

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

FILED

AUG 14 2018

NORTHEASTERN DIVISION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)
)
v.) No. 5:18-CR-00225-MHH-JHE
)
JOSEPH WILLIAM DAVIS,)
a/k/a "OlympusXans")
a/k/a "OX")

PLEA AGREEMENT

The government and the defendant hereby acknowledge the following plea agreement in this case:

PLEA

The defendant agrees to plead guilty to **COUNT ONE** and **COUNT TWO** of the Indictment filed in the above numbered and captioned matter. In exchange, the United States Attorney, acting on behalf of the Government and through the undersigned Assistant United States Attorney, agrees to dismiss **COUNTS THREE** through **SEVEN** and recommend the disposition specified below, subject to the conditions in paragraphs **VII** and **VIII**.

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TERMS OF THE AGREEMENT

I. MAXIMUM PUNISHMENT

The defendant understands that the maximum statutory punishment that may be imposed for the crime of Conspiracy to Distribute Controlled Substances in violation of Title 18, United States Code, Sections 846, 841(a)(1) and 841(b)(1)(A), as charged in COUNT ONE, is:

- a. Imprisonment for no less than 10 years and no more than life;
- b. An optional fine of not more than \$10,000,000;
- c. Supervised release of at least 5 years; and
- d. Special Assessment Fee of \$100.

The defendant understands that the maximum statutory punishment that may be imposed for the crime of Possession of a Firearm in Furtherance of a Drug Trafficking Crime in violation of Title 18, United States Code, Section 924(c)(1)(A), as charged in COUNT TWO, is:

- a. Imprisonment for no less than 5 years consecutive to the sentence for COUNT ONE and no more than life;
- b. An optional fine of not more than \$250,000;
- c. Supervised release of not more than 5 years; and
- d. Special Assessment Fee of \$100.

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II. FACTUAL BASIS FOR PLEA

The Government is prepared to prove, at a minimum, the following facts if this matter were to go to trial:

In February 2017, a business in Madison County, Alabama reported that it had opened a package that returned to its address as misdelivered. The package contained white rectangular pills suspected to contain a controlled substance (subsequent laboratory testing confirmed that the 49 pills and fragments contained Alprazolam, a Schedule IV controlled substance). Investigation revealed that the misdelivered package was placed in the mail by JOSEPH WILLIAM DAVIS. U.S. Postal Inspector John Bailey investigated further, then obtained a warrant to install a tracking device on DAVIS's car. On or about March 2, 2017, United States Postal Inspector John Bailey, assisted by the Huntsville Strategic Counterdrug Team (STAC), observed DAVIS as he picked up two packages from a U.S. Post Office Box assigned to him. When DAVIS arrived at his residence on Shelton Road in Madison, Alabama, still in possession of the packages, Inspector Bailey and STAC confronted DAVIS outside, took him into custody, and secured the packages.

Inspector Bailey obtained and executed a search warrant for DAVIS's residence that same day. In DAVIS's residence, investigators discovered suspected cocaine and marijuana, U.S. Postal Service packaging materials and supplies, a scale, computer equipment, evidence of Bitcoin transactions, firearms, and ammunition. Subsequent lab testing revealed that the suspected cocaine contained in the zipper-sealed colorless plastic bag contained 2.81 grams of cocaine. Located on a table in the apartment was a Glock G22 semiautomatic handgun bearing serial number FNG899. The handgun contained a full magazine of ammunition and no round in the chamber. In the bedroom was a Bushmaster Carbon 15 military-style semiautomatic rifle bearing serial number BK3003223. The rifle was equipped with a tactical scope and contained a full magazine of ammunition with no round in the chamber.

That same day, Inspector Bailey also obtained and executed search warrants for the packages secured from DAVIS's possession. In one package, investigators found two sealed bags containing round orange pills and yellow rectangular pills. Subsequent lab testing revealed that the 207 round orange pills contained 51.03

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grams of Methamphetamine and d-Methamphetamine and that the 192 rectangular yellow pills contained Alprazolam, a Schedule IV controlled substance. In the other package, law enforcement found two sealed bags containing rectangular green pills and round blue pills. Subsequent lab testing revealed that the 602 rectangular green pills and fragments contained Alprazolam, a Schedule IV controlled substance. The 611 round blue pills contained 45.31 grams of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide, also known as Fentanyl.

As investigators searched the DAVIS residence and computers pursuant to the warrant, they discovered encrypted chats between DAVIS and drug suppliers on a laptop belonging to DAVIS. These chats discussed the smuggling of illegal drugs. The discussions also contained multiple tracking numbers for packages mailed to addresses in Madison County, Alabama. One of these packages was determined to be inbound to DAVIS's parents' address in Harvest, Alabama. Investigators obtained that package, which was marked with a customs declaration of "Wooden Decorations," and searched it pursuant to a warrant on March 16, 2017. In the package were approximately 2,892 rectangular yellow pills, which subsequent laboratory testing confirmed contained Alprazolam, a Schedule IV controlled substance.

Two other packages identified through the search of DAVIS's computer were delivered to DAVIS's P.O. Box and secured by investigators. DAVIS consented to a search of those packages. Investigators found 10,580 rectangular white pills and 321 fragments that were determined by lab testing to contain Alprazolam, a Schedule IV controlled substance.

Although DAVIS initially agreed to cooperate with investigators, on March 8, 2017, DAVIS was arrested by Cullman County Sheriff's Deputies after he was found semi-conscious behind the wheel of a car on I-65. At the time, DAVIS had slurred speech, delayed reactions, trouble speaking, and pinpoint pupils, so the responding officer conducted an investigation of an apparent intoxicated driving or drug overdose. DAVIS admitted to using cocaine and taking Valium. DAVIS staggered and nearly fell three times after he stepped out of his vehicle to perform a Standardized Field Sobriety Test. Because DAVIS was in danger of falling, DAVIS was detained pending the officer's probable cause search of the vehicle. The officer found in the backseat a sealed plastic bag containing approximately 2,855 rectangular yellow pills labeled as Xanax bars and later determined to contain Alprazolam, a Schedule IV controlled substance. At the time that DAVIS

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was found in possession of the pills, he was acting neither at the direction nor with the knowledge of law enforcement. DAVIS was placed under arrest for possession of a controlled substance, hospitalized, and found to have been exhibiting signs of a seizure.

Forensic examination of the computer hardware seized from DAVIS's residence revealed that DAVIS was known as "OlympusXans" or "OX" on various dark markets, and was responsible for the distribution of a significant number of pills containing Alprazolam, a Schedule IV controlled substance. At no time did DAVIS possess a license or other legal authority to possess or distribute the controlled substances identified herein.

For sentencing purposes, the parties agree that based upon the provable facts of the case at this time and the defendant's relevant conduct, he is responsible for distributing, possessing with the intent to distribute, and conspiring to distribute or possess with the intent to distribute more than 50 grams of methamphetamine, more than 40 grams of a mixture and substance containing N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide, also known as Fentanyl, 2.81 grams of cocaine, and more than 80,000 units of Alprazolam.

The defendant hereby stipulates that the facts stated above are substantially correct and that the Court can use these facts in calculating the defendant's sentence. The defendant further acknowledges that these facts do not constitute all of the evidence of each and every act that the defendant and/or any co-conspirators may have committed.



JOSEPH WILLIAM DAVIS

III. RECOMMENDED SENTENCE

Subject to the limitations in paragraph VII regarding subsequent conduct

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and pursuant to Rule 11(c)(1)(B), Fed.R.Crim.P., the government will recommend the following disposition:

- (a) That the defendant be awarded an appropriate reduction in offense level for acceptance of responsibility;
- (b) That the defendant be remanded to the custody of the Bureau of Prisons and incarcerated for a term consistent with the low end of the advisory United States Sentencing Guideline range as that range is determined by the Court on the date that the sentence is pronounced;
- (c) That following the said term of imprisonment, the defendant be placed on supervised release for a period to be determined by the Court in its discretion, subject to the standard conditions of supervised release as set forth in U.S.S.G. § 5D1.3;
- (d) That the defendant be required to pay a fine in accordance with the sentencing guidelines, said amount due and owing as of the date sentence is pronounced, with any outstanding balance to be paid in full by the expiration of the term of supervised release; and
- (e) That the defendant pay a special assessment fee of \$200, said

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amount due and owing as of the date sentence is pronounced.

IV. WAIVER OF RIGHT TO APPEAL AND POST-CONVICTION RELIEF

In consideration of the recommended disposition of this case, I, JOSEPH WILLIAM DAVIS, hereby waive and give up my right to appeal my conviction and/or sentence in this case, as well as any fines, restitution, and forfeiture orders, the Court might impose. Further, I waive and give up the right to challenge my conviction and/or sentence, any fines, restitution, forfeiture orders imposed or the manner in which my conviction and/or sentence, any fines, restitution, and forfeiture orders were determined in any post-conviction proceeding, including, but not limited to, a motion brought under 28 U.S.C. § 2255, and any argument that (1) the statute(s) to which I am pleading guilty is or are unconstitutional or (2) the admitted conduct does not fall within the scope of the statute(s).

The defendant reserves the right to contest in an appeal or post-conviction proceeding the following:

- (a) Any sentence imposed in excess of the applicable statutory maximum sentence(s);**
- (b) Any sentence imposed in excess of the guideline sentencing**

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range determined by the Court at the time sentence is imposed; and

(c) **Ineffective assistance of counsel.**

The defendant acknowledges that before giving up these rights, the defendant discussed the Federal Sentencing Guidelines and their application to the defendant's case with the defendant's attorney, who explained them to the defendant's satisfaction. The defendant further acknowledges and understands that the government retains its right to appeal where authorized by statute.

I, JOSEPH WILLIAM DAVIS, hereby place my signature on the line directly below to signify that I fully understand the foregoing paragraphs and that I am knowingly and voluntarily entering into this waiver.



JOSEPH WILLIAM DAVIS

V. UNITED STATES SENTENCING GUIDELINES

The defendant's counsel has explained to the defendant that, in light of the United States Supreme Court's decision in United States v. Booker, the federal sentencing guidelines are **advisory** in nature. Sentencing is in the Court's

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discretion and is no longer required to be within the guideline range. The defendant agrees that, pursuant to this agreement, the Court may use facts it finds by a preponderance of the evidence to reach an advisory guideline range, and the defendant explicitly waives any right to have those facts found by a jury beyond a reasonable doubt.

VI. AGREEMENT NOT BINDING ON THE COURT

The defendant fully and completely understands and agrees that it is the Court's duty to impose sentence upon the defendant, that any sentence recommended by the government is **NOT BINDING UPON THE COURT**, and that the Court is not required to accept the government's recommendation. Further, the defendant understands that if the Court does not accept the government's recommendation, the defendant does not have the right to withdraw the guilty plea.

VII. VOIDING OF AGREEMENT

The defendant understands that should the defendant move the Court to accept the defendant's plea of guilty in accordance with, or pursuant to, the provisions of North Carolina v. Alford, 400 U.S. 25 (1970), or tender a plea of *nolo contendere* to the charges, this agreement will become NULL and VOID. In that event, the Government will not be bound by any of the terms, conditions, or

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recommendations, express or implied, which are contained herein.

VIII. SUBSEQUENT CONDUCT

The defendant understands that should the defendant violate any condition of pretrial release or violate any federal, state, or local law, or should the defendant say or do something that is inconsistent with acceptance of responsibility, the United States will no longer be bound by its obligation to make the recommendations set forth in paragraph III of the Agreement, but instead, may make any recommendation deemed appropriate by the United States Attorney in his sole discretion.

IX. OTHER DISTRICTS AND JURISDICTIONS

The defendant understands and agrees that this agreement **DOES NOT BIND** any other United States Attorney in any other district or any other state or local authority.

X. COLLECTION OF FINANCIAL OBLIGATIONS

In order to facilitate the collection of financial obligations to be imposed in connection with this prosecution, the defendant agrees to fully disclose all assets in which the defendant has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, nominee, or other third

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party. The defendant also will promptly submit a completed financial statement to the United States Attorney's Office in a form that it provides and as it directs. The defendant also agrees that the defendant's financial statement and disclosures will be complete, accurate, and truthful. Finally, the defendant expressly authorizes the United States Attorney's Office to obtain a credit report on the defendant in order to evaluate the defendant's ability to satisfy any financial obligations imposed by the Court.

XI. AGREEMENT REGARDING RELEVANT CONDUCT AND RESTITUTION

As part of the defendant's plea agreement, the defendant admits to the above facts associated with the charges and relevant conduct for any other acts. The defendant understands and agrees that the relevant conduct contained in the factual basis will be used by the Court to determine the defendant's range of punishment under the advisory sentencing guidelines. The defendant admits that all of the crimes listed in the factual basis are part of the same acts, scheme, and course of conduct. This agreement is not meant, however, to prohibit the United States Probation Office or the Court from considering any other acts and factors which may constitute or relate to relevant conduct. Additionally, if this agreement contains any provisions providing for the dismissal of any counts, the defendant

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agrees to pay any appropriate restitution to each of the separate and proximate victims related to those counts should there be any.

XII. TAX, FORFEITURE AND OTHER CIVIL/ADMINISTRATIVE PROCEEDINGS

Unless otherwise specified herein, the defendant understands and acknowledges that this agreement does not apply to or in any way limit any pending or prospective proceedings related to the defendant's **tax liabilities**, if any, or to any pending or prospective **forfeiture** or other **civil** or **administrative** proceedings.

The defendant recognizes that pleading guilty may have consequences with respect to his/her immigration status if he/she is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including the offense(s) to which the defendant is pleading guilty. Removal and other immigration consequences are the subject of a separate proceeding, however, and the defendant understands that no one, including his/her attorney or the district court, can predict to a certainty the effect of his/her conviction on his/her immigration status. The defendant nevertheless affirms that he/she wants to plead guilty regardless of any immigration consequences that his/her plea may entail, even if the consequence is his/her automatic removal from the United States.

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XIII. DEFENDANT'S UNDERSTANDING

I have read and understand the provisions of this agreement consisting of fifteen (15) pages. I have discussed the case and my constitutional and other rights with my lawyer. I am satisfied with my lawyer's representation in this case. I understand that by pleading guilty, I will be waiving and giving up my right to continue to plead not guilty, to a trial by jury, to the assistance of counsel at that trial, to confront, cross-examine, or compel the attendance of witnesses, to present evidence on my behalf, to maintain my privilege against self-incrimination, and to the presumption of innocence. I agree to enter my plea as indicated above on the terms and conditions set forth herein.

NO OTHER PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO ME BY THE PROSECUTOR, OR BY ANYONE ELSE, NOR HAVE ANY THREATS BEEN MADE OR FORCE USED TO INDUCE ME TO PLEAD GUILTY.

I further state that I have not had any drugs, medication, or alcohol within the past 48 hours except as stated here (Write "N/A" if none):

N/A

I understand that this Plea Agreement will take effect and will be binding as to the Parties **only** after all necessary signatures have been affixed hereto.

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I have personally and voluntarily placed my initials on every page of this Agreement and have signed the signature line below to indicate that I have read, understand, and approve all of the provisions of this Agreement, both individually and as a total binding agreement.

8/14/18
DATE

Joe Davis
JOSEPH WILLIAM DAVIS
Defendant

XIV. COUNSEL'S ACKNOWLEDGMENT

I have discussed this case with my client in detail and have advised my client of all of my client's rights and all possible defenses. My client has conveyed to me that my client understands this Agreement and consents to all its terms. I believe the plea and disposition set forth herein are appropriate under the facts of this case and are in accord with my best judgment. I concur in the entry of the plea on the terms and conditions set forth herein.

8/14/18
DATE

Glenn F. Threatt
Glenn F. Threatt
Defendant's Counsel

XV. GOVERNMENT'S ACKNOWLEDGMENT

I have reviewed this matter and this Agreement and concur that the plea and

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disposition set forth herein are appropriate and are in the interests of justice.

JAY E. TOWN
United States Attorney

8/14/18
DATE


Jonathan S. Keim
Assistant United States Attorney

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