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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,	)	
	)	
	)	
-VS-	)	DOCKET NO. 1:20-CR-00296-JPB
	)	
CHARLES PETTY,	)	
	)	
DEFENDANT.	)	

TRANSCRIPT OF CHANGE OF PLEA PROCEEDINGS
BEFORE THE HONORABLE J.P. BOULEE
UNITED STATES DISTRICT JUDGE
NOVEMBER 2, 2021

APPEARANCES:

ON BEHALF OF THE GOVERNMENT:

NATHAN KITCHENS, ESQ.
ASSISTANT UNITED STATES ATTORNEYS

ON BEHALF OF THE DEFENDANT:

KENNETH W. SHEPPARD, ESQ.

STENOGRAPHICALLY RECORDED BY:

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

(PROCEEDINGS HELD IN OPEN COURT AT 2:36 PM., ATLANTA, GEORGIA)

COURTROOM DEPUTY CLERK: This is case 20-CR-296, USA v. Charles Petty.

MR. KITCHENS: Good afternoon, your Honor. AUSA Nathan Kitchens on behalf of the government. And I'm here with Special Agent Joe Stites and Stefan Bublitz.

THE COURT: Good to see all of you.

MR. SHEPPARD: Good afternoon, your Honor. Kenneth Sheppard on behalf of Charles Petty.

THE COURT: Good to see you.

And good to see you as well, Mr. Petty.

Mr. Petty, if you could please stand so that Ms. Walker could swear you in.

COURTROOM DEPUTY CLERK: Mr. Petty, can you raise your right hand for me.

(The Defendant was duly sworn)

COURTROOM DEPUTY CLERK: Please be seated and state your name for the record.

THE DEFENDANT: Charles Petty.

COURTROOM DEPUTY CLERK: Thank you so much.

THE COURT: Thank you, Ms. Walker.

Mr. Kitchens, if you could please verify the signatures on the plea agreement.

MR. KITCHENS: Yes, your Honor.

Mr. Petty, I'm showing you a document that's titled

"Guilty Plea and Plea Agreement." Have you had an opportunity to review that document?

THE DEFENDANT: I have.

MR. KITCHENS: And is this your signature at the top right on page 17?

THE DEFENDANT: It is.

MR. KITCHENS: Is this also your signature on page 18 of the document?

THE DEFENDANT: It is.

MR. KITCHENS: And, Mr. Sheppard, is this your signature at the top left of page 17?

THE DEFENDANT: Yes, it is.

MR. KITCHENS: And is this your signature on page 19?

MR. SHEPPARD: Yes, it is.

MR. KITCHENS: On page 17 there are also the signatures of the government.

And I tender the "Guilty Plea and Plea Agreement" to the Court.

THE COURT: Thank you.

Mr. Petty, before I can accept your plea of guilty, I need to go over several matters with you. As we go through this process, if anything I state is unclear, let me know and I will repeat or rephrase it for you. It's important that you understand not only my statements to you but also my questions. You need to understand my questions so that you

can answer them truthfully. A failure to truthfully answer any question could result in additional charges being brought against you.

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

Do you understand, sir?

THE DEFENDANT: I do.

THE COURT: How old are you, sir?

THE DEFENDANT: Forty-nine.

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

THE DEFENDANT: Second -- graduate education.

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

THE DEFENDANT: I have not.

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

THE DEFENDANT: I have not.

THE COURT: And, Mr. Sheppard, are you aware of any issues regarding your client's competence to enter a plea this afternoon?

MR. SHEPPARD: I am not, your Honor.

THE COURT: I will now review with you the rights

that you're guaranteed under the Constitution and laws of the United States. I want to be sure that you understand your rights and that by entering this plea of guilty, you're giving up many of these rights.

Do you understand that under the Constitution and laws of the United States you have the right to plead not guilty and have a trial by jury?

THE DEFENDANT: I do.

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

THE DEFENDANT: I do.

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

THE DEFENDANT: I understand.

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

THE DEFENDANT: I understand.

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

THE DEFENDANT: I do.

