

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA

3 UNITED STATES OF AMERICA,)
4)
5 Plaintiff,) DOCKET NO. 5:23-cr-00094-D-2
6 VS.)
7)
8 MONICA FAYE BARNES,)
9)
10 Defendant.)
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26 PUBLIC TRANSCRIPT OF ARRAIGNMENT
27 BEFORE MAGISTRATE JUDGE ROBERT T. NUMBERS, II
28 WEDNESDAY, APRIL 26, 2023; 10:24 A.M.
29 RALEIGH, NORTH CAROLINA

30 (PURSUANT TO STANDING ORDER 22-SO-1, PORTIONS OF ALL
31 GUILTY PLEA AND SENTENCING TRANSCRIPTS ARE RESTRICTED)

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1 P R O C E E D I N G S

2 (Call to Order of the Court)

3 THE COURT: Good morning, everyone.

4 (Counsel greet the Court)

5 THE COURT: We are here in the United States District
6 Court for the Eastern District of North Carolina, sitting in
7 Raleigh, for arraignments in felony cases. I'm United States
8 Magistrate Judge Robert Numbers.

9 We've had some scheduling issues and some
10 transportation issues today. So we're gonna proceed in a
11 manner that's a little bit different than how we usually
12 proceed. I'm gonna split today's docket up into a couple of
13 sessions. I'm gonna do the general advice of rights for the
14 defendants who are here now and I'll proceed with a handful of
15 cases this morning. I believe six cases this morning. The
16 remainder will be this afternoon and --

17 (Court confers with staff)

18 THE COURT: -- and then this afternoon at 1:00 we'll
19 handle the *** matter and then at 1:30 we'll begin with ***.
20 I'll go over that again at the end of advice of rights, but
21 generally, that's how we'll proceed today.

22 So in a moment, the Court will call the calendar to
23 determine which defendants and their attorneys are present.
24 When a defendant's name is called, defense counsel should
25 identify themselves, state whether their client is in the

1 courtroom, and state how they anticipate their client will
2 plead today. If a defendant does not have an attorney or if
3 the defendant's attorney is not present, the defendant should
4 answer when their name is called.

5 After the Court calls the calendar, the defendants and
6 their attorneys will remain in the courtroom so that the Court
7 may explain to each defendant the rights they have under the
8 Constitution and laws of the United States and the consequences
9 of pleading guilty. The Court will then place each defendant
10 under oath and question them individually before accepting
11 their plea. Defendants may confer with their attorneys before
12 answering any of the Court's questions.

13 At this time, I'd ask the clerk to please call the
14 calendar.

15 * * *

16 THE COURTROOM DEPUTY: United States versus Monica
17 Faye Barnes.

18 MR. LONG: David Long for Monica Barnes. She's in the
19 courtroom and would plea pursuant to a plea agreement.

20 THE COURT: Thank you.

21 * * *

22 THE COURT: At this time I'm going to advise the
23 defendants as a group of certain rights they have under the
24 Constitution and laws of the United States as well as the
25 consequences of pleading guilty. Each defendant should pay

1 close attention to what I'm about to say because it is an
2 important part of your case and I'll ask you if you've heard
3 and understood what I'm about to tell you. I now advise each
4 defendant as follows:

5 If you are accused of a felony, you have the
6 constitutional right to be charged in an indictment by the
7 grand jury. You may, however, waive that right and agree to be
8 charged by a Criminal Information filed by the United States
9 Attorney. Along with the right to be charged by an indictment,
10 the Constitution and laws of the United States give you the
11 right to plead not guilty to every charge against you and to
12 have a jury trial. In that regard, you should consider the
13 following:

14 At trial, you would be presumed innocent. The United
15 States would have to prove you guilty beyond a reasonable doubt
16 using competent evidence. You would not have to prove that you
17 are innocent

18 At trial, the United States would have to bring any
19 witnesses it wishes to rely on to court. Those witnesses would
20 have to testify before you. Your attorney could question those
21 witnesses, object to evidence offered by the United States, and
22 offer evidence on your behalf.

23 At trial, you could use the subpoena power of the
24 Court to make witnesses come to court and testify whether they
25 wanted to do so or not.

1 At trial, you would have the right to testify if you
2 chose to do so. You would also have the right not to testify
3 if you did not want to do so. At trial -- I'm sorry. If you
4 chose not to testify at trial, the Court would tell the jury
5 that it cannot draw any inference or suggestion of guilt from
6 your failure to testify.

7 You have the right to be represented by an attorney at
8 trial and at every other stage of your criminal proceeding. If
9 you cannot afford an attorney, you have the right to ask the
10 Court to appoint an attorney to represent you at your trial and
11 at every other stage of your proceeding in this court. Your
12 choice of whether you plead guilty or not guilty has no impact
13 on your right to an attorney or your right to have one
14 appointed for you.

15 If you wish to plead guilty, you'll be waiving your
16 right to a trial and the other rights I've just discussed other
17 than your right to an attorney. If you plead guilty instead of
18 having a trial, the Court will find you guilty of the offense
19 or offenses you plead guilty to. The Court will then sentence
20 you based on your guilty plea.

21 In determining your sentence, the Court will calculate
22 the advisory guideline range established by the federal
23 sentencing guidelines. You should understand that regardless
24 of the advisory guideline range determined to be applicable in
25 your case you may not withdraw your guilty plea if it is

1 tendered and accepted today. The Court will then consider the
2 advisory guideline range, along with any departure or variance
3 motions which may move the guideline range up or down, the
4 sentencing factors listed in 18 U.S.C. Section 3553(a), all
5 arguments of counsel, statements made by you, and statements
6 made by any victims. The Court will not determine your
7 advisory guideline range and sentence before your sentencing
8 hearing takes place. Thus, any estimate by your attorney or
9 anyone else as to what your advisory guideline range will be,
10 whether the Court will grant or deny a departure or variance
11 motion, or what your sentence will ultimately be is only an
12 estimate and those estimates are not binding on the Court. You
13 should know that if you plead guilty, the Court may still
14 impose the same punishment on you as if you entered a not
15 guilty plea and the jury found you guilty.

16 Defendants who wish to plead guilty may do so with or
17 without entering into a plea agreement with the United States.
18 If you have reached a plea agreement with the United States,
19 you should realize the Court is not a party to that plea
20 agreement. Plea agreements are negotiated solely between you,
21 your attorney, and the attorney for the United States. As a
22 result, the plea agreement is not binding on the Court. The
23 Court will make an independent determination whether to accept
24 the plea agreement's terms. Your plea agreement may contain
25 language stating that the United States will recommend or agree

1 not to oppose your request that a specific sentence, sentencing
2 range, sentencing guideline, or sentencing factor does or does
3 not apply in your case. That type of recommendation is not
4 binding on the Court and if the Court does not accept the
5 recommendation, that will not be a basis to withdraw your
6 guilty plea.

7 Your plea agreement may also contain language stating
8 that the United States has agreed to dismiss charges, agreed
9 not to bring other charges, or agreed that a specific sentence,
10 sentencing range, sentencing guideline, or sentencing factor
11 does or does not apply in your case. If the Court rejects that
12 agreement, you will have the opportunity to withdraw your
13 guilty plea. If you do not do so, the Court may sentence you
14 on terms that are less favorable than what you agreed to with
15 the Government.

16 If you plead guilty and the Court accepts that plea,
17 your case will be set for sentencing during Judge Dever's July
18 10, 2023 term here in Raleigh.

19 As part of the sentencing process, the United States
20 Probation Office will prepare a pre-sentence investigative
21 report. The United States Probation Office will interview you
22 as part of the process of preparing this report. Defense
23 counsel are instructed to contact the Probation Office
24 immediately after court today to arrange for the defendant's
25 interview. It is important that the pre-sentence report be

1 complete and accurate because it is an important tool that will
2 aid the Court in determining your sentence. You and your
3 attorney may provide information for the pre-sentence report.
4 You and your attorney will receive a copy of the report and you
5 should review it carefully.

6 Within 14 days after the disclosure of the pre-
7 sentence report, you and your attorney must file with the Court
8 any objections you have to matters contained in or omitted from
9 the report. If you do not object to the pre-sentence report in
10 a timely manner, the Court may not consider your objections in
11 determining your sentence. If you do not challenge the
12 validity of prior convictions listed in your, in your pre-
13 sentence report before you are sentenced, you'll be barred from
14 contesting those convictions at a later date. In short, if you
15 do not contest the facts set forth in the pre-sentence report,
16 the Court may accept those facts, including any prior
17 convictions, as correct and may rely on them in determining
18 your sentence.

19 Furthermore, at your sentencing hearing the Court will
20 only address matters that relate to disputed sentencing
21 factors. You or your attorney must have presented those
22 disputes to the Court in writing and must raise them during
23 your sentencing hearing. At sentencing you should advise the
24 Court orally if you have any objections to matters contained in
25 or omitted from the pre-sentence report that your attorney has

1 failed to raise. Contentions not stated by you or your
2 attorney will be considered abandoned.

3 You or your attorney on your behalf may submit written
4 materials to the Court such as memoranda, motions, or character
5 letters before your sentencing hearing. The United States may
6 submit written materials as well. Either party must submit any
7 written materials to the Court in Raleigh at least seven days
8 before your sentencing date.

9 After the Court sentences you, the Court, the United
10 States is limited in most instances to one year within which to
11 move for a reduction in your sentence under Rule 35(b) because
12 of assistance you have rendered to the United States. The
13 United, the United States need not return to court with a Rule
14 35(b) motion to seek a reduction and it is completely within
15 the United States' discretion whether to do so. If the United
16 States decides not to make a Rule 35(b) motion on your behalf,
17 you are entitled to relief from the Court in only a very few
18 exceptional circumstances. At sentencing you should advise the
19 Court whether the United States has made any representations to
20 you or your attorney that your future cooperation might lead to
21 a Rule 35(b) motion.

22 If the United States does make a Rule 35(b) motion to
23 seek a reduction in your sentence, the motion does not extend,
24 toll, or modify the one-year period for filing a post-
25 conviction Section 2255 motion to vacate, set aside, or correct

1 your sentence. Furthermore, the United States Attorney cannot
2 promise you that the Court will grant a Rule 35(b) motion, nor
3 can the United States Attorney promise you that law enforcement
4 officers will accept or act on offers of cooperation that you
5 may make.

6 A guilty plea has several other consequences you
7 should be aware of. The Constitution gives you the right to
8 remain silent and any statements you make can be used against
9 you. If you wish to plead guilty, you will need to waive your
10 right to remain silent because I cannot accept your guilty plea
11 unless you admit in open court your guilt as to the particular
12 offense or offenses you are pleading guilty to.

13 If you are on probation or parole in another case,
14 whether in this or another court, your guilty plea here may
15 result in the revocation of your probation or parole in that
16 other case. As a result, you may have to serve time in that
17 other case, along with any sentence imposed on you because of
18 your guilty plea here.

19 Along with any sentence imposed, your guilty plea to a
20 felony may deprive you of valuable civil rights, such as the
21 right to vote, the right to hold public office, the right to
22 serve on a jury, and the right to possess any kind of firearm.
23 If you are not a United States citizen and you are convicted in
24 federal court, you may be removed from the United States,
25 denied citizenship, and denied future admission to the United

1 States. Any deportation would follow your term of
2 imprisonment.

3 Unless otherwise advised, each defendant will have to
4 pay a \$100 special assessment for each count to which they
5 plead guilty and any fine imposed will bear interest.

6 In some cases, the Court may impose obligations on top
7 of a sentence of imprisonment, a fine, and special assessment.
8 For example, the Court may order you to pay restitution to the
9 victims of your offenses. If your offense involves fraud, the
10 Court may require you to notify the victims of your offense
11 about your conviction.

12 And if there is a forfeiture notice in your indictment
13 or Information, you may have to forfeit certain property to the
14 United States.

15 Additionally, in most cases defendants will receive a
16 term of supervised release, along with their term of
17 imprisonment. Your term of supervised release will begin after
18 you are released from prison. While on supervised release,
19 you'll be supervised by the United States Probation Office.
20 You may not commit another federal, state, or local crime while
21 on supervised release and the Court may impose additional
22 conditions on you, if appropriate. If you violate any of the
23 conditions of your supervised release, you may be sent back to
24 prison.

25 If you are convicted, whether by a jury or as a result

1 of a guilty plea, you can appeal your conviction if you believe
2 it was somehow unlawful or if there was some other fundamental
3 defect in the proceeding that was not waived by your guilty
4 plea. You also have a right to appeal your sentence in some
5 cases, particularly if you think the sentence is contrary to
6 law.

7 With few exceptions, any notice of appeal must be
8 filed within 14 days of the entry of the judgment in your case.
9 If you cannot pay the costs of an appeal, you can ask the Court
10 to waive those costs. If you make such a request, the Clerk of
11 Court will then prepare and file a notice of appeal on your
12 behalf. You should be aware that you may agree to waive
13 certain rights to appeal or otherwise challenge your conviction
14 and sentence in your plea agreement. We'll go over any such
15 waiver language if your plea agreement contains it. These
16 waivers are generally enforceable but if you believe the waiver
17 is unenforceable or inapplicable, you can present that theory
18 to the appellate court.

19 I've now concluded explaining to each defendant the
20 rights they have to a jury trial, the rights related to a jury
21 trial, and the consequences of pleading guilty and will now
22 proceed to consider each matter on the calendar. This morning
23 we will address the ***, Barnes, *** matters. At 1:00, we will
24 handle the *** matter, and then at 1:30 we will handle ***.

25 The Marshals may rearrange the courtroom.

* * *

(At 11:59 a.m.)

AFTER RECESS

(Call to Order of the Court)

THE COURT: All right. Our next case is United States of America versus Monica Faye Barnes, Case 5:23-cr-94.

Would counsel please identify themselves for the record, beginning with counsel for the United States?

MR. BERAKA: Yes, your Honor. David Beraka for the United States.

MR. LONG: And David Long for the defendant, Monica Barnes.

THE COURT: Good morning, just barely, Counsel.

Mr. Long, my notes indicate that it's anticipated your client'll plead guilty to the sole count of a Criminal Information pursuant to a plea agreement, is that correct?

MR. LONG: That is.

THE COURT: All right.

Madam Clerk, would you please place the defendant under oath.

THE COURTROOM DEPUTY: If you'll stand and raise your right hand and place your left hand on the Bible.

(Defendant Barnes sworn)

THE COURTROOM DEPUTY: Thank you.

THE COURT: Ms. Barnes, do you understand that you are

1 now under oath and if you answer any of my questions falsely
2 you may be prosecuted for perjury or making a false statement?

3 DEFENDANT BARNES: Yes, sir.

4 THE COURT: Now Ms. Barnes, over the next few minutes
5 I'm gonna ask you some questions. The first set of questions
6 are to satisfy myself that you're competent to enter a plea and
7 then I'll ask you some questions to make sure that you
8 understand the consequences of pleading guilty and then I'll
9 ask you how you plead to the charges against you.

10 Any questions about that process?

11 DEFENDANT BARNES: No.

12 THE COURT: Would you please state your full name for
13 the record?

14 DEFENDANT BARNES: Monica Faye Barnes.

15 THE COURT: Ms. Barnes, I have before me a form
16 labeled Consent to Proceed Before a United States Magistrate
17 Judge that appears to bear your signature. Did you, in fact,
18 sign this form?

19 DEFENDANT BARNES: Yes, sir.

20 THE COURT: And the form reflects that you wish to
21 waive your right to have today's proceeding conducted by a
22 United States District Judge and instead, are consenting to
23 have it conducted by me, a United States Magistrate Judge, is
24 that correct?

25 DEFENDANT BARNES: Yes, sir.

1 THE COURT: How old are you, ma'am?

2 DEFENDANT BARNES: 51.

3 THE COURT: And how far did you go in school?

4 DEFENDANT BARNES: I have a Bachelor's of Science.

5 THE COURT: Have you taken any drugs, medicine, pills,
6 or consumed any alcoholic beverages in the last 48 hours?

7 DEFENDANT BARNES: No, sir.

8 THE COURT: Do you understand what we're doing here
9 today?

10 DEFENDANT BARNES: Yes, sir.

11 THE COURT: Are you able to speak, read, and
12 understand English?

13 DEFENDANT BARNES: Yes, sir.

14 THE COURT: Mr. Long, do you believe your client is
15 competent to enter a plea today?

16 MR. LONG: She is.

17 THE COURT: Mr. Beraka, any concerns from the
18 Government?

19 MR. BERAKA: No, your Honor.

20 THE COURT: Are there any crime victims here?

21 MR. BERAKA: None present, your Honor.

22 THE COURT: Mr. Long -- I'm sorry.

23 Ms. Barnes, did you hear and understand my explanation
24 at the start of court about the rights you have under the
25 Constitution and laws of the United States as well as the

1 consequences of pleading guilty?

2 DEFENDANT BARNES: Yes, sir.

3 THE COURT: And do you have any questions about that
4 explanation?

5 DEFENDANT BARNES: No, sir.

6 THE COURT: Mr. Long, has your client received a copy
7 of the Criminal Information?

8 MR. LONG: She did.

9 THE COURT: All right. Would she like that read to
10 her or does she waive reading?

11 MR. LONG: She'll waive.

12 THE COURT: Ms. Barnes, you are charged with one count
13 of conspiracy, conspiracy to commit wire fraud. If convicted
14 of that offense, you face up to 20 years in prison, a fine of
15 up to \$250,000, or twice the gross gain or loss, whichever is
16 greater, up to 3 years of supervised release, up to 2 years in
17 prison upon revocation of supervised release, a \$100 special
18 assessment, and restitution if applicable.

19 Do you understand the nature of the charge against you
20 and the associated penalties?

21 DEFENDANT BARNES: Yes, sir.

22 THE COURT: Now it's anticipated you'll plead guilty
23 today to a Criminal Information. Do you understand that you
24 have the right to be indicted by the Grand Jury rather than
25 plead guilty to a Criminal Information?

1 DEFENDANT BARNES: Yes, sir.

2 THE COURT: I have before me a form labeled Waiver of
3 An Indictment that appears to bear your signature. Did you, in
4 fact, sign this form?

5 DEFENDANT BARNES: Yes, sir.

6 THE COURT: The form reflects that you're waiving your
7 right to prosecution by indictment and instead, are consenting
8 to prosecution by Information. Is that, in fact, your intent?

9 DEFENDANT BARNES: Yes, sir.

10 THE COURT: Has anyone forced you or threatened you in
11 any way to get you to waive your right to indictment?

12 DEFENDANT BARNES: No, sir.

13 THE COURT: Other than what may be contained in your
14 plea agreement and the Sealed Supplement, has anyone made you
15 any promises or assurances to get you to waive your right to
16 indictment?

17 DEFENDANT BARNES: No, sir.

18 THE COURT: Have you spoke with your attorney about
19 the charge in the Information that you intend to plead guilty
20 to?

21 DEFENDANT BARNES: Yes, sir.

22 THE COURT: The Court finds the defendant has
23 knowingly and voluntarily waived her right to prosecution by
24 indictment and has consented to prosecution by Information.

25 And do you understand the charge against you?

1 DEFENDANT BARNES: Yes, sir.

2 THE COURT: Do you understand all the possible
3 consequences of pleading guilty I've discussed today?

4 DEFENDANT BARNES: Yes, sir.

5 THE COURT: Have you spoken with your attorney about
6 sentencing?

7 DEFENDANT BARNES: Yes, sir.

8 THE COURT: Did you hear and understand my explanation
9 about the sentencing process?

10 DEFENDANT BARNES: Yes, sir.

11 THE COURT: And do you understand that any estimate
12 you may have received from your attorney or anyone else about
13 what your sentence will be is only an estimate is not binding
14 on the Court.

15 DEFENDANT BARNES: Yes, sir.

16 THE COURT: Do you understand that if you plead guilty
17 and the Court accepts that plea the Court could still sentence
18 you to the maximum sentence allowed by law on each count that
19 you plead guilty to?

20 DEFENDANT BARNES: Yes, sir.

21 THE COURT: Do you understand that if the Court
22 imposed the maximum sentence allowed by law, that alone would
23 not be a basis to withdraw your guilty plea?

24 DEFENDANT BARNES: Yes, sir.

25 THE COURT: Now ma'am, you've entered into a plea

1 agreement with the United States, is that correct?

2 DEFENDANT BARNES: Yes, sir.

3 THE COURT: I have before me a document labeled
4 Memorandum of Plea Agreement. Ms. Barnes, it appears you've
5 signed that document on the line above your name on the final
6 page. Did you, in fact, sign the plea agreement?

7 DEFENDANT BARNES: Yes, sir.

8 THE COURT: I also have before me a document labeled
9 Sealed Supplement to Memorandum of Plea Agreement. It appears
10 you've signed that document as well. Did you sign the Sealed
11 Supplement?

12 DEFENDANT BARNES: Yes, sir.

13 THE COURT: Did you read the entire plea agreement and
14 Sealed Supplement and discuss those documents with your
15 attorney before you signed them?

16 DEFENDANT BARNES: Yes, sir.

17 THE COURT: And do you understand each of the terms in
18 those documents?

19 DEFENDANT BARNES: Yes, sir.

20 THE COURT: Do the plea agreement and the Sealed
21 Supplement constitute the entire agreement you have with the
22 United States about how to resolve your case?

23 DEFENDANT BARNES: Yes, sir.

24 THE COURT: Now there's language in your plea
25 agreement that's gonna limit your ability to appeal or

1 otherwise challenge your conviction or sentence. That language
2 can be found in Paragraph 2(c) of the plea agreement. Have you
3 reviewed that language?

4 DEFENDANT BARNES: Yes, sir.

5 THE COURT: Do you understand that by entering into
6 this plea agreement you're giving up your right to appeal or
7 otherwise challenge your conviction or sentence on any ground
8 other than ineffective assistance of counsel or prosecutorial
9 misconduct not known to you at the time of your guilty plea?

10 DEFENDANT BARNES: Yes, sir.

11 THE COURT: Now you've also entered into a Consent
12 Preliminary Order of Forfeiture with the United States, is that
13 correct?

14 DEFENDANT BARNES: Yes, sir.

15 THE COURT: I have before me that document. It
16 appears you've signed that document on the final page on the
17 line above your name. Did you sign the consent order?

18 DEFENDANT BARNES: Yes, sir.

19 THE COURT: And do you understand that by entering
20 into this document you are agreeing to forfeit to the United
21 States \$94,791?

22 DEFENDANT BARNES: Yes, sir.

23 THE COURT: Do you understand the, the maximum and
24 minimum penalties provided by law for each count that you
25 intend to plead guilty to?

1 DEFENDANT BARNES: Yes, sir.

2 THE COURT: Do you understand that the charge in the
3 Information is a felony offenses?

4 DEFENDANT BARNES: Yes, sir.

5 THE COURT: Do you understand that if you plead guilty
6 to a felony offense, you may lose valuable civil rights?

7 DEFENDANT BARNES: Yes, sir.

8 THE COURT: Do you understand that if the Court
9 accepts your guilty plea you will be unable to withdraw it at a
10 later date?

11 DEFENDANT BARNES: Yes, sir.

12 THE COURT: Do you understand that even at this point
13 you still have the right to plead not guilty to every offense
14 charged against you and to persist in that plea?

15 DEFENDANT BARNES: Yes, sir.

16 THE COURT: Do you understand that if you plead not
17 guilty you would then have the right to a jury trial and enjoy
18 all the trial-related rights I've discussed today?

19 DEFENDANT BARNES: Yes, sir.

20 THE COURT: Do you understand that at trial the United
21 States would have the burden to prove to a jury by competent
22 evidence and beyond a reasonable doubt that you committed the
23 crimes you've been charged with?

24 DEFENDANT BARNES: Yes, sir.

25 THE COURT: Do you understand that if you plead guilty

1 and the Court accepts that plea you will not have a trial and
2 you'll have given up both your right to a trial as well as the
3 trial-related rights I've discussed today?

4 DEFENDANT BARNES: Yes, sir.

5 THE COURT: Are you completely and fully satisfied
6 with the representation you received from your attorney?

7 DEFENDANT BARNES: Yes, sir.

8 THE COURT: Has anyone forced you or threatened you in
9 any way to get you to plead guilty?

10 DEFENDANT BARNES: No, sir.

11 THE COURT: Other than what's in your plea agreement
12 and the Sealed Supplement, has anyone made you any promises or
13 assurances to get you to plead guilty?

14 DEFENDANT BARNES: No, sir.

15 THE COURT: Now in a moment I'm gonna ask the
16 Government to summarize what it believes it could show if this
17 matter were to go to trial, but before I do I wanna review with
18 you the elements of the offense it's anticipated you'll plead
19 guilty to, the elements of what the Government must show beyond
20 a reasonable doubt at trial to obtain a conviction.

21 For the count of conspiracy to commit wire fraud, the
22 elements of that offense in your case are that from in or about
23 March of 2021 to in or about September 2021, in the Eastern
24 District of North Carolina and elsewhere, you entered into an
25 agreement with another person to commit wire fraud, in

1 violation of 18 U.S.C. 1343, that is, to knowingly and
2 willfully execute a scheme and artifice to defraud and obtain
3 money and property by means of false and fraudulent pretenses,
4 representations, and promises by transmitting or causing to be
5 transmitted any writing, signal, or sound by means of a wire,
6 radio, or television communication in interstate commerce, as
7 charged in the Criminal Information, you knew of the unlawful
8 purpose of the conspiracy, and you knowingly and voluntarily
9 joined and became part, became a party to the conspiracy.

10 Do you understand the elements of that count?

11 DEFENDANT BARNES: Yes, sir.

12 THE COURT: Ma'am, have you answered all my questions
13 truthfully today?

14 DEFENDANT BARNES: Yes, sir.

15 THE COURT: All right. Ms. Barnes, you and Mr. Long
16 may be seated.

17 Would the Government please provide the factual basis
18 supporting the entry of the guilty plea?

19 MR. BERAKA: Yes, your Honor. Thank you.

20 Paragraphs 3 through 9 of the Criminal Information
21 would be incorporated by reference describing the PPP program.

22 Between March 2021 and September of 2021 in this case
23 the defendant at the bar of the Court, Ms. Monica Barnes, and
24 her son, Dontrell Barnes, knowingly entered into an agreement
25 with Edward Whitaker and Schunda Coleman, to commit an

1 interstate fraud upon the PPP program on behalf of Minnie's
2 Banana Cups and Catering Service, Inc. a C corporation owned by
3 Monica Barnes. Ms. Barnes was domiciled in Wilson, North
4 Carolina while Mr. Whitaker and Ms. Coleman resided in Texas.

5 Mr. Whitaker sent interstate e-mails to both Dontrell
6 and Monica Barnes containing fraudulent documents, such as
7 particular IRS Forms 940 and 941 which were fraudulent because
8 they were backdated and falsely claimed seven employees with an
9 annual payroll over \$700,000. This, which were engineered as
10 in many, many of the loans Mr. Whitaker assisted in, in
11 submitting to yield a loan under \$150,000 because the SBA rules
12 would provide that it could be fully forgivable with much less
13 paperwork than a loan of over \$150,000.

14 Mr. Dontrell or Ms. Monica Barnes signed and returned
15 all of the fraudulent forms, again by interstate e-mail. Then
16 Mr. Whitaker or another member of the conspiracy applied for
17 the loan in Ms. Barnes' name using that fraudulent information
18 by electronic transmission to Harvest Small Business Finance,
19 LLC, which is based in California, as well as by interstate
20 wire transmission through the SBA servers in Oregon.

21 After the proceeds were deposited into Ms. Barnes' PNC
22 account, Ms. Barnes wrote bi-weekly payroll checks from May
23 through July of 2021 to each of the purported employees.
24 Again, this component of the scheme was reproduced over and
25 over again by Mr. Whitaker and it was used to create a false

1 paper trail that the check recipients were actual employees
2 earning the salaries attested to in the PPP application and
3 then that was used to successfully obtain 100 percent
4 forgiveness. Again as in, as in all of these cases,
5 Mr. Whitaker received a substantial portion of the loan as a
6 fee which was also a violation of the program as the proceeds
7 needed to be spent on payroll and other acceptable business
8 expenses like utilities and rent.

9 That would be some of the Government's evidence in
10 this case, your Honor.

11 THE COURT: Thank you.

12 Mr. Long, any response from the defense to the
13 Government's proffer?

14 MR. LONG: None, your Honor.

15 THE COURT: Ms. Barnes, would you please stand?

16 (Defendant Barnes complies)

17 THE COURT: Ma'am, would you like any additional time
18 to speak with your attorney before entering a plea?

19 DEFENDANT BARNES: No, sir.

20 THE COURT: Then with respect to the sole count
21 against you charging you with conspiracy to commit wire fraud,
22 how do you plead?

23 DEFENDANT BARNES: Guilty.

24 THE COURT: Did you, in fact, commit that crime?

25 DEFENDANT BARNES: Yes, sir.

1 THE COURT: And are you pleading guilty today of your
2 own free will because you are, in fact, guilty?

3 DEFENDANT BARNES: Yes, sir.

4 THE COURT: In the case of United States of America
5 versus Monica Faye Barnes, Case 5:23-cr-94, let the record
6 reflect the Court is satisfied and finds as fact that the
7 defendant's guilty plea was freely and voluntarily entered.
8 When the defendant entered her plea, she was fully competent
9 and had a full and complete understanding of the nature of the
10 charge she is pleading guilty to as well as the maximum and
11 minimum penalties provided by law for that offense. The
12 defendant's guilty plea is accompanied by an independent
13 factual basis containing each of the essential elements of the
14 offense charged; therefore, the Court accepts the defendant's
15 guilty plea and adjudges her guilty of the sole count of the
16 Criminal Information.

17 Sentencing in this matter is set for Judge Dever's
18 July 10, 2023 term.

19 The Court has condi, will defer consideration of the
20 presentence, or the plea agreement until it receives the pre-
21 sentence report.

22 The defendant should be aware that she must submit any
23 objections to the pre-sentence report within 14 days after its
24 disclosure and she should also be aware she'll have the
25 opportunity to address the Court at sentencing as will the

1 attorneys for the parties and any victims.

2 All right. Is the United States seeking detention
3 here?

4 MR. BERAKA: No, your Honor.

5 THE COURT: All right. And again, I have just the,
6 the four mandatory conditions. Is the Government seeking
7 anything in addition?

8 MR. BERAKA: No. The Government in this case accepts
9 Probation's recommendation.

10 THE COURT: Mr. Long, do you wish to be heard at all?

11 MR. LONG: No. No, your Honor.

12 THE COURT: All right.

13 Ms. Barnes, you'll be released at the conclusion of
14 today's proceedings after any final processing on the following
15 conditions:

16 You may not violate any federal, state, or local law
17 while on release.

18 You must cooperate in the collection of a DNA sample,
19 if such collection is authorized by federal law.

20 You must advise the court or the probation office in
21 writing before making any change of residence or telephone
22 number.

23 And you must appear in court as required and if you
24 are convicted, you must surrender as directed to serve any
25 sentence the Court may impose.

1 There are serious penalties for violating any of these
2 conditions. If you fail to appear in court as required, that
3 is a separate crime for which you could be sent to prison and
4 if you violate any of these conditions, you may be jailed until
5 your sentencing hearing.

6 Do you have any questions about these conditions,
7 Ms. Barnes?

8 DEFENDANT BARNES: No, sir.

9 THE COURT: All right.

10 I'm now executing the order authorizing the
11 defendant's release at the conclusion of today's proceedings
12 after any final processing.

13 Mr. Beraka, anything further on behalf of the United
14 States?

15 MR. BERAKA: No, your Honor. Thank you.

16 THE COURT: Mr. Long, anything further?

17 MR. LONG: Nothing further.

18 THE COURT: All right. That concludes proceedings for
19 Ms. Barnes.

20 Thank you, Counsel.

21 DEFENDANT BARNES: Thank you.

22 (Proceedings as to Defendant Monica Faye Barnes concluded
23 at 12:14 p.m.)

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CERTIFICATE OF TRANSCRIBER

I, Janice Russell, court-approved transcriber, in and for the United States District Court for the Eastern District of North Carolina, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript from the official electronic sound recording of the proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 3rd day of October, 2023.

/s/ JANICE RUSSELL
JANICE RUSSELL
COURT-APPROVED TRANSCRIBER