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UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

UNITED STATES OF AMERICA, Docket No.15-40030-CM
Plaintiff, Kansas City, Kansas
 Date: 2/3/16
v.
JOHN T BOOKER,
Defendant.
.....

TRANSCRIPT OF
CHANGE OF PLEA
BEFORE THE HONORABLE CARLOS MURGUIA,
UNITED STATES DISTRICT JUDGE.

APPEARANCES:

For the Plaintiff: Anthony Mattivi & David Smith
 Asst. US Attorneys
 444 Se 6th Ave/500 State Avenue
 Room 290/Room 360
 Topeka, KS 66683/Kansas City, KS

For the Defendant: Kirk Redmond
 Asst. Federal Public Defender
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Court Reporter: Nancy Moroney Wiss, CSR, RMR, FCRR
 Official Court Reporter
 558 US Courthouse
 500 State Avenue
 Kansas City, KS 66101

Proceedings recorded by machine shorthand, transcript
produced by computer-aided transcription.

10:58:38 1 THE COURT: Let the record show we're here
10:58:39 2 regarding Case Number 15-40030. It's a case entitled
10:58:45 3 United States of America versus John T Booker. The
10:58:48 4 parties please enter their appearance.

10:58:51 5 MR. MATTIVI: Good morning, Your Honor.
10:58:52 6 Tony Mattivi and Dave Smith for the government.

10:58:55 7 MR. REDMOND: Defendant personally with
10:58:56 8 counsel Kirk Redmond, Your Honor.

10:58:58 9 THE COURT: We had scheduled our court
10:59:00 10 appearance for a change of plea hearing. I'm going to
10:59:02 11 start, Mr. Redmond, with asking you, what is the status
10:59:05 12 of our court appearance?

10:59:06 13 MR. REDMOND: We're ready to proceed, Your
10:59:08 14 Honor.

10:59:09 15 THE COURT: Mr. Booker, that's what we have
10:59:11 16 scheduled this for. Now, what I'll do, and again, it's
10:59:15 17 not my intent to unfairly surprise any of the parties,
10:59:19 18 but I did receive a correspondence from Mr. Booker,
10:59:23 19 which I've read, Mr. Booker. If you recall, you sent
10:59:26 20 this to the court. Mr. Redmond, I don't know if you're
10:59:31 21 aware of this or not.

10:59:36 22 (Defendant conferring with attorney off the
11:00:05 23 record.)

11:00:05 24 MR. REDMOND: Thank you, Your Honor. Sorry.
11:00:07 25 The -- I had to obtain a privilege waiver to be able to

11:00:10 1 respond to the court's question. Mr. Booker has agreed
11:00:13 2 to let me do so. I'm aware that there is a letter. I
11:00:16 3 think I'm aware generally of the contents, but I have
11:00:19 4 not seen a copy.

11:00:20 5 THE COURT: Do you want to see it?

11:00:21 6 MR. REDMOND: Please. May I approach?

11:00:23 7 THE COURT: Please come forward.

11:03:45 8 MR. REDMOND: Thank you for the time, Your
11:03:47 9 Honor. I appreciate it. Given the contents of the
11:03:49 10 letter, I think that my request would be that we proceed
11:03:53 11 ex parte with the court. There may be a colloquy that
11:03:57 12 the court wants to undertake, and -- but given the --
11:04:03 13 given the nature of the letter, I don't think that that
11:04:06 14 should be something that goes beyond ex parte.

11:04:18 15 THE COURT: I'd ask you to come up then with
11:04:20 16 you and Mr. Booker.

11:04:47 17 (Proceedings held at the bench, outside the
11:04:50 18 hearing of open court.)

11:04:50 19 THE COURT: Mr. Booker, I got this letter
11:04:53 20 that you had sent to the court, because you sent this to
11:04:56 21 the court, wanted me to read it, so I read it.

11:05:00 22 THE DEFENDANT: Thank you.

11:05:00 23 THE COURT: So, I understand what you put
11:05:04 24 on -- in here regarding primarily a lot about your
11:05:08 25 feelings about what's taken place up to this point

11:05:11 1 regarding this case.

11:05:12 2 THE DEFENDANT: Yes, sir.

11:05:13 3 THE COURT: Now, I brought this to the
11:05:16 4 attention here in court, because as I read this, I
11:05:19 5 thought I had a sense that you may not want to plead in
11:05:27 6 regards to our plea hearing here, and the other reason I
11:05:31 7 brought it out was because there's some language in here
11:05:36 8 where it looks like you're questioning or concerned
11:05:41 9 about Mr. Redmond's representation. So --

11:05:45 10 THE DEFENDANT: Also, I mean, I had a letter
11:05:47 11 back there I wanted to show you. Can I go get that?

11:05:49 12 THE COURT: Why don't we first take this up,
11:05:51 13 and then the other letter. But the reason why we're
11:05:54 14 bringing this out, Mr. Booker, is that you don't have to
11:05:59 15 plead guilty to any charge or charges. I want to make
11:06:04 16 sure you understand that you have a right under the
11:06:08 17 Constitution to have a jury trial, because you don't
11:06:11 18 have to prove that you're guilty. You don't have to
11:06:15 19 prove that you're not guilty. The government has to
11:06:17 20 prove that you're guilty beyond a reasonable doubt, so
11:06:21 21 the burden's on the government. You don't have to
11:06:24 22 present any evidence if you don't want to. Government
11:06:27 23 would have to prove that you're guilty beyond a
11:06:30 24 reasonable doubt, and you have a right to a jury trial.
11:06:32 25 So, I only take pleas in this court if I am sure that

11:06:38 1 the person understands what the charges they're pleading
11:06:40 2 guilty to, the consequences that would take place based
11:06:46 3 on that plea, which would include imprisonment and what
11:06:50 4 that would mean, and then I will only take a plea if I
11:06:55 5 believe that the defendant is doing that of their own
11:06:59 6 free will, and not being forced to do something they
11:07:03 7 don't want to do.

11:07:05 8 THE DEFENDANT: Do I have permission to
11:07:08 9 speak now?

11:07:08 10 THE COURT: Yes.

11:07:09 11 THE DEFENDANT: All right. Well, first of
11:07:10 12 all, thank you for responding to my letter. I honestly
11:07:12 13 didn't think you had it, I mean, 'cause I was waiting
11:07:16 14 for so long. A lot of my mail hasn't been, you know,
11:07:18 15 sent, you know what I mean. You know, I found out.
11:07:21 16 That's one of the things I wanted to talk to you.
11:07:23 17 That's why I was waiting for you to --

11:07:23 18 (Whereupon the court reporter requested that
11:07:30 19 the defendant slow down his speaking.)

11:07:30 20 THE COURT: We're taking record.

