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1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 UNITED STATES OF AMERICA,)
5)
6 -VS-) DOCKET NO. 1:20-CR-00296-JPB
7)
8 JOHN GAINES,)
9)
10 DEFENDANT.)

11 TRANSCRIPT OF CHANGE OF PLEA PROCEEDINGS
12 BEFORE THE HONORABLE J.P. BOULEE
13 UNITED STATES DISTRICT JUDGE
14 JANUARY 31, 2024

15 APPEARANCES:

16 ON BEHALF OF THE GOVERNMENT:

17 TAL CHAIKEN, ESQ.
18 SAMIR KAUSHAL, ESQ.
19 BABASIJIBOMI MOORE, ESQ.
20 ASSISTANT UNITED STATES ATTORNEYS

21 ON BEHALF OF THE DEFENDANT:

22 DEANA TIMBERLAKE-WILEY, ESQ.

23 STENOGRAPHICALLY RECORDED BY:

24 PENNY PRITTY COUDRIET, RMR, CRR
25 OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

1 (PROCEEDINGS HELD IN OPEN COURT AT 11:38 AM, ATLANTA, GEORGIA)

2 COURTRROOM DEPUTY CLERK: The Court has set aside time
3 for A change of plea in United States v. John Gaines, Case
4 Number 1:20-CR-296.

5 Counsel, will you please make your appearances for
6 the record.

7 MS. CHAIKEN: Good morning, your Honor. Tal Chaiken
8 for the United States. Seated with me at counsel table is my
9 co-counsel Samir Kaushal and Siji Moore. Seated behind us are
10 FBI Special Agents Joe Stites and Stefan Bublitz.

11 MS. TIMBERLAKE-WILEY: Good morning, your Honor. My
12 name is Deana Timberlake-Wiley, and I have the pleasure of
13 representing Mr. John Gaines who is seated at the table here
14 with me.

15 THE COURT: Good to see all of you this morning.
16 If we can please swear in the defendant.

17 (The defendant was duly sworn)

18 THE COURT: Ms. Chaiken, if you can please verify the
19 signatures on the plea agreement.

20 MS. CHAIKEN: Yes, your Honor.

21 Good morning, Mr. Gaines, I'm showing you a document
22 that's entitled "Guilty Plea and Plea Agreement." Have you
23 had an opportunity to review this document with your attorney?

24 THE DEFENDANT: Yes.

25 MS. CHAIKEN: Turning to page 14 of this document, on

1 the right side above where it says your name, is that your
2 signature?

3 THE DEFENDANT: Yes.

4 MS. CHAIKEN: And, Ms. Timberlake-Wiley, on the left
5 side above where it says your name, is that your signature?

6 MS. TIMBERLAKE-WILEY: Yes, ma'am.

7 MS. CHAIKEN: Your Honor, page 14 is also signed by
8 myself, approving official Stephen H. McClain and Siji Moore.

9 Turning to page 15, Mr. Gaines, is that your
10 signature above where it says your name?

11 THE DEFENDANT: Yes.

12 MS. CHAIKEN: Turning to page 16,
13 Ms. Timberlake-Wiley, is that your signature above where it
14 says your name?

15 MS. TIMBERLAKE-WILEY: Yes.

16 MS. CHAIKEN: Your Honor, may I tender the plea
17 agreement?

18 THE COURT: Yes. Thank you.

19 Mr. Gaines, before I can accept your plea of guilty,
20 I need to go over several matters with you. As we go through
21 this process, if anything I state is unclear, let me know and
22 I will repeat or rephrase it for you. It's important that you
23 understand not only my statements to you but also my
24 questions. You need to understand my questions so you can
25 answer them truthfully. A failure to truthfully answer any

1 question can result in additional charges being brought
2 against you.

3 Also, as I ask questions, please answer the questions
4 out loud. This will allow the court reporter to take down
5 your responses so we can have an accurate record of these
6 proceedings.

7 Do you understand, sir?

8 THE DEFENDANT: Yes.

9 THE COURT: How old are you and how far did you go in
10 school?

11 THE DEFENDANT: 58. And I got an EdS in education.

12 THE COURT: In the last 24 hours have you taken any
13 drugs, medicine, pills or had any alcoholic beverages to
14 drink?

15 THE DEFENDANT: No.

16 THE COURT: Have you been treated recently for any
17 mental illness or addiction to alcohol or drugs?

18 THE DEFENDANT: No.

19 THE COURT: And, Ms. Timberlake-Wiley, are you aware
20 of any issues regarding your client's competence to enter a
21 plea this morning?

22 MS. TIMBERLAKE-WILEY: No, your Honor.

23 THE COURT: Sir, I'm now going to review with you the
24 rights you're guaranteed under the Constitution and laws of
25 the United States. I want to be sure that you understand your

1 rights and that by entering this plea of guilty you're giving
2 up many of these rights.

3 Do you understand, first off, that you have the right
4 to plead not guilty and have a trial by jury?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that you're entitled to
7 a speedy and public trial on the charges against you?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand that you have the right
10 to be represented by an attorney throughout all proceedings
11 and that if you cannot afford an attorney, one will be
12 appointed to represent you at no cost to you?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand if you pled not guilty
15 and went to trial, at the trial you would presumed to be
16 innocent and the government would have to overcome that
17 presumption and prove you guilty beyond a reasonable doubt?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand at a trial you would
20 not have to prove you're innocent because the burden would be
21 on the government to prove you guilty beyond a reasonable
22 doubt?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that at a trial you
25 would have the right to subpoena witnesses which would be an

1 order from the Court compelling their appearance at trial to
2 testify on your behalf?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that during a trial
5 witnesses for the government must come to court and testify in
6 your presence?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that your attorney
9 would have the opportunity to cross-examine the witnesses for
10 the government, object to evidence offered by the government,
11 and offer evidence on your behalf?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that at a trial, while
14 you would have the right to testify if you chose to do so, you
15 would also have the right not to testify?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand if you chose not to
18 testify or put on any evidence, those facts could not be used
19 against you?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that in order to
22 convict you at a trial the jury would have to reach a
23 unanimous verdict that you were guilty of the crimes with
24 which you're charged?

25 THE DEFENDANT: Yes.

1 THE COURT: If I accept your plea of guilty, you will
2 not have a trial and a jury will not decide your guilt, but I
3 will find you're guilty of the charge based on your admission
4 that you're guilty. Do you understand?

5 THE DEFENDANT: Yes.

6 THE COURT: Are you willing to give up your right to
7 a trial and proceed with the plea of guilty at this time?

8 THE DEFENDANT: Yes.

9 THE COURT: You earlier verified your signature on
10 the plea agreement that you entered into with the government.
11 In a moment I will ask the Assistant US Attorney to review the
12 terms of the plea agreement, other than factual basis for the
13 plea and potential penalties, which we will discuss a bit
14 later in this proceeding.

15 After that I will be asking you whether the agreement
16 as presented accurately reflects your understanding of the
17 agreement that you've reached with the government?

18 Ms. Chaiken.

19 MS. CHAIKEN: Thank you, your Honor.

20 The plea agreement sets forth that Mr. Gaines is
21 pleading guilty because he is, in fact, guilty of the offense
22 charged.

23 Paragraphs two through six set forth an
24 acknowledgment and a waiver of the rights that the Court just
25 reviewed with Mr. Gaines.

1 Paragraphs seven through nine set forth an
2 acknowledgment of the penalties that I understand we'll review
3 shortly.

4 According to paragraph 11, the remaining counts that
5 are pending against Mr. Gaines will be dismissed on entry of
6 his plea.

7 Paragraph 12, the US Attorney for the Northern
8 District of Georgia agrees not to bring further charges
9 against Mr. Gaines related to the charges to which he's
10 pleading guilty.

11 Paragraphs 13 through 15 set forth a series of
12 guideline stipulations, specifically that the applicable
13 offense guideline is 2S1.1(a)(1), that the offense level for
14 the underlying offense is 21 under Section 2B1.1 because the
15 base offense level is 7, and a 14-level upward adjustment
16 applies for amount of loss, between \$550,000 and \$1.5 million.

17 The two-level upward adjustment will apply under
18 Section 2S1.1 (b)(2)(B) because Mr. Gaines is pleading guilty
19 to a money laundering offense under Section 1956.

20 A two-level adjustment under Section 2S1.1(b)(3) will
21 not apply for sophisticated laundering.

22 And a three-level upward adjustment will apply
23 pursuant to Section 3B1.1(b) for Mr. Gaines' role in the
24 offense because he was a manager or supervisor and the
25 criminal activity involved five or more participants.

1 In paragraph 16 the government agrees to recommend a
2 two-level downward adjustment for acceptance of responsibility
3 subject to exceptions set forth in that paragraph, including
4 if the defendant engages in conduct inconsistent with
5 acceptance of responsibility.

6 Paragraph 17 sets forth the parties' understanding
7 that each party reserves the right to make recommendations for
8 sentencing and that there are no agreements on the guidelines
9 other than those that are set forth in the plea agreement.

10 In paragraph 18 the government reserves the right to
11 modify its sentencing recommendation if it receives additional
12 information that bears on its sentencing recommendation.

13 In paragraph 19 the government agrees to recommend a
14 sentence within the adjusted guideline range so long as the
15 defendant does not engage in conduct inconsistent with
16 acceptance of responsibility.

17 Paragraph 20, the government agrees to make no
18 specific recommendation as to the fine to be imposed.

19 Paragraph 21, Mr. Gaines agrees to pay \$806,710 plus
20 applicable interest in restitution to Cross River Bank and the
21 Small Business Administration in the amount set forth in that
22 paragraph.

23 In paragraphs 22 and 23 Mr. Gaines agrees to
24 forfeiture of any assets that have been seized in connection
25 with this case.

1 In paragraph 24 Mr. Gaines agrees to pay a special
2 assessment of \$100.

3 In paragraphs 25 through 29 Mr. Gaines agrees to
4 cooperate fully in the collection of any restitution or fine
5 that's imposed pursuant to the terms that are set forth in
6 those paragraphs.

7 In paragraph 30 Mr. Gaines provides that he
8 understands that the recommendations in the plea agreement are
9 not binding on the Court.

10 Paragraph 31 sets forth appeal waiver, which I would
11 like to read in full into the record.

12 THE COURT: Go ahead.

13 MS. CHAIKEN: Thank you.

14 To the maximum extent permitted by federal law, the
15 defendant voluntarily and expressly waives the right to appeal
16 his conviction and sentence and the right to collaterally
17 attack his conviction and sentence in any post-conviction
18 proceeding, including but not limited to motions filed
19 pursuant to 28 USC, Section 2255 on any ground except that the
20 defendant may file a direct appeal of an upward departure or
21 upward variance above the sentencing guidelines range as
22 calculated by the district court.

23 Claims that the defendant's counsel rendered
24 constitutionally ineffective assistance are excepted from this
25 waiver.

1 The defendant understands that this plea agreement
2 does not limit the government's right to appeal, but if the
3 government initiates a direct appeal of the sentence imposed,
4 the defendant may file a cross-appeal of the same sentence.

5 And paragraph 32 sets forth FOIA and Privacy Act
6 waiver.

7 And paragraph 33 sets forth that there are no other
8 agreements between the parties other than this plea agreement.

9 THE COURT: All right. Thank you.

10 Mr. Gaines, does that accurately reflect the
11 agreement that you believe you've reached with the government?

12 THE DEFENDANT: Yes.

13 THE COURT: And she read to you about your appeal
14 rights in paragraph 31 and the three circumstances in which
15 you might be able to appeal, but do you understand that you
16 otherwise will have no right of appeal and will be essentially
17 bound by my decision at sentencing?

18 THE DEFENDANT: Yes.

19 THE COURT: And, Ms. Timberlake-Wiley, have you
20 reviewed those rights regarding waiver of appeal with your
21 client such that you're comfortable he understands both his
22 rights and waiver of those rights?

23 MS. TIMBERLAKE-WILEY: Yes, your Honor, I have.

24 THE COURT: And, Mr. Gaines, do you understand that
25 any provisions in the agreement regarding recommendations to

1 be made by the government are not binding on the Court? In
2 other words, if I choose not to follow some recommendation
3 that the government makes, do you understand that you will
4 still be bound by your plea of guilty and would not be
5 entitled to withdraw the plea based on the Court not following
6 the recommendation?

7 THE DEFENDANT: Yes.

8 THE COURT: Is this the only agreement that you've
9 entered into with the government?

10 THE DEFENDANT: Yes.

11 THE COURT: Other than the terms of this agreement,
12 has any promise of any kind been made to cause you to plead
13 guilty?

14 THE DEFENDANT: No.

15 THE COURT: And per the terms of the plea agreement,
16 the US Attorney for the Northern District of Georgia has
17 agreed not to bring any additional charges related to the
18 offense to which you're pleading guilty. Other than those
19 terms, has anyone threatened or forced you to plead guilty or
20 told you that if you do not plead guilty, further charges will
21 be brought against you or other adverse action taken against
22 you?

23 THE DEFENDANT: No.

24 THE COURT: And, Ms. Timberlake-Wiley, are you aware
25 of any plea agreement or promise being made to your client

1 other than what's been discussed here in court?

2 MS. TIMBERLAKE-WILEY: No, your Honor.

3 THE COURT: In a moment I will ask Ms. Chaiken to
4 state the elements -- excuse me -- to state the elements of
5 the offense to which you're pleading guilty. The elements of
6 the offense are those matters that the government must prove
7 beyond a reasonable doubt in order to convict you of the
8 charge.

9 Ms. Chaiken.

10 MS. CHAIKEN: Thank you, your Honor.

11 Mr. Gaines is pleading guilty to Count 47 of the
12 second superseding indictment which charges money laundering
13 in violation of Title 18 United States Code,
14 Section 1956(a)(1)(B)(i) and Section 2.

15 The elements of that offense are as follows:

16 One, the defendant knowingly conducted or tried to
17 conduct a financial transaction;

18 Two, the defendant knew that the money or property
19 involved in the transaction were proceeds of some kind of
20 unlawful activity;

21 Three, money or property did come from an unlawful
22 activity, specifically wire fraud;

23 And, four, the defendant knew that the transaction
24 was designed in whole or in part to conceal or disguise the
25 nature, location, source, ownership or control of the

1 proceeds.

2 THE COURT: All right. Thank you.

3 And, Mr. Gaines, do you understand that those are the
4 elements that the government would have to prove beyond a
5 reasonable doubt in order to convict you of the charge?

6 THE DEFENDANT: Yes.

7 THE COURT: In a moment I'll ask the Assistant US
8 Attorney to summarize the evidence the government would expect
9 to present at trial to prove each of these elements. In other
10 words, these are what the government contends are the facts of
11 the case. It's necessary for the government to state these
12 facts because I must determine whether there's a factual basis
13 for you to enter a plea of guilty.

14 After this statement, I will ask you whether you
15 disagree with any facts stated by the prosecutor. If you do,
16 tell me and we will discuss those facts at that time.

17 Ms. Chaiken.

18 MS. CHAIKEN: Thank you, your Honor.

19 If this case were to go to trial, the United States
20 would prove by admissible evidence and beyond a reasonable
21 doubt the following facts:

22 The Paycheck Protection Program, known as the PPP,
23 was authorized as part of the Coronavirus, Aid, Relief and
24 Economic Security Act to provide forgivable loans to eligible
25 small businesses.

1 Under the PPP small businesses could apply for loans
2 that must be used for payroll expenses, interest on mortgage,
3 rent and/or utilities.

4 The amount of a PPP loan that a business could
5 receive was generally two-and-a-half times the business's
6 average monthly payroll cost.

7 While the United States Small Business Administration
8 oversaw the PPP, individual PPP loans were issued by private
9 approved lenders, including Cross River Bank, an FDIC insured
10 financial institution based in Fort Lee, New Jersey.

11 The PPP borrower application form asks the applicant
12 to provide information related to their loan application,
13 including the amount of the business's average monthly
14 payroll, the number of the business's employees and the
15 purpose of the loan with options for payroll, lease and
16 mortgage interest, utilities and/or other. The lender then
17 used this information to calculate the amount of the loan that
18 the business was eligible to receive.

19 The application form also included certain
20 representations and certifications, including certifications
21 as to the accuracy of the information included in the
22 application itself and in any supporting documents and a
23 certification that the funds would be used to retain workers
24 and maintain payroll or to make mortgage interest payments,
25 lease payments and utility payments.

1 Defendant John Gaines, who at all relevant times was
2 in the Northern District of Georgia, was a relative of Andre
3 Gaines, who owned a Georgia company called Gaines Reservation
4 & Travel.

5 On or around May 18th, 2020, Gaines Reservation
6 submitted a PPP loan application. In the PPP loan application
7 Gaines Reservation represented that it had 69 employees and
8 \$322,684 in average monthly payroll and that the purpose of
9 the loan was payroll, lease or mortgage interest and
10 utilities.

11 To support these payroll figures Gaines Reservation
12 submitted IRS Form 941s for Gaines Reservation for each
13 quarter of 2019, and a JPMorgan Chase bank statement for
14 Gaines Reservation for February 2020.

15 The documents submitted with Gaines Reservation's PPP
16 loan application were fabricated. The IRS confirmed that
17 Gaines Reservation did not file a Form 941 for any quarter in
18 2019. And bank records for Gaines Reservation show that the
19 bank statement submitted with the PPP loan application was
20 fake. In reality, Gaines Reservation did not have any
21 employees or any monthly payroll costs.

22 Based on the false representation in Gaines
23 Reservation's PPP application and the fabricated supporting
24 documents, Cross River Bank issued an \$806,710 PPP loan to
25 Gaines Reservation.

1 John Gaines, using his alias Marty Gaines, worked
2 with Darrell Thomas and others to obtain Gaines Reservation's
3 fraudulent PPP loan. E-mails would shown that Defendant
4 Gaines e-mailed a person who makes fake documents for him and
5 asked that person to create fake bank statements for Gaines
6 Reservation that would show payroll withdrawals.

7 Defendant Gaines then sent multiple fabricated bank
8 statements to Darrell Thomas, and one of those bank statements
9 was submitted with Gaines Reservation's PPP loan application.

10 Defendant Gaines also e-mailed various other
11 documents to Darrell Thomas related to Gaines Reservation,
12 including a PPP application form that left the number of
13 employees and the amount of payroll blank so that Darrell
14 Thomas and others working with him could fill in those blanks
15 with fake numbers.

16 After the PPP loan money was deposited into Gaines
17 Reservation's bank account, on which Defendant Gaines was a
18 signer, Defendant Gaines directed various financial
19 transactions to make it look like Gaines Reservation was
20 making payments for payroll and rent which are approved
21 expenses under the PPP.

22 For example, on June 22nd, 2020, Defendant Gaines
23 caused a wire transfer to be sent from Gaines Reservation to a
24 company called Management Resource Services in the amount of
25 \$179,985.72. The purpose of the transfer was listed as

1 payroll services. In reality, however, Gaines Reservation had
2 no payroll and the purpose of the transfer was not payroll
3 services. Instead, the transfer was designed to conceal the
4 location, nature and source of the fraudulently obtained PPP
5 loan proceeds by making them appear to be spent on payroll
6 while sending them to an account controlled by Mr. Gaines'
7 ex-wife, Carla Jackson.

8 THE COURT: Thank you.

9 Mr. Gaines, do you disagree with any of the facts as
10 stated by the Assistant US Attorney?

11 MS. TIMBERLAKE-WILEY: Your Honor, we don't disagree
12 but we do have just a clarification.

13 THE COURT: Sure.

14 MS. TIMBERLAKE-WILEY: In the beginning where
15 Prosecutor Chaiken stated that Mr. Gaines was a relative of
16 Andre Gaines who owned a Georgia company, we just want to make
17 it clear that Andre Gaines owned the Gaines Reservation &
18 Travel. That's just important to my client that that be
19 stated.

20 And also in the last paragraph where the prosecutor
21 stated that Mr. Gaines caused the wire transfer to be sent, we
22 don't dispute that, but the wire transfer was actually sent by
23 Co-Defendant Andre Gaines.

24 THE COURT: Very well.

25 Mr. Gaines, with those caveats by your client (sic),

1 do you disagree with anything else that the Assistant US
2 Attorney said?

3 THE DEFENDANT: No.

4 THE COURT: Very well.

5 Do you admit each of the elements she listed earlier?

6 THE DEFENDANT: I beg your pardon?

7 THE COURT: Do you admit each of the elements of the
8 offense she listed earlier?

9 THE DEFENDANT: Oh, yes.

10 THE COURT: And, Ms. Chaiken, if you can please state
11 the potential penalties the defendant faces for the charge,
12 including the maximum penalties and any mandatory minimums.

13 MS. CHAIKEN: Yes, your Honor.

14 As to Count 47, the maximum term of imprisonment is
15 20 years. There is no mandatory minimum term of imprisonment.
16 The authorized term of supervised release is zero to three
17 years. The maximum fine is \$500,000, or twice the value of
18 the property involved in the transaction, whichever is
19 greatest, due and payable immediately. And then there's also
20 full restitution due immediately, a mandatory special
21 assessment of \$100 and forfeiture of any and all proceeds from
22 the commission of the offense, any and all property used or
23 intended to be used to facilitate the offense and any property
24 involved in the offense.

25 THE COURT: All right. Thank you.

1 Mr. Gaines, do you understand those are the possible
2 penalties you can receive in this case?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that it's not possible
5 for me to state to you today what your sentence will be?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that in deciding your
8 sentence I will consider sentencing guidelines and that the
9 guidelines are advisory, which means I have the discretion to
10 impose a sentence that is either within the guidelines,
11 greater than the guidelines or less than the guidelines?

12 THE DEFENDANT: Yes.

13 THE COURT: In the plea agreement -- excuse me.

14 In the plea agreement that was reviewed with you
15 earlier -- we discussed that waiver of appeal already. So
16 strike that.

17 Do you understand that parole has been abolished in
18 the federal system and that if you're sentenced to prison, you
19 will not be released early on parole?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that you may be
22 sentenced to a term of supervised release that will follow any
23 term of imprisonment and will include rules governing your
24 conduct that if you violate could result in more time in
25 prison?

1 THE DEFENDANT: Yes.

2 THE COURT: And do you understand that you may be
3 ordered to pay restitution to any victims of the offense?

4 THE DEFENDANT: Yes.

5 THE COURT: Are you a citizen of the US Government,
6 sir? Are you a US citizen?

7 THE DEFENDANT: Yes.

8 THE COURT: Ms. Chaiken and Ms. Timberlake-Wiley, is
9 there any forfeiture at issue?

10 MS. CHAIKEN: Your Honor, there were funds that were
11 seized from accounts on which -- or at least one account on
12 which Mr. Gaines is a signer, but our understanding is that
13 that amount has already been forfeited through the judicial
14 process, which is why it's not specifically identified as a
15 forfeiture.

16 THE COURT: Very well.

17 Sir, is there anything we've talked about today that
18 you do not feel that you fully understand?

19 THE DEFENDANT: No.

20 THE COURT: Have you had a sufficient opportunity to
21 talk about your case with your attorney and have your attorney
22 answer any questions that you have before entering your plea?

23 THE DEFENDANT: Yes.

24 THE COURT: Are you satisfied with the representation
25 that your attorney has provided to you?

1 THE DEFENDANT: Yes.

2 THE COURT: How do you plea to Count 47 of the
3 indictment?

4 THE DEFENDANT: Guilty.

5 THE COURT: Ms. Timberlake-Wiley, do you feel that
6 you've had a sufficient opportunity to investigate your
7 client's case and advise him concerning the entry of this
8 plea?

9 MS. TIMBERLAKE-WILEY: Yes, your Honor.

10 THE COURT: Are you aware of any reason I should not
11 accept the plea?

12 MS. TIMBERLAKE-WILEY: No, your Honor.

13 THE COURT: Is there anything else that you want me
14 to address with your client on the record at this time?

15 MS. TIMBERLAKE-WILEY: No, your Honor.

16 THE COURT: And, Ms. Chaiken, is there anything
17 further that the government wishes the Court to address at
18 this time?

19 MS. CHAIKEN: No, your Honor. Thank you.

20 THE COURT: Does the government object to the
21 defendant remaining on bond subject to the previous
22 conditions?

23 MS. CHAIKEN: No, your Honor.

24 THE COURT: I find that the defendant understands the
25 charge and the consequences of the plea.

1 I've observed the defendant during this proceeding
2 and he does not appear to be under the influence of any
3 substance that might affect his judgment or actions in any
4 manner.

5 The Court finds that the plea has a factual basis and
6 is free of any coercive influence of any kind.

7 I find that there have been no promises made to the
8 defendant except those set out in the plea agreement.

9 I find that the defendant is competent to understand
10 these proceedings and enter a knowing plea of guilty.

11 I find that the plea is freely and voluntarily
12 entered.

13 It's, therefore, ordered that the plea of guilty of
14 the defendant to Count 47 of the indictment is accepted and
15 entered.

16 Mr. Gaines, you are hereby adjudged guilty of the
17 charge contained in Count 47 of the indictment.

18 I'll now be referring your case to a probation
19 officer who will prepare a presentence report. Before I
20 receive the report, sir, you and your attorney will receive a
21 copy of the report and will have an opportunity to object to
22 any findings in the report.

23 At your sentencing hearing I will hear from the
24 government and any witnesses that it wishes to present, and
25 from you, your attorney, and any witnesses that you wish to

1 present.

2 At that time I will decide the proper sentence in
3 your case.

4 Do you understand?

5 THE DEFENDANT: Yes.

6 THE COURT: Counsel, let me now give you some
7 instructions but these will all be included in the notice of
8 sentencing that will be filed on the docket.

9 If either party requests a departure or a variance or
10 if there's a disputed guidelines issue, I require a sentencing
11 memo to be filed ten business days before the sentencing
12 hearing, the date of which will be provided to you later by
13 Ms. Lee.

14 Responses are mandatory and must be filed five
15 business days before the hearing.

16 In the event that the parties agree on the
17 appropriate sentence, please inform the Court no later than
18 five business days in advance of the hearing.

19 Counsel, is there anything else from either side?

20 MS. CHAIKEN: No, your Honor. Thank you.

21 MS. TIMBERLAKE-WILEY: No, your Honor.

22 THE COURT: All right. Good to see all of you.

23 Ms. Lee, thank you.

24 Ms. Coudriet, thank you.

25 Officer, I appreciate your help this morning, I guess

1 now this afternoon as well.

2 Mr. Gaines, you have taken responsibility for your
3 actions this morning. As I'm sure your attorney has explained
4 to you federal law looks favorably on people who do so. We
5 will figure out your sentence in a few months, but I do want
6 to commend you here for taking the first step towards making
7 things right here. Okay?

8 THE DEFENDANT: Yes.

9 THE COURT: Take care, everyone.

10 (PROCEEDINGS REPORTED WERE CONCLUDED 12:06 PM)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

I do hereby certify that the foregoing pages are a true
and correct transcript of the proceedings taken down by me in
the case aforesaid.

This the 11th Day of February, 2024.



PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER