT: We're in recess. You all can be at ease.
14 Thank you.

15 MR. WARD: Will you be conducting the sentencing,
16 Your Honor?

17 THE COURT: Beg your pardon?

18 MR. WARD: Will you be conducting the sentencing?

19 THE COURT: Yes.

20 MR. WARD: Okay.

21 (PROCEEDINGS CONCLUDED.)

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REPORTER'S CERTIFICATE

I CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT
TRANSCRIPT OF THE PROCEEDINGS IN THE ABOVE-ENTITLED
MATTER.

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