THE COURT: Do you understand that at a trial you would have the right to subpoena witnesses which would be an order from the Court compelling their appearance at trial to testify on your behalf?

THE DEFENDANT: I do.

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

THE DEFENDANT: I do.

THE COURT: Do you understand that your attorney would have the opportunity to cross-examine the witnesses for the government --

THE DEFENDANT: I understand.

THE COURT: -- object to evidence offered by the government and offer evidence on your behalf?

THE DEFENDANT: I do.

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

THE DEFENDANT: I understand.

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

THE DEFENDANT: I do.

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

THE DEFENDANT: I do.

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

THE DEFENDANT: I understand.

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

THE DEFENDANT: Yes, I am.

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

After that I will be asking you whether the agreement as presented accurately reflects your understanding of the agreement that you reached with the government.

Mr. Kitchens.

MR. KITCHENS: Thank you, your Honor.

The plea agreement provides that Mr. Petty will plead

guilty to Count 9 of the second superseding indictment. The government is agreeing in turn to dismiss the remaining counts in that indictment against Mr. Petty and agrees not to bring further charges related to the charges to which he's pleading guilty.

The parties also agree to a series of guideline stipulations.

First, the parties agree that the base offense level is in Section 2B1.1.

Second, the parties agree that a 14-level adjustment should apply for loss under Section 2B1.1(b)(1)(H). And that's for an amount of loss exceeding $550,000 but less than $1.5 million.

The parties also agree that a three-level adjustment should apply under Section 3B1.1 for the defendant serving as a manager or supervisor and for the criminal activity involving five or more participants.

And, lastly, the parties are agreeing that a two-level adjustment under Section 3C1.1 should not apply for an offense involving obstruction of justice.

The government recommends an adjustment for the acceptance of responsibility to the maximum extent authorized by the guidelines with the caveats that are listed in paragraph 17 of the plea agreement.

The parties further recognize that each party

reserves the right to make recommendations for sentencing and that there are no agreements on the sentencing guidelines other than those expressly mentioned in the plea agreement.

The government is also reserving the right to modify its sentencing recommendation with any additional information it gains before sentencing.

There are also agreements covering the defendant's cooperation in this matter that specifically provides that the defendant agrees to cooperate truthfully and completely with the government, including producing all records requested, making himself available for interviews, responding truthfully to all government inquiries, and at the government's request to testify at trial or any other proceeding.

The defendant is also consenting to direct contact with the government outside presence of his counsel for purposes of cooperation.

The government in turn is agreeing to abide by Section 1B1.8 of the sentencing guidelines in which it will agree not to use information previously unknown to it for purposes of making any arguments under the sentencing guidelines.

Now, the caveat that's provided in the plea agreement for the defendant's cooperation is that if he is not truthful and candid in his cooperation, that he may be prosecuted for perjury, false statements, obstruction of justice. And all

information that Mr. Petty provided may be used against him in a future proceeding.

There is a conditional Section 5K and Rule 35 motion in which the government is agreeing to inform the Court about the full extent of the defendant's cooperation.

If the government determines that that cooperation qualifies as substantial assistance, it will file a motion for downward departure under Section 5K if that occurs before sentencing, or under Rule 35 it will file a motion for reduction of sentence if that cooperation occurs after sentencing.

The defendant understands that the government alone determines if the information that the defendant has provided constitutes substantial assistance.

The defendant also understands that the government may recommend a specific sentence if it files a motion or requests for downward departure, but the ultimate decision on the sentence rests at all times, of course, with the Court.

The government in the agreement is agreeing to make a low-end sentencing recommendation, subject again to the caveats that are listed in paragraph 17 of the agreement.

The government further agrees to make no specific recommendation as to the amount of any fine to be imposed.

The defendant is agreeing to pay $830,417 in restitution to the victims of the offense. And specifically

that's as listed in the plea agreement $805,504.49 to Cross River Bank, and $24,912.51 to the Small Business Administration.

The defendant waives his interest in property and agrees to the forfeiture procedure that is outlined in paragraphs 27 through 28 of the agreement.

And the defendant also agrees to pay a special assessment of $100 as well as any fine imposed by the Court.

The defendant fully agrees to cooperate fully in the collection of any restitution or fine. And the terms for that financial cooperation are laid out in paragraphs 31 through 34 of the plea agreement.

The defendant understands that the recommendations in the agreement are not binding on the Court.

The defendant is also agreeing to the maximum extent permitted by federal law to waive his right to appeal his conviction and sentence and the right to collaterally attack his conviction and sentence in any post-conviction proceeding with three limited exceptions.

First, if there's any upward departure or variance above the guidelines range as calculated by the Court, the defendant may appeal in that instance.

Second, if there's any claim that his counsel rendered ineffective assistance, the defendant also may make that claim on appeal.

And, lastly, there's no limit to the government's right to appeal. And if the United States does a direct appeal of the sentence imposed in this case, the defendant may in that instance do a cross-appeal of his sentence.

The parties are agreeing to the standard FOIA and Privacy Act waiver.

And the parties recognize that there are no other agreements between the parties other than that specified in the plea agreement.

THE COURT: Thank you, Mr. Kitchens.

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

MR. SHEPPARD: If I may, your Honor, there's only one additional. I believe the restitution is actually joint and several with the other co-defendants. And that the entities who suffered the loss cannot double, triple or quadruple recover from each individual, that if some of the money was recovered or one of the other co-defendants pays back the money they receive, then that would be a credit for all people who are joint and several, like a civil lawsuit.

MR. KITCHENS: I do agree, your Honor -- and I think this is not specified in the plea agreement itself. I do agree, of course, that for the restitution that would be imposed, of course, if there are other defendants that are liable for the specific loss caused here, which we believe

there are, that that restitution would be jointly and severally, you know, liable for those co-defendants.

THE COURT: All right. I think my question, though, remains the same because I'm asking him about the agreement he believes he's reached with the government. And the agreement as reached with the government is the document I have in front of me. So I'm going to ask him that question.

Mr. Petty?

THE DEFENDANT: Yes, subject to my attorney's statement.

THE COURT: Okay. Well, I don't want to be a stickler on this point but --

MR. SHEPPARD: We are --

THE COURT: -- your attorney may have a caveat to it but I think -- and what he's explained is the way the law I believe would work, and the AUSA has agreed with that statement of the law, but all I'm asking about right now is the document that we have in front of us --

THE DEFENDANT: Understood, your Honor.

THE COURT: -- the agreement.

THE DEFENDANT: Understood. Sorry. I agree. Understood.

THE COURT: All right. Let me just ask you again so the record is clear.

Mr. Petty, does that accurately reflect the agreement

that you believe you've reached with the government?

THE DEFENDANT: It does.

THE COURT: And you've also heard your attorney make an argument about joint and several liability as to that restitution amount, correct?

THE DEFENDANT: Correct.

THE COURT: And it's your understanding that that's how the law will be applied here?

THE DEFENDANT: Correct. Understood.

THE COURT: You heard the prosecutor agree with that understanding of the law, correct?

THE DEFENDANT: Correct.

THE COURT: Do you understand that any provisions in the agreement regarding recommendations to be made by the government are not binding on the Court. In other words, if I choose not to follow some recommendation that the government makes, do you understand that you will still be bound by your plea of guilty and would not be entitled to withdraw the plea based on the Court not following the recommendation?

THE DEFENDANT: Understood.

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

THE DEFENDANT: Yes.

THE COURT: Other than the terms of this agreement has any promise of any kind been made to you to cause you to

plead guilty?

THE DEFENDANT: No.

THE COURT: Per the terms of the agreement the United States Attorney for the Northern District of Georgia has agreed not to bring any additional charges related to the offense to which you're pleading guilty.

Other than those terms, has anyone threatened or forced you to plead guilty or told you if you do not plead guilty further charges will be brought against you or other adverse action taken against you?

THE DEFENDANT: No, your Honor.

THE COURT: Mr. Sheppard, are you aware of any plea agreement or promise being made to your client other than what's been discussed here in court?

MR. SHEPPARD: I am not, your Honor.

THE COURT: Thank you.

In a moment I will ask the AUSA to state the elements of the offense to which you are pleading guilty. The elements of the offense are those matters that the government must prove beyond a reasonable doubt in order to convict you of the charge.

Mr. Kitchens.

MR. KITCHENS: Thank you, your Honor.

Mr. Petty is pleading guilty to Count 9 of the second superseding indictment, which charges conspiracy to commit

bank and wire fraud in violation of Title 18, United States Code, Section 1349.

The elements of conspiracy to commit bank and wire fraud are as follows:

First, that two or more persons in some way or manner agreed to try to accomplish a common and unlawful plan to commit bank and wire fraud as charged in the indictment.

And, second, that the defendant knew the unlawful purpose of the plan and willfully joined in it.

For those underlying objects, the first one is bank fraud, and the elements of the bank fraud are as follows:

First, that the defendant knowingly carried out or attempted to carry out a scheme to defraud a financial institution or to get money, assets or other property from a financial institution by using false or fraudulent pretenses, representations or promises about a material fact.

Second, that the false or fraudulent pretenses, representations or promises were material.

Third, that the defendant intended to defraud the financial institution.

And, lastly, that the financial institution was federally insured.

For that second object of the conspiracy, wire fraud, the elements of that offense are as follows:

First, that the defendant knowingly devised or

participated in a scheme to defraud someone by using false or fraudulent pretenses, representations or promises.

Second, that those false pretenses, representations or promises were about a material fact.

Third, that the defendant acted with the intent to defraud.

And, lastly, that the defendant transmitted or caused to be transmitted by wire some communication in interstate or foreign commerce to help carry out the scheme to fraud.

THE COURT: Thank you.

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

THE DEFENDANT: I do.

THE COURT: In a moment I will ask the Assistant US Attorney to summarize the evidence that the government would expect to present at trial to prove each of these elements. In other words, these are what the government contend are the facts of the case.

It's necessary for the government to state these facts because I must determine whether there's a factual basis for you to enter this plea of guilty.

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

time.

Mr. Kitchens.

MR. KITCHENS: Thank you, your Honor.

Had this case proceeded to trial, the government would have proven beyond a reasonable doubt that the Paycheck Protection Program, also known as the PPP, was authorized as part of the Coronavirus Aid, Relief and Economic Security Act to provide forgivable loans to eligible small businesses.

Under the PPP, small businesses could apply for loans that would be used and -- would have to be used for payroll expenses, interest on mortgage, rent or utilities.

The amount of a PPP loan that a business could receive is generally 2.5 times the business's average monthly payroll cost.

While the Small Business Administration oversaw the PPP, individual loans were issued by private approved lenders, including Cross River Bank, which is a federally-insured financial institution.

The PPP application form asks the applicant to provide information related to their loan application, including the amount of the business's average monthly payroll, the number of the business's employees and the purpose of the loan with options that the applicant could select for payroll, lease or mortgage interest, utilities or other. The lender then uses this information to calculate the

amount of the loan that the business was eligible to receive under the PPP.

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

Defendant Charles Petty conspired with Darrell Thomas, Denesseria Slaton, Bern Benoit and others to obtain -- to submit a fraudulent PPP loan application for Transportation Management Services, which Mr. Benoit owns.

On or about May 20th, 2020, Transportation Management electronically submitted a PPP loan application to Bluevine Capital, LLC, a company that processes PPP loan applications on behalf of lenders that's based in California.

In its PPP loan application Transportation Management represented that it had 66 employees and an average monthly payroll of $332,000 and that it would use the funds obtained from the loan for payroll, lease payments, mortgage interest and utilities. In reality, Transportation Management had no employees and no average monthly payroll.

To support its payroll figures, Transportation Management submitted with its PPP loan application false IRS

Form 941s, which are an employer's quarterly federal tax return for each quarter of 2019. And IRS records would prove at trial that Transportation Management, in fact, did not file any IRS Form 941s for any quarter of 2019.

Transportation Management also included with its PPP loan application a fraudulent bank statement from JPMorgan Chase. It purported to show a beginning balance of $674,000 and an ending balance of nearly $800,000 in February of 2020.

In fact, however, JPMorgan Chase records would show that Transportation Management did not open its bank account until April 2020, so there was no bank statement that existed for February 2020.

Mr. Petty -- the evidence would show that Mr. Petty facilitated Transportation Management's fraudulent PPP loan by directing Mr. Benoit, both directly and indirectly, regarding Transportation Management's loan application and the money laundering of the proceeds.

The evidence would show based on communications and text messages that Mr. Petty directed Mr. Benoit to provide information and documentation necessary for the submission of the loan and provided that information and documentation to other individuals acting on Darrell Thomas's behalf knowing that Transportation Management did not have any employees and that Darrell Thomas would use that information and documentation to submit a fraudulent PPP loan application on

behalf of Transportation Management.

Based on the untrue statements in Transportation Management's PPP application, Bluevine processed Transportation Management's loan and submitted it to Cross River Bank for funding.

On or about May 21st, 2020, the PPP loan of $830,417 was deposited into Transportation Management's JPMorgan Chase bank account.

After receiving those PPP loan proceeds, Mr. Petty provided instructions to Mr. Benoit through another individual as to how the PPP loan proceeds would be disbursed in a manner designed to further conceal the fraud.

THE COURT: Thank you.

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

THE DEFENDANT: I do not.

THE COURT: I'm now going to go over those elements with you one by one and ask you whether or not you admit them.

First off, do you admit that two or more persons in some way or manner agreed to try to accomplish a common and unlawful plan to commit bank fraud and wire fraud as charged in the indictment?

THE DEFENDANT: I do.

THE COURT: And do you admit that you knew the unlawful purpose of the plan and willfully joined in it?

THE DEFENDANT: I do.

THE COURT: Do you admit that you knowingly carried out or attempted to carry out a scheme to defraud a financial institution or to get money, assets or other property from a financial institution by using false or fraudulent pretenses, representations or promises about a material fact?

THE DEFENDANT: I do.

THE COURT: Do you admit that the false or fraudulent pretenses, representations or promises were material?

THE DEFENDANT: I do.

THE COURT: Do you admit that you intended to defraud the financial institution?

THE DEFENDANT: I do.

THE COURT: Do you admit that the financial institution was federally insured?

THE DEFENDANT: I do.

THE COURT: Do you admit that you knowingly devised or participated in a scheme to defraud someone by using false or fraudulent pretenses, representations or promises?

THE DEFENDANT: I do.

THE COURT: Do you admit that the false pretenses, representations or promises were about a material fact?

THE DEFENDANT: I do.

THE COURT: Do you admit you acted with the intent to defraud?

THE DEFENDANT: I do.

THE COURT: And do you admit that you transmitted or caused to be transmitted by wire some communication in interstate commerce to help carry out the scheme to defraud?

THE DEFENDANT: I do.

THE COURT: Mr. Kitchens, if you could please state the potential penalties that the defendant faces for the charge, including the maximum penalties and any mandatory minimums.

MR. KITCHENS: Yes, your Honor.

For Count 9 of the second superseding indictment the maximum term of imprisonment is 30 years.

There is no mandatory minimum for this offense.

The term of supervised release is zero to five years.

The maximum fine that may be imposed is $1 million or twice the amount of gain or twice the loss, whichever is greatest, which is due and payable immediately.

And also full restitution is owed, as well as a mandatory special assessment of $100 due and payable immediately and any forfeiture of proceeds from the commission of the offense.

THE COURT: Thank you.

Mr. Petty, do you understand that those are the possible penalties that you could receive in this case?

THE DEFENDANT: I do.

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

THE DEFENDANT: I do.

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

THE DEFENDANT: I understand.

THE COURT: In the plea agreement that was reviewed with you a few moments ago you waived certain appeal rights. I want to be sure that you understand the meaning of that waiver.

Let me first state to you the rights you would have had if you did not waive or give up those rights.

The defendant in every criminal case has the right to file a direct appeal immediately after his conviction and sentence. In that appeal you may raise any issues concerning the handling of your case in this court that you wish to raise. Those issues would be reviewed by the Court of Appeals. If errors were found, the Court of Appeals could order that action be taken to correct those errors.

Besides the right to a direct appeal, you would have an additional opportunity to have your case reviewed by filing

a writ of habeas corpus, pursuant to 28 USC, Section 2255. That's another opportunity for you to challenge the legality of your conviction and/or your sentence. These are the rights that every defendant has unless he waives or gives them up.

In your plea agreement you have, for the most part, given up these rights. Your right of review will be limited to three specific circumstances.

First, if after calculating the sentencing guidelines that apply in your case, I then impose a sentence that is greater than the guidelines, you would have a right to file a direct appeal challenging that sentence.

Second, if the government files an appeal for any reason, you have a right to file a cross-appeal raising any issues that you wish to raise.

Finally, you always reserve the right to challenge constitutionally ineffective assistance of counsel.

But aside from these three very narrow circumstances, you will have no right of appeal and will be essentially bound by my decision. Do you understand that, sir?

THE DEFENDANT: I do.

THE COURT: Mr. Sheppard, have you reviewed the rights with your client such that you're comfortable he understands both his rights and the waiver of those rights?

MR. SHEPPARD: I have, your Honor.

THE COURT: Thank you.

Mr. Petty, do you understand that parole has been abolished in the federal system and if you are sentenced to prison you will not be released early on parole?

THE DEFENDANT: I understand.

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

THE DEFENDANT: Understood.

THE COURT: Do you understand that you may be ordered to pay restitution to any victim of the offense?

THE DEFENDANT: I understand.

THE COURT: Are you a citizen of the United States Government, sir?

THE DEFENDANT: I am.

THE COURT: Do you understand that as part of your sentence certain property that's been identified by the government may be forfeited by you to the government?

THE DEFENDANT: I understand.

THE COURT: Is there anything we've talked about today that you do not feel you fully understand?

THE DEFENDANT: There is not.

THE COURT: Have you had a sufficient opportunity to talk about your case with your attorney and have your attorney

answer any questions that you have before entering your plea?

THE DEFENDANT: I have.

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

THE DEFENDANT: I am.

THE COURT: How do you plead to Count 9 of the indictment?

THE DEFENDANT: Guilty.

THE COURT: Mr. Sheppard, do you feel that you've had a sufficient opportunity to investigate your client's case and advise him concerning the entry of this plea?

MR. SHEPPARD: I do, your Honor.

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

MR. SHEPPARD: I do not.

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

MR. SHEPPARD: Not at this time.

THE COURT: Mr. Kitchens, is there anything further that the government wishes the Court to address at this time?

MR. KITCHENS: No, your Honor.

THE COURT: I find that the defendant understands the charge and the consequences of the plea. I've observed the defendant during this proceeding and he does not appear to be under the influence of any substance that might affect his

judgment or actions in any manner.

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

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

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

I find that the plea is freely and voluntarily entered.

It's, therefore, ordered that the plea of guilty of the defendant to Count 9 of the indictment is accepted and entered.

Mr. Petty, you are hereby adjudged guilty of the charge contained in Count 9 of the indictment.

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

At your sentencing hearing I will hear from the government and any witnesses it wishes to present and from you, your attorney and any witnesses you wish to present. At that time I will decide the proper sentence in your case.

Do you understand?

THE DEFENDANT: I do.

THE COURT: Counsel, anything else?

MR. KITCHENS: Nothing further, your Honor.

MR. SHEPPARD: Nothing further, your Honor.

THE COURT: All right.

The defendant will be remanded to the US Marshal Service.

Ms. Walker, Ms. Coudriet, thank you.

Officer, thank you.

Deputy marshal, thank you as well.

We are hereby adjourned.

(PROCEEDINGS REPORTED WERE CONCLUDED AT 3:05 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 1st Day of February, 2024.



PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER