

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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:
UNITED STATES OF AMERICA, : Criminal Action No.
:
versus : 1:21-cr-00005
:
ROBERT S. STEWART, JR., : February 3, 2021
:
Defendant. :
-----x

The above-entitled Plea hearing was heard before the
Honorable Rossie D. Alston, Jr., United States District Judge.

A P P E A R A N C E S

FOR THE GOVERNMENT: WILLIAM E. FITZPATRICK, AUSA
United States Attorney's Office
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Alexandria, VA 22314

FOR THE DEFENDANT: ROBERT L. JENKINS, Jr., ESQ.
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OFFICIAL U.S. COURT REPORTER: MS. TONIA M. HARRIS, RPR
United States District Court
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Fifth Floor
Alexandria, VA 22314

P R O C E E D I N G S

(Court proceedings commenced at 12:33 p.m.)

THE DEPUTY CLERK: Criminal No. 2021-5. United States of America versus Robert Stewart, Jr.

MR. FITZPATRICK: Good afternoon, Your Honor. William Fitzpatrick on behalf of the United States.

THE COURT: Good afternoon, sir. Mr. Jenkins, good afternoon, sir.

MR. JENKINS: Good afternoon, again, Your Honor. Robert Jenkins on behalf of the defendant. May it please the court.

THE COURT: Thank you, sir. Let the record reflect, Mr. Stewart is also present.

Mr. Stewart, it's my understanding from your counsel that it is your desire to enter a plea of guilty here this afternoon.

THE DEFENDANT: Yes, Your Honor.

THE COURT: The clerk is going to swear you in and then I'm going to ask you some questions, sir.

THE DEFENDANT: Yes, Your Honor.

(Defendant sworn.)

THE COURT: Sir, before accepting your plea of guilty, there are certain questions that I need to ask you. If you do not understand these questions, please feel free to ask either the Court or your counsel.

1 What is your full name, sir?

2 THE DEFENDANT: Robert Stevens Stewart, Jr.

3 THE COURT: Sir, if you're comfortable, you can
4 remove your mask if you're comfortable.

5 What is your date of birth?

6 THE DEFENDANT: 09/28/85.

7 THE COURT: How old are you, sir?

8 THE DEFENDANT: 35 years of age.

9 THE COURT: What is the highest level of education
10 you have completed?

11 THE DEFENDANT: Masters degree.

12 THE COURT: Do you have any problems reading,
13 writing, or understanding the English language?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: Are you under the influence of any
16 narcotics or alcohol this afternoon?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: Are you entirely satisfied with the
19 services of your lawyer?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Have you received a copy of the charging
22 documents before being called upon to plea?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Have you discussed the charge and the
25 elements with your lawyer?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Do you fully understand the charges
3 against you?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Are you the person named in the charging
6 documents?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Have you had enough time to discuss with
9 your lawyer whether you should enter a plea of guilty or not
10 guilty in these cases?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: After these discussions, did you decide
13 for yourself to enter this plea of guilty?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Are you aware of your right to formally
16 go before a grand jury before being called upon to plea?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: It's my understanding, sir, that you
19 want to waive presentation to the grand jury and waive
20 indictment by the grand jury.

21 THE DEFENDANT: That is correct, Your Honor.

22 THE COURT: I have in my hand, sir, a form entitled
23 "Waiver of Indictment," it purports to have your signature
24 thereon, the signature of your attorney, and the signature of
25 the representative of the United States government.

1 Did you in fact sign this form?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Did you read it before you signed it?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And if you had any questions regarding
6 the form, did Mr. Jenkins answer those questions?

7 THE DEFENDANT: He did, Your Honor.

8 THE COURT: Did you discuss with your lawyer whether
9 you should enter a plea of guilty or not guilty?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: After these discussions, did you decide
12 for yourself that you wanted to enter this plea of guilty?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Are you entering this plea of guilty
15 freely and voluntarily?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Are you entering this plea of guilty
18 because you are in fact guilty of the charges?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Has your attorney advised you the
21 maximum that the law provides upon conviction of these
22 offenses?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: It's my understanding, sir, that upon
25 conviction of these offenses, and I'm going to go over them

1 with you with regard to Count 1, that you can serve five years
2 of imprisonment, a fine of \$250,000, a special assessment,
3 pursuant to statute and supervised release, for a three-year
4 maximum.

5 Do you understand with regard to the false statement
6 charge that's the maximum that the law provides?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do you understand with regard to Count
9 2, wire fraud, that is 20 years of imprisonment, a fine of
10 \$250,000 or not more than the greater or twice the gross gain
11 derived by a person from the offense or twice the gross loss
12 to a person other than the defendant resulting from the
13 offense?

14 Do you understand that, sir?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you also know that you could be
17 required to pay restitution?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And that there is massive forfeiture.

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And also a special assessment and
22 supervised release, again, for a maximum of three years?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you understand, with regard to Count
25 3 of the indictment, theft of government funds, that you can

1 serve ten years of imprisonment, again, a fine of \$250,000 or
2 not more than the greater or twice the gross gain derived by
3 the person from the offense or twice the gross loss to a
4 person other than the defendant resulting from the offense.

5 Do you understand that, sir?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand, again, that you can
8 be required to pay restitution?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And that you can have a forfeiture of
11 assets?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And that you can pay a special
14 assessment, in this case up to \$100.

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And, again, supervised release for a
17 maximum of three years?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Do you understand that that is the
20 aggregate of the charges and the maximum punishment that can
21 be provided in the case if the Court deemed it appropriate.

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Do you understand by entering this plea
24 of guilty you waive certain constitutional rights. Let me go
25 over those rights with you.

1 Do you understand that you waive your right to a
2 trial by jury?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you understand that you waive your
5 right not to speak against yourself?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you understand you waive the right to
8 challenge or confront and cross-examine your accusers?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Do you understand that you waive your
11 right to defend yourself?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you understand that you also waive
14 your right to have the court subpoena witnesses on your behalf
15 who may testify in support of your case?

16 Do you understand that you also waive that right?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And you also understand, sir, by
19 entering this plea of guilty, you waive certain appeal rights.
20 Let me go over those with you.

21 You waive your right to appeal the determination of
22 guilt, but you do not waive your right under limited
23 circumstances to appeal the determination of what the
24 appropriate sentence is in this case if the Court does not
25 adhere to the requirements of the 3553(a) factors.

1 Do you understand that, sir?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you understand, sir, that you signed
4 a form that's called Notice of Right to Appeal Sentences Under
5 Limited Circumstances? It purports to have your signature
6 thereon and the signature of your attorney.

7 Did you, in fact, sign this form?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Did you read it before you signed it?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: And if you had any questions regarding
12 that form, did Mr. Jenkins answer those questions?

13 MR. JENKINS: Yes, Your Honor.

14 THE COURT: I'll direct that the notice of right to
15 appeal sentence under limited circumstances be made a part of
16 the record in this case.

17 Mr. Jenkins, I'm going to, with your permission,
18 interlineate your client's name here in the captioned section.
19 It's after "signature," but I want to make sure that you're
20 fine with that, sir.

21 MR. JENKINS: Yes, Your Honor.

22 THE COURT: Very good. The Court will interlineate
23 the Robert S. Stewart, Jr. on the form and direct that that,
24 along with the waiver of indictment, be made a part of the
25 record in this matter.

1 Sir, I understand that you and the government have
2 entered into a plea agreement in this matter?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: I have in my hand a document entitled,
5 "Plea Agreement." Again, it purports to have your signature
6 thereon, the signature of your attorney, and the signature of
7 the representative of the United States government.

8 Did you, in fact, sign this, sir?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Did you read it before you signed it?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And, again, if you had any questions
13 regarding this plea agreement, Mr. Jenkins answered those
14 questions for you?

15 THE DEFENDANT: Yes.

16 THE COURT: I'll direct that the plea agreement be
17 made a part of record in this matter.

18 I'll also ask the government, at this point, to put
19 on a prima facie case. You may have a seat, sir.

20 MR. FITZPATRICK: Yes, Your Honor.

21 As the Court knows, Counsel and Mr. Stewart filed or
22 signed and submitted to Your Honor a lengthy Statement of
23 Facts. And if the Court will permit, I'll just summarize the
24 facts that support each essential element for each of the
25 three counts.

1 THE COURT: Without objection, Mr. Jenkins?

2 MR. JENKINS: No objection, Your Honor.

3 THE COURT: Thank you, sir.

4 MR. FITZPATRICK: Your Honor, with respect to Count
5 1 and Count 2, Mr. Stewart was the CEO and sole owner of
6 Federal Government Experts, a company based in Falls Church,
7 Virginia within the Eastern District of Virginia, that would
8 provide various services to various government entities.

9 Between April 1, 2020 and May 14, 2020, Mr. Stewart
10 made materially false representations to the VA and to FEMA in
11 order to -- in order to be awarded a very lucrative contract
12 to provide PPE, Personal Protective Equipment, in particular,
13 N95 masks, to the VA and to FEMA. Because FEMA and the VA
14 were acquiring these masks to be provided to -- in furtherance
15 of their missions, these are matters within the executive
16 branch of the United States government as required by statute.

17 Specifically, the false statements, as set forth in
18 greater detail in the Statement of Facts that Mr. Stewart made
19 to procurement officials at FEMA and at the VA, were that he
20 had -- he had large quantities of N95 masks and other PPE on
21 hand, that he had possession of these materials and was ready
22 to convey them to the government in fulfillment of the
23 contract. At the time Mr. Stewart made these statements, he
24 well knew that he did not have actual or constructive
25 possession of large quantities of these masks.

1 Based on Mr. Stewart's false representations to the
2 procurement officials, both the VA and FEMA awarded
3 Mr. Stewart and FGE various contracts to provide these
4 materials. Specifically, the contracts in total, with respect
5 to both the VA contract and the FEMA contract, called for a
6 total of 6,000,500 N95 masks and for FGE to be paid a total of
7 \$38,510,000.

8 Mr. Stewart was, obviously, didn't have possession
9 of the masks. He attempted to acquire possession of the
10 masks, he was unable to do it, he was unable to provide those
11 masks to the government, and --

12 THE COURT: It was unclear in the Statement of
13 Facts, did he actually get paid this money?

14 MR. FITZPATRICK: I'm sorry, Your Honor, I was just
15 going to make that point. No, Your Honor.

16 The contract called for payment upon delivery and
17 inspection. Because Mr. Stewart never delivered the masks, he
18 was never paid. So that's just what the contract called for,
19 but there's no actual loss to the federal government with
20 respect to Count 1.

21 I would note, however, Your Honor, that even though
22 there was no actual loss to the government, the way the
23 procurement process works is, once that money -- once that
24 contract is entered into, that money is frozen.

25 THE COURT: It's earmarked for that particular

1 purpose and no one can access it for other purposes.

2 MR. FITZPATRICK: Exactly, Your Honor. Yes. So it
3 did impact the procurement process, but there was no actual
4 loss to the federal government.

5 The false statements, obviously, were communicated
6 from Mr. Stewart's business in Falls Church and/or from his
7 residence in Arlington County, Virginia, but that's the video
8 venue the false statements were made from the Eastern District
9 of Virginia.

10 Count 2, as the Court noted, is an allegation of
11 wire fraud in violation of Title 18 United States Code Section
12 1343. The wire fraud scheme revolves around false statements
13 that Mr. Stewart made in applications for loans. One loan was
14 from Celtic Bank and it was backed by the federal government
15 and, in particular, the Small Business Administration. That
16 loan was part of a government program legislated through the
17 CARES Act, known as the Payroll Protection Program. And that
18 program was designed to provide money, essentially, to be a
19 lifeline to struggling businesses impacted by the COVID-19
20 pandemic, and to allow businesses to pay for a very limited or
21 use money for very limited purposes: To make payroll, to pay
22 interest on a mortgage, to pay for their employees'
23 healthcare.

24 THE COURT: There is a suggestion in the Statement
25 of Facts that this gentleman alleged that he had in excess of

1 30 employees when in fact he only had seven, eight, or nine or
2 something.

3 MR. FITZPATRICK: Precisely, Your Honor. And there
4 was a second loan there as well based on the Economic Injury
5 Disaster Loan program for essentially -- which is strictly
6 from the Small Business Administration. But the materially
7 false statements on the loan applications were precisely that,
8 that FGE had more employees than it really did, had a larger
9 payroll than it really did, and those were material facts that
10 were important in not only awarding both the PPP loan, but
11 also the EIDL loan. Those were two factors that determined
12 whether or not a company was eligible to receive the loan in
13 the first place, and, if so, what the -- the amount of loan
14 that was to be given.

15 THE COURT: And contrary to the loans that were --
16 the financial circumstances associated with the N95 masks, I'm
17 assuming that he actually received that money.

18 MR. FITZPATRICK: He did, Your Honor. So the
19 specific amount was --

20 THE COURT: \$330,000 or something like that.

21 MR. FITZPATRICK: Yes, Your Honor. So with respect
22 to the PPP loan, Mr. Stewart received a total of \$805,000 as
23 set forth in the Statement of Facts, but Mr. Stewart was able
24 to repay \$791,507. So with respect to the PPP loan, the
25 actual loss amount is rather small.

1 The EIDL loan that was -- that was dispersed in
2 March, there was a total of \$261,500 that was dispersed to
3 Mr. Stewart and to FGE. None of that money has been repaid.
4 So the loss amount, the restitution amount, is just being
5 driven by the actual loss.

6 THE COURT: Pursuant to the government's
7 investigation in this matter, were you able to discern what
8 Mr. Stewart spent this money on.

9 MR. FITZPATRICK: Various things. Some of the money
10 was spent for personal purposes. Some of the money was traced
11 to pay off personal credit cards, things of that nature. Some
12 of the money was spent to, essentially, try to acquire the PPP
13 and -- I'm sorry the PPE, the N95 masks, to comply with the or
14 to satisfy the earlier contracts.

15 THE COURT: Did he ever use any of the money to pay
16 the employees who were part of his staff?

17 MR. FITZPATRICK: I believe some. Some of the money
18 went to pay employees. A good amount of the money went to pay
19 himself, which is not consistent with both the letter or the
20 intent of the loan documents. It was to pay his employees,
21 not to pay himself, and, I believe, approximately -- we'll
22 certainly provide all of this information to pretrial, but I
23 believe it's about \$60,000 went to Mr. Stewart as payroll to
24 himself. But Mr. Stewart did things, for example, like he
25 rented an airplane to fly to the Midwest in an effort to try

1 to make contacts there, to gain -- to acquire PPE to satisfy
2 the contracts with FEMA and the VA. So there was definitely
3 some extravagant spending, and certainly spending that was
4 inconsistent with the four corners of what that money was
5 intended to be used for.

6 One other point I would make, Your Honor, is,
7 obviously, as part of the elements of the wire fraud that
8 Mr. Stewart did digitally submit the application for the EIDL
9 loan to the Small Business Administration from EDVA. The
10 Small Business Administration servers are located in the EDVA,
11 so that wire --

12 THE COURT: Which provides predicate for the
13 jurisdiction of this --

14 MR. FITZPATRICK: Yes, Your Honor. Precisely.

15 And finally, Your Honor, with respect to Count 3,
16 the theft of government funds. From September 20, 2013 to
17 October 30, 2020, Mr. Stewart received benefits from the VA.
18 Those benefits were artificially increased based on a false
19 application that Mr. Stewart had submitted to the VA. And
20 specifically, beginning on or about September of 2013 through
21 November 16, 2013, Mr. Stewart submitted documents to the
22 Veterans Administration in support of a claim for benefits --
23 educational benefits and medical benefits.

24 In support of that, Mr. Stewart submitted a DD214
25 form, which is a form that the Department of Defense and the

1 VA uses to determine somebody's service in the United States
2 military. Here, Mr. Stewart falsely claimed that he served in
3 the United States Marine Corps. Mr. Stewart did serve in the
4 United States Air Force, but he never served in the United
5 States Marine Corps. On that form, which was simply a forged
6 and fraudulent form, he indicated that he had served, he had
7 obtained the rank of Corporal, and that he received numerous
8 accommodations and awards as part of his Marine Corps service.
9 That simply wasn't true. But based on the false and
10 fraudulent 214 form, the VA did approve his claim for
11 benefits. And over the course of several years, the total
12 amount of benefits that Mr. Stewart received, based on just
13 the false Marine Corps information, as opposed to his service
14 in the Air Force, totaled approximately \$73,722.45.

