

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-CR-151

STEPHANIE M. ORTIZ,

Defendant.

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**PLEA AGREEMENT**

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1. The United States of America, by its attorneys, Matthew D. Krueger, United States Attorney for the Eastern District of Wisconsin, and William J. Roach, Assistant United States Attorney, and the defendant, Stephanie M. Ortiz, individually and by attorney Thomas Wilmouth, pursuant to Rule 11 of the Federal Rules of Criminal Procedure, enter into the following plea agreement:

**CHARGES**

2. The defendant has been charged in a single count Information which alleges violations of Title 18, United States Code, Section 3.

3. The defendant has read and fully understands the charges contained in the information. She fully understands the nature and elements of the crimes with which she has been charged, and those charges and the terms and conditions of the plea agreement have been fully explained to her by her attorney. Further, the defendant agrees to waive prosecution by indictment and proceed via the information and this plea agreement.

4. The defendant voluntarily agrees to plead guilty to the following count set forth in full as follows:

***THE UNITED STATES ATTORNEY CHARGES THAT:***

*On or about January 14, 2019, in the State and Eastern District of Wisconsin and elsewhere,*

***STEPHANIE M. ORTIZ,***

*knowing that an offense was committed against the United States, to wit, conspiracy to distribute and possess with intent to distribute marijuana and tetrahydrocannabinols, contrary to 21 U.S.C. §§841(a)(1), (b)(1)(C), and 846, did intentionally assist Ruben Ortiz, Jr, in order to hinder and prevent his apprehension, prosecution and punishment.*

*In violation of Title 18, United States Code, Section 3.*

5. The defendant acknowledges, understands, and agrees that she is, in fact, guilty of the offense described in paragraph 4. The parties acknowledge and understand that if this case were to proceed to trial, the government would be able to prove the following facts beyond a reasonable doubt. The defendant admits that these facts are true and correct and establish her guilt beyond a reasonable doubt:

The Brown County Drug Task Force (BCDTF) and other law enforcement agencies investigated a drug organization led by Ruben Ortiz Jr. that distributed controlled substances, including marijuana and cocaine, in the Green Bay, Wisconsin area beginning in at least May 2017 and continuing to August 2019.

Drug traffickers often purchase and title their motor vehicles and other assets in the names of others to avoid detection of these assets by government agencies. Even though these assets are in names other than drug traffickers, the drug traffickers actually own, make payment for, and continue to use these assets and exercise dominion and control over them.

As part of the investigation, BCDTF determined from Associated Bank records and a June 2019 statement from Stephanie Ortiz that in January 2019, she received \$5,000 from her brother, Ruben Ortiz, Jr., to purchase on his behalf a 2015 Tesla automobile. Stephanie Ortiz deposited that amount into her Associated Bank account and then applied it to the car purchase. Ruben Ortiz later provided her with three (3) monthly car payments of \$750 for that vehicle.

Several months later, when Ruben Ortiz desired to trade in the Tesla for a 2016 Lexus automobile, Stephanie Ortiz conducted the trade in on her brother's behalf and made a single \$1,000 monthly car payment towards that vehicle, again using money provided to her from Ruben Ortiz. Each of these vehicles were titled in Stephanie Ortiz's name, though each vehicle was actually owned, controlled, and exclusively used by Ruben Ortiz. Stephanie Ortiz knew that the money which was provided by Ruben Ortiz, Jr. to pay for the vehicles, a total of \$9,450, was obtained by Ruben Ortiz through marijuana and tetrahydrocannabinol "vape" cartridge drug trafficking.

While Stephanie Ortiz did not participate in the commission of the underlying drug trafficking offense, she agrees that she knew Ruben Ortiz was selling marijuana and THC cartridges. Existence of knowledge of an underlying offense can be inferred from surrounding circumstances and may be proven entirely by circumstantial evidence. *United States v. Osborn*, 120 F.3d 59, 63-64 (7th Cir. 1997); *United States v. Lepanto*, 817 F.2d 1463, 1467 (10th Cir. 1987). Circumstantial evidence is evidence that indirectly proves a fact and is no less probative than direct evidence. *See* 7th Cir. Pattern Instruction (2020 Edition).

Concerning her knowledge, Stephanie Ortiz believed it was highly probable and strongly suspected that Ruben Ortiz was involved in the underlying drug trafficking offense and took deliberate action to avoid learning more exact information about the nature and extent of those dealings. While Stephanie Ortiz did not act through ignorance, mistake, carelessness or accident, she did not know the amount of marijuana and THC cartridges involved in the offense. After completion of the commission of the underlying drug trafficking crime, Stephanie Ortiz assisted Ruben Ortiz in vehicle purchases that would not list him as title holder. She thereby provided assistance to her brother Ruben Ortiz in order to hinder or prevent his apprehension, prosecution or punishment.

This information is provided for the purpose of setting forth a factual basis for the plea of guilty. It is not a full recitation of the defendant's knowledge of, or participation in, the offense.

### **PENALTIES**

6. The parties understand and agree that as to Count One, the following maximum term of imprisonment and fine applies: ten years imprisonment and \$500,000. Further the offense carries a maximum 3 year term of supervised release and a \$100 special assessment.

7. The defendant acknowledges, understands, and agrees that she has discussed the relevant statutes as well as the applicable sentencing guidelines with her attorney including any possibility that the defendant may qualify as career offender under the sentencing guidelines.

### **ELEMENTS**

8. The parties understand and agree that in order to sustain the charge set forth in Count One, the government must prove each of the following propositions beyond a reasonable doubt:

First, the crime of conspiracy to distribute and possess with intent to distribute controlled substances including marijuana and THC vape cartridges had been committed by Ruben Ortiz Jr.;

Second, the defendant knew that Ruben Ortiz Jr had committed the crime of conspiracy to distribute and possess with intent to distribute controlled substances including marijuana and THC vape cartridges had been committed by Ruben Ortiz Jr;

Third, the defendant assisted Ruben Ortiz Jr. in some way; and

Fourth, the defendant did so with the intent to hinder or prevent Ruben Ortiz Jr. from being arrested, prosecuted or punished.

7<sup>th</sup> Cir. Pattern Instruction (2019 Edition)

### **SENTENCING PROVISIONS**

9. The parties agree to waive the time limits in Fed. R. Crim. P. 32 relating to the presentence report, including that the presentence report be disclosed not less than 35 days before the sentencing hearing, in favor of a schedule for disclosure, and the filing of any objections, to be established by the court at the change of plea hearing.

10. The parties acknowledge, understand, and agree that any sentence imposed by the court will be pursuant to the Sentencing Reform Act, and that the court will give due regard to the Sentencing Guidelines when sentencing the defendant.

11. The defendant acknowledges and agrees that her attorney has discussed the potentially applicable sentencing guidelines provisions with her to the defendant's satisfaction.

12. The parties acknowledge and understand that prior to sentencing the United States Probation Office will conduct its own investigation of the defendant's criminal history. The

parties further acknowledge and understand that, at the time the defendant enters a guilty plea, the parties may not have full and complete information regarding the defendant's criminal history. The parties acknowledge, understand, and agree that the defendant may not move to withdraw the guilty plea solely as a result of the sentencing court's determination of the defendant's criminal history.

#### **Sentencing Guidelines Calculations**

13. The defendant acknowledges and understands that the sentencing guidelines recommendations contained in this agreement do not create any right to be sentenced within any particular sentence range, and that the court may impose a reasonable sentence above or below the guideline range. The parties further understand and agree that if the defendant has provided false, incomplete, or inaccurate information that affects the calculations, the government is not bound to make the recommendations contained in this agreement.

#### **Relevant Conduct**

14. The parties acknowledge, understand, and agree that pursuant to Sentencing Guidelines Manual § 1B1.3, the sentencing judge may consider relevant conduct in calculating the sentencing guidelines range, even if the relevant conduct is not the subject of the offense to which the defendant is pleading guilty.

#### **Base Offense Level**

15. The parties will recommend to the sentencing court that the applicable base offense level for the offense charged in Count One is 18 under Sentencing Guidelines Manual § 2X3(1)(a)(1) and § 2D1.1(c)(8). When the underlying offense is drug related, the quantity of drugs is not a specific offense characteristic about which the Court inquires whether the accessory knew or should have known; rather, it is a factor used to determine the base offense

level. See, *United States v. Girardi*, 62 F.3d 943, 946 (7<sup>th</sup> Cir. 1995); U.S.S.G. § 2X3.1 App.

Note 1.

