

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-1
6)
7 VS.)
8)
9 DONTRELL BARNES,)
10)
11 Defendant.)
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PUBLIC TRANSCRIPT OF ARRAIGNMENT HEARING
BEFORE MAGISTRATE JUDGE ROBERT T. NUMBERS, II
WEDNESDAY, MAY 24, 2023; 10:12 A.M.
RALEIGH, NORTH CAROLINA

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

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Audio Operator: COURT PERSONNEL

Proceedings recorded by electronic sound recording,
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P R O C E E D I N G S

(Call to Order of the Court)

THE COURT: Good morning, everyone.

(Counsel greet the Court)

THE COURT: We are here in the United States District Court for the Eastern District of North Carolina, sitting in Raleigh, for arraignments in felony cases.

* * *

THE COURT: In a moment, the Court will call the calendar to determine whether all defendants and their attorneys are present. When a defendant's name is called, defense counsel should identify themselves, state whether their client is in the courtroom, and state how they anticipate their client will plead today. If a defendant does not have an attorney or if the defendant's attorney is not present, the defendant should answer when their name is called.

After the Court calls the calendar, the defendants and their attorneys shall remain in the courtroom so that the Court may explain to each defendant the rights they have to a jury trial and the consequences of pleading guilty. The Court will then place each defendant under oath and question them individually before accepting their plea. Defendants may confer with their attorneys before answering any of the Court's questions.

At this time I'd ask the clerk to please call the

1 calendar.

2 * * *

3 THE COURTROOM DEPUTY: United States versus Dontrell
4 Barnes.

5 MR. JACQUET-FREESE: Morning, your Honor. Jean-Paul
6 Jacquet-Freese and Laura, Laura Wasco. We're here with
7 Mr. Barnes. He is present in the courtroom. We anticipate
8 he'll plead to a Criminal Information pursuant to a plea
9 agreement.

10 THE COURT: Thank you.

11 * * *

12 THE COURT: At this time I'm going to advise the
13 defendants as a group of certain rights they have under the
14 Constitution and laws of the United States as well as the
15 consequences of pleading guilty. Each defendant should pay
16 close attention to what the Court's about to say because it is
17 an important part of your case and I will ask you if you've
18 heard and understood my comments. I now advise each defendant
19 as follows:

20 If you are accused of a felony, you have the
21 constitutional right to be charged in an indictment by the
22 grand jury. You may, however, waive the right to grand jury
23 indictment and consent to being charged by an Information filed
24 by the United States Attorney. Along with the right to be
25 charged by an indictment, the Constitution and laws of the

1 United States give you the right to plead not guilty and to
2 have a jury trial with respect to all charges against you. In
3 that regard, you should consider the following:

4 At trial, you would be presumed innocent. The United
5 States would have to prove you guilty beyond a reasonable doubt
6 using competent evidence. You would not have to prove that you
7 are innocent.

8 At trial, the United States would have to bring any
9 witnesses it wishes to rely on to court. Those witnesses would
10 have to testify before you. Your attorney could question those
11 witnesses, object to evidence offered by the United States, and
12 offer evidence on your behalf.

13 At trial, you would have the right to use the subpoena
14 power of the Court to make witnesses come to court and testify,
15 regardless of whether they wanted to do so.

16 At trial, you would have the right to testify if you
17 chose to do so. You would also have the right not to testify
18 if you do not want to do so. If you chose not to testify, the
19 Court would instruct the jury that it cannot draw any inference
20 or suggestion of guilt from your failure to testify.

21 You have the right to be represented by an attorney at
22 trial and at every other stage of your proceeding in this
23 court. If you cannot afford an attorney, you have the right to
24 ask the Court to appoint an attorney to represent you. Your
25 choice of whether you plead guilty or not guilty has no impact

1 on your right to an attorney or your right to have an attorney
2 appointed for you.

3 If you wish to plead guilty, you'll be waiving your
4 right to a trial and the related rights I've just discussed
5 other than your right to an attorney. If you plead guilty
6 instead of having a trial, the Court will find you guilty of
7 the offense or offenses you plead guilty to. The Court will
8 then sentence you based on your guilty plea.

9 In determining your sentence, the Court will calculate
10 the advisory guideline range established by the federal
11 sentencing guidelines. You should understand that regardless
12 of the advisory sentencing guideline ultimately found to be
13 appropriate to your case, you may not withdraw a guilty plea
14 that is tendered and accepted today. The Court will then
15 consider the advisory guideline range, along with any departure
16 or variance motions, which may move the guideline range up or
17 down, the sentencing factors listed in 18 U.S.C. Section
18 3553(a), all arguments of counsel, statements made by you, and
19 statements made by any victims. The Court will not determine
20 your advisory guideline range and sentence before your
21 sentencing hearing takes place. Thus, any estimate by your
22 attorney or anyone else as to what your advisory guideline
23 range will be or whether the Court will grant or deny a
24 departure or variance motion is not binding on the Court.
25 Similarly, any calculation by your attorney or anyone else

1 about what your sentence will be is only an estimate and that
2 estimate is not binding on the Court.

3 You should know that if you plead guilty, the Court
4 may still impose the same punishment on you as if you entered a
5 not guilty plea and the jury found you guilty.

6 Defendants who wish to plead guilty may do so with or
7 without entering into a plea agreement with the United States.
8 However, if you've reached a plea agreement with the United
9 States, you should realize the Court is not a party to that
10 plea agreement. Plea agreements are negotiated solely between
11 you, your attorney, and the attorney for the United States. As
12 a result, the plea agreement is not binding on the Court. The
13 Court will make an independent determination whether to accept
14 the plea agreement's terms.

15 Your plea agreement may contain language stating that
16 the United States will recommend or agree not to oppose your
17 request that a specific sentence, sentencing range, sentencing
18 guideline, or sentencing factor does or does not apply in your
19 case. That type of recommendation is not binding on the Court
20 and you will not be able to withdraw your guilty plea if the
21 Court decides not to follow it.

22 Your plea agreement may also contain language stating
23 that the United States has agreed to dismiss charges, agreed
24 not to bring other charges, or agreed that a specific sentence,
25 sentencing factor, sentencing range, or sentencing guideline

1 does or does not apply in your case. If the Court rejects that
2 agreement, you will have the opportunity to withdraw your
3 guilty plea. If you do not do so, the Court may sentence you
4 on terms that are less favorable than those to which you agreed
5 with the United States.

6 If you plead guilty and the Court accepts that plea,
7 your case will be set for sentencing during Judge Dever's
8 August 28, 2023 term here in Raleigh.

9 As part of the sentencing process, the United States
10 Probation Office will prepare a pre-sentence investigative
11 report. Defense counsel is instructive to contact the
12 Probation Office immediately after today's hearings to arrange
13 for the defendants' interviews. It is important that the pre-
14 sentence report be complete and accurate because it is an
15 important tool that will aid the Court in determining your
16 sentence. You and your attorney will receive a copy of the
17 pre-sentence report and you should review it carefully.

18 Within 14 days after disclosure of the pre-sentence
19 report, you and your attorney must file with the Court any
20 objections you have to matters contained in or omitted from the
21 pre-sentence report. If you do not object to the pre-sentence
22 report in a timely manner, the Court may not consider your
23 objections in determining your sentence. If you do not
24 challenge the validity of prior convictions listed in your pre-
25 sentence report before you are sentenced, you'll be barred from

1 contesting those convictions at a later date. In short, if you
2 do not contest the facts set forth in the pre-sentence report,
3 the Court may accept those facts, including any prior
4 convictions, as correct and may rely on them in determining
5 your sentence. Furthermore, at your sentencing hearing the
6 Court will only address matters that relate to disputed
7 sentencing factors. You or your attorney must have presented
8 these disputes to the Court in writing and must raise them
9 during your sentencing hearing.

10 At sentencing, you should advise the Court if you have
11 any objections to matters contained in or omitted from your
12 pre-sentence report that your attorney has failed to raise.
13 Contentions not stated by you or your attorney will be
14 considered abandoned.

15 You or your attorney on your behalf may submit written
16 memoranda, motions, or other materials, such as character
17 letters, before the sentencing hearing. The United States may
18 submit written materials as well. Either party must submit any
19 written material to the Court in Raleigh at least seven days
20 before your sentencing date.

21 After the Court sentences you, the United States is
22 limited in most instances to one year within which to move for
23 a reduction in your sentence under Rule 35(b) because of
24 substantial assistance you have rendered to the United States.
25 The United States need not return to court with a Rule 35(b)

1 motion and it is completely within the United States'
2 discretion whether to do so. If the United States decides not
3 to make a Rule 35(b) motion on your behalf, you are entitled to
4 relief from the Court in only a very few exceptional
5 circumstances. At sentencing, you should advise the Court if
6 the United States has made any representations to you or your
7 attorney that your future cooperation might lead to a Rule
8 35(b) motion.

9 If the United States does make a Rule 35(b) motion to
10 seek a reduction in your sentence, that motion does not extend,
11 toll, or modify the one-year period for filing a post-
12 conviction Section 2255 motion to vacate, set aside, or correct
13 your sentence. Furthermore, the United States Attorney cannot
14 promise you that the Court will grant a Rule 35(b) motion, nor
15 can the United States Attorney promise you that law enforcement
16 will accept or act on offers of cooperation that you may make.

17 A guilty plea has several other consequences you
18 should be aware of. The Constitution gives you the right to
19 remain silent and any statements you make can be used against
20 you. If you wish to plead guilty, you'll need to waive your
21 right to remain silent because I cannot accept your guilty plea
22 unless you admit in open court your guilt as to, as to the
23 particular offense or offenses you are pleading guilty to.

24 If you are on probation or parole in another case,
25 whether in this or another court, your guilty plea here may

1 result in the revocation of your probation or parole in that
2 other case. As a result, you may have to serve time in that
3 other case, in addition to any sentence imposed on you because
4 of your guilty plea here.

5 Along with any sentence imposed, your guilty plea to a
6 felony may deprive you of valuable civil rights, such as the
7 right to vote, the right to hold public office, the right to
8 serve on a jury, and the right to possess any kind of firearm.
9 If you are not a United States citizen and you are convicted in
10 federal court, you may be removed from the United States,
11 denied citizenship, and denied future admission to the United
12 States. Any deportation would follow your term of
13 imprisonment.

14 Unless otherwise advised, each defendant will have to
15 pay a \$100 special assessment for each count to which they are
16 found guilty and any fines imposed will bear interest.

17 In some cases, the Court may impose obligations on top
18 of a sentence of imprisonment, a fine, and special assessment.
19 For example, you may have to pay restitution to any victims of
20 your offenses. If your offense involves fraud, you may have to
21 notify the victims of your offense about your conviction.

22 And if there's a forfeiture notice in your indictment
23 or Information, you may have to forfeit certain property to the
24 United States.

25 Additionally, in most cases defendants will receive a

1 term of supervised release, along with a term of imprisonment.
2 Your term of supervised release will begin after you are
3 released from prison. While on supervised release, you'll be
4 supervised by the United States Probation Office. You may not
5 commit another federal, state, or local crime while on
6 supervised release and the Court may impose additional
7 conditions on you, if appropriate. If you violate any of the
8 conditions of your supervised release, you may be sent back to
9 prison.

10 If you are convicted, whether by a jury or as a result
11 of a guilty plea, you can appeal your conviction if you believe
12 it was somehow unlawful or if there was some other fundamental
13 defect in your proceeding that not waived by your guilty plea.
14 You also have a statutory right to appeal your sentence in some
15 cases, particularly if you think the sentence is contrary to
16 law.

17 With few exceptions, any notice of appeal must be
18 filed within 14 days of the entry of the judgment in your case.
19 If you cannot pay the costs of an appeal, you can ask the Court
20 to waive those costs. If you make such a request, the Clerk of
21 Court will then prepare and file a notice of appeal on your
22 behalf. You should be aware that you may agree to waive
23 certain rights to appeal or otherwise challenge your conviction
24 and sentence in your plea agreement. We'll go over any such
25 waiver language if your plea agreement contains it. These

1 waivers are generally enforceable but if you believe the waiver
2 is unenforceable or inapplicable, you can present that theory
3 to the appellate court.

4 I've now concluded explaining to each defendant the
5 right they have to a jury trial, their rights related to a jury
6 trial, and the consequences of pleading guilty and will now
7 proceed to consider each case on the calendar today. We'll
8 proceed in the following order: This morning we will address
9 *** matter as well as the Barnes, ***, and *** matters.

10 * * *

11 THE COURT: The Marshals may rearrange the courtroom.

12 (At 10:48 a.m.)

13 THE COURT: All right. The next matter will be
14 Mr. Barnes' matter.

15 It's the case of United States of America versus
16 Dontrell Barnes, Case 5:23-cr-94.

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

19 MR. BERAKA: Yes, your Honor. Good morning. David
20 Beraka for the Government.

21 THE COURT: And for the --

22 MR. JACQUET-FREESE: Good morning, your Honor. For
23 Mr. Borne, Barnes, Jean-Paul Jacquet-Freese.

24 MS. WASCO: And Laura Wasco.

25 THE COURT: Good morning, Counsel.

1 Mr. Jacquet-Freese, my notes indicate that it's
2 anticipated your client'll plead guilty to the sole count of
3 Criminal Information pursuant to a plea agreement, is that
4 correct?

5 MR. JACQUET-FREESE: Yes, your Honor.

6 THE COURT: All right.

7 Madam Clerk, would you please place the defendant
8 under oath?

9 THE COURTROOM DEPUTY: Raise your right hand and place
10 your left hand on the Bible.

11 (Defendant Barnes sworn)

12 THE COURTROOM DEPUTY: Thank you.

13 THE COURT: Mr. Barnes, do you understand that you are
14 now under oath and if you answer any of my questions falsely
15 you may be prosecuted for perjury or making a false statement?

16 DEFENDANT BARNES: Yes.

17 THE COURT: All right.

18 So as I, I indicated with the prior defendant, I'm
19 going to ask you some questions over the next few minutes. The
20 first set are to make sure you're competent to enter a plea and
21 then the second set are to make sure that you understand the
22 consequences of pleading guilty, then I, then I will ask you
23 how you plead to the charges against you.

24 Any questions about that process?

25 DEFENDANT BARNES: No, sir.

1 THE COURT: All right. Would you please state your
2 full name for the record?

3 DEFENDANT BARNES: Dontrell Barnes.

4 THE COURT: And Mr. Barnes, I have before me a form
5 labeled Consent to Proceed Before a United States Magistrate
6 Judge. It appears to bear your signature. Did you, in fact,
7 sign this form?

8 DEFENDANT BARNES: Yes.

9 THE COURT: The form reflects that you wish to waive
10 your right to have today's proceeding conducted by a United
11 States District Judge and instead, are consenting to have it
12 conducted by me, a United States Magistrate Judge, is that
13 correct?

14 DEFENDANT BARNES: Yes, sir.

15 THE COURT: All right.

16 How old are you, sir?

17 MR. JACQUET-FREESE: How old are you?

18 DEFENDANT BARNES: Thirty-two.

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

20 DEFENDANT BARNES: Some college.

21 THE COURT: All right.

22 Have you taken any drugs, medicine, pills, or consumed
23 any alcoholic beverages in the last 48 hours?

24 DEFENDANT BARNES: No.

25 THE COURT: Do you understand what we're doing here

1 today?

2 DEFENDANT BARNES: Yes, sir.

3 THE COURT: All right.

4 Are you able to speak, read, and understand English?

5 DEFENDANT BARNES: Yes, sir.

6 THE COURT: All right.

7 Any concerns from the, from the defense about the
8 defendant's competency?

9 MR. JACQUET-FREESE: No, your Honor.

10 THE COURT: Any concerns from the Government??

11 Any concerns from the Government?

12 MR. BERAKA: No, your Honor.

13 THE COURT: And Mr. Beraka, are there any crime
14 victims here?

15 MR. BERAKA: No, your Honor.

16 THE COURT: All right.

17 Mr. Barnes, did you hear and understand my explanation
18 at the start of court about the rights you have under the
19 Constitution and laws of the United States and the consequences
20 of pleading guilty?

21 DEFENDANT BARNES: Yes, sir.

22 THE COURT: Any questions about that explanation?

23 DEFENDANT BARNES: No, sir.

24 THE COURT: Mr. Jacquet-Freese, has your client
25 received a copy of his Information?

1 MR. JACQUET-FREESE: Yes, your Honor.

2 THE COURT: And would he like that read to him or does
3 he waive reading?

4 MR. JACQUET-FREESE: No, your Honor. He waives.

5 THE COURT: Although the defendant has waived reading
6 of the indictment [sic], I do want to review the nature of the
7 offense it's anticipated he'll plead guilty to and the
8 associated penalties.

9 The charge against him in the Information charges
10 conspiracy to commit wire fraud. If convicted of that offense,
11 the defendant faces up to 20 years in prison, a fine of up to
12 \$250,000, or twice the gross gain or loss from the offense,
13 whichever is greater, up to 3 years of supervised release and
14 up to 2 years in prison upon revocation of supervised release,
15 a \$100 special assessment, and restitution if applicable.

16 Mr. Barnes, do you understand the nature of that
17 charge and the associated penalties?

18 DEFENDANT BARNES: Yes, sir.

19 THE COURT: Have you spoken with your attorney about
20 the charge that you intend to plead guilty to?

21 DEFENDANT BARNES: Yes, sir.

22 THE COURT: And do you understand that charge?

23 DEFENDANT BARNES: Yes, sir.

24 THE COURT: All right.

25 I -- it's anticipated you'll plead guilty to a

1 Criminal Information. Do you understand that you have the
2 right to be indicted by the grand jury rather than plead guilty
3 to a Criminal Information?

4 DEFENDANT BARNES: Yes, sir.

5 THE COURT: I have before me a form labeled Waiver of
6 An Indictment, which appears to bear your signature. Did you,
7 in fact, sign this form?

8 DEFENDANT BARNES: Yes, sir.

9 THE COURT: The form reflects that you are waiving
10 your right to prosecution by indictment and instead, are
11 consenting to prosecution by Information. Is that your
12 intention?

13 DEFENDANT BARNES: Yes, sir.

14 THE COURT: Has anyone forced you or threatened you in
15 any way in order to get you to waive your right to indictment?

16 DEFENDANT BARNES: No, sir.

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

21 DEFENDANT BARNES: No, sir.

22 THE COURT: The Court finds the defendant has
23 knowingly and voluntarily waived his right to prosecution by
24 indictment and instead, has pros, consented to prosecution by
25 Criminal Information.

1 Mr. Barnes, do you understand all of the possible
2 consequences of pleading guilty I've discussed today?

3 DEFENDANT BARNES: Yes, sir.

4 THE COURT: Have you spoken with your attorney about
5 the sentencing process?

6 DEFENDANT BARNES: Yes, sir.

7 THE COURT: And did you hear and understand my
8 explanation of the sentencing process?

9 DEFENDANT BARNES: Yes, sir.

10 THE COURT: Do you understand that any estimate you
11 may have received from your attorney or anyone else about what
12 your sentence will be is not binding on the Court?

13 DEFENANT BARNES: Yes, sir.

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

18 DEFENDANT BARNES: Yes, sir.

19 THE COURT: And do you understand that if the Court
20 imposed the maximum sentence, that alone would not be a basis
21 to withdraw your guilty plea?

22 DEFENDANT BARNES: Yes, sir.

23 THE COURT: Now Mr. Barnes, you've entered into a plea
24 agreement with the United States, is that correct?

25 DEFENDANT BARNES: Yes, sir.

1 THE COURT: All right. I have before me a document
2 labeled Memorandum of Plea Agreement. It appears you've signed
3 that document on page 7, the last page, on the line above your
4 name. Did you, in fact, sign the plea agreement?

5 DEFENDANT BARNES: Yes, sir.

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

10 DEFENDANT BARNES: Yes, sir.

11 THE COURT: Did you read the entire plea agreement and
12 the Sealed Supplement and discuss those documents with your
13 attorneys before you signed them?

14 DEFENDANT BARNES: Yes, sir.

15 THE COURT: And do you understand each of the terms in
16 those documents?

17 DEFENDANT BARNES: Yes, sir.

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

21 DEFENDANT BARNES: Yes, sir.

22 THE COURT: Now there's language in your plea
23 agreement that's going to limit your ability to appeal or
24 otherwise challenge your conviction or sentence. That language
25 can be found in Paragraph 2(c). Have you reviewed that

1 language?

2 DEFENDANT BARNES: Yes, sir.

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

8 DEFENDANT BARNES: Yes, sir.

9 THE COURT: Do you understand the maximum penalties
10 provided by law for the offense that you intend to plead guilty
11 to?

12 DEFENDANT BARNES: Yes, sir.

13 THE COURT: And do you understand that the charge in
14 the Information is a felony offense?

15 DEFENDANT BARNES: Yes, sir.

16 THE COURT: Do you understand that if you plead guilty
17 to felony offenses, you may lose valuable civil rights?

18 DEFENDANT BARNES: Yes, sir.

19 THE COURT: Do you understand that if the Court
20 accepts your guilty plea you may be unable to withdraw it at a
21 later date?

22 DEFENDANT BARNES: Yes, sir.

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

1 DEFENDANT BARNES: Yes, sir.

2 THE COURT: Do you understand that if you entered a
3 not guilty plea you would then have the right to a jury trial
4 and enjoy all the trial-related rights I've discussed today?

5 DEFENDANT BARNES: Yes, sir.

6 THE COURT: Do you understand that at trial the United
7 States would have the burden to prove to a jury by competent
8 evidence and beyond a reasonable doubt that you committed the
9 crime you've been charged with?

10 DEFENDANT BARNES: Yes, sir.

11 THE COURT: Do you understand that if you plead guilty
12 and the Court accepts that plea you will not have a trial and
13 you will have given up your right to a trial as well as the
14 trial-related rights I've discussed today?

15 DEFENDANT BARNES: Yes, sir.

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

18 DEFENDANT BARNES: Yes, sir.

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

21 DEFENDANT BARNES: No, sir.

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

25 DEFENDANT BARNES: No, sir.

1 THE COURT: Now in a moment I'm going to ask the
2 United States to summarize what it believes it could show if
3 this matter were to go to trial, but before I do I want to
4 review with you the elements of the offense that it's
5 anticipated you'll plead guilty to, the elements of what the
6 Government must show beyond a reasonable doubt to obtain a
7 conviction.

8 The elements of the offense against you, conspiracy to
9 commit wire fraud, in your case are that from in or about March
10 2021 to in or about September 2021, in the Eastern District of
11 North Carolina and elsewhere, you entered into an agreement
12 with another person to commit wire fraud, in violation of 18
13 U.S.C. Section 1343, that is, to knowingly and willfully
14 execute a scheme and artifice to defraud and obtain money and
15 property by means of false and fraudulent pretenses,
16 representations, and promises by transmitting or causing to be
17 transmitted any writing, signal, or sound by means of a wire,
18 radio, or television communication in interstate commerce, as
19 charged in the Criminal Information; that you knew of the
20 unlawful purpose of the conspiracy; and that you knowingly and
21 voluntarily became part of the conspiracy.

22 Do you understand the elements of that offense?

23 DEFENDANT BARNES: Yes, sir.

24 THE COURT: Mr. Barnes, have you answered all my
25 questions truthfully today?

1 DEFENDANT BARNES: Yes, sir.

2 THE COURT: All right. Sir, you and your attorneys
3 may be seated.

4 Would the Government please provide the factual basis
5 supporting the entry of the guilty plea?

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

7 Paragraphs 3 through 9 of the Criminal Information
8 describe the PPP Program. Those would be incorporated by
9 reference.

10 Between March 2021 and September 2021, the defendant
11 at the bar of the Court, Mr. Dontrell Barnes, and his mother,
12 Monica Barnes, knowingly entered into an agreement with each
13 other and with Edward Whitaker and Schunda Coleman, to commit
14 an interstate fraud upon the PPP program on behalf of Minnie's
15 Banana Cups and Catering Service, Inc., a C corporation that
16 was owned by Monica Barnes. Mr. Barnes was domiciled in
17 Wilson, North Carolina during this offense and Mr. Whitaker and
18 Ms. Coleman were in Texas.

19 Mr. Whitaker sent interstate e-mails to both Dontrell
20 and Monica Barnes containing fraudulent documents, such as IRS
21 Forms 940 and 941. Those payroll forms were fraudulent because
22 they were backdated and falsely claimed seven employees with an
23 annual payroll over \$700,000. Those fictitious figures were
24 designed by Mr. Whitaker in this case and in many others to
25 yield a PPP loan just under \$150,000 which would be fully

1 forgivable by the Small Business Administration with minimal
2 paperwork.

3 Mr. or Ms. Barnes signed and returned those fraudulent
4 forms by interstate e-mail. Mr. Barnes used the e-mail
5 address, trellbarnes, t-r-e-l-l-b-a-r-n-e-s, @yahoo.com. They,
6 that being Mr. and Mrs. Barnes, both also exchanged interstate
7 text messages with Mr. Whitaker throughout the conspiracy.
8 Then Mr. Whitaker or Ms. Coleman applied for the loan using
9 that fraudulent information described above by electronic
10 transmission to Harvest Small Business Finance, LLC, the
11 originator of the loan, which was based in California, as well
12 as via interstate wire through the SBA servers in Oregon.

13 That would be some of the Government's evidence as it
14 relates to Mr. Barnes if this case proceeded to trial.

15 THE COURT: Thank you.

16 Any response from the defense to the Government's
17 proffer?

18 MR. JACQUET-FREESE: Not at this time, your Honor. We
19 reserve objection to the PSR.

20 THE COURT: All right.

21 Mr. Barnes, would you like any additional time to
22 speak with your attorney before entering a plea?

23 DEFENDANT BARNES: No.

24 THE COURT: All right. Then with respect to the sole
25 count against you charging conspiracy to commit wire fraud, how

1 do you plead?

2 DEFENDANT BARNES: Guilty.

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

4 DEFENDANT BARNES: Yes.

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

7 DEFENDANT BARNES: Yes.

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

21 The Court defers consideration of the, the plea
22 agreement until the PSR is received.

23 Sentencing in this matter is set for Judge Dever's
24 August 28, 2023 term here in Raleigh.

25 The defendant is reminded to make any objections to

1 the pre-sentence report in a timely manner and he should also
2 be aware he'll have the opportunity to address the Court at
3 sentencing as will the attorneys for the parties.

4 All right. Is the Government seeking detention here?

5 MR. BERAHA: No, your Honor. We would agree to
6 release with certain conditions.

7 THE COURT: All right.

8 I have before me a proposed order. Mr. Beraka, have
9 you reviewed those conditions?

10 MR. BERAHA: Yes, your Honor. The -- I submitted an
11 order to Probation yesterday which would seek some supervision.
12 I believe Probation's recommendation in the Pretrial Services
13 report was that Mr. Barnes be released on a personal recog,
14 recognizance bond. Because he's a felon, I would ask for some
15 conditions, but relatively minimal.

16 THE COURT: All right.

17 And has the defense seen these proposed conditions?

18 MR. JACQUET-FREESE: Those, I -- and, and to be
19 perfectly frank, I think that the two of you might be talking
20 about different sets of conditions.

21 THE COURT: Okay.

22 MR. JACQUET-FREESE: We have seen the conditions of
23 the --

24 THE COURT: Well, what I have before me are minimal
25 conditions from, that the Probation Office has recommended in

1 its report.

2 Mr. Beraka, are you seeking conditions more than this?

3 MR. BERAKA: Your Honor, the conditions we would seek
4 are that Mr. Barnes not have any contact with any codefendants
5 or potential witnesses other than his mother and that he report
6 any law enforcement contacts, not possess a firearm, and not
7 travel outside the District without approval from Probation.
8 And I, I do believe that he does have some planned travel which
9 we would consent to.

10 THE COURT: Does the defense wish to be heard on those
11 proposed conditions at all?

12 MR. JACQUET-FREESE: I, I think that addresses our
13 concerns that -- with -- he, he does have travel for voluntary
14 and, and work obligations that he has. And then obviously, we
15 want him to continue to be able to associate with family
16 members.

17 THE COURT: All right.

18 (Pause)

19 THE COURT: All right. So let me go over what these
20 conditions are going to be.

21 Mr. Barnes, at the conclusion of today's proceedings,
22 after any processing by the U. S. Marshals, you'll be released
23 on a series of conditions:

24 You may not violate any federal, state, or local law
25 while on release.

1 You must cooperate in the collection of a DEA sample
2 if such collection is authorized by federal law.

3 You must advise the Court or the Probation Office in
4 writing before making any change of residence or telephone
5 number.

6 You must appear in court as required and you must
7 surrender as directed to serve any sentence the Court may
8 impose.

9 You must submit to supervision by the U. S. Probation
10 Office upon your, upon the conclusion of today's proceedings
11 and any final processing.

12 Your travel will be restricted to the Eastern District
13 of North Carolina unless approved in advance by the Probation
14 Office.

15 The defendant must avoid all contact, directly or
16 indirectly, with any person who is or may be a victim or
17 witness in the investigation or prosecution of your case. You
18 may have contact with your mother, but may not discuss the case
19 with her.

20 You may not possess a firearm, destructive device, or
21 other weapon.

22 And you must report as soon as possible to the
23 Probation Office every contact he has with law enforcement
24 personnel, including arrest, questioning, or traffic stops.

25 Do we need to address the travel issue any, in any

1 more detail here in court today?

2 MR. JACQUET-FREESE: If the Court would be amenable to
3 sort of excluding pre-existing obligations or, or work
4 obligations or something along those lines. I must, I mean, I,
5 I don't anticipate that anyone actually has a problem with him
6 traveling for this, just I don't want it to be n issue in the
7 future.

8 THE COURT: All right. Well, it's certainly my
9 expectation that barring some sort of unusual occurrence the
10 Probation Office will approve pre, this pre-existing travel and
11 travel related to his work.

12 PROBATION OFFICER CAGLE: I would agree with that,
13 your Honor.

14 THE COURT: Okay. All right.

15 MR. JACQUET-FREESE: Then we're, we're satisfied, your
16 Honor.

17 THE COURT: All right. Thank you.

18 And Mr. Barnes, you've executed this form earlier
19 today?

20 DEFENDANT BARNES: Yes, sir.

21 THE COURT: Okay. Any question about these
22 conditions?

23 DEFENDANT BARNES: No.

24 THE COURT: All right. You should be aware that if
25 you violate these conditions you may be jailed until your

1 sentencing and if you fail to appear at sentencing, that is a
2 separate crime for which you could be sent to prison.

3 All right. Anything further from the Government?

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

5 THE COURT: Anything further from the defense?

6 MR. JACQUET-FREESE: No, your Honor. Thank you.

7 THE COURT: All right. That concludes the proceedings
8 for Mr. Barnes. He's remanded to the custody of the Marshals
9 for any processing and then released according to the
10 conditions set out in my order.

11 (Proceedings as to Defendant Dontrell Barnes concluded at
12 11:06 a.m.)

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Dated this 2nd day of April, 2024.

/s/ JANICE RUSSELL
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