11:07:32 21 THE DEFENDANT: I was hoping you would
11:07:34 22 respond to the letter before the plea deal. That's why
11:07:38 23 I asked for more time 'cause I had sent that letter
11:07:41 24 before, or I was in the makings of it when we had our
11:07:44 25 last -- you know, we delayed the plea deal. I did that

11:07:47 1 because I was hoping you'd get that letter before it
11:07:49 2 came to this situation. You know, now I feel like, you
11:07:52 3 know, it's crunch time, you know what I'm saying.
11:07:53 4 Everything's coming in, you know what I'm saying. I do
11:07:55 5 want to enter a plea deal, I really do, you know what
11:07:58 6 I'm saying, but the thing is, I was trying to work out
11:08:00 7 some things, but that's why I sent that letter to you at
11:08:03 8 that time. I sent it on the 11th of last month,
11:08:06 9 6 o'clock in the morning. So, I was hoping, you know,
11:08:07 10 before then, you would have responded to it, but now
11:08:11 11 it's, you know, kind of like crunch time and everybody's
11:08:13 12 looking at me.

11:08:14 13 THE COURT: You don't have to worry about
11:08:16 14 people looking at you. You don't have to worry about
11:08:19 15 crunch time, 'cause we don't have to do anything until
11:08:21 16 you feel you're ready to do something.

11:08:23 17 THE DEFENDANT: But I was told that if I
11:08:24 18 didn't do it today, that I would not have to be able to
11:08:27 19 still enter a plea bargain.

11:08:29 20 THE COURT: Well, I don't know those
11:08:31 21 conversations, so I can't talk about those, but I'm just
11:08:34 22 talking for the court in regards to what I said before.
11:08:38 23 You know, I don't want to take a plea from someone who
11:08:40 24 doesn't want to plea or understand what they're doing.
11:08:43 25 So, from the court, I would say, you know, you're

11:08:48 1 telling me you need to talk to Mr. Redmond. Like I
11:08:50 2 said, there's some references here to Mr. Redmond that I
11:08:53 3 don't know if he knew about, so that's something that
11:08:55 4 would have to be worked out between the two of you, and
11:08:58 5 to both of your satisfactions as well. So, if you think
11:09:03 6 you need time here today to talk to him, I mean, I can
11:09:08 7 move this to a different part of our docket so you can
11:09:10 8 talk to Mr. Redmond and go over this with him, and I can
11:09:13 9 move this to the end, which will give you probably a
11:09:15 10 couple of hours. Do you want to talk to him first or --
11:09:19 11 THE DEFENDANT: I mean, I was seeing if we
11:09:21 12 had a delay, 'cause that's why I sent it so early so I
11:09:24 13 can maybe -- at that time, I thought maybe someone else
11:09:26 14 can help me in my situation, you know what I'm saying,
11:09:28 15 and umm, you know, I mean, kind of seems like
11:09:32 16 everybody's crunch time, and I was hoping I'd get a
11:09:34 17 delay so I can figure out if there's something --
11:09:36 18 another plan right now. I'm not saying I don't want to
11:09:38 19 take a plea deal. I'm saying I need some more time to
11:09:41 20 think about it, 'cause if you actually think about it,
11:09:43 21 Judge, this is a big case, and this is a high profile
11:09:46 22 case, and it ain't been a year yet, and I'm all ready --
11:09:49 23 you know what I'm saying. So, everybody's kind of gone
11:09:51 24 fast, faster than I thought it was. I don't see like we
11:09:54 25 can't delay, like it was -- we was delaying stuff, and I

11:09:58 1 just want a little bit more time. I'm not saying I'm
11:10:01 2 not going to enter a plea deal. I'm saying I wish -- I
11:10:05 3 need a little bit more time.

11:10:06 4 THE COURT: What does that mean, a little
11:10:08 5 more time to you?

11:10:09 6 THE DEFENDANT: Like maybe couple weeks.
11:10:11 7 I'm afraid, though, what I was told, I feel like I got
11:10:14 8 pressure, you know, to do things, because we're
11:10:16 9 delaying, we're delaying, we're delaying my case and
11:10:18 10 everything, you know what I'm saying. Then when it
11:10:20 11 comes to the plea deal, if you don't take this plea deal
11:10:23 12 now, you're not going to get another chance. That's
11:10:25 13 what I was told by my lawyer. I don't know if that's
11:10:28 14 true or not.

11:10:28 15 THE COURT: Well, here's what I would
11:10:30 16 suggest. I mean, like I said, there's a couple things
11:10:32 17 in here I wanted to bring to everyone's attention, I
11:10:34 18 mean, you and Mr. Redmond, that you had made some
11:10:37 19 statements in here about whether or not you're really
11:10:41 20 wanting to plea or not, and then the other thing was
11:10:46 21 about Mr. Redmond representing you. So, what I would do
11:10:49 22 is now that we've brought this out here in court, that
11:10:54 23 you speak to Mr. Redmond, and see if that's something
11:10:58 24 that you're going to be able to work out between you
11:11:01 25 two, and then also, if you believe you need more time,

11:11:06 1 you know, Mr. Redmond on your behalf may have to speak
11:11:08 2 to the government about their position regarding that or
11:11:11 3 not. So --

11:11:11 4 THE DEFENDANT: I think that would be
11:11:13 5 wonderful if we actually got to speak everything out, my
11:11:16 6 lawyer figure out would I still have a chance or will it
11:11:19 7 just be ruined after today.

11:11:21 8 THE COURT: I think I heard you say you
11:11:23 9 wanted a couple of weeks. So, I don't know what is
11:11:26 10 going to be actually discussed or agreed to, but that's
11:11:28 11 out there. Anything else?

11:11:31 12 MR. REDMOND: Umm, I think a couple things
11:11:33 13 for the record, Your Honor. Number one, I'm quite
11:11:36 14 certain under Tenth Circuit law, there's no conflict at
11:11:39 15 all in this case. I don't think that there's been any
11:11:42 16 communication break-down. I think that if there is a
11:11:45 17 dispute, that it would be simply over strategy and not
11:11:49 18 how my office has interacted with Mr. Booker. I would
11:11:53 19 also think that that problem would recur under new
11:11:56 20 counsel, and so, I think that there is no reason, and I
11:12:00 21 don't suggest the court taking up a motion to disqualify
11:12:03 22 our office at this point, but I don't think that there's
11:12:05 23 any reason for that to happen. What I would request
11:12:08 24 permission to do is to share with the government the
11:12:12 25 portion of the ex parte status conference the court has

11:12:16 1 conducted that Mr. Booker's made a pro se request for
11:12:20 2 two additional weeks, and see what their position is on
11:12:24 3 that, and then we could sort of take things up back in
11:12:28 4 open court, if that's okay with you, Your Honor.

11:12:31 5 THE DEFENDANT: May I say something? I
11:12:32 6 mean, this is my position. It's my honest position. I
11:12:36 7 don't want to get rid of anybody if I don't have to, you
11:12:39 8 know, you know what I'm saying, but the thing is, I'm
11:12:41 9 saying, what my question to you is, can I get a couple
11:12:44 10 seconds to talk to my lawyer alone, like I mean, I'll
11:12:47 11 still be able to come back here, right?

11:12:49 12 THE COURT: You mean up to the bench?

11:12:50 13 THE DEFENDANT: No, I mean like, I'm not
11:12:52 14 familiar with this, you know.

11:12:54 15 MR. REDMOND: This is at the bench.

11:12:55 16 THE DEFENDANT: I mean, yeah, I wanted to
11:12:57 17 talk to my lawyer for a little bit.

11:13:00 18 THE COURT: Go ahead. Go back to your table
11:13:02 19 and talk to Mr. Redmond, then come back here.

11:13:05 20 THE DEFENDANT: All right.

11:13:06 21 (Proceedings continued in open court.)

11:17:43 22 MR. REDMOND: Your Honor, again, thanks for
11:17:44 23 the time. We would take the court up on its request to
11:17:48 24 move this to the heel of the docket. I understand
11:17:51 25 there's at least one other hearing, and I'll meet with

11:17:54 1 Mr. Booker while the -- that hearing is proceeding.

11:17:57 2 THE COURT: Mr. Booker, did you hear what
11:17:58 3 Mr. Redmond said?

11:17:59 4 THE DEFENDANT: Yes, sir.

11:18:00 5 THE COURT: At this time, we do have some
11:18:01 6 other hearings scheduled. Actually, there's one, two,
11:18:05 7 three. Our last one was scheduled at 12:30, so would
11:18:11 8 have to probably 1 o'clock and we'd be finished with
11:18:13 9 that one or close to that. So, just keep the court
11:18:16 10 informed.

11:18:16 11 MR. REDMOND: Thank you very much, Your
11:18:17 12 Honor.

11:18:17 13 THE COURT: Court stands in recess. Thank
11:18:19 14 you.

11:18:20 15 (Whereupon court heard the rest of the
11:18:20 16 docket. Proceedings then continued as
11:18:20 17 follows:)

12:56:34 18 THE COURT: Court calls again Case
12:56:45 19 Number 15-40030. It's a case entitled United States of
12:56:57 20 America versus John T Booker. Parties please enter
12:57:00 21 their appearance.

12:57:00 22 MR. MATTIVI: Good afternoon, Your Honor.
12:57:01 23 Tony Mattivi and Dave Smith for the government.

12:57:04 24 MR. REDMOND: The defendant personally with
12:57:06 25 counsel Kirk Redmond, Your Honor.

12:57:07 1 THE COURT: Mr. Booker, if you recall,
12:57:09 2 earlier today, the court called the case initially and
12:57:11 3 brought up some matters, and after those were brought
12:57:14 4 up, there was a request that we recess and then return
12:57:20 5 later on, which we were right at that point. So,
12:57:25 6 Mr. Redmond, in regards to our court appearance, what is
12:57:30 7 defendant's position at this time?

12:57:31 8 MR. REDMOND: Your Honor, we're very
12:57:33 9 grateful for the time that the court provided us. We
12:57:36 10 were able to spend about an hour and a half together
12:57:38 11 talking, and we are ready to proceed with the plea.

12:57:41 12 THE COURT: Is that correct, Mr. Booker?

12:57:43 13 THE DEFENDANT: Yes, Your Honor. Yes, sir.

12:57:44 14 THE COURT: What I'd ask that you do, if you
12:57:47 15 would please, is both you and Mr. Redmond approach the
12:57:49 16 podium. Mr. Booker, I've been told that you're here
12:58:03 17 today to change your plea from not guilty to guilty to
12:58:08 18 Counts 1 and 2 of the indictment which charges you in
12:58:12 19 Count 1 with attempted use of a weapon of mass
12:58:17 20 destruction, which is in violation of 18 USC
12:58:22 21 Section 2332 A, A 2 D, as well as Count 2, which charged
12:58:30 22 you with attempted destruction of government property by
12:58:34 23 fire or explosion, and that's in violation of 18 USC
12:58:38 24 Section 844 F 1. Is that what you want to do here
12:58:43 25 this -- today?

12:58:44 1 THE DEFENDANT: Yes, Your Honor.

12:58:45 2 THE COURT: I need to let you know that I
12:58:48 3 need to ask you a number of questions, and just like
12:58:52 4 you've done, I need for you to answer out loud with
12:58:54 5 whatever response you may have, if it's yes, no,
12:58:58 6 whatever it is you have to say, but please speak up loud
12:59:00 7 and clear. At any point, if I ask you a question, if
12:59:05 8 before you answer, you first want to speak to
12:59:07 9 Mr. Redmond, your attorney, you can do so. You just
12:59:10 10 need to let me know. Also at any point, if I ask you a
12:59:13 11 question and you're not certain what I'm asking you,
12:59:17 12 then you should let me know so I can try to explain it
12:59:21 13 better. Do you understand all that?

12:59:22 14 THE DEFENDANT: Yes.

12:59:23 15 THE COURT: The reason why I'm going to ask
12:59:25 16 you all these questions is that I need to be certain
12:59:27 17 that you understand what you're doing here today, that
12:59:31 18 you understand what these charges are that you're
12:59:34 19 pleading guilty to, the consequences that could take
12:59:37 20 place, and also, I need to be certain that you're doing
12:59:41 21 this of your own free will, that no one is forcing you
12:59:45 22 to do something that you don't want to do. Do you
12:59:48 23 understand all that?

12:59:49 24 THE DEFENDANT: Yes.

12:59:49 25 THE COURT: To begin, what I'll do is swear

12:59:51 1 you in to tell the truth. So, I need for you to raise
12:59:54 2 your right hand.

12:59:55 3 (Defendant sworn.)

13:00:00 4 THE DEFENDANT: I do.

13:00:04 5 THE COURT: Thank you. You can put your
13:00:06 6 hand down please. I need to let you know that you're
13:00:08 7 now under oath to tell the truth, and if you answer any
13:00:11 8 of the court's questions falsely, your answers may later
13:00:13 9 be used against you in another prosecution for perjury
13:00:16 10 or making a false statement. Do you understand that?

13:00:20 11 THE DEFENDANT: Yes.

13:00:21 12 THE COURT: Would you please state your full
13:00:23 13 name?

13:00:23 14 THE DEFENDANT: John Thomas Booker, Junior.

13:00:26 15 THE COURT: Your age?

13:00:27 16 THE DEFENDANT: 21.

13:00:28 17 THE COURT: The last year of school you
13:00:30 18 completed?

13:00:31 19 THE DEFENDANT: 2012.

13:00:35 20 THE COURT: And was that high school or --

13:00:38 21 THE DEFENDANT: Yeah, high school.

13:00:41 22 THE COURT: In regards to the indictment,
13:00:45 23 prior to this hearing, have you seen a copy of the
13:00:47 24 indictment that was filed in your case?

13:00:49 25 THE DEFENDANT: Yes.

13:00:49 1 THE COURT: And did you read for yourself
13:00:51 2 Count 1 and Count 2?

13:00:53 3 THE DEFENDANT: Yes.

13:00:54 4 THE COURT: And did Mr. Redmond also go over
13:00:56 5 those charges with you?

13:00:56 6 THE DEFENDANT: Yes.

13:00:57 7 THE COURT: Did he inform you of what those
13:00:59 8 charges were about?

13:01:00 9 THE DEFENDANT: Yes.

13:01:01 10 THE COURT: Did he also inform you of the
13:01:03 11 consequences that could take place by you pleading
13:01:05 12 guilty to those charges?

13:01:06 13 THE DEFENDANT: Yes.

13:01:07 14 THE COURT: At this time, are you requesting
13:01:10 15 that I read to you the entire charge as it's set out in
13:01:14 16 Counts 1 and 2?

13:01:15 17 THE DEFENDANT: I mean, that doesn't really
13:01:18 18 matter. I mean, I know what they are.

13:01:20 19 THE COURT: Well, if you want, I can read
13:01:22 20 'em to you.

13:01:23 21 THE DEFENDANT: I mean no, no reason to.

13:01:24 22 THE COURT: Mr. Redmond, is it your
13:01:25 23 statement to the court that you've gone over Counts 1
13:01:28 24 and 2 with your client, that you've informed him of the
13:01:31 25 nature of those charges, as well as the consequences of

13:01:34 1 entering a guilty plea to those charges?

13:01:37 2 MR. REDMOND: I have, Your Honor.

13:01:37 3 THE COURT: Mr. Booker, at this time, how do
13:01:39 4 you plead to Count 1, guilty or not guilty?

13:01:42 5 THE DEFENDANT: Guilty.

13:01:43 6 THE COURT: And how do you plead to Count 2,
13:01:46 7 guilty or not guilty?

13:01:47 8 THE DEFENDANT: Guilty.

13:01:47 9 THE COURT: And I understand that's why
13:01:49 10 you're here. I would let you know, though, at this
13:01:52 11 point in the hearing, I am going to inform you that
13:01:56 12 under the law, you do have the right to plead not
13:01:58 13 guilty, and if you chose to plead not guilty, then you'd
13:02:02 14 have the following Constitutional rights apply to your
13:02:05 15 case, and I'm going to go over those with you at this
13:02:08 16 time. Do you understand that if you pled not guilty,
13:02:12 17 you'd have the right to a speedy and public trial by a
13:02:14 18 jury?

13:02:15 19 THE DEFENDANT: I do.

13:02:16 20 THE COURT: And do you understand that at
13:02:18 21 that trial, and at all stages of the proceedings, you'd
13:02:21 22 have the right to the assistance of a lawyer?

13:02:22 23 THE DEFENDANT: I do.

13:02:23 24 THE COURT: And do you understand that if
13:02:25 25 there was a trial, you'd have the right to see and hear

13:02:27 1 all witnesses that might be called to testify against
13:02:30 2 you, and that you'd have the right to cross-examine,
13:02:34 3 which means to question those witnesses?

13:02:35 4 THE DEFENDANT: I do.

13:02:37 5 THE COURT: And do you also understand that
13:02:40 6 if there was a trial, you'd have the right to use the
13:02:42 7 power of the court to bring forward any evidence in your
13:02:44 8 favor, including calling any witnesses that might
13:02:48 9 testify on your behalf?

13:02:49 10 THE DEFENDANT: I do.

13:02:50 11 THE COURT: Do you also understand that if
13:02:51 12 there was a trial, you'd have the right not to be
13:02:54 13 compelled to incriminate yourself by taking the witness
13:02:57 14 stand, and if you chose not to testify, then that fact
13:03:02 15 could not be used against you?

13:03:03 16 THE DEFENDANT: I do.

13:03:04 17 THE COURT: Do you also understand that at a
13:03:06 18 trial, your innocence would be presumed until such time,
13:03:10 19 if ever, the government established your guilt beyond a
13:03:15 20 reasonable doubt to the satisfaction of a judge or jury?

13:03:17 21 THE DEFENDANT: I do.

13:03:18 22 THE COURT: Do you also understand that if
13:03:20 23 there was a trial, you'd have the right to appeal any
13:03:22 24 errors or mistakes that took place during your trial?

13:03:26 25 THE DEFENDANT: I do.

13:03:27 1 THE COURT: Now, do you understand these
13:03:28 2 rights that are guaranteed to you under the law if you
13:03:31 3 wished to plead not guilty?

13:03:32 4 THE DEFENDANT: I do.

13:03:34 5 THE COURT: And do you understand that by
13:03:35 6 entering a plea of guilty, you'd be waiving or giving up
13:03:39 7 all of these Constitutional rights that I've just
13:03:41 8 explained to you?

13:03:42 9 THE DEFENDANT: Yes.

13:03:43 10 THE COURT: And do you further realize that
13:03:45 11 by entering a plea of guilty, you would be admitting all
13:03:48 12 of the facts alleged in the charges?

13:03:51 13 THE DEFENDANT: Yes.

13:03:51 14 THE COURT: Do you also realize you'd be
13:03:54 15 waiving your right to a trial on these charges?

13:03:56 16 THE DEFENDANT: Yes.

13:03:57 17 THE COURT: In fact, do you understand there
13:03:59 18 would be no trial of any kind either before a court or a
13:04:03 19 jury?

13:04:03 20 THE DEFENDANT: I do.

13:04:04 21 THE COURT: After going over these
13:04:06 22 Constitutional rights that you would have if you chose
13:04:08 23 to plead not guilty, at this time do you still want to
13:04:12 24 plead guilty to Counts 1 and 2?

13:04:14 25 THE DEFENDANT: I do.

13:04:14 1 THE COURT: I need to let you know there's
13:04:16 2 certain maximum penalties and punishments you could
13:04:19 3 receive by pleading guilty, and these are penalties the
13:04:23 4 law would impose on you. I'm going to go over those
13:04:28 5 with you shortly. Before I do, it's my understanding
13:04:32 6 that at a certain point in our hearing, you,
13:04:35 7 Mr. Redmond, and the government are going to tell the
13:04:37 8 court there's an 11 C 1 C plea agreement in your case.
13:04:42 9 Is that correct?

13:04:42 10 THE DEFENDANT: Yes.

13:04:43 11 THE COURT: And in your 11 C 1 C plea
13:04:45 12 agreement, you and the government are going to recommend
13:04:50 13 a sentence of 360 months in prison on Count 1,
13:04:57 14 240 months in prison on Count 2, with those times to run
13:05:02 15 concurrent with each other, which means at the same
13:05:06 16 time, lifetime supervised release on Count 1,
13:05:11 17 three years supervised release on Count 2, again,
13:05:15 18 concurrent with Count 1, no fine or restitution, and a
13:05:21 19 mandatory special assessment of \$200. Is that your
13:05:26 20 understanding?

13:05:26 21 THE DEFENDANT: Yes.

13:05:27 22 THE COURT: Now, I need to let you know
13:05:29 23 before I tell you what the law says you can be sentenced
13:05:32 24 to, that today, Mr. Booker, and not just in your case
13:05:37 25 but in every case that this court has with an 11 C 1 C

13:05:41 1 plea agreement, that today, the court's not able to tell
13:05:44 2 you whether the court will go along with that
13:05:46 3 recommendation, because in every case, again, not just
13:05:50 4 yours, but every case, the court waits until it's
13:05:54 5 reviewed a presentence investigation report, and that
13:05:57 6 hasn't been completed yet. When it is finished, the
13:06:00 7 court reviews it, we set this for sentencing. Then we
13:06:03 8 come back for your sentencing hearing, and at our
13:06:07 9 sentencing hearing, I would tell you whether or not the
13:06:08 10 court would go along with it. If the court went along
13:06:11 11 with it, then it would sentence you to what you're going
13:06:13 12 to recommend. Now, if the court does not go along with
13:06:17 13 it, then at that point, you would have the right to tell
13:06:21 14 me to either go ahead and sentence you, or you'd have
13:06:25 15 the right to tell me that you wanted to withdraw your
13:06:28 16 plea of guilty. Do you understand that?

13:06:30 17 THE DEFENDANT: I do.

13:06:31 18 THE COURT: So, for purposes of our hearing
13:06:33 19 today at this moment, I am going to let you know that
13:06:37 20 the law imposes the following penalties on these
13:06:40 21 charges. Do you understand that in regards to Count 1,
13:06:44 22 you could receive a term of imprisonment of life
13:06:47 23 imprisonment?

13:06:49 24 THE DEFENDANT: I do.

13:06:50 25 THE COURT: And following any term of

13:06:51 1 imprisonment, you'd receive a term of supervised release
13:06:55 2 for life on Count 1?

13:06:56 3 THE DEFENDANT: I do.

13:06:57 4 THE COURT: And you also could receive a
13:06:59 5 fine of up \$250,000? Do you understand that?

13:07:04 6 THE DEFENDANT: Yes.

13:07:05 7 THE COURT: And in regards to Count 2, do
13:07:11 8 you understand that you could receive a term of
13:07:12 9 imprisonment of not less than five years nor more than
13:07:16 10 20 years?

13:07:16 11 THE DEFENDANT: I understand.

13:07:17 12 THE COURT: And following any term of
13:07:18 13 imprisonment, for Count 2, you could receive a term of
13:07:22 14 supervised release for three years?

13:07:25 15 THE DEFENDANT: I do.

13:07:26 16 THE COURT: And you could receive a fine of
13:07:28 17 \$250,000?

13:07:31 18 THE DEFENDANT: I do.

13:07:31 19 THE COURT: And in regards to both Count 1
13:07:33 20 and Count 2, there would be a \$100 mandatory special
13:07:38 21 assessment assessed for each count. Do you understand
13:07:40 22 that?

13:07:41 23 THE DEFENDANT: Yes.

13:07:41 24 THE COURT: And in regards to that term of
13:07:44 25 supervised release which follows any term of

13:07:47 1 imprisonment, do you understand that if you violated the
13:07:50 2 conditions of your supervised release, and it was
13:07:53 3 revoked or taken away from you, that you could be
13:07:56 4 imprisoned for an additional term of imprisonment?

13:07:58 5 THE DEFENDANT: Yes.

13:07:59 6 THE COURT: Now, do you understand that the
13:08:02 7 offenses that you're pleading guilty to are felony
13:08:05 8 offenses?

13:08:05 9 THE DEFENDANT: Yes.

13:08:06 10 THE COURT: And do you understand that if
13:08:08 11 your plea is accepted, you will be found guilty of those
13:08:11 12 felony offenses?

13:08:12 13 THE DEFENDANT: Yes.

13:08:13 14 THE COURT: And do you understand that such
13:08:14 15 a finding may deprive you of valuable civil rights such
13:08:18 16 as the right to vote, the right to hold public office,
13:08:23 17 the right to serve on a jury, and the right to possess
13:08:25 18 any kind of firearm?

13:08:27 19 THE DEFENDANT: Yes.

13:08:28 20 THE COURT: At the time of these offenses,
13:08:31 21 the ones you're pleading guilty to in Counts 1 and 2,
13:08:35 22 were you on probation or parole in this or any other
13:08:37 23 court?

13:08:37 24 THE DEFENDANT: No.

13:08:39 25 THE COURT: Now, do you understand these

13:08:41 1 possible penalties and punishments you could receive by
13:08:44 2 pleading guilty?

13:08:46 3 THE DEFENDANT: Yes.

13:08:46 4 THE COURT: And after having gone over them
13:08:48 5 with you, at this time do you still want to plead guilty
13:08:50 6 to Counts 1 and 2?

13:08:51 7 THE DEFENDANT: Yes.

13:08:52 8 THE COURT: At this time I'm going to give
13:08:55 9 you a brief explanation of the sentencing guidelines.
13:08:58 10 And these guidelines would only come into effect if the
13:09:01 11 court were not to go along with your 11 C 1 C plea
13:09:06 12 agreement recommendation. If the court did approve the
13:09:10 13 plea agreement, then your sentence would be the sentence
13:09:13 14 that you and the government are going to recommend. Do
13:09:15 15 you understand that?

13:09:16 16 THE DEFENDANT: Yes.

13:09:16 17 THE COURT: United States Sentencing
13:09:19 18 Commission has issued guidelines for judges to consider
13:09:22 19 in determining the appropriate sentence in a criminal
13:09:24 20 case. Have you and Mr. Redmond discussed how the
13:09:28 21 sentencing commission guidelines might apply to your
13:09:30 22 case?

13:09:33 23 (Defendant conferring with attorney off the
13:09:44 24 record.)

13:09:44 25 THE DEFENDANT: Yeah, he showed it to me.

13:09:46 1 THE COURT: And in regards to him showing it
13:09:48 2 to you, did he discuss with you how they might apply to
13:09:51 3 your case?

13:09:51 4 THE DEFENDANT: Yes.

13:09:52 5 THE COURT: And do you understand the court
13:09:54 6 will not be able to determine the guideline sentence
13:09:57 7 that might apply to your case until after a presentence
13:10:00 8 investigation report has been completed and you and the
13:10:03 9 government have had an opportunity to challenge the
13:10:05 10 facts reported by the probation officer? Do you
13:10:09 11 understand that?

13:10:09 12 THE DEFENDANT: Yes.

13:10:10 13 THE COURT: And do you understand that in
13:10:11 14 determining your sentence, the court has an obligation
13:10:15 15 to calculate the applicable sentencing guideline range,
13:10:19 16 and to consider that range, as well as consider possible
13:10:22 17 departures under the sentencing guidelines, and other
13:10:25 18 sentencing factors under 18 USC Section 3553 A? Do you
13:10:32 19 understand that?

13:10:33 20 THE DEFENDANT: Yes.

13:10:33 21 THE COURT: Do you understand that there's
13:10:35 22 no limitation on the information the court could
13:10:37 23 consider at the time of sentencing concerning your
13:10:40 24 background, character, and conduct, provided that the
13:10:44 25 information was reliable?

13:10:45 1 THE DEFENDANT: Yes.

13:10:46 2 THE COURT: Do you also understand this
13:10:48 3 includes relevant information relating to any counts
13:10:52 4 against you to which you've not pled guilty or been
13:10:55 5 convicted, as well as all other uncharged related
13:10:58 6 criminal activity?

13:10:59 7 THE DEFENDANT: Yes.

13:11:00 8 THE COURT: Do you also understand under
13:11:01 9 some circumstances, you or the government may have the
13:11:04 10 right to appeal any sentence the court may impose,
13:11:08 11 subject to any waiver of appeal you may agree to in a
13:11:12 12 plea agreement?

13:11:12 13 THE DEFENDANT: Yes.

13:11:13 14 THE COURT: After going over this brief
13:11:15 15 explanation of the sentencing guidelines, at this time
13:11:18 16 do you still want to plead guilty to Counts 1 and 2?

13:11:21 17 THE DEFENDANT: Yes.

13:11:21 18 THE COURT: Is your plea of guilty the
13:11:25 19 result of a plea agreement between yourself, your
13:11:27 20 attorney, and the government?

13:11:28 21 THE DEFENDANT: Yes.

13:11:29 22 THE COURT: Is that correct, Mr. Redmond?

13:11:32 23 MR. REDMOND: It is, Your Honor.

13:11:33 24 THE COURT: What I'll do, Mr. Booker, is ask
13:11:35 25 the government's attorney at this time to say out loud

13:11:37 1 what the plea agreement is. I need for you to listen to
13:11:40 2 what he says, because when he's finished, I'm going to
13:11:44 3 ask you some follow-up questions. Mr. Mattivi.

13:11:46 4 MR. MATTIVI: Your Honor, as you've all
13:11:48 5 ready correctly stated, this is a guilty plea pursuant
13:11:51 6 to Federal Rule of Criminal Procedure 11 C 1 C. The
13:11:55 7 defendant has agreed to plead guilty to Counts 1 and 2
13:11:58 8 of the indictment, and to stipulate to the application
13:12:01 9 of Guideline Section 3 A 1.4 commonly referred to as the
13:12:07 10 terrorism enhancement. In exchange for that guilty
13:12:11 11 plea, the parties have jointly agreed to recommend the
13:12:14 12 sentence that you again have all ready accurately set
13:12:16 13 forth into the record. On Count 1, it's an agreed
13:12:20 14 sentence of 360 months in prison followed by a lifetime
13:12:25 15 of supervised release, no fine or restitution, and a
13:12:29 16 mandatory special assessment of \$100. On Count 2, we've
13:12:34 17 jointly agreed to recommend a sentence of 240 months in
13:12:37 18 prison concurrent with Count 1, three years of
13:12:40 19 supervised release also concurrent with the supervised
13:12:44 20 release on Count 1, no fine or restitution, and again, a
13:12:48 21 mandatory special assessment of \$100 on that count as
13:12:51 22 well.

13:13:10 23 THE COURT: Any other provisions of the plea
13:13:13 24 agreement that you want to mention for the record or --

13:13:15 25 MR. MATTIVI: The only thing -- obviously,

13:13:17 1 they're set forth in detail in the plea agreement.
13:13:19 2 Typically, we don't go through them in detail, at least
13:13:22 3 here in the Topeka courthouse. The only other thing I
13:13:24 4 would mention would be the waiver of appeal. Everything
13:13:27 5 else, I think we can rely on what's in the written plea
13:13:30 6 agreement, Your Honor.

13:13:31 7 THE COURT: Mr. Redmond.

13:13:32 8 MR. REDMOND: That's all accurate, Your
13:13:33 9 Honor.

13:13:34 10 THE COURT: Mr. Booker, is that your
13:13:35 11 understanding of the plea agreement?

13:13:36 12 THE DEFENDANT: Yes.

13:13:37 13 THE COURT: I am going to ask you about one
13:13:39 14 of the provisions in the plea agreement, and just for
13:13:42 15 the record, Mr. Booker, did you see the plea agreement?

13:13:46 16 THE DEFENDANT: Yes.

13:13:46 17 THE COURT: Did you read all of the
13:13:48 18 provisions yourself?

13:13:49 19 THE DEFENDANT: Yes.

13:13:49 20 THE COURT: And did Mr. Redmond also go over
13:13:51 21 those with you?

13:13:52 22 THE DEFENDANT: Yes.

13:13:53 23 THE COURT: And in regards to all of those
13:13:55 24 provisions, at this time -- after having gone over them
13:13:59 25 with Mr. Redmond, at this time, are you requesting the

13:14:02 1 court approve your plea agreement?

13:14:04 2 THE DEFENDANT: Yes.

13:14:04 3 THE COURT: One of the provisions I'm going
13:14:06 4 to ask you in particular is found on Page 7, I believe,
13:14:14 5 Page 10 -- I'm sorry, Page 7, Paragraph 10. It's
13:14:20 6 entitled waiver of appeal and collateral attack, and I
13:14:24 7 am going to read to you the first sentence, which is,
13:14:26 8 defendant knowingly and voluntarily waives any right to
13:14:28 9 appeal or collaterally attack any matter in connection
13:14:32 10 with this prosecution, his conviction, or the components
13:14:35 11 of the sentence to be imposed herein, including the
13:14:39 12 length and conditions of supervised release as well as
13:14:42 13 any sentence imposed upon a revocation of supervised
13:14:45 14 release. Then it continues on to Page 8 with other
13:14:50 15 information. My question to you, Mr. Booker, is prior
13:14:53 16 to our hearing, did you have a chance to go over this
13:14:55 17 paragraph with Mr. Redmond?

13:14:57 18 THE DEFENDANT: Yes.

13:14:58 19 THE COURT: And after having gone over it
13:14:59 20 with him, at this time are you requesting the court
13:15:02 21 approve this paragraph as part of your plea agreement?

13:15:04 22 THE DEFENDANT: Yes.

13:15:05 23 THE COURT: Now, do you understand that if
13:15:08 24 you had wanted to, you could have had a jury trial
13:15:10 25 regarding Counts 1 and 2?

13:15:12 1 THE DEFENDANT: Yes.

13:15:12 2 THE COURT: And at the end of your trial,
13:15:14 3 you could have appealed any errors or mistakes that had
13:15:17 4 taken place?

13:15:17 5 THE DEFENDANT: Yes.

13:15:18 6 THE COURT: Now, do you understand that if
13:15:20 7 the court approves this paragraph, that other than the
13:15:24 8 exceptions that are set out in that paragraph, you'd be
13:15:28 9 giving up any right you might have to appeal anything
13:15:30 10 having to do with your case?

13:15:31 11 THE DEFENDANT: Yes.

13:15:32 12 THE COURT: Now, has anyone forced or
13:15:36 13 threatened you to have that paragraph in your plea
13:15:38 14 agreement?

13:15:38 15 THE DEFENDANT: No.

13:15:38 16 THE COURT: Are you telling the court you're
13:15:39 17 asking this court of your own free will to approve that
13:15:42 18 paragraph as part of your plea agreement?

13:15:44 19 THE DEFENDANT: Yes.

13:15:44 20 THE COURT: In the plea agreement, the
13:15:45 21 government agrees to make certain recommendations to the
13:15:47 22 court, but I want you to understand those are merely
13:15:50 23 recommendations, and that the final determinations on
13:15:53 24 any of those will be made by the court. Do you
13:15:55 25 understand that?

13:15:57 1 THE DEFENDANT: I'm sorry, I didn't hear
13:15:59 2 that.

13:15:59 3 THE COURT: I'll repeat that. In the plea
13:16:02 4 agreement, the government agrees to make certain
13:16:04 5 recommendations to the court, but I want you to
13:16:07 6 understand those are merely recommendations, and that
13:16:10 7 the final determination on any of those will be made by
13:16:13 8 the court. Do you understand that?

13:16:15 9 THE DEFENDANT: Yes.

13:16:16 10 THE COURT: After going over these questions
13:16:18 11 involving your plea agreement, at this time do you still
13:16:20 12 want to plead guilty to Counts 1 and 2?

13:16:23 13 THE DEFENDANT: Yes.

13:16:24 14 THE COURT: Other than the plea agreement
13:16:26 15 that we've just gone over here in court, has anyone made
13:16:30 16 any sort of promise to you in order for you to enter
13:16:33 17 this plea of guilty?

13:16:33 18 THE DEFENDANT: No.

13:16:34 19 THE COURT: Has anyone forced or threatened
13:16:37 20 you in order for you to plead guilty?

13:16:39 21 THE DEFENDANT: No.

13:16:39 22 THE COURT: Are you telling the court you're
13:16:42 23 entering this plea of guilty freely and voluntarily and
13:16:45 24 of your own free will?

13:16:46 25 THE DEFENDANT: Yes.

13:16:47 1 THE COURT: And are you telling the court
13:16:48 2 that the reason you're entering a plea of guilty to
13:16:51 3 these offenses is because you are, in fact, guilty of
13:16:55 4 the offenses charged?

13:16:56 5 THE DEFENDANT: Yes.

13:16:57 6 THE COURT: Now, have you gone over with
13:17:00 7 Mr. Redmond a petition to enter a plea of guilty?

13:17:03 8 THE DEFENDANT: Yes.

13:17:04 9 THE COURT: Now, has he informed you of
13:17:06 10 what's contained in that petition?

13:17:08 11 THE DEFENDANT: Yes.

13:17:08 12 THE COURT: Has he also informed you of the
13:17:09 13 consequences of you signing that document?

13:17:11 14 THE DEFENDANT: Yes.

13:17:12 15 THE COURT: Now, do you have any questions
13:17:14 16 about any of the matters covered in that petition?

13:17:17 17 THE DEFENDANT: No.

13:17:18 18 THE COURT: And do you understand that the
13:17:20 19 answers you make to the questions in that petition as
13:17:23 20 well as the answers you've given the court today are all
13:17:25 21 being made under oath?

13:17:27 22 THE DEFENDANT: Yes.

13:17:27 23 THE COURT: Mr. Redmond, is it your
13:17:29 24 statement to the court that you've gone over the plea
13:17:32 25 petition with your client, you've informed him of the

13:17:34 1 contents of the petition, as well as the consequences of
13:17:37 2 him signing the document?

13:17:38 3 MR. REDMOND: I have, sir.

13:17:39 4 THE COURT: Mr. Booker, if you've not signed
13:17:41 5 the petition, you may do so at this time.

13:17:56 6 (Defendant signing plea petition in open
13:19:08 7 court.)

13:19:08 8 MR. REDMOND: May I approach, Your Honor?

13:19:09 9 THE COURT: Yes. Thank you. At this time,
13:19:15 10 Mr. Booker, the court is going to ask the government's
13:19:18 11 attorney to state what the government's evidence would
13:19:22 12 have been if your case had gone to trial. I need for
13:19:25 13 you to listen to the government's comments regarding
13:19:27 14 that, because when they're finished, I am going to ask
13:19:31 15 you some follow-up questions.

13:19:32 16 MR. REDMOND: Given the length of the
13:19:34 17 factual basis, Your Honor, would the court be okay with
13:19:36 18 me asking Mr. Booker -- or voir diring Mr. Booker about
13:19:38 19 the contents of the factual basis?

13:19:39 20 THE COURT: Mr. Mattivi, any objection?

13:19:42 21 MR. MATTIVI: No, no objection to that, Your
13:19:44 22 Honor.

13:19:44 23 THE COURT: Proceed.

13:19:45 24 MR. REDMOND: Muhammad, you and I have read
13:19:48 25 through the contents of the Paragraph 2 in the plea

13:19:50 1 agreement, is that fair?

13:19:50 2 THE DEFENDANT: Yes.

13:19:51 3 MR. REDMOND: And that summarizes what it is
13:19:54 4 that you're charged with doing, is that right?

13:19:56 5 THE DEFENDANT: Yes.

13:19:56 6 MR. REDMOND: And the contents of
13:19:59 7 Paragraph 2 which is entitled factual basis for guilty
13:20:02 8 plea, is that consistent with your memory of the events
13:20:05 9 that are described?

13:20:06 10 THE DEFENDANT: Yes.

13:20:07 11 MR. REDMOND: And is it consistent with the
13:20:09 12 discovery that you've seen in the case?

13:20:11 13 THE DEFENDANT: Yes.

13:20:12 14 MR. REDMOND: And is it true?

13:20:13 15 THE DEFENDANT: Yes.

13:20:16 16 MR. REDMOND: That's all I have, Your Honor.

13:20:18 17 THE COURT: Let me just follow up with some
13:20:20 18 more questions, Mr. Booker. Mr. Redmond I believe was
13:20:24 19 showing you your plea agreement, and in there, on
13:20:28 20 Page 2, Paragraph 2 is actually entitled factual basis
13:20:31 21 for the guilty plea, and then there's single spaced
13:20:35 22 paragraphs that begin on that page and continue to
13:20:39 23 Page 3, Page 4. And just following up on what he asked
13:20:44 24 you, did you have a chance to read those paragraphs for
13:20:47 25 yourself?

13:20:48 1 THE DEFENDANT: Yes.

13:20:49 2 THE COURT: And did Mr. Redmond also go over
13:20:51 3 those paragraphs with you?

13:20:55 4 THE DEFENDANT: Yes. Yeah, he did.

13:21:01 5 THE COURT: And he made some reference to
13:21:03 6 those paragraphs when he was asking you questions, and
13:21:07 7 my question to you is, in regards to what's set out
13:21:12 8 there, in regards to what you're pleading guilty to, do
13:21:16 9 you agree with what those paragraphs contain in regards
13:21:19 10 to the evidence the government would have if there was a
13:21:23 11 trial and they presented this to a jury regarding these
13:21:28 12 charges?

13:21:29 13 THE DEFENDANT: Yes.

13:21:29 14 THE COURT: And in regards to that paragraph
13:21:33 15 and that information in the paragraph, are you admitting
13:21:36 16 to the court that you did, in fact, do exactly what that
13:21:40 17 paragraph indicates that you did that makes you believe
13:21:44 18 that you're guilty of Counts 1 and 2?

13:21:46 19 THE DEFENDANT: Yes.

13:21:46 20 THE COURT: In regards, again, to your
13:21:49 21 actions and conduct as they're set out in that
13:21:54 22 paragraph, did you understand that what you were doing
13:21:56 23 was in violation of the law?

13:21:57 24 THE DEFENDANT: Yes.

13:21:58 25 THE COURT: Now, have you received any

13:22:01 1 treatment recently for any type of addiction to narcotic
13:22:04 2 drugs of any kind?

13:22:05 3 THE DEFENDANT: No.

13:22:06 4 THE COURT: Have you received any treatment
13:22:08 5 recently for any type of mental illness?

13:22:12 6 MR. REDMOND: He has, Your Honor. He's
13:22:13 7 currently on BuSpar. He has a prior and a current
13:22:18 8 diagnosis for bipolar disorder. I can represent to the
13:22:21 9 court on the record that I fully believe that Mr. Booker
13:22:24 10 is competent. He's participated in the representation,
13:22:28 11 asked good questions. I believe he's fully aware of
13:22:32 12 what he's doing here today.

13:22:33 13 THE COURT: Mr. Booker, did you hear what
13:22:36 14 Mr. Redmond said?

13:22:37 15 THE DEFENDANT: Yes.

13:22:37 16 THE COURT: Do you agree with that?

13:22:39 17 THE DEFENDANT: Yes.

13:22:40 18 THE COURT: Now, has any court ever found
13:22:42 19 that you're not competent to understand what you're
13:22:44 20 doing?

13:22:44 21 THE DEFENDANT: No.

13:22:45 22 THE COURT: And in regards to this medicine
13:22:47 23 that you're taking, this prescribed medication, is it
13:22:50 24 prescribed by a doctor?

13:22:51 25 THE DEFENDANT: Yes.

13:22:52 1 THE COURT: Are you taking it as prescribed?

13:22:54 2 THE DEFENDANT: Yes.

13:22:55 3 THE COURT: Now, by taking it, does it
13:22:58 4 interfere or prevent you from understanding what you're
13:23:01 5 doing here today?

13:23:02 6 THE DEFENDANT: No.

13:23:03 7 THE COURT: Have you, in fact, been able to
13:23:05 8 understand everything that's happened here today in
13:23:07 9 court?

13:23:08 10 THE DEFENDANT: Yes.

13:23:09 11 THE COURT: Have you been able to understand
13:23:10 12 all of the court's questions?

13:23:11 13 THE DEFENDANT: Yes.

13:23:12 14 THE COURT: And in regards to responding to
13:23:15 15 those questions, have you responded in a truthful
13:23:17 16 manner?

13:23:18 17 THE DEFENDANT: Yes.

13:23:18 18 THE COURT: And have they interfered with
13:23:20 19 your ability to speak to Mr. Redmond whenever you wanted
13:23:23 20 to today?

13:23:24 21 THE DEFENDANT: No.

13:23:24 22 THE COURT: Have they interfered with your
13:23:27 23 ability to be here of your own free will?

13:23:31 24 THE DEFENDANT: No.

13:23:32 25 THE COURT: I may all ready have asked this,

13:23:41 1 maybe I didn't, but have you received any treatment
13:23:43 2 recently for any addiction to narcotic drugs of any
13:23:45 3 kind?

13:23:45 4 THE DEFENDANT: No, no.

13:23:46 5 THE COURT: Today, other than the prescribed
13:23:49 6 medicines that you're presently taking, are you under
13:23:52 7 the influence of any other drugs, alcohol, substance or
13:23:55 8 medication of any kind?

13:23:56 9 THE DEFENDANT: No.

13:23:57 10 THE COURT: Today, are you mentally aware of
13:24:00 11 what you're doing here?

13:24:01 12 THE DEFENDANT: Yes.

13:24:01 13 THE COURT: And as such, are you asking this
13:24:03 14 court of your own free will to accept your guilty plea?

13:24:06 15 THE DEFENDANT: Yes.

13:24:06 16 THE COURT: Mr. Booker, have you had a full
13:24:08 17 opportunity to speak with Mr. Redmond regarding this
13:24:10 18 charge against you?

13:24:11 19 THE DEFENDANT: Yes.

13:24:11 20 THE COURT: And after going over the matter
13:24:14 21 thoroughly with your attorney and learning the evidence
13:24:16 22 against you, have you decided that what you want to do
13:24:20 23 is enter a plea of guilty to this charge?

13:24:22 24 THE DEFENDANT: Yes.

13:24:23 25 THE COURT: Now, is the decision to enter

13:24:25 1 this plea of guilty, is that your decision or

13:24:29 2 Mr. Redmond's?

13:24:30 3 THE DEFENDANT: Mine.

13:24:30 4 THE COURT: Are you satisfied with the
13:24:31 5 advice and services of your attorney?

13:24:33 6 THE DEFENDANT: Yes.

13:24:34 7 THE COURT: Do you have any complaints about
13:24:35 8 the way he's represented you?

13:24:36 9 THE DEFENDANT: No.

13:24:38 10 THE COURT: Do you have any complaints about
13:24:39 11 the way the court has treated you so far?

13:24:40 12 THE DEFENDANT: No.

13:24:41 13 THE COURT: Mr. Redmond, as defendant's
13:24:43 14 attorney, do you know of any lawful reason why the plea
13:24:46 15 should not be accepted?

13:24:47 16 MR. REDMOND: No, sir.

13:24:48 17 THE COURT: If there's nothing else, the
13:24:50 18 court is satisfied and finds that defendant knowingly,
13:24:55 19 understandingly and voluntarily waives his
13:24:56 20 Constitutional rights, that he's entering his plea of
13:24:59 21 guilty freely and voluntarily, that he understands the
13:25:01 22 nature of the charges, his rights in regards to the
13:25:04 23 charges, and also the consequences of his plea. The
13:25:09 24 court further finds that there is a factual basis for
13:25:13 25 his plea of guilty to the crime charged, that he was

13:25:16 1 mentally responsible at the time of the commission of
13:25:18 2 the offenses, that he's mentally competent at this time
13:25:21 3 to enter his plea of guilty. Therefore, defendant's
13:25:24 4 plea of guilty to Counts 1 and 2 is accepted, and he is
13:25:30 5 found guilty of the offenses charged. As I mentioned
13:25:34 6 before, Mr. Booker, prior to you being sentenced, a
13:25:37 7 presentence investigation report needs to be completed,
13:25:40 8 which means someone from the probation office will
13:25:43 9 contact you to set up a meeting. If you want, you can
13:25:45 10 have Mr. Redmond present during that meeting.
13:25:49 11 Mr. Redmond will tell you that anything you say during
13:25:51 12 that meeting could have an impact on your sentence.
13:25:54 13 Once the report is finished, you'll be given a chance to
13:25:57 14 review it. If there's anything in there that you want
13:26:00 15 to challenge and/or object to, you can. For counsel,
13:26:03 16 once that report is available and all objections and
13:26:06 17 responses to objections have been filed, or the time
13:26:08 18 period in which to do so has expired, counsel shall
13:26:11 19 contact the court to set the case for sentencing.
13:26:16 20 Anything else from the government?

13:26:17 21 MR. MATTIVI: Nothing further from the
13:26:18 22 government, Your Honor. Thank you.

13:26:19 23 THE COURT: Anything else from defendant?

13:26:21 24 MR. REDMOND: No, Your Honor. Thank you.

13:26:22 25 THE COURT: If there's nothing else, this

13:26:23

1 hearing's adjourned. Thank you.

13:26:25

2 (Whereupon, court recessed proceedings.)

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C E R T I F I C A T E

I, Nancy Moroney Wiss, a Certified Shorthand Reporter and the regularly appointed, qualified and acting official reporter of the United States District Court for the District of Kansas, do hereby certify that as such official reporter, I was present at and reported in machine shorthand the above and foregoing proceedings.

I further certify that the foregoing transcript, consisting of 41 typewritten pages, is a full, true, and correct reproduction of my shorthand notes as reflected by this transcript.

SIGNED July 20, 2016.

S/ _____
Nancy Moroney Wiss, CSR, CM, FCRR