#### **Specific Offense Increases**

16. The parties jointly recommend there are no adjustments under the Sentencing Guidelines manual that function to increase the offense level concerning the offense charge in the Information, except as set forth herein.

#### **Acceptance of Responsibility**

17. The government agrees to recommend a two-level decrease for acceptance of responsibility as authorized by Sentencing Guidelines Manual § 3E1.1(a), but only if the defendant exhibits conduct consistent with the acceptance of responsibility. In addition, if the court determines at the time of sentencing that the defendant is entitled to the two-level reduction under § 3E1.1(a), the government agrees to make a motion recommending an additional one-level decrease as authorized by Sentencing Guidelines Manual § 3E1.1(b) because the defendant timely notified authorities of her intention to enter a plea of guilty.

#### **Sentencing Recommendations**

18. Both parties reserve the right to provide the district court and the probation office with any and all information which might be pertinent to the sentencing process, including but not limited to any and all conduct related to the offense as well as any and all matters which might constitute aggravating or mitigating sentencing factors.

19. Both parties reserve the right to make any recommendation regarding any and all factors pertinent to the determination of the sentencing guideline range; the fine to be imposed; the amount of restitution and the terms and condition of its payment; the length of supervised release and the terms and conditions of the release; the defendant's custodial status pending the sentencing; and any other matters not specifically addressed by this agreement.

20. The government agrees to recommend a sentence not to exceed one year and a day incarceration. The government remains free to take a position with respect to any fact or factor pertinent to the sentencing decision consistent with this agreement.

#### **Court's Determinations at Sentencing**

21. The parties acknowledge, understand, and agree that neither the sentencing court nor the United States Probation Office is a party to or bound by this agreement. The United States Probation Office will make its own recommendations to the sentencing court. The sentencing court will make its own determinations regarding any and all issues relating to the imposition of sentence and may impose any sentence authorized by law up to the maximum penalties set forth in paragraphs 6 above. The parties further understand that the sentencing court will be guided by the sentencing guidelines but will not be bound by the sentencing guidelines and may impose a reasonable sentence above or below the calculated guideline range.

22. The parties acknowledge, understand, and agree that the defendant may not move to withdraw the guilty plea solely as a result of the sentence imposed by the court.

#### **FINANCIAL MATTERS**

23. The defendant acknowledges and understands that any and all financial obligations imposed by the sentencing court are due and payable in full upon entry of the judgment of conviction or on further order of the court. The defendant further understands that any payment schedule imposed by the sentencing court shall be the minimum the defendant is expected to pay and that the government's collection of any and all court imposed financial obligations is not limited to the payment schedule. The defendant agrees not to request any delay or stay in payment of any and all financial obligations. If the defendant is incarcerated, the defendant agrees to participate in the Bureau of Prisons' Inmate Financial Responsibility

Program, regardless of whether the court specifically directs participation or imposes a schedule of payments.

24. The defendant agrees to provide to the Financial Litigation Unit (FLU) of the United States Attorney's Office, upon request of the FLU during any period of probation or supervised release imposed by the court, a complete and sworn financial statement on a form provided by FLU and any documentation required by the form.

#### **Special Assessment**

25. The defendant agrees to pay the special assessment in the amount of \$100 prior to or at the time of sentencing.

#### **DEFENDANT'S WAIVER OF RIGHTS**

26. In entering this agreement, the defendant acknowledges and understands that she surrenders any claims she may have raised in any pretrial motion, as well as certain rights which include the following:

- a. If the defendant persisted in a plea of not guilty to the charges against her, she would be entitled to a speedy and public trial by a court or jury. The defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, the defendant, the government and the judge all must agree that the trial be conducted by the judge without a jury.
- b. If the trial is a jury trial, the jury would be composed of twelve citizens selected at random. The defendant and her attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of guilty. The court would instruct the jury that the defendant is presumed innocent until such time, if ever, as the government establishes guilt by competent evidence to the satisfaction of the jury beyond a reasonable doubt.
- c. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all of the evidence, whether or not she was persuaded of defendant's guilt beyond a reasonable doubt.



- d. At such trial, whether by a judge or a jury, the government would be required to present witnesses and other evidence against the defendant. The defendant would be able to confront witnesses upon whose testimony the government is relying to obtain a conviction and he would have the right to cross-examine those witnesses. In turn the defendant could, but is not obligated to, present witnesses and other evidence on her own behalf. The defendant would be entitled to compulsory process to call witnesses.
- e. At such trial, defendant would have a privilege against self-incrimination so that she could decline to testify and no inference of guilt could be drawn from her refusal to testify. If defendant desired to do so, she could testify on her own behalf.

27. The defendant acknowledges and understands that by pleading guilty she is waiving all the rights set forth above. The defendant further acknowledges the fact that her attorney has explained these rights to her and the consequences of her waiver of these rights. The defendant further acknowledges that as a part of the guilty plea hearing, the court may question the defendant under oath, on the record, and in the presence of counsel about the offenses to which the defendant intends to plead guilty. The defendant further understands that the defendant's answers may later be used against the defendant in a prosecution for perjury or false statement.

28. The defendant acknowledges and understands that she will be adjudicated guilty of the offense to which she will plead guilty and thereby may be deprived of certain rights, including but not limited to the right to vote, to hold public office, to serve on a jury, to possess firearms, and to be employed by a federally insured financial institution.

29. The defendant knowingly and voluntarily waives all claims she may have based upon the statute of limitations, the Speedy Trial Act, and the speedy trial provisions of the Sixth Amendment. The defendant agrees that any delay between the filing of this agreement and the entry of the defendant's guilty plea pursuant to this agreement constitutes excludable time under the Speedy Trial Act.

### **Further Civil or Administrative Action**

30. The defendant acknowledges, understands, and agrees that the defendant has discussed with her attorney and understands that nothing contained in this agreement, including any attachment, is meant to limit the rights and authority of the United States of America or any other state or local government to take further civil, administrative, or regulatory action against the defendant, including but not limited to any listing and debarment proceedings to restrict rights and opportunities of the defendant to contract with or receive assistance, loans, and benefits from United States government agencies.

### **GENERAL MATTERS**

31. The parties acknowledge, understand, and agree that this agreement does not require the government to take, or not to take, any particular position in any post-conviction motion or appeal.

32. The parties acknowledge, understand, and agree that the United States Attorney's office is free to notify any local, state, or federal agency of the defendant's conviction.

### **EFFECT OF DEFENDANT'S BREACH OF PLEA AGREEMENT**

33. The defendant acknowledges and understands if she violates any term of this agreement at any time, engages in any further criminal activity prior to sentencing, or fails to appear for sentencing, this agreement shall become null and void at the discretion of the government. The defendant further acknowledges and understands that the government's agreement to dismiss any charge is conditional upon final resolution of this matter. If this plea agreement is revoked or if the defendant's conviction ultimately is overturned, then the government retains the right to reinstate any and all dismissed charges and to file any and all charges which were not filed because of this agreement. The defendant hereby knowingly and

voluntarily waives any defense based on the applicable statute of limitations for any charges filed against the defendant as a result of her breach of this agreement. The defendant understands, however, that the government may elect to proceed with the guilty plea and sentencing.

**VOLUNTARINESS OF DEFENDANT'S PLEA**

34. The defendant acknowledges, understands, and agrees that she will plead guilty freely and voluntarily because she is in fact guilty. The defendant further acknowledges and agrees that no threats, promises, representations, or other inducements have been made, nor agreements reached, other than those set forth in this agreement, to induce the defendant to plead guilty.

### ACKNOWLEDGMENTS

I am the defendant. I am entering into this plea agreement freely and voluntarily. I am not now on or under the influence of any drug, medication, alcohol, or other intoxicant or depressant, whether or not prescribed by a physician, which would impair my ability to understand the terms and conditions of this agreement. My attorney has reviewed every part of this agreement with me and has advised me of the implications of the sentencing guidelines. I have discussed all aspects of this case with my attorney and I am satisfied that my attorney has provided effective assistance of counsel.

Date: 10/28/20

  
STEPHANIE M. ORTIZ  
Defendant

I am the defendant's attorney. I carefully have reviewed every part of this agreement with the defendant. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one.

Date: 11/6/20

  
THOMAS WILMOUTH  
Attorney for Defendant

For the United States of America:

Date: 11/20/20

  
MATTHEW D. KRUEGER  
United States Attorney

Date: 11/20/20

  
WILLIAM J. ROACH  
Assistant United States Attorney