15 THE COURT: Thank you, sir.

16 MR. FITZPATRICK: And obviously, Your Honor, if the
17 matter had gone to trial, the United States would have proven
18 those facts and others beyond a reasonable doubt through
19 admissible and credible evidence.

20 THE COURT: Thank you, sir for that presentation.

21 Mr. Stewart, you may stand, again, sir. I have
22 before me a document entitled, "Statement of Facts" which is a
23 more significant overview of the allegations that the
24 government alleges that support the charges against you.

25 Did you, in fact, sign this form, sir?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Did you read it before you signed it?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And, again, if you had any questions
5 regarding the Statement of Facts, Mr. Jenkins answered those
6 questions for you.

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: I'll direct that the Statement of Facts
9 be made a part of the record in this matter.

10 Sir, has anyone threatened you or forced you to
11 enter this plea of guilty?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: Have any promises been made to you
14 concerning your plea of guilty?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: Do you understand by entering this plea
17 of guilty you cannot refuse to testify potentially against
18 others who may be implicated in your bad acts?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Do you now make any claim that you're
21 innocent of the charges before the Court?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Do you understand that upon your plea of
24 guilty, the Court may accept or reject any agreement that has
25 been made between you and your counsel or any recommendation

1 made by the probation department? Obviously, the Court will
2 consider the arguments of your lawyer and arguments of your
3 counsel. But do you understand, sir, that ultimately it is up
4 to the Court to decide what the appropriate sentence is in
5 this case?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And do you understand that if I do
8 something that you disagree with, you would not be entitled to
9 withdraw your plea of guilty?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Sir, are you a citizen of the United
12 States of America?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you understand, sir, that if you are
15 not a citizen of the United States of America that there are
16 certain circumstances that might result because of your plea
17 of guilty and that includes the exclusion from admission to
18 this country, the denial of naturalization under federal law,
19 and other adverse immigration consequences.

20 Do you understand, sir, if you are not a citizen of
21 the United States of America?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And do you understand that Mr. Jenkins
24 has no responsibility or obligation to you regarding those
25 circumstances; he is your criminal defense attorney and has no

1 obligation to you in civil aspects?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: After having discussed the matter with
4 your attorney, do you freely and voluntarily enter this plea
5 of guilty and waive your right to trial by a jury and request
6 the Court to hear all matters of law and fact?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do you have any questions that you wish
9 to ask the Court before the Court decides to accept your pleas
10 of guilty?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: The Court being of the opinion that the
13 pleas of guilty and waiver of jury trial are voluntarily and
14 intelligently made with an understanding of the nature of the
15 charges and the consequences of said pleas of guilty and
16 waiver, thus, does accept the defendant's plea and waiver and
17 finds the defendant guilty of the charges outlined in the
18 charging documents.

19 Mr. Jenkins, do you have a sentencing date in mind,
20 sir?

21 MR. JENKINS: No, Your Honor. Whatever preference
22 the Court has.

23 THE COURT: I'm going to ask this delicately and I
24 think you'll understand what I'm asking. Is there any reason
25 for us to carry this out any length of time?

1 MR. JENKINS: Yes, Your Honor, there is. If we
2 could have a date, Your Honor, after June.

3 THE COURT: Does the government have any objection
4 to that?

5 MR. FITZPATRICK: No, Your Honor. I would just ask
6 the Court, I do have a trial set, which I am certain is going
7 to go.

8 THE COURT: Well, you got that crystal ball, we're
9 going to be through the pandemic in June.

10 MR. FITZPATRICK: I don't. But based on Judge
11 Ellis's comments, I would be amazed if it doesn't. It is not
12 until the middle of July. So I would just ask the Court, if
13 possible, to avoid the last two weeks of July.

14 THE COURT: Well, Judge Ellis is the sage, and so
15 I'm always going to defer to the sage and I'm going to
16 immediately go up and talk to him about the news that he has
17 that apparently that I don't have, that we're going to be back
18 to normal in June.

19 MR. FITZPATRICK: Your Honor, if you could just keep
20 me as an anonymous informant.

21 THE COURT: I will say that I got it from a source.

22 MR. FITZPATRICK: Thank you, Your Honor.

23 THE COURT: All right, sir. Mr. Jenkins, how about
24 June 16?

25 MR. JENKINS: Your Honor, that's agreeable.

1 THE COURT: Okay. Is that agreeable to the
2 government?

3 MR. FITZPATRICK: Yes, Your Honor.

4 THE COURT: June 16, and that will be at 11:00 a.m.

5 Mr. Jenkins, I'll hear from you on bond.

6 You may have a seat, Mr. Stewart.

7 MR. JENKINS: Your Honor, we would ask that the
8 Court set conditions of release in this matter.

9 Mr. Stewart is a man who is free of any prior
10 convictions whatsoever. Mr. Stewart has been aware of the
11 government's investigation of this matter. In fact, he also
12 is the subject of an investigation by the United States
13 Congress, which he's been aware of now for at least nine
14 months. I represent him in that matter also.

15 So certainly I think that the fact that Mr. Stewart
16 is here before the Court today, having had prior knowledge of
17 the fact that he was the subject of not one but two very
18 significant investigations that could result in him being
19 deprived of his liberty, but yet and still he appeared here
20 today, should speak volumes to the Court as to whether or not
21 he is a flight risk.

22 THE COURT: Where is his passport?

23 MR. JENKINS: Mr. Stewart, do you have a passport?

24 THE DEFENDANT: I do have a passport.

25 MR. JENKINS: Do you have possession of it?

1 THE DEFENDANT: No, sir. I don't have it here.

2 MR. JENKINS: Your Honor, Mr. Stewart currently
3 resides in the state of Alabama. And that's why he's
4 representing to the Court that he does not have his passport
5 with him at this time. If so certainly directed by the Court,
6 Mr. Stewart can either surrender his passport to counsel and I
7 can assure that it either remains in my law firm safe, or if
8 the Court would feel more comfortable that it could be
9 submitted to pretrial services.

10 THE COURT: Your client has a question.

11 (Counsel and defendant confers.)

12 MR. JENKINS: Thank you, Your Honor.

13 Your Honor, Mr. Stewart advises me that in
14 preparation for today and his contacts with the pretrial
15 services officer, he was instructed that in the event that the
16 Court did set conditions of release that he would be directed
17 to turn the passport in in Alabama where he would be
18 supervised.

19 THE COURT: Okay.

20 MR. JENKINS: And he's prepared to do that.

21 THE COURT: All right. What's the government's
22 position?

23 MR. FITZPATRICK: Your Honor, the United States have
24 no reason to believe that an unsecured bond is not appropriate
25 in this case. As the Court mentioned, the only special

1 condition we would ask is that the passport be surrendered to
2 pretrial services.

3 THE COURT: All right.

4 Mr. Stewart, I'm going to take a chance on you. The
5 facts, as they were presented by the government, were very
6 fair. I know Mr. Jenkins has suggested circumstances that
7 might sort of offset what I believe is bad conduct on your
8 part. Particularly, I was pleased to hear that you didn't get
9 the \$30 million associated with the N95 masks. And from the
10 government's own presentation of the evidence, and I thought
11 that they were very fair to you in that presentation of the
12 evidence, it seems like to me that you were, as we used to
13 say, "robbing Peter to pay Paul," you were chasing those masks
14 and you thought that the PPE loan would get you to the point
15 where you could actually get the mask which would allow you to
16 get the contract. So it just became, again, a snowball
17 rolling down a hill that got worse, and worse, and worse.

18 As I said, I was inclined, after reading the
19 information made available to the Court, prior to your hearing
20 today, to lock you up, because I think what you did is not
21 only disadvantageous to your position as a citizen of the
22 United States, but you're essentially robbing from people, or
23 stealing from people, not robbing, stealing from people who
24 need these loans to make it work in society. People who are
25 struggling with their mortgages, people who are trying to put

1 food on the table, feed their families, these are
2 opportunities for these people to actually withstand the
3 stresses associated with this pandemic and you were stealing
4 from them and stealing from everybody in this room.

5 But I think I understand what got you in trouble so
6 I'm going to give you the break. We're going to keep you on
7 the same conditions that existed. He's not on pretrial
8 services?

9 So we're going to go ahead and put him on pretrial
10 release. I'm going to let the probation office develop the
11 standard conditions of pretrial release that he's expected to
12 adhere to. I'm also going to direct that he surrender his
13 passport to you Mr. Jenkins. I don't want the probation
14 department in Alabama to have it, I want you to have it
15 because I know you, and I'll expect that if there are any
16 problems that we'll be made aware of that.

17 Sir, you need to do what you need to do in the
18 interim to put yourself in the best position you can next to
19 your sentencing date. You need to clean up the act as best
20 you can. I did notice that in your statement you do have some
21 financial wherewithal and so it's probably best that you do
22 what you can to direct that to satisfaction of the obligation
23 that you have financially to these cases. So you need to do
24 what you need to do, and I'm sure Mr. Jenkins will advise you
25 as to how to put yourself in that best position.

1 Do you have any questions, sir?

2 MR. JENKINS: Yes, Your Honor.

3 Your Honor, with respect to the conditions of
4 release, as I noted, I'm also am engaged to represent
5 Mr. Stewart in a matter that's being investigated by a
6 subcommittee of the United States House of Representatives.
7 Mr. Stewart and I are in engaged in some negotiations that may
8 lead to Mr. Stewart providing some cooperation with their
9 efforts. So there may be a need for him to travel from
10 Alabama not just to this district but also to the District of
11 Columbia.

12 And we would -- we would ask that the Court permit
13 him to do so also.

14 THE COURT: All right. Let's do it this way. Any
15 travel that he needs to do, other than to the District of
16 Columbia, the Washington, D.C. metropolitan area, which,
17 obviously, includes this court, needs to be specifically
18 approved by the Court, but the request that you've made in the
19 context of his travel to take care of his obligations
20 professionally, the Court will allow that to happen. But any
21 other travel, he needs to get it approved by the Court in
22 advance of him doing it.

23 MR. JENKINS: Understood, Your Honor. Thank you.

24 THE COURT: All right. We have some forms that your
25 client is going to need to sign. I'm sure Mr. Jenkins you can

1 go over these forms with him.

2 (A pause in the proceedings.)

3 THE COURT: Do we need to direct him to the
4 probation department?

5 THE PROBATION OFFICER: Yes, Your Honor.

6 MR. FITZPATRICK: I was going to ask the Court as
7 well if you could ask Mr. Stewart to proceed to the marshals
8 at some point today for his probation process.

9 THE COURT: Mr. Jenkins, I'm sure that you can help
10 your client accomplish that objective.

11 MR. JENKINS: Yes.

12 (A pause in the proceedings.)

13 THE DEPUTY CLERK: Did you file the information for
14 this case?

15 MR. FITZPATRICK: Yes, I have a copy.

16 THE DEPUTY CLERK: Was it in the -- yeah, I don't
17 have it.

18 (Discussion off the record.)

19 THE COURT: Mr. Jenkins, the criminal information is
20 being handed up to be made a part of the record in this
21 matter. I'm sure you don't have any objection to that, sir.

22 MR. JENKINS: No objection, Your Honor.

23 THE COURT: Thank you. I'll direct that it be made
24 a part of the record.

25 Is there anything else we need to do?

1 MR. FITZPATRICK: No, Your Honor.

2 MR. JENKINS: No, Your Honor.

3 THE COURT: All right, sir, Mr. Jenkins is going to
4 direct you to the United States Marshal's Office so that you
5 can then go to the probation department so we can make sure
6 that we have information necessary to engage in pretrial
7 supervision. So make sure that you follow Mr. Jenkins's
8 instructions, sir.

9 Do you have any questions?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Very good.

12

13 **(Proceedings adjourned at 1:05 p.m.)**

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CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Plea hearing in the case of the **UNITED STATES OF AMERICA versus ROBERT S. STEWART, JR.**, Criminal Action No. 1:21-cr-00005, in said court on the 3rd day of February, 2021.

I further certify that the foregoing 29 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, my computer realtime display, together with the backup tape recording of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, March 14, 2021.



Tonia M. Harris, RPR
Official Court Reporter