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Chief Approval JRL

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:16-cr-465-T-17MAP

STEVEN PAUL BURCH

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by Maria Chapa Lopez, United States Attorney for the Middle District of Florida, and the defendant, Steven Paul Burch, and the attorney for the defendant, Jeffrey G. Brown, mutually agree as follows:

A. Particularized Terms

1. Count Pleading To

The defendant shall enter a plea of guilty to Count One of the Third Superseding Indictment. Count One charges the defendant with conspiracy to distribute and to possess with the intent to distribute a mixture and substance containing a detectable amount of heroin, a schedule I controlled substance, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(C).

2. Maximum Penalties

Count One carries a maximum sentence of 20 years imprisonment, a fine of \$1,000,000, a term of supervised release of at least 3

Defendant's Initials SPB

years, and a special assessment of \$100 per felony count for individuals, and \$400 per felony count for persons other than individuals, such as corporations. With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offense(s), and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense(s), or to the community, as set forth below.

3. Elements of the Offense

The defendant acknowledges understanding the nature and elements of the offense with which defendant has been charged and to which defendant is pleading guilty. The elements of Count One are:

First: That two or more people in some way agreed to try to accomplish a shared and unlawful plan to possess or distribute heroin; and

Second: The defendant knew the unlawful purpose of the plan and willfully joined in it.

4. Counts Dismissed

At the time of sentencing, the remaining counts against the defendant, Counts Two, Three, and Four, will be dismissed pursuant to Fed. R. Crim. P. 11(c)(1)(A).

5. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge

defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

6. Guidelines Sentence

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States will recommend to the Court that the defendant be sentenced within the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines, as adjusted by any departure the United States has agreed to recommend in this plea agreement. The parties understand that such a recommendation is not binding on the Court and that, if it is not accepted by this Court, neither the United States nor the defendant will be allowed to withdraw from the plea agreement, and the defendant will not be allowed to withdraw from the plea of guilty.

7. Acceptance of Responsibility - Two Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will not oppose the defendant's request to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not

accepted by the Court, the defendant will not be allowed to withdraw from the plea.

8. Forfeiture of Assets

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to 21 U.S.C. § 853, whether in the possession or control of the United States, the defendant or defendant's nominees.

The property to be forfeited includes, but is not limited to, Steven Paul Burch's license to practice law, which was used to facilitate the offense.

The defendant agrees and consents to the forfeiture of these assets pursuant to any federal criminal, civil judicial or administrative forfeiture action. The defendant also agrees to waive all constitutional, statutory and procedural challenges (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture described herein constitutes an excessive fine, was not properly noticed in the charging instrument, addressed by the Court at the time of the guilty plea, announced at sentencing, or incorporated into the judgment.

If the United States seeks the forfeiture of specific assets pursuant to Rule 32.2(b)(4), the defendant agrees that the preliminary order of forfeiture

will satisfy the notice requirement and will be final as to the defendant at the time it is entered. In the event the forfeiture is omitted from the judgment, the defendant agrees that the forfeiture order may be incorporated into the written judgment at any time pursuant to Rule 36.

The defendant agrees to take all steps necessary to identify and locate all property subject to forfeiture and to transfer custody of such property to the United States before the defendant's sentencing. To that end, the defendant agrees to make a full and complete disclosure of all assets over which defendant exercises control directly or indirectly, including all assets held by nominees, to execute any documents requested by the United States to obtain from any other parties by lawful means any records of assets owned by the defendant, and to consent to the release of the defendant's tax returns for the previous five years. The defendant further agrees to be interviewed by the government, prior to and after sentencing, regarding such assets and their connection to criminal conduct. The defendant further agrees to be polygraphed on the issue of assets, if it is deemed necessary by the United States. The defendant agrees that Federal Rule of Criminal Procedure 11 and USSG § 1B1.8 will not protect from forfeiture assets disclosed by the defendant as part of the defendant's cooperation.

Defendant's Initials SPD

The defendant agrees to take all steps necessary to assist the government in obtaining clear title to the forfeitable assets before the defendant's sentencing. In addition to providing full and complete information about forfeitable assets, these steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents necessary to effectuate such transfers.

Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon the defendant in addition to forfeiture.

The defendant agrees that, in the event the Court determines that the defendant has breached this section of the Plea Agreement, the defendant may be found ineligible for a reduction in the Guidelines calculation for acceptance of responsibility and substantial assistance, and may be eligible for an obstruction of justice enhancement.

The defendant agrees that the forfeiture provisions of this plea agreement are intended to, and will, survive the defendant, notwithstanding the abatement of any underlying criminal conviction after the execution of this agreement. The forfeitability of any particular property pursuant to this agreement shall be determined as if the defendant had survived, and that determination shall be binding upon defendant's heirs, successors and assigns

until the agreed forfeiture, including any agreed money judgment amount, is collected in full.

B. Standard Terms and Conditions

1. Restitution, Special Assessment and Fine

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663A, for all offenses described in 18 U.S.C. § 3663A(c)(1); and the Court may order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. The defendant further understands that compliance with any restitution payment plan imposed by the Court in no way precludes the United States from simultaneously pursuing other statutory remedies for collecting restitution (28 U.S.C. § 3003(b)(2)), including, but not limited to, garnishment and execution, pursuant to the Mandatory Victims Restitution Act, in order to ensure that the defendant's restitution obligation is satisfied.

On each count to which a plea of guilty is entered, the Court shall impose a special assessment pursuant to 18 U.S.C. § 3013. The special

assessment is due on the date of sentencing. The defendant understands that this agreement imposes no limitation as to fine.

2. Supervised Release

The defendant understands that the offense(s) to which the defendant is pleading provide(s) for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

3. Immigration Consequences of Pleading Guilty

The defendant has been advised and understands that, upon conviction, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

4. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count(s) to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any

misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

5. Financial Disclosures

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit to the United States Attorney's Office within 30 days of execution of this agreement an affidavit reflecting the defendant's financial condition. The defendant promises that her financial statement and disclosures will be complete, accurate and truthful and will include all assets in which he has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, dependent, nominee or other third party. The defendant further agrees to execute any documents requested by the United States needed to obtain from any third parties any records of assets owned by the defendant, directly or through a nominee, and, by the execution of this Plea Agreement, consents to the release of the defendant's tax returns for the previous five years. The defendant similarly agrees and authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information

concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court. The defendant expressly authorizes the United States Attorney's Office to obtain current credit reports in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

6. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make

with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

7. Defendant's Waiver of Right to Appeal the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by 18 U.S.C. § 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. § 3742(a).

8. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this

office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

9. Filing of Agreement

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

10. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense or offenses to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice received from defendant's undersigned counsel (if any). The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront

and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense or offenses to which defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel (if any), defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offenses to which defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

11. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty. The defendant certifies that defendant does hereby admit that the facts set forth below are true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

FACTS

From at least as early as in or around early November 2015, the defendant, Steven Paul BURCH, conspired to possess with the intent to distribute a quantity of heroin.

A. August 2015 Arrest and Proposal to Law Enforcement

In August 2015, Steven BURCH was arrested in Sarasota County for driving under the influence of alcohol (DUI) and causing property damage. This was BURCH's third arrest for a similar offense and his second after becoming licensed to practice law.

In or around early November 2015, BURCH and his defense attorney on his DUI case had a meeting at the State Attorney's Office for Sarasota County. Present at the meeting were the felony criminal chief at the State Attorney's Office (SCSO), Detective 1 with the Sarasota County Sheriff's Office, BURCH, and his defense attorney. At the meeting, BURCH proposed that he could provide the tracking numbers of drug packages to law enforcement in exchange for leniency on his DUI case.

Later that same month, BURCH approached coconspirator Herbert Battle ("Battle") and informed Battle that he (BURCH) had told the SCSO that he could provide information about shipments of drugs to Sarasota

County. Battle offered to ship marijuana through the mail for BURCH but BURCH wanted the drugs Battle shipped to be stronger.

B. Recorded Meeting With BURCH

On or about December 22, 2015, Battle and his wife, codefendant Qualonda Battle, met at BURCH's law office in Punta Gorda, in the Middle District of Florida. Unbeknownst to BURCH and Battle, Qualonda Battle independently decided to record the conversation between BURCH and Battle. During the conversation, which covered other subjects including the charged conspiracy, Battle and BURCH discussed the plan for Battle sending drugs to Sarasota County so that Burch could report the shipment to law enforcement. Battle told BURCH, "I'm going to take care of that, what you want me to do," meaning shipping drugs on BURCH's behalf.

In response to concerns from Battle about getting caught, BURCH told Battle:

"I told [law enforcement] from the very start, I'm getting the information from a client but the client knows. I can never be...I can never be compelled to divulge that information because it's coming by attorney-client privilege.

BURCH and Battle also agreed on how to make the shipment look like a legitimate drug shipment:

BATTLE: Another thing I could do...I could change the first name...

BURCH: I'd do that, 'cuz here's the thing.

BATTLE: 'Cuz you can beat it, then.

BURCH: You do a bunch of random white people, like some seventy-years fucking white old lady...you ain't going to know the difference when you riding around looking for mailboxes...And then they'll be like, what the fuck...they may start asking questions...

[Other conversation]

BURCH: Okay, yeah. And...I wouldn't deviate from the way you've been doing it...I'd do it in abandoned houses.

BATTLE: That'd look better, huh?

BURCH: 'Cuz I'll tell ya, that's the way they know what happens.

As to how BURCH would know when the drug package was shipped, Battle informed BURCH that Qualonda Battle would message Burch with the tracking number for the drugs. During the conversation about this, BURCH replied, "I don't care as long as I get a text and I'll forward it on."

BURCH further told Battle that he wanted three shipments. When Battle asked BURCH if the packages should be "hard or something misdemeanor," BURCH replied, "not misdemeanor."

C. Shipment of Heroin From California

In early 2016, Battle was in California because of a pending state court case there. While in California, BURCH and Battle spoke on the phone and BURCH asked whether Battle would take care of what the two previously agreed on. In response to that call, Battle bought an ounce (twenty-eight grams) of heroin with the street name "Mexican Mud." Battle placed the heroin in a bag of beef jerky and paid someone to deliver the package.

D. BURCH Notifies Law Enforcement of the Heroin Shipment

On or about March 1, 2016, a FedEx package with tracking number "782498548203" was mailed from Box Brothers Sacramento under the name "James Williams" to a name and address in Sarasota, Florida. Herbert Battle passed this tracking number to Qualonda Battle, who then passed the number to Steven Burch. That same day, at approximately 10:51 p.m., Detective 1 received a text message from BURCH with the same tracking number. The tracking number was passed to the Manatee County Sheriff's Office (MCSO) because FedEx's area warehouse is located in Manatee County.

At 8:50 a.m. on March 2, 2016, the package reached the FedEx warehouse at 4605 East 18th Street in Bradenton, Manatee County. After FedEx placed the package with tracking number "782498548203" in a locker,

an MCSO K-9 conducted an open air sniff of fifty-four different lockers at the FedEx facility, including the one with the package in question. The K-9 alerted to the presence of narcotics in the locker containing the package and did not alert to any other lockers.

On March 3, 2016, the MCSO executed a search warrant on the FedEx package. Inside the FedEx package, law enforcement personnel found a package of beef jerky with a gray powdery substance that laboratory testing confirmed was approximately twenty-eight grams of heroin.

E. Creation of False Exculpatory Recording

In or around late-April/early-May 2017, Battle and Qualonda Battle created a false exculpatory recording about this case saying that the December 2015 recording was fake. This recording was provided to BURCH who, knowing ^{DMB} ~~that~~ the contents of the recording ^{DMB} ~~were false~~, gave the recording to his former defense attorney in the current case, who produced it to the United States in discovery.

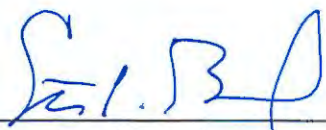
12. Entire Agreement

This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

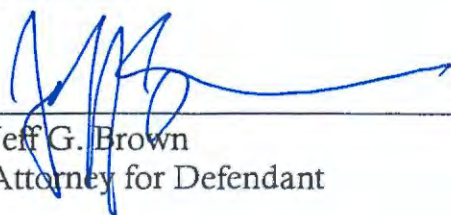
13. Certification

The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that defendant fully understands its terms.

DATED this 3rd day of AUGUST, 2018.




Steven Paul Burch
Defendant

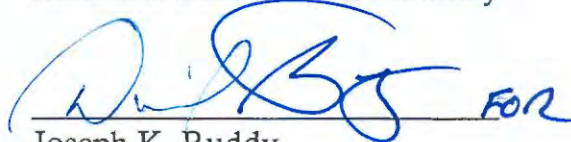


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