

FILED

NOV 24 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY *[Signature]*
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

United States of America

§
§
§
§
§

vs.

Criminal No.: SA:20-CR-00488(1)-OLG

(1) Kristopher Sean Matthews
Defendant

MEMORANDUM AND RECOMMENDATION

Pursuant to the referral by the district judge, Defendant, Defendant's attorney and the attorney for the government appeared before the undersigned magistrate judge via video teleconference on November 24, 2020, for the purpose of defendant's arraignment and entry of a plea of guilty.

At the hearing, Defendant entered a guilty plea as stated on the record. The magistrate judge addressed Defendant personally and, after assuring that defendant was competent to proceed and had consented to pleading guilty before a magistrate judge and via video teleconference, admonished Defendant in accordance with Federal Rule of Criminal Procedure 11 of the nature of the charge, the possible penalties, Defendant's constitutional and statutory rights, and the consequences of pleading guilty. The magistrate judge specifically addressed Defendant's desire to waive personal appearance at the plea in light of the ongoing COVID-19 pandemic, as contemplated in the CARES Act § 15002(b)(2). Defendant acknowledged understanding these matters and admonishments. The undersigned also addressed defendant concerning the voluntariness of the guilty plea. Finally, the undersigned assured the existence of a factual basis for the guilty plea.

Based upon the answers to the undersigned's questions from defendant and from counsel, the undersigned magistrate judge makes the following findings:

1. Defendant is competent to stand trial;
2. Defendant has consented to plead guilty before a magistrate judge;
3. Defendant fully understands the nature of the charge and the penalties;
4. Defendant understands his or her constitutional and statutory rights and desires to waive them;
5. Defendant's plea is freely, knowingly and voluntarily made; and
6. there is a factual basis for the plea.

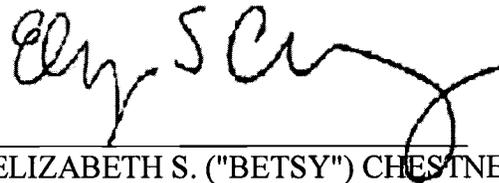
Further, the magistrate judge finds that Defendant knowingly and voluntarily waived the right to be present in court for the plea hearing and consented to a plea hearing conducted via video teleconference. A signed, written waiver memorializes these matters and will be placed on the docket.

RECOMMENDATION

It is, therefore, the recommendation of the Magistrate Judge that Defendant's guilty plea be **ACCEPTED** and that a judgment of guilt be entered against defendant.

Further, it is recommended that the District Judge adopt the findings above relating to the necessity for conducting the plea proceedings by video teleconference because, for the reasons stated above, this case cannot be further delayed without serious harm to the interests of justice and these proceedings should therefore be conducted via video teleconference.

SIGNED November 24, 2020.

A handwritten signature in black ink, appearing to read "Elizabeth S. Chestney". The signature is written in a cursive style with a large, sweeping flourish at the end.

ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE