

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

v.

CRIMINAL ACTION NO. 2:22-cr-00161

CALVIN BUTLER

ORDER

At a hearing held on February 21, 2023, the defendant, Calvin Butler, appeared in person and by counsel, David Bungard, for the purpose of the defendant's plea to count two of the Indictment filed against him. The United States was represented at the hearing by Ryan Blackwell, AUSA.

The court inquired of the defendant, both personally and through counsel, to determine the defendant's competency. The court found the defendant competent and capable of entering an informed plea.

Mr. Blackwell summarized and offered for the court's consideration the entirety of the written plea agreement in this case signed by both the defendant and his counsel. The court reserved acceptance of the plea agreement until sentencing but ordered the original plea agreement filed with the Clerk.

The court then read to the defendant the charge contained in the Indictment. The court inquired as to the defendant's plea. The defendant then pleaded guilty.

The court then read the pertinent portion of 18 U.S.C. § 1343. The court explained the elements that the United States would have had to prove had this matter gone to trial. After hearing and considering the defendant's explanation of why he considered himself guilty and hearing evidence from the United States about what it would have been able to prove at trial, the court found that there was a sufficient factual basis for the defendant's plea of guilty.

The court further informed the defendant, pursuant to the requirements of *Fed. R. Crim. P.* 11(c)(1), of the nature of the charge and of the consequences of pleading guilty to the charge. After explaining thoroughly these items and after hearing and considering the defendant's responses to the court's questions, the court found that the defendant understood the nature of the charge[s] and the consequences of pleading guilty.

The court further informed the defendant, pursuant to the requirements of *Fed. R. Crim. P.* 11(c)(3), (c)(4), of the constitutional and other legal rights that the defendant was giving up by pleading guilty. After explaining thoroughly these items and after hearing and considering the defendant's responses to the court's questions, the court found that the defendant understood his constitutional and other legal rights.

The court further inquired of the defendant, pursuant to the requirements of *Fed. R. Crim. P.* 11(d), to insure that the defendant's plea was voluntary. After hearing and considering the defendant's responses to the court's questions, the court found that the defendant's plea was voluntary.

The defendant further executed a written plea of guilty which was witnessed by his counsel and ordered filed by the court. The court accepted the defendant's plea. Accordingly, the court

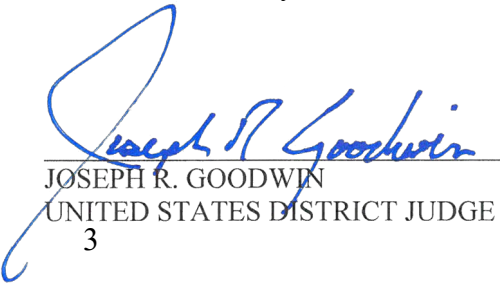
ADJUDGES the defendant, Calvin Butler, guilty, and the defendant now stands convicted of violating 18 U.S.C. § 1343.

The court **ORDERS** that the Probation Office prepare and forward a draft presentence report to the United States and counsel for the defendant no later than **April 6, 2023**; that the United States Attorney and counsel for the defendant file objections to the draft presentence report no later than **April 20, 2023**; that the Probation Office submit a final presentence report to the court no later than **May 4, 2023**; and that the United States and counsel for the defendant file a sentencing memorandum no later than **May 11, 2023**. In their respective sentencing memoranda, the court **ORDERS** the United States and counsel for the defendant to offer any evidence or argument related to a requested sentence or sentencing range in light of *Gall v. United States*, 552 U.S. 38 (2007). The court **SCHEDULES** final disposition of this matter for **May 18, 2023, at 10:00 a.m.**

The court **ORDERS** the defendant released upon execution of the previously executed \$10,000 unsecured bond, subject to the conditions set forth in the Order Setting Conditions of Release previously filed herein and standard conditions of release in this district. In addition, the court **ORDERS** the defendant to comply with the following special condition of release: that the defendant appear for sentencing on **May 18, 2023, at 10:00 a.m.**

The court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: February 21, 2023


JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE