

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 3:23CR3
	)	
Gladys Harun,	)	
	)	
Defendant.	)	
_____	)	

CHANGE OF PLEA
BEFORE THE HONORABLE DUDLEY H. BOWEN, JR.
UNITED STATES DISTRICT COURT JUDGE
THURSDAY, APRIL 27, 2023; 10:34 A.M

FOR THE PLAINTIFF:

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FOR THE DEFENDANT:

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WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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Brian Truax,

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EXHIBITS

NO.	IDENTIFICATION	EVD.
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(None offered)

1 (Call to Order at 10:34 a.m.)

2 THE COURT: Call the case.

3 THE CLERK: Case 3:23CR3, United States of America
4 versus Gladys Harun, is called for initial appearance,
5 arraignment, and plea to a felony information. Representing
6 the United States, Alex Hamner. Representing defendant,
7 Mohammed Luwemba and Teri Thompson.

8 MS. THOMPSON: Yes, ma'am. I'm here.

9 THE CLERK: Yes.

10 THE COURT: Good morning, Counsel.

11 MR. LUWEMBA: Good morning.

12 MR. HAMNER: Good morning, Your Honor.

13 THE COURT: I want to make sure I have the name right.
14 Are you Ms. Gladys Harun?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Is that the way you say it?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right. Ms. Harun, in order to make
19 sure that I am getting the most reliable information under the
20 circumstances I am going to place you under oath.

21 (Gladys Harun is duly sworn.)

22 THE COURT: Ms. Harun, I have before me a Plea
23 Agreement and, of course, something called an Information. Are
24 you familiar with this terminology?

25 THE DEFENDANT: (Shakes head.)

1 THE COURT: You're not?

2 MR. LUWEMBA: Can you repeat the question, Judge?

3 THE COURT: My question is are you familiar with the
4 terminology of Plea Agreement and --

5 THE DEFENDANT: Yes, sir, I do.

6 THE COURT: -- Information?

7 THE DEFENDANT: Yes, sir, I do.

8 THE COURT: All right. Ms. Harun, as you know you
9 have been indicted in this district and I am told that today
10 your purpose is to plead guilty to an Information which is an
11 accusation brought by the United States Attorney, thus
12 resolving any issue with the Indictment. Is that a fair
13 summary?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Recalling that you're under oath, I will
16 now ask you a few questions about what we're doing. You are
17 Gladys Harun and you originally came from Kenya; is that right?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And you're now a naturalized citizen of
20 the United States of America; is that correct?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. How old are you, Ms. Harun?

23 THE DEFENDANT: I'm 44, Your Honor.

24 THE COURT: How many is that?

25 THE DEFENDANT: 44.

1 THE COURT: 44.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Tell me about your educational background.

4 THE DEFENDANT: I have been a teacher in Kenya and I
5 came over here for some years in Atlanta and then went to
6 Eastman, Georgia where I taught special education and then I
7 started doing taxes and went into business. I have a master's
8 degree. I have a PhD degree in education and I have tax
9 training from the IRS. That's it.

10 THE COURT: What was the last thing?

11 THE DEFENDANT: Tax training. I'm sorry for my
12 accent.

13 THE COURT: No need to be sorry for it. It's a
14 natural product of where you're from. Okay. Fine.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Tax training?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Tell me about that tax training.

19 THE DEFENDANT: I had a business since 2017 whereby I
20 was hiring people in Dublin, Warner Robbins, and Macon. I had
21 a total of 12 locations and then I lost everything when I got
22 incarcerated.

23 THE COURT: You had, in fact, do I recall 12 locations
24 with Jackson Hewitt; is that right?

25 THE DEFENDANT: Yes, sir. I used to hire like 55

1 people every year.

2 THE COURT: Now I actually asked you about your
3 education and you gave me your education and a good bit of work
4 experience which is fine because that's the next question is
5 work experience. Is there anything you left out of your work
6 experience? Do you want to tell me about anything else you've
7 done?

8 THE DEFENDANT: Over the years I have been helping my
9 father with the school in Kenya. My father has a school that
10 helps orphans in Kenya. So whenever I used to generate my
11 money from Jackson Hewitt I would support children every year
12 so they can go to school.

13 THE COURT: And in what part of Kenya does your father
14 operate this school?

15 THE WITNESS: It is called Nyandarua. It is in the
16 central region of Kenya.

17 THE COURT: Is it in a large city?

18 THE DEFENDANT: No. It is deep in the villages. It's
19 in the rural areas, very rural areas.

20 THE COURT: You are currently incarcerated; is that
21 correct?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And have you had any alcohol, drugs,
24 medicines or pills in the last 24 hours?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: Mr. Luwemba, during your contacts,
2 interviews with this client have you discovered any reason to
3 doubt her competence?

4 MR. LUWEMBA: No. No, Your Honor.

5 THE COURT: Mr. Hamner, I don't know if you've done
6 any debriefing or anything, but you have been following this
7 case since its origins in the Indictment. Apart from the
8 allusions to some psychiatric care that was brought up in one
9 of the orders, have you discovered any reason to doubt her
10 competence?

11 MR. HAMNER: No, Your Honor, I have not.

12 THE COURT: Well, more importantly, Ms. Harun, I want
13 to make a finding whether you're competent or not competent.
14 In your opinion are you competent to make rational decisions
15 about what you're doing in your life and in your business?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: I agree with counsel and Ms. Harun. She
18 is admittedly somewhat nervous. Anyone would be under the
19 circumstances. Nevertheless, she is articulate. She is
20 responsive to my questions. She is lucid in every respect that
21 I can observe. She is attentive to the proceedings and
22 regularly conferring with counsel as necessary. Upon these
23 observations and the assurances of counsel, I find this
24 defendant, Gladys Harun, to be competent to enter a plea if
25 that is her wish.

1 Have you had enough time to discuss your case in
2 general and in specifics with your lawyer, Ms. Harun?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And are you entirely satisfied with your
5 lawyer's preparation and his handling of your case?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Now, as we talked about earlier,
8 Ms. Harun, earlier in this case there was an Indictment and
9 you've been through some various proceedings relative to that
10 Indictment. Now we're talking about an Information which is --
11 I've always thought it a somewhat unusual word to describe an
12 accusation by a prosecutor, but that's what the federal system
13 does and this is an accusation that's being made in connection
14 with your plea negotiations, but it's being made by the United
15 States Attorney.

16 It's different from an indictment in this way. The
17 Indictment was the product of a grand jury consideration. The
18 grand jury met, received evidence from the United States
19 Attorney, and they decided to return an Indictment -- an
20 accusation of various federal criminal charges. Here no grand
21 jury has considered this accusation. This accusation emerges
22 from the negotiations of counsel.

23 Now are you with me so far?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand all of that?

1 THE DEFENDANT: I do, Your Honor.

2 THE COURT: And may I assume correctly that you have
3 been in regular contact with your lawyer about those
4 negotiations resulting in this Information?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Ms. Harun, while this is the product --
7 this Information is the product -- of negotiations, it is still
8 and it remains an accusation of serious federal criminal
9 charges. There is nothing minor league about this Information.
10 Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Okay. Ms. Harun, anybody who is charged
13 with a felony crime in this country is entitled to have the
14 matter considered by a grand jury. This Information has not
15 been considered by a grand jury -- only as a result of the
16 prosecution looking at it, talking with your lawyer, and they
17 drew this up in concert with one another, really. Do you
18 understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Now I am going to be as direct as I can.
21 You always have the right to have a grand jury consider any
22 federal felony criminal charge. By presenting this in the way
23 that you have done, you are telling me in this Plea Agreement
24 that you wish to waive and give up any consideration by a grand
25 jury. Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And you know you have the right to that,
3 but, nevertheless, you wish to waive it, give it up, and go
4 ahead with the U.S. Attorney's accusation; is that right?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Okay. Let's get a written waiver on the
7 record. I think it might be right -- no. That's it. It's the
8 second paper down.

9 Ms. Harun, I'll pass that to you through the Court
10 Security Officer. Now what I'm looking at here, Ms. Harun,
11 is -- quite frankly, I can't read anything from your signature,
12 but this emblem that you have placed on this paper -- is that
13 your signature?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Mr. Luwemba, may I ask you the same thing?

16 MR. LUWEMBA: Yes, sir.

17 THE COURT: Is that your signature?

18 MR. LUWEMBA: Yes, Your Honor.

19 THE COURT: All right. I will verify the paper
20 document itself by putting my more legible signature on it.
21 All right. Let it be filed.

22 THE CLERK: Yes, sir.

23 THE COURT: Well, we are talking about the Information
24 now. By the way, through other litigation, Ms. Harun, I have
25 known the name Gladys Chege and that name changed through

1 marriage, did it?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And how long ago was that?

4 THE DEFENDANT: I changed the name in 2012.

5 THE COURT: In 2012?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: All right. How did you pronounce that?

8 THE DEFENDANT: Chege.

9 THE COURT: Chege?

10 THE DEFENDANT: Yes.

11 THE COURT: I will see if I can remember that because
12 I have dealt with it on other occasions. It was a -- you
13 changed it in 2012, but were you still using Chege up until a
14 certain time in your business transactions?

15 THE DEFENDANT: Yes, in my business I had started my
16 maiden name Chege. Chege is my father's name.

17 THE COURT: Okay.

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: How long did you use Chege?

20 THE DEFENDANT: Oh, for a long time. I came to the
21 U.S. in 2005. I have been using that name until 2012 when I
22 officially changed my name to the married name.

23 THE COURT: I know when you changed it. You told me
24 you changed it, but how long did you use it?

25 THE DEFENDANT: Maybe three or four years.

1 MR. LUWEMBA: She used the Chege name until 2017 in
2 the business.

3 THE COURT: That's what I am trying to get from her,
4 Mr. Luwemba.

5 MR. LUWEMBA: Yes, sir. Oh, sorry, Judge.

6 THE COURT: Not your testimony. What about it,
7 Ms. Chege? How long did you use the name Chege?

8 THE DEFENDANT: Until 2017.

9 THE COURT: 2017.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Okay. Thank you. And I understand from
12 your point of view you're trying to be very precise and I am,
13 too, from my point of view. So we'll work it through.

14 Mr. Hamner?

15 MR. HAMNER: Yes, Your Honor.

16 THE COURT: I'm about to ask you to summarize this
17 information for me because you are the one that chose to write
18 up a five-page information. Are you prepared to do that?

19 MR. HAMNER: I can do that, Your Honor.

20 THE COURT: All right. Well, first of all, let me ask
21 Ms. Harun a couple of more questions.

22 Ms. Harun, how many times have you been over this
23 information?

24 THE DEFENDANT: Just one time.

25 THE COURT: One time. When was that?

1 THE DEFENDANT: He came like a month ago.

2 THE COURT: Have you talked about it more than once by
3 telephone or otherwise?

4 THE DEFENDANT: We talked a little this morning.

5 THE COURT: Well, how well do you think you understand
6 this document?

7 All right. Look, we're not going to do it this way.
8 If she doesn't have an immediate recall of what this document
9 says, I'm going to let you, Mr. Luwemba, and your client go to
10 the jury room and go over this Information with her in detail.
11 I don't want to have any question in her mind about what she's
12 agreeing to here. All right. We'll take a break. She's okay
13 in the jury room.

14 Is that okay with you, Marshal?

15 U.S. MARSHAL: That's fine.

16 THE COURT: All right.

17 U.S. MARSHAL: Are we not going to the next hearing?

18 THE COURT: No. It won't take that long.

19 U.S. MARSHAL: All right.

20 THE COURT: The substance of it is only three and a
21 half pages.

22 All right. Go review it. Just come out when you're
23 ready, Mr. Luwemba.

24 (A break is taken.)

25 THE COURT: All set, Mr. Luwemba?

1 MR. LUWEMBA: Yes, Judge. We're all set.

2 THE COURT: All right. Ms. Harun, have you now
3 reacquainted yourself with the allegations of the accusation?

4 THE DEFENDANT: Yes, Your Honor. Thank you so much.

5 THE COURT: We're certainly not in any rush here,
6 Ms. Harun. This is important business.

7 With that done, Mr. Hamner, I will ask you to give us
8 a summary of the Information which I referred to frequently as
9 the accusation. Thank you.

10 MR. HAMNER: Thank you, Your Honor. The
11 Information -- the first eight paragraphs of the Information
12 provide an introduction or background to the charges that are
13 alleged in this Information or to the charge.

14 THE COURT: Now those background statements are very
15 similar to those in the Indictment, are they not?

16 MR. HAMNER: Almost identical, Your Honor.

17 THE COURT: All right. Do you understand that,
18 Ms. Harun?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Okay. Go ahead.

21 MR. HAMNER: I am prepared to go through those
22 paragraphs or I can ---

23 THE COURT: Well, we'll see if that's necessary.

24 MR. HAMNER: I will move to page 4 of the Information
25 which specifically refers to the count which is the sole count

1 in this Information -- Count One -- pertaining to false
2 statements. It states that paragraph one through eight of the
3 Information are incorporated by reference and that on or about
4 July 27, 2021, in Dodge County in the Southern District of
5 Georgia, in a matter within the jurisdiction of the SBA,
6 referring to Small Business Association or Administration, an
7 independent establishment within the Executive Branch of the
8 United States Government, the defendant, Gladys Harun, did
9 willfully and knowingly make and cause to be made and use and
10 cause to be used a false writing or document knowing the same
11 to contain a materially false, fictitious, and fraudulent
12 statement.

13 Defendant Gladys Harun submitted a false EIDL
14 application by falsely claiming that an individual with the
15 initial KEW had a business opened on December 1, 2019, and that
16 such business generated \$2,114 in gross revenues in 2019 and
17 had \$165 in cost of goods sold in 2019 when Defendant Gladys
18 Harun did, in fact, know and believe that KEW did not own any
19 business in 2019 and that is a violation of Title 18, United
20 States Code, Section 1001(a) -- Subsection (a)(2).

21 THE COURT: Now, Ms. Harun, do you understand that
22 charge?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And do you want us to go into the various
25 paragraphs of background information?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: You do?

3 All right. Read the background information.

4 MR. HAMNER: Yes, Your Honor. Paragraph one of the
5 Information under the title Covid-19 Pandemic and CARES Act
6 states that the Coronavirus Aid Relief and Economic Security or
7 CARES Act was a federal law enacted in or about March 2020
8 designed to provide emergency financial assistance to the
9 millions who suffered economic effects caused by the Covid-19
10 pandemic. Among other relief efforts the United States sought
11 to provide financial support to eligible businesses that could
12 be used to offset certain business expenses.

13 At all times material to this Information the Small
14 Business Administration, or SBA, was an Executive Branch agency
15 of the United States Government that provided support to
16 entrepreneurs and small businesses. The SBA was headquartered
17 in Washington DC and maintained its computer servers outside of
18 the state of Georgia. The SBA's mission was to maintain and
19 strengthen the nation's economy by enabling the establishment
20 and viability of small businesses and by assisting in economic
21 recovery of the communities after disasters. As part of this
22 effort the SBA enabled and provided for loans through banks,
23 credit unions, and other lenders. These loans had
24 government-backed guarantees.

25 In addition, the SBA provided loans that came directly

1 from the United States Government. One source of relief
2 provided by the CARES Act was the authorization of the SBA to
3 provide Economic Injury Disaster Loans also known EIDLs to
4 eligible small businesses experiencing substantial financial
5 disruption due to the Covid-19 pandemic. In order to obtain an
6 EIDL a qualifying business had to submit an online application
7 to the SBA and provide information about its operations such as
8 the number of employees, gross revenues for the 12-month period
9 preceding the disaster, and the cost of goods the business sold
10 in the 12-month period preceding the disaster. In the case of
11 EIDLs the 12-month period was that preceding January 31, 2020.

12 The applicant had to certify that all the information
13 in the application was true and correct to the best of the
14 applicant's knowledge. In addition, the CARES Act authorized
15 the SBA to issue advances up to \$10,000 to small businesses
16 within three days of applying for an EIDL. This was known as
17 an EIDL advance. The amount of the EIDL advance was determined
18 by the number of employees the applicant certified having.
19 EIDL applications were submitted directly to the SBA online.
20 Their website is noted in the Information and processed by the
21 agency from support from the government contractor Rapid
22 Finance. The amount of each loan was determined based, in
23 part, on the information provided by the application about
24 employment, revenue, and cost of goods. Any funds issued under
25 the EIDL were issued directly by the SBA. EIDL funds could be

1 used for payroll expenses, sick leave, production costs, and
2 business obligations such as debts, rent, and mortgage
3 payments.

4 THE COURT: All right. That concludes the
5 introductory material in pages one through three.

6 Ms. Harun, is that a statement that you've been over
7 before just recently in the jury room with your lawyer?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And do you understand it entirely?

10 THE DEFENDANT: Yes, Your Honor, I do.

11 THE COURT: Do you have any questions at all about the
12 information?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Do you have any questions at all about
15 what the government would have to prove in order to secure a
16 conviction on the charge contained in the Information? Am I
17 not speaking English here?

18 MR. LUWEMBA: No, I think she's just kind of nervous,
19 Judge. We went over this thoroughly when I was driving back
20 and forth to the jail.

21 THE COURT: Well, I want her to think about my
22 question --

23 MR. LUWEMBA: Yes, sir.

24 THE COURT: -- and not turn to you and say, "What is
25 he saying?"

1 Will you just communicate with me for a minute? If
2 you have a genuine question for your lawyer --

3 THE DEFENDANT: Okay.

4 THE COURT: -- I want you to go to him and ask him.

5 THE DEFENDANT: All right. I will.

6 THE COURT: I want to know do you have any questions
7 about what the government lawyer would have to prove in order
8 to get you to a verdict of guilty?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: You hesitated.

11 THE DEFENDANT: I have not been to court before. So
12 sometimes I am not understanding the whole thing like what he
13 has to prove to get me a conviction. I'm not ---

14 THE COURT: Well, there are certain things that the
15 government has to prove --

16 THE DEFENDANT: Okay.

17 THE COURT: -- and it's evidence and there are certain
18 essential elements --

19 THE DEFENDANT: Okay.

20 THE COURT: -- that they have to prove in order for
21 you to be convicted. Now, I can't just take a guilty plea
22 because you sign an agreement and you say you want to plead
23 guilty. I have to know if you've been acquainted with the
24 elements of proof and that you know what they are and that you
25 are prepared to waive that and give it up so that you can plead

1 guilty.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: I'm trying to make this as clear and
4 simple and easy as I can and I'm looking at a woman who is
5 running 12 businesses, who is a teacher, who has a doctorate in
6 education. In order to secure a conviction in a case like
7 this --

8 THE DEFENDANT: Okay.

9 THE COURT: -- Ms. Harun, the government lawyer would
10 not have to simply say but he would have to prove by admissible
11 evidence beyond any reasonable doubt, number one, that on or
12 about July 27, 2021, in the Southern District of Georgia here
13 in Dodge County, you willfully, knowingly -- not by some
14 mistake or accident, but willfully and knowingly caused a false
15 writing or document to be submitted so that a false and
16 fraudulently EIDL application was made to the SBA in which you
17 claimed that a person who had the initials of KEW had a
18 business that was opened on December 1, 2019, and that such
19 business generated gross revenues in the amount of \$2,114 in
20 2019 and had cost of goods sold in 2019 of \$165 when, in fact,
21 the whole thing was a lie. That's what they would have to
22 prove. Do you understand that?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right. Any questions about that?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: Okay. Let's see if we can move on from
2 there. Now, Ms. Harun, whether it's an Information or an
3 Indictment, you're still facing a federal criminal felony
4 charge. Now at this point -- I know you've signed a Plea
5 Agreement and all that, but at this point you're faced with an
6 Indictment and an accusation by way of Information and you have
7 a right to a jury trial or a trial before the Court on these
8 charges. You can plead guilty if you want to, but we haven't
9 gotten to that yet. You do have a right to a trial.

10 Now if you go to trial there are some rights that I
11 want to make sure that you understand. First of all, you have
12 the right to the presumption of innocence. That's a function
13 of the government's burden of proof. They have to prove you
14 guilty. You don't have any obligation or burden of proving
15 your innocence or proving anything. They have to prove you
16 guilty beyond any reasonable doubt.

17 Do you understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: You have the right to be present
20 physically in the courtroom at all times while your case is
21 going on. Do you understand that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Also, Ms. Harun, you have the right to
24 confront and cross examine the witnesses. That means you have
25 the right to see them and hear them testify and through your

1 lawyer to ask them questions. Do you know that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Ms. Harun, you also have the right to
4 subpoena witnesses, to bring people into the courtroom under
5 processes of the law if they have information to provide by way
6 of testimony. Do you know that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And, Ms. Harun, you may be a witness in
9 your own case. You're not required to be a witness. Nobody
10 can force you to be a witness, but you can be if you want to,
11 and as a matter of fact, if you choose not to be a witness no
12 one can suggest or infer that you must be guilty simply on
13 account of your choice not to testify. Do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: There's another right that I want to
16 mention to you and that is your right under the Fifth Amendment
17 of the Constitution. That is your right that says that you
18 cannot be forced to answer a question if the answer to that
19 question might tend to incriminate you. Do you understand
20 that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Now with respect to all of these rights,
23 Ms. Harun, if you plead guilty you'll be waiving and giving up
24 all of your rights to a trial and all of the rights that I have
25 outlined for you. Do you know that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: If you plead guilty there won't be any
3 trial. It will be all over except for a sentencing hearing.
4 If you plead guilty there will be a judgment of guilty. I
5 suppose you could say if you plead guilty you'll be just as
6 guilty as if a jury had found you guilty. Do you understand
7 that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Eventually, if you plead guilty or if
10 you're found guilty by a jury you would be sentenced and that
11 sentence would be based upon the court's consideration of a lot
12 of things: Your background, your history, the things that are
13 outlined in federal statutes and the Federal Sentencing
14 Guidelines. Have you heard of the Federal Sentencing
15 Guidelines?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. I don't know what they are
18 right now and none of us do. That's what these folks over here
19 are for is to try to figure out what the guidelines would be,
20 but I simply want to know that you are aware of them. Are you?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Okay. Now, Ms. Harun, you are a
23 naturalized citizen. You were born in another country.
24 Nevertheless, you are a citizen of this country. Frankly, I do
25 not know if there is any immigration or deportation concern

1 about your citizenship. I would suspect that Mr. Luwemba knows
2 more about that sort of thing than any of us here right now. I
3 don't know, but I simply want you to know that there are at
4 least reasonable cause to look into that.

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And have you brought that subject up with
9 your lawyer?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Okay. We'll leave it at that. I don't
12 want to get into the interchange of what the situation is. I
13 just want to know that that is on your mind. Now has anybody
14 forced you, pressured you, or threatened you into pleading
15 guilty?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: There is a lengthy Plea Agreement here and
18 I noticed, Ms. Harun, that you signed this back on March 16.
19 Do you remember that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And I looked at it. It looks like your
22 signature -- what I understand your signature to be -- and I'm
23 going to summarize the Plea Agreement for you. It's another 10
24 pages. So I am not going to read through all of that.

25 (The Clerk speaks with the Court off the record.)

1 THE COURT: Thank you for pointing that out. That one
2 was dated the 16th of March but this one is dated today.

3 Is that right, Mr. Hamner?

4 MR. HAMNER: That's correct, Your Honor.

5 THE COURT: Mr. Luwemba?

6 MR. LUWEMBA: Yes, Judge.

7 THE COURT: Are there any changes?

8 MR. HAMNER: The changes that are in there are on page
9 six in relation to the factual basis. All of the terms of the
10 Plea Agreement are the same.

11 THE COURT: You know, I did hear something about that
12 earlier.

13 Thank you for reminding me, Ms. Hyder.

14 THE CLERK: Yes, sir.

15 THE COURT: Page six?

16 MR. HAMNER: Yes, Your Honor.

17 THE COURT: Okay. Has the summary changed at all?

18 MR. HAMNER: No, Your Honor.

19 THE COURT: Okay. And we're going to take a factual
20 basis in a few minutes. So we'll listen to that, too. All
21 right.

22 Well, Ms. Harun, I see that you've signed two Plea
23 Agreements. The one signed today is, of course, dated
24 April 27, 2023.

25 I think what we ought to do then is I'll hand you this

1 one, Ms. Hyder, so I won't be confused by it.

2 THE CLERK: Yes, sir. Thank You, Judge.

3 THE COURT: All right. Ms. Harun, in this Plea
4 Agreement, summarizing, you have agreed to waive any right to
5 be charged by indictment and you have agreed to plead guilty to
6 count one of the Information and to the factual basis that is
7 contained in the Plea Agreement to which you have signed. You
8 must understand that you are subject to up to five years in
9 prison, three years on supervised release, and a \$100 special
10 assessment. No promises have been made to you regarding any
11 particular sentence.

12 I know that the United States Attorney has agreed to
13 recommend down in here somewhere -- you recommend the lower end
14 of the guidelines; is that right, Mr. Hamner?

15 MR. HAMNER: That is correct, Your Honor.

16 THE COURT: All right. But that is not an agreement
17 with respect to the sentence.

18 Do you understand that Ms. Harun?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: All right. There is nothing in the Plea
21 Agreement that stops the government from providing full and
22 accurate information to the court and to the probation officer
23 regarding the calculation of the guideline range. The
24 government lawyer is going to agree that you have accepted
25 responsibility and recommend you -- recommend you -- to the

1 probation office that you receive a reduction in your offense
2 level on account of that acceptance of responsibility and that
3 may be either two or three points, but they will recommend the
4 maximum that they can. We'll see how that works out when the
5 guidelines are calculated.

6 Now the government and the defendant agree to
7 recommend to the probation office and the court at sentencing
8 that for the purpose of the guidelines the loss is less than
9 \$550,000. The government lawyer, as I said earlier, has
10 recommended that you be sentenced at the low end of the
11 guideline range as determined by the court at the time of
12 sentencing. The government lawyer has agreed not to oppose any
13 request made by you for release on bond pending sentencing.
14 The defendant has agreed to abandon any property that may have
15 been seized in connection with this case.

16 Mr. Hamner, I would like to hear a little bit more
17 about that later.

18 The defendant agrees to pay restitution for the full
19 loss caused by the defendant's total criminal conduct which is
20 not limited to the specific count to which she is pleading
21 guilty.

22 I want to make sure you understand that, Ms. Harun.
23 You've agreed to plead guilty to one -- to put it bluntly, one
24 little count that might involve some \$2,100, something like
25 that, but the total thing here for restitution we know is under

1 \$550,000, but -- is there a calculation as to restitution?

2 I did not see that in the Plea Agreement, Mr. Hamner.

3 MR. HAMNER: It has not been calculated in the Plea
4 Agreement at this time, Your Honor.

5 THE COURT: Is it calculated in your mind?

6 MR. HAMNER: No, Your Honor.

7 THE COURT: All right. All you can tell me is under
8 550 grand?

9 MR. HAMNER: Yes, Your Honor.

10 THE COURT: Ms. Harun, you've agreed to pay the \$100
11 special assessment.

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: You've certified -- you are certifying,
14 guaranteeing that you have not transferred any assets in
15 contemplation of this prosecution in an effort to evade your
16 financial obligations under this agreement -- that is,
17 restitution -- and you also agree to make no such transfers in
18 the future. You've agreed to notify the United States of any
19 material change in circumstances prior to sentencing no later
20 than seven after the change -- you mean seven days, seven
21 hours?

22 MR. HAMNER: Seven days, Your Honor. I apologize.

23 THE COURT: Seven days after the change. All
24 notifications must take place in writing prior to the date of
25 sentencing. Any payment schedule imposed by the court will not

1 impede the United States from taking all actions and remedies
2 available to collect the full financial obligation imposed by
3 the judgment of the court.

4 That means, Ms. Harun, if I impose a sentence that
5 says you have to pay "X" number of dollars restitution and I
6 give you a schedule for doing it, they can still go looking for
7 assets and hunt them down and bring them in as they will
8 regardless of the schedule. Do you understand that?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: You've agreed to waive and give up any
11 right to appeal from any conviction or sentence except some
12 sentence that went above the statutory maximum of 60 months --
13 I haven't done that yet, I don't think -- a sentence above the
14 guideline range as determined by the court at the time of
15 sentencing or if the government appeals the sentence.

16 You've also agreed to waive any collateral attack, any
17 habeas corpus or other attack on the fact of conviction or
18 sentence unless you state that you received ineffective
19 assistance of counsel. However, another portion of the Plea
20 Agreement says that you agree that you have been ably
21 represented and you are satisfied with your lawyer. If either
22 party breaches this Plea Agreement it will be void. If
23 rejected by the court, the Plea Agreement will be void and this
24 is the entire Plea Agreement -- the one we're looking at and
25 the one we're talking about.

1 You have agreed to plead guilty regardless of any
2 possible immigration consequences. I have addressed that
3 slightly so far. I don't know what they might or might not be.
4 You've agreed to waive any challenge with respect to venue in
5 this case; that is, that it is being conducted in the Southern
6 District of Georgia in the Dublin Division.

7 You've agreed to waive any right to request further
8 information about the prosecution under the Federal Freedom of
9 Information Act or Privacy Act. You've agreed to waive and
10 give up any protection under any federal rule so that in the
11 event you failed to plead guilty or later withdraw your guilty
12 plea, notwithstanding that, any and all statements made by you
13 in connection with the plea and any leads derived therefrom are
14 admissible for any and all purposes.

15 Now have I summarized the Plea Agreement in your
16 opinion, Mr. Luwemba?

17 MR. LUWEMBA: Yes, Judge.

18 THE COURT: Mr. Hamner?

19 MR. HAMNER: Yes, Your Honor.

20 THE COURT: More importantly, Ms. Harun --

21 THE DEFENDANT: Yes, sir.

22 THE COURT: -- have I summarized the Plea Agreement in
23 the way that you understand it?

24 THE DEFENDANT: Yes, Your Honor. Thank you.

25 THE COURT: Do you think I left anything out?

1 THE DEFENDANT: No. I think you were clear.

2 THE COURT: You think I covered it all?

3 THE DEFENDANT: Yes, you did.

4 THE COURT: Now, Ms. Harun, I want to know has anybody
5 given you any other promise, any hope of benefit, guarantee or
6 deal other than what I have talked about in the summary of this
7 Plea Agreement?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: Is there anything else that anybody has
10 told you in order to get you to plead guilty?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: All right. Mr. Hamner, let's get a
13 factual basis for this plea, and I know you will welcome the
14 opportunity to sit down for a moment Mr. Luwemba and Ms. Harun.

15 MR. LUWEMBA: Thank you, Judge.

16 MR. HAMNER: Your Honor, during the course of the plea
17 you asked me two questions that I would briefly like to
18 address.

19 THE COURT: All right.

20 MR. HAMNER: You asked about the seized property and
21 the only property that we've seized in this case is a bank
22 account that she had that contained approximately \$50,000 from
23 Wells Fargo and then in regards to the amount for Sentencing
24 Guidelines it was limited at 550,000. The United States
25 believes that that range is going to be somewhere between 300

1 to \$400,000 which falls within that under 500,000 guideline
2 range.

3 THE COURT: The guideline break is at 550?

4 MR. HAMNER: Correct, Your Honor.

5 THE COURT: Okay. And the floor on that guideline
6 range you're talking about is 250?

7 MR. HAMNER: I believe so, Your Honor. I don't have
8 it in front of me --

9 THE COURT: All right.

10 MR. HAMNER: -- but I believe that's correct.

11 THE COURT: We'll see. It's speculation right now.
12 Okay. And who are you going to call on your factual
13 basis?

14 MR. HAMNER: Special Agent Brian Truax.

15 THE COURT: Okay. Mr. Truax, will you come over to
16 our witness stand --

17 THE WITNESS: Yes, sir.

18 THE COURT: -- and take the oath before you are
19 seated?

20 (Brian Truax is duly sworn.)

21 THE CLERK: Please have a seat. State your name and
22 spell it for the record and name your occupation, please, sir.

23 THE WITNESS: My name is Brian Truax, T-R-U-A-X. I am
24 an agent with the United States Secret Service out of the
25 Savannah Georgia Office.

(Brian Truax-Direct by Mr. Hamner)

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DIRECT EXAMINATION

BY MR. HAMNER:

Q Special Agent Truax, would you tell the Court how long you've served in that capacity?

THE COURT: Well, wait a minute. I've got to ask him something first. Have you watched Night Agent?

THE WITNESS: Yes, sir, I have.

THE COURT: Okay. Sometime we'll talk about that.

THE WITNESS: Yes, sir.

THE COURT: Go ahead, Mr. Hamner.

MR. HAMNER: Thank you, Your Honor.

Q Special Agent Truax, how long have you been employed in that capacity?

A Twenty years, sir.

Q Thank you. And were you involved in the investigation of the defendant, Gladys Harun?

A Yes, sir.

Q Can you briefly for a factual basis explain what the SBA is?

A SBA stands for Small Business Administration. It is a government agency responsible for providing support and assistance to small businesses. They do it through a three-tier process which involves the 3 C's: Capital for loans; Contracts, government contracts for small businesses; and Counsel, providing counsel to small businesses on business

(Brian Truax-Direct by Mr. Hamner)

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1 matters.

2 Q Thank you. And is that under the Executive Branch of the
3 federal government?

4 A It is, sir.

5 Q Can you briefly explain what an Economic Injury Disaster
6 Loan is?

7 A An Economic Injury Disaster Loan is EIDL for short --
8 E-I-D-L -- was authorized under the CARES Act, enacted in March
9 of 2020. It is a loan that is provided to small businesses to
10 support them during the economic disaster that occurred during
11 the pandemic -- the Covid pandemic.

12 Q What's the process that one has to undergo to apply for a
13 EIDL?

14 A A person would go to the SBA website. They would go to a
15 portal. They would pull up an application online and they then
16 would fill out the application with the business name, business
17 address, some financial information to include what was
18 discussed here earlier which is gross revenues preceding the 12
19 months prior to the pandemic and also capital -- excuse me,
20 cost of goods sold prior to March '20 -- excuse me --
21 March 2020 -- January 31, 2020. Excuse me.

22 Q Thank you. In the course of your investigation did you
23 become aware of an EIDL application for Katina Wells?

24 A Yes, sir.

25 Q Is Katina Wells the KEW identified in the Information?

(Brian Truax-Direct by Mr. Hamner)

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1 A Yes, sir.

2 Q Did you interview Ms. Wells?

3 A Yes, sir.

4 Q Is she a resident of Dodge County, Georgia?

5 A Yes, sir.

6 Q What is her relationship with the defendant?

7 A The relationship with the defendant was Ms. Wells --

8 Ms. Wells' mother, Lotsie Gordon, and Ms. Harun were friends

9 and through that friendship Ms. Wells had Ms. Harun be her tax
10 preparer.

11 Q Okay. And on July 27, 2020, was an EIDL application
12 submitted in the name of Katina Wells specifically application
13 number 3322814905?

14 A Can you repeat that date, sir?

15 Q July 27?

16 A The year.

17 Q 2021?

18 A 2021, yes, sir. That's correct.

19 Q Okay. And was that application submitted within the
20 Southern District of Georgia and to the SBA service outside of
21 Georgia?

22 A It was, sir.

23 Q Did you review that application?

24 A I did, sir.

25 Q And was that application used for both a target advance and

(Brian Truax-Direct by Mr. Hamner)

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1 a low-income targeted advance?

2 A Yes, sir.

3 Q Did Ms. Wells identify who prepared that application?

4 A She did, sir.

5 Q Who was that?

6 A The defendant Ms. Gladys Harun.

7 Q And did you review emails between the defendant and Katina
8 Wells?

9 A I did, sir.

10 Q Did those emails confirm --

11 A Yes, sir, they did.

12 Q -- the statements that Ms. Wells told you? Did they
13 confirm that relationship between Ms. Harun and Ms. Wells
14 regarding the application?

15 A They did, sir.

16 Q Was there false information contained in that application?

17 A Yes, sir.

18 Q Did that application say that Katina Wells was an
19 independent contractor that opened a business on December 1,
20 2019?

21 A Yes, sir.

22 Q Was that false?

23 A Yes, sir. It is false.

24 Q Did the application also list that her business had over
25 \$2000 in revenues in 2019?

(Brian Truax-Direct by Mr. Hamner)

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1 A That's correct.

2 Q And was that false?

3 A Yes, sir.

4 Q And did it lost gross receipts for 2019 for that fictitious
5 business?

6 A Yes, sir.

7 Q And were those also false?

8 A That's is correct.

9 MR. HAMNER: I have no further questions, Your Honor.

10 THE COURT: Mr. Luwemba, any questions for Special
11 Agent Truax?

12 MR. LUWEMBA: No cross, Judge. No.

13 THE COURT: All right. If you don't mind, sit tight
14 for a moment.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: Thank you, Mr. Hamner.

17 Would you come back to the lectern with your client,
18 please, Mr. Luwemba?

19 Ms. Harun, did you hear what Special Agent Truax said?

20 THE WITNESS: Yes, Your Honor.

21 THE COURT: What did he say about you and your
22 exchange with KEW that you disagree with?

23 THE DEFENDANT: Katina Wells -- I used to prepare
24 taxes for her and I did it for several years. I don't disagree
25 with anything he said, but I will give my version if that's

1 okay.

2 THE COURT: Your what?

3 MR. LUWEMBA: No.

4 THE DEFENDANT: Okay.

5 MR. LUWEMBA: She answered the question, Judge. She
6 said she doesn't disagree with anything he said.

7 THE COURT: Well, I heard something else. I wanted to
8 hear exactly what she said.

9 Tell me what you said. Let me ask you again.

10 THE DEFENDANT: Yes.

11 THE COURT: What did Mr. Truax say that you disagree
12 with?

13 THE DEFENDANT: I do not disagree with anything he
14 said in regards to the lady -- Katina Wells. I prepared the
15 EIDL using her 2019 tax return that had the data that I used.
16 That's what I -- you know, we discussed this with you when you
17 interviewed.

18 THE COURT: Well, I don't understand exactly what
19 you're saying. I want to get a little more depth here. Are
20 you saying that you did not present a false application?

21 THE DEFENDANT: What I am saying ---

22 MR. LUWEMBA: Judge ---

23 THE COURT: Mr. Luwemba, I appreciate your efforts and
24 your advocacy, but I've got to know whether this is a genuine
25 guilty plea or whether this is something she is going to go

1 around telling people that I only did this because my lawyer
2 and that judge made me. You know that?

3 MR. LUWEMBA: I understand.

4 THE COURT: I've heard it before.

5 MR. LUWEMBA: No, I understand that, Judge, and I
6 totally respect the way you went about this. It is just I
7 would like to hear whatever she's going to say in open court
8 before it comes out of her mouth. I just ---

9 THE COURT: Well, you could have talked to her about
10 it.

11 MR. LUWEMBA: I did.

12 THE COURT: Did you prepare her for this?

13 MR. LUWEMBA: 100 percent. Yes.

14 THE COURT: Well, I want to know if she disagrees --
15 we don't know what the man is going to say before he gets here.

16 THE DEFENDANT: I don't disagree. I don't disagree
17 with him.

18 THE COURT: Well, you're saying something about Katina
19 Wells that you wanted to qualify it or modify it. I just want
20 to know what you're talking about.

21 THE DEFENDANT: Oh, okay. I just said I'm taking the
22 responsibility. That's why I came to court today to resolve
23 this and take the responsibility for it. I used her 2019 tax
24 return data to do the EIDL. That's all I am saying. Like,
25 yes, I am taking responsibility, but I didn't know anything was

1 wrong because I used her data in 2019. That's all, but I am
2 taking responsibility.

3 THE COURT: You say you did not know anything was
4 wrong? What -- I didn't understand you. I didn't hear you.
5 So tell me again what you said.

6 THE DEFENDANT: I prepared the EIDL for her. That's
7 it.

8 THE COURT: And did you know it contained false
9 information?

10 THE DEFENDANT: Yes.

11 THE COURT: Mr. Luwemba --

12 MR. LUWEMBA: Yes, sir?

13 THE COURT: -- we've got an hour and a quarter
14 invested in this and I don't want to be in any way overbearing.
15 I want to get this resolved one way or the other. We got an
16 Indictment. We're ready to go to trial. We've got an
17 Information. I'm ready to take a guilty plea, but I've got to
18 know that it is provident. I have to know that it is genuine
19 and I have to know that it expresses her true intent.

20 I would like for you to confer once again with your
21 client. There are two things that I'm concerned about: First
22 of all, the United States Attorney tells me that he has not yet
23 got a handle on restitution. I am perceiving a problem about
24 the nature and the amount of restitution in the future in this
25 case. I am perceiving a problem if this guilty plea were taken

1 right now on the basis of this record, not only would it be
2 improvident, but at some point in the future this lady may
3 express to the court and to others that I only plead guilty to
4 \$2,100 here, and while the guideline range is under \$550,000, I
5 only did this one thing and I really didn't even mean to do
6 that.

7 So I'm perplexed by this. I am going to invite you to
8 take your client once again to the jury room and see if there
9 is some miscommunication here that we can resolve today.

10 MR. LUWEMBA: Would you mind if co-counsel came back
11 with us -- Teri Thompson?

12 THE COURT: I wouldn't mind that at all.

13 MR. LUWEMBA: Thank you, Judge.

14 (A break is taken.)

15 THE CLERK: Do I recall the case?

16 THE COURT: No need to recall the case. We have had a
17 recess wherein Mr. Luwemba has talked to his client along with
18 co-counsel and we're back in court and we are going to proceed.

19 Is that right, Mr. Luwemba?

20 MR. LUWEMBA: Yes, Judge. Yes, Your Honor.

21 THE COURT: Now, Ms. Harun, you've had a chance to
22 relax a little bit and freshen up, perhaps. I was asking you
23 if there is anything that Special Agent Truax said that you
24 disagree with.

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: I'm sorry?

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: Say it again now that I have my ear piece
4 in.

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: All right. And let me be very direct with
7 you, Ms. Harun. Do you understand entirely that this is not
8 just one matter related to KEW or whatever -- was it Kathleen
9 somebody?

10 MR. HAMNER: Katina Wells, Your Honor.

11 THE COURT: When you're sentenced if you are on this
12 Information and guilty plea, I am going to be considering your
13 entire conduct. Do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And they are saying now that it involves
16 some three or \$400,000 of EIDL falsifications. Do you
17 understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: All right. And do you also understand
20 that you will be facing restitution for some amount in that
21 category or area?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: I don't know what it is. I don't pretend
24 to state it for you, but I just don't want you to come back and
25 say that you misunderstood something along that line. Do you

1 understand me?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Is there anything else you want to tell me
4 or any exculpatory statement you want to make?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Okay. Mr. Truax, if you would like to
7 resume a position over there with counsel, you may do so.

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: Ms. Harun, how do you want to resolve this
10 case?

11 THE DEFENDANT: Pleading guilty.

12 THE COURT: And by that do I understand that you wish
13 to plead guilty consistent with the terms of your Plea
14 Agreement?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Are you, in fact, guilty as charged in
17 this Information?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And do you understand that the court will
20 be considering the entirety of your criminal conduct, other
21 falsifications and deceptions?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: In that this defendant has acknowledged
24 her guilt, she is aware of her right to trial, she knows the
25 maximum penalty and with full knowledge of the consequences of

1 her own volition she has elected to plead guilty and there is a
2 sound factual basis and she has throughout received her
3 attorney's advice, I will accept the plea in writing.

4 THE CLERK: Your Honor, the defendant has signed the
5 plea.

6 THE COURT: All right. Ms. Harun, you have signed the
7 plea. I am going to allow it to be filed. You're now
8 convicted of this federal felony offense. You have no right to
9 own, use or possess a firearm. You are to be present for
10 sentencing. You will be notified of that, and, of course, you
11 should stay in touch with your lawyer.

12 Mr. Hamner, anything else?

13 MR. HAMNER: Nothing from the government, Your Honor.

14 THE COURT: All right. Mr. Luwemba?

15 MR. LUWEMBA: Yes, Judge. Pursuant to the Plea
16 Agreement we would just like to be briefly heard on bond.

17 THE COURT: All right. You may proceed.

18 MR. LUWEMBA: Yes, Judge. As indicated earlier
19 Ms. Harun is 44 years old. She is a resident of Warner
20 Robbins, Georgia. If granted bond she'll be residing at 192
21 Amelia Road, Byron, Georgia 31008. She's the mother of six
22 children: Three girls, three boys ages 15, 13, 10, 7, 5 and 3
23 who all reside in that home. Her oldest son, Emanuel Harun, is
24 a varsity basketball star at Northside High School.

25 She doesn't have any prior convictions, Your Honor.

1 As she said this was one of the first times she's ever been in
2 a courtroom, I believe, prior to her first bond hearing. No
3 felony history. No misdemeanor history. She is a -- does hold
4 a special education teaching certificate in the State of
5 Georgia and have a master's degree and PhD in education.

6 She's not a flight risk, Your Honor. She's not a
7 danger to person or property in the community. She is not a
8 threat to intimidate any witnesses. She will return to court
9 and she does have significant ties to the community with her
10 six children, Judge. She has been incarcerated for 10 months
11 and has taken responsibility and so we're requesting that she
12 be given a reasonable bond -- hopefully, a signature bond
13 pending sentencing.

14 We are putting together a very robust sentencing
15 hearing in front of Your Honor. We're preparing that right now
16 flying people in -- family in -- people that have benefited
17 from her teaching services over the years and we would love her
18 to be able to assist us with that while in the community. So
19 we're requesting a signature bond at this time, Your Honor.

20 Oh, and I forgot. My bad. With any restrictions that
21 the court would like to put on her -- ankle monitor, curfew --
22 any restrictions that you would also like to put on her in
23 regards to having this bond, Judge -- home confinement,
24 whatever you would like to do -- we would also be willing to
25 concede to that.

1 THE COURT: And I understand your constrictions under
2 the Plea Agreement, Mr. Hamner.

3 MR. HAMNER: That's correct, Your Honor.

4 THE COURT: All right. So noted.

5 I have before me the request very capably and artfully
6 made by counsel, Mr. Luwemba, for a bond pending sentencing
7 after the plea of guilty to an Information was entered. I have
8 had only a limited time to consider the prospect of this
9 motion. It's true that a Plea Agreement containing those
10 provisions has been extant since late March and that there was
11 one modification which resulted in the Plea Agreement being
12 signed today, but as far as actually coming to the attention of
13 the Presiding Judge the provisions final of the Plea Agreement
14 were known to the Presiding Judge today, April 27.

15 On the other hand, while as both Ms. Harun and
16 Mr. Luwemba point out, this is Ms. Harun's first appearance. I
17 do not believe I have ever met her in any of the other
18 litigation or cases that I have known her as Gladys Chege. I
19 have had a lot to consider about her in this one case. In my
20 review of the Detention Order entered by Judge Epps on
21 21 July 2022 and in the orders which I entered -- the presiding
22 District Judge entered -- on 30 November '22 and 18 August '22,
23 I am not presently brought to a level of comfort about the
24 potential for mischief on behalf of this defendant simply
25 because she has entered a plea of guilty to a one-count

1 Information.

2 I remain concerned for the reasons stated in the
3 earlier orders of detention and affirming the Magistrate
4 Judge's decision that there is a much deeper pool of concern
5 about the potential for mischief and misconduct relative to
6 this case by Ms. Harun if she is at liberty.

7 I will ask you, Mr. Hamner, if you are prepared to
8 begin to undertake with some immediacy this inquiry into the
9 restitution amount. Is there going to be some delay about that
10 or are you ready to get into it right away?

11 MR. HAMNER: We will, Your Honor. If I may clarify
12 for the Court, we're aware of the amounts that she received
13 from the PPP loans and the EIDL loans. My understanding is the
14 feds have some contentions about some of that fund was properly
15 used and so they don't believe that the entirety of it needs to
16 be returned as restitution. There is no question as to the
17 amount. It is how much of it is going to need to be returned
18 to the United States Government because it was inappropriately
19 used, Your Honor.

20 THE COURT: Well, I'm looking down the road at
21 restitution as a very important factor here. What I am going
22 to say is that your inquiries into those amounts may have a
23 bearing in the future should this question of bond be raised
24 again.

25 MR. HAMNER: Okay, Your Honor.

1 THE COURT: I will always consider it, but at the
2 moment and for the reasons stated in the various orders of the
3 detention and affirming the Magistrate Judge's detention, this
4 defendant is remanded to the custody of the United States
5 Marshal. That concludes the matter for today.

6 Thank you for your patience throughout, Mr. Luwemba,
7 Mr. Hamner.

8 MR. LUWEMBA: Thank you, Judge.

9 (End of transcript of record.)
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1 CERTIFICATE OF REPORTER
2
3
4

5 I, Lisa H. Davenport, Federal Official Reporter, in and
6 for the United States District Court for the Southern District
7 of Georgia, do hereby certify that pursuant to Section 753,
8 Title 28, United States Code that the foregoing is a true and
9 correct transcript of the stenographically-reported proceedings
10 held and that the transcript page format is in conformance with
11 the regulations of the Judicial Conference of the United
12 States.

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