

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CR No. 21-437
)	Washington, D.C.
vs.)	June 30, 2021
)	2:12 p.m.
MARK GRODS,)	
)	
Defendant.)	
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TRANSCRIPT OF PLEA AGREEMENT HEARING PROCEEDINGS
BEFORE THE HONORABLE AMIT P. MEHTA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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P R O C E E D I N G S

COURTROOM DEPUTY: All rise. The Honorable
Amit P. Mehta presiding.

THE COURT: Please be seated, everyone.

COURTROOM DEPUTY: Your Honor, this is Criminal
Case No. 21-437, United States of America versus Mark Grods.
Troy Edwards for the government.
Brian Lockwood for the defense.

Christine Schuck on behalf of Pretrial Services.

The defendant is present for this hearing.

THE COURT: Okay. Counsel, good afternoon again.
Mr. Grods, am I pronouncing your last name
correctly?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Mr. Grods, welcome, and good afternoon
to you.

All right. I understand that Mr. Grods is
prepared to enter a plea; is that correct?

MR. LOCKWOOD: Yes, Your Honor.

THE COURT: Okay.

Just two things before we proceed; one is, I think
the plea agreement just needs a small correction -- and it's
a minor one. On page 4, the top of page 4 indicates the
fine range for this as 20,000 to \$250,000. I believe, I
double-checked, but I think it's 20,000 to 200,000. And I

1 don't know if anybody has the Guidelines to just verify
2 that, but I'm pretty sure that's what it is.

3 MR. EDWARDS: That's correct, Your Honor.

4 THE COURT: Okay.

5 Why don't you all just take a quick two seconds to
6 interlineate the plea agreement to make that change. And
7 I'll ask Mr. Grods to just initial it with his counsel and
8 have the government counsel initial the change as well.

9 MR. EDWARDS: Yes, Your Honor.

10 (Pause)

11 THE COURT: Okay. Thanks, everyone.

12 And then one other preliminary matter, and I did
13 the same thing with Mr. Young's counsel.

14 Mr. Lockwood, if I could just confirm with you a
15 few legal issues and that there's no objection from the
16 defense regarding these legal issues, and the first is, with
17 respect to 18 U.S.C. 1512(c)(2), that's the obstruction of
18 an official proceeding, the defendant is conceding that an
19 official proceeding, or I should say, that the certification
20 of the Electoral College constitutes an official proceeding
21 for purposes of that statute?

22 MR. LOCKWOOD: Yes, Your Honor.

23 THE COURT: Okay.

24 And then with respect to Guidelines 2J1.2 that
25 applies here, there are a couple of increased levels

1 associated with the offense that your client is pleading to;
2 the first is any offense that involved causing or
3 threatening to cause physical injury to a person or property
4 damage in order to obstruct the administration of justice.

5 You agree that this offense caused or threatened
6 to cause property damage; is that right?

7 MR. LOCKWOOD: Yes, Your Honor.

8 THE COURT: And then finally with respect to the
9 administration of justice component, are you in agreement
10 that the offense caused unnecessary expenditure of
11 substantial government resources and, therefore, qualifies
12 as a substantial interference with the administration of
13 justice?

14 MR. LOCKWOOD: Yes, Your Honor.

15 THE COURT: Okay. Terrific.

16 With those preliminaries out of the way, does
17 anybody want to raise any other issues before I turn to
18 Mr. Grods and his counsel?

19 MR. EDWARDS: Nothing from the government,
20 Your Honor.

21 THE COURT: All right.

22 MR. LOCKWOOD: One matter from the defense.

23 THE COURT: All right. Mr. Lockwood.

24 MR. LOCKWOOD: Absolutely purely a housekeeping
25 measure: Your Honor ordered me to file a notice of

1 appearance, which I am unable to do because the District's
2 case filing -- case management coordinator is on holiday
3 until next Tuesday. With the Court's permission, I'll wait
4 until I am actually -- until she approves me and I'll do it
5 at that time.

6 THE COURT: Not a problem, Mr. Lockwood.

7 MR. LOCKWOOD: Thank you.

8 THE COURT: And I don't know if you have a hard
9 copy of it with you that you intend to file. If you do, you
10 can just give it to our Courtroom Deputy and we'll take care
11 of the filing. But if it's a matter of not even having a
12 hard copy, you can file it with when you're able to do that.

13 MR. LOCKWOOD: Thank you, Judge.

14 THE COURT: Okay.

15 All right. Why don't you and Mr. Grods come on up
16 to the podium here.

17 All right. Mr. Grods, I understand from your
18 counsel that you wish to enter a guilty plea this afternoon;
19 is that correct, sir?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right.

22 Now, Mr. Grods, in order for me to accept your
23 guilty plea, sir, I need to ask you a series of questions.
24 Those questions are designed to satisfy me that you
25 understand the terms of your plea agreement and that you

1 understand what rights you're giving up by entering the
2 plea, okay?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: If at any point in time you don't
5 understand a question I have asked you, feel free to ask me
6 to repeat myself. Is that understood?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And if at any point in time you wish
9 to consult with your counsel before you answer a question,
10 you are free to do that. Is that understood?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right.

13 Now, Mr. Grods, before I can start asking you
14 these questions, I have to place you under oath. So
15 I'm going to ask you to please raise your right hand and
16 listen to the Courtroom Deputy.

17 COURTROOM DEPUTY: Mr. Grods, raise your right
18 hand.

19 (Defendant is placed under oath.)

20 COURTROOM DEPUTY: Thank you.

21 THE COURT: All right.

22 MR. EDWARDS: I apologize for interrupting.

23 I just wanted to ask, for a procedural matter,
24 whether he needed to be arraigned on the information before
25 the plea.

1 THE COURT: Yes, I had forgotten that, so
2 thank you for the reminder. So let's go ahead and just do
3 that.

4 Mr. Grods, what we need to do first is arraign
5 you; that is, announce the charges that have been filed
6 against you in open court and go through that process.

7 And, Mr. Lockwood, if you want to just enter a
8 plea -- it's up to you what plea you want to enter, but if
9 you want to enter a plea of not guilty pending the outcome
10 of the Rule 11 colloquy, that's fine at this point, okay?

11 MR. LOCKWOOD: Yes, sir.

12 COURTROOM DEPUTY: May the record reflect that the
13 defendant, through counsel, has received a copy of the
14 information.

15 Mr. Grods, in Criminal Case No. 21-437, you've
16 been charged with that following counts:

17 Count 1, conspiracy, in violation of Title 18
18 United States Code Section 371;

19 And Count 2, obstruction of an official proceeding
20 and aiding and abetting, in violation of Title 18
21 United States Code Sections 1512(c)(2) and Section 2.

22 Do you wish to waive a formal reading of the
23 information, and for purposes of this arraignment, how do
24 you wish to plead?

25 MR. LOCKWOOD: We would waive the reading and

1 enter a plea of not guilty pending the outcome of the
2 hearing.

3 THE COURT: Okay. Thank you, Counsel.

4 All right. Mr. Grods, let's return to the
5 questions associated with the plea.

6 So you've now been placed under oath.

7 Do you understand, sir, that what that means is that if you
8 testify falsely, you could be prosecuted for perjury or
9 making false statements?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right.

12 What is your date of birth, Mr. Grods?

13 THE DEFENDANT: November 21st, 1966.

14 THE COURT: And how far did you go in school, sir?

15 THE DEFENDANT: Some college.

16 THE COURT: All right.

17 And have you taken any drugs or medications or
18 anything else in the last two days that might make it
19 difficult for you to follow these court proceedings?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: And is there any other reason that you
22 can think of that might make it difficult for you to follow
23 these court proceedings?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: All right. Does counsel for either

1 side have any reason to question Mr. Grods' competence to
2 enter a plea at this time?

3 MR. EDWARDS: None from the government.

4 MR. LOCKWOOD: None from defense.

5 THE COURT: All right.

6 Based then upon my inquiries of Mr. Grods as well
7 as the representations of counsel, I find that he is fully
8 competent and capable of entering an informed plea.

9 Mr. Grods, were you born in the United States?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: And have you had enough time to talk
12 with your lawyer about the plea you wish to enter into?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And are you satisfied with the
15 services that Mr. Lockwood has provided you?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right.

18 I understand, Mr. Grods, that instead of going to
19 trial, you wish to plead guilty to a criminal information.
20 That's just a way of charging you. It charges you with two
21 counts: Conspiracy, in violation of 18 United States
22 Code 371; and Count 2, which charges you with obstruction of
23 an official proceeding, in violation of 18 U.S.C.
24 1512(c)(2); is that correct, sir?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: All right.

2 Now, Mr. Grods, do you have your plea agreement in
3 front of you or can I ask the Courtroom Deputy to pass that
4 up to you if you don't have it in front of you?

5 All right. Now, Mr. Grods, I want to just confirm
6 that before you is a 13-page document. Is that 13-page
7 document your plea agreement in this case?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Okay.

10 And on page 13 of that agreement, that last page,
11 Mr. Grods, is that your signature?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right.

14 Now, Mr. Grods, have you had an opportunity to
15 read that document or have you had it read to you?

16 THE DEFENDANT: Both. Both, Your Honor.

17 THE COURT: And are there any questions that you
18 have about that document that have not been yet answered to
19 your satisfaction?

20 THE DEFENDANT: No, sir. All questions have been
21 answered.

22 THE COURT: Okay.

23 Now, Mr. Grods, I'm not going to go over every
24 single paragraph and every single line of that agreement.
25 What I'm going to go over this afternoon are the main points

1 of that agreement, which I'm required to do by rule, okay?

2 Now, just because I don't go over a particular
3 part of the agreement as to which you've made a promise,
4 that doesn't mean that you're not bound by every single
5 promise you've made in the agreement. Is that understood?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: First thing I'm going to do is go over
8 the general terms of the plea agreement, Mr. Grods, and then
9 I'm going to turn to the sentencing provisions of the
10 plea agreement, and then we'll turn to the rights that
11 you're waiving, okay?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, as part of this plea agreement,
14 Mr. Grods, you've agreed to plead guilty to one count of
15 conspiracy, in violation of 18 U.S.C. 371, and one count of
16 obstruction of an official proceeding, in violation of
17 18 U.S.C. 1512(c)(2).

18 You also have agreed that a separate document that
19 is titled Statement of Offense fairly and accurately
20 describes your actions. In exchange, the government has
21 agreed that it will not bring any other charges for the
22 conduct described in the Statement of Offense and that it
23 will also not bring any other charges for any non-violent
24 criminal offense that you may have committed in violation of
25 federal or D.C. law within the District of Columbia before

1 you executed the agreement and about which the
2 U.S. Attorney's Office was made aware by you before the
3 execution of the agreement; however, the
4 U.S. Attorney's Office has reserved the right to prosecute
5 you for any crime of violence that you may have committed.

6 Do you understand those terms of your
7 plea agreement, sir?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Let's talk about another aspect of
10 this Plea Agreement, and that is, you've agreed to cooperate
11 with the United States in this case; that is, the
12 prosecutors. Do you understand that that means, among other
13 things, Mr. Grods, that you've agreed to provide testimony
14 before the Grand Jury or at trial?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: You also have agreed to sit with
17 witnesses [sic] with government agents, or government
18 prosecutors. Is that understood?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: If you're asked to sit for those
21 interviews, you've waived your right to counsel for those
22 interviews; however, you can request counsel be present if
23 you wish?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: You also understand that any

1 statements that you make in connection with those interviews
2 or in testimony can be used against you?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And you also have agreed to turn over
5 all evidence of crimes, contraband, and proceeds of any
6 crimes, as well as disclose any assets that are traceable to
7 such crimes?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And, finally, you've also agreed to
10 provide a full and complete accounting of your financial
11 assets. Do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right.

14 Now let's talk about the sentencing terms that
15 govern your plea agreement, Mr. Grods.

16 First thing I'm going to do is talk about the
17 maximum penalties associated with the two offenses and then
18 we'll talk about the Sentencing Guidelines.

19 So first, with respect to the count of conspiracy,
20 do you understand that the maximum penalty is five years in
21 prison?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: The maximum fine of \$250,000?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: A term of supervised release of not

1 more than three years?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And an obligation to pay any order of
4 restitution?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: As well as pay any interest or
7 penalties on any fine that's not timely paid?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: In addition, you will owe \$100 to the
10 Court as a special assessment?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right.

13 With respect to Count 2, that is, obstruction of
14 an official proceeding, do you understand, Mr. Grods, that
15 the maximum penalty is 20 years in prison?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: A maximum fine of \$250,000?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Supervised release of not more than
20 three years?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: An obligation to pay orders of
23 restitution?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And an obligation to pay any interest

1 or penalties on any fine that's not timely paid?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And, finally, you'll also be obligated
4 to pay a second special assessment of \$100, for a total of
5 \$200. Is that understood?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: All right.

8 Now, Mr. Grods, those are the -- yes, sir.

9 MR. LOCKWOOD: Your Honor, I believe that the
10 maximum fine of Count 2, didn't we adjust that earlier?

11 THE COURT: We adjusted the Guidelines Range, not
12 the maximum.

13 MR. LOCKWOOD: I'm sorry.

14 THE COURT: That's okay.

15 All right. So let's turn now to the Sentencing
16 Guidelines, Mr. Grods, and let's talk about how they're
17 going to apply in this case.

18 First and foremost, I want to confirm that you've
19 talked to your lawyer about the Sentencing Guidelines?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right.

22 Now, what those Sentencing Guidelines provide,
23 Mr. Grods, is they're essentially based upon three factors:
24 One, your criminal history, the offenses to which you're
25 pleading, and the facts and circumstances of those offenses,

1 and we're going to go over those now.

2 With respect to your criminal history, Mr. Grods,
3 the parties have estimated that you have no prior criminal
4 convictions, and, therefore, would be in Criminal History
5 Category I. Do you understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Now, Mr. Grods, that is just an
8 estimate at this point. And what will happen prior to
9 sentencing is that the Probation Office will do what's
10 called a Presentence Report. Among the things they will do
11 in that Presentence Report is do a complete evaluation of
12 your criminal history. Do you understand that?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And if it turns out for some reason,
15 Mr. Grods, that you do have prior criminal convictions and
16 that your Criminal History Category is higher than I, that
17 would not be a basis for you to withdraw your plea?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: All right.

20 Let's talk about the offense level that will apply
21 in this case.

22 Now, the parties have come up with the following
23 offense calculation. The Base Offense Level in this case is
24 a 14, and eight levels will be added because the offense
25 involved causing or threatening to cause physical injury to

1 a person or property damage in order to obstruct the
2 administration of justice, an additional three levels for
3 the substantial interference with the administration of
4 justice, an additional two levels because the offense
5 involved -- was either extensive in scope, planning, or
6 preparation.

7 Additionally, you've agreed that an additional
8 two-level increase will be warranted for obstruction, and
9 that is specifically deleting Signal Communications.

10 That provides for a total offense level of a 29.
11 That will be reduced by two levels, because the government
12 has agreed that you played a minor role in the offense, as
13 well as an additional three-level reduction for it because
14 you're accepting responsibility.

15 That would provide a total offense level for the
16 conduct of 24. Do you understand that, sir?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right.

19 Now, Mr. Grods, that's a lot to take in, but
20 bottom line is, that is the estimated Base Offense Level
21 based upon the conduct that you and your lawyer and the
22 government have agreed to.

23 Now, just like your criminal history, that 24 is
24 just an estimate at this point. Is that understood?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And the Probation Office, in addition
2 to doing your Criminal History score, will also make a
3 recommendation to me as to what the total offense level
4 should be in this case. Is that understood?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And if it turns out that the total
7 offense level is greater than 24 and I accept it to be
8 greater than 24, that would not be a basis for you to
9 withdraw your plea. Is that understood, sir?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right.

12 Based then upon a Criminal History score of I or
13 Criminal History Category of I, I should say, and a total
14 offense level of 24, the estimated Guidelines Range in this
15 case is 51 months to 63 months of incarceration. Is that
16 understood, sir?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: As well as a fine range of 25,000 --
19 excuse me -- of 20,000 to \$200,000. Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Now, again, Mr. Grods, because this is
22 just an agreement based upon the parties, this is just an
23 estimate at this point in time as to what the
24 Guidelines Range in this case will be. Ultimately, the
25 decision as to what the Guidelines Range that will apply at

1 sentencing, that decision is mine and mine alone. Do you
2 understand that, sir?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And if it turns out that I determine
5 the Guidelines Range is actually higher than 51 to 63
6 months, that would not be a basis for you to withdraw your
7 plea. Is that understood?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Now, Mr. Grods, let's talk about a few
10 other aspects of the agreement with respect to sentencing.

11 The parties have agreed in this case not to ask
12 for either an upward or departure -- excuse me, an upward
13 departure or a downward departure of the estimated
14 Guidelines, with one exception. What that means is the
15 government has agreed not to ask for a Guidelines Range
16 that's, say, for example, if the Guidelines are 51 to 63
17 months, the government has said that they won't ask for a
18 higher Guidelines Range to apply. Is that understood?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Likewise, you've agreed that a lower
21 Guidelines Range will not apply. Is that understood?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And the only exception to that is, the
24 government has agreed to reserve the right to file what's
25 called a 4K -- excuse me, a 5K1.1 motion based upon your

1 cooperation. Do you understand that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And what that means, Mr. Grods, is
4 that if the government believes that you've substantially
5 cooperated with them, they can file a motion asking me to
6 reduce the Guidelines Range that would apply at sentencing?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Now, Mr. Grods, do you understand that
9 the decision whether to file that 5K1.1 motion, that is up
10 to the United States and the United States alone?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And if, for example, you believe that
13 you've provided all the cooperation they've asked for, but
14 they disagree, it's out of my hands, I can't force them to
15 file such a motion. Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Also, Mr. Grods, do you understand
18 that it is just a motion? And so if the government files
19 that motion, it's still up to me whether -- to decide
20 whether to grant that motion or not.

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And so finally, Mr. Grods,
23 do you understand that if, for example, the government
24 decides not to file this 5K1.1 motion, that would not be a
25 basis for you to withdraw your plea?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Nor would it be a basis for you to
3 withdraw your plea if I denied the motion if the government
4 did file it. Do you understand that?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right.

7 You also have agreed, as part of this
8 plea agreement, Mr. Grods, that you will not argue for a
9 different offense level in this case. So you've estimated,
10 with the government, that your offense level is a 24, and so
11 you've agreed not to ask for an offense level that is lower
12 than 24?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: You have, however, argued that a
15 different Criminal History score could apply if for some
16 reason the Criminal History score is greater than zero?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right.

19 Now, Mr. Grods, has anybody promised you what my
20 sentence will be in this case?

21 THE DEFENDANT: No, sir.

22 THE COURT: All right.

23 That's good, because nobody can, Mr. Grods.
24 The ultimate decision about what your sentence will be in
25 this case is mine and mine alone.

1 Now, in addition to the Guidelines, Mr. Grods, you
2 need to understand that that's not the only thing I consider
3 at sentencing. I'm required by law to consider a whole host
4 of other statutory factors. Among them are your history,
5 your work history, employment history, family history, any
6 good works and deeds that you've done, you can bring all of
7 that to my attention. Do you understand that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Likewise, the government can bring
10 anything they would like for me to learn about you,
11 including the facts and circumstances of your offense.
12 Do you understand that?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: So I'm supposed to require -- I'm
15 supposed to consider the Guidelines, plus all of those other
16 statutory factors, in determining what your final sentence
17 will be. Do you understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And you have reserved the right in
20 this case, Mr. Grods, to ask for a sentence that is below
21 the Guidelines Range. Do you understand that, sir?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: But do you understand the fact that
24 you've reserved the right to ask for a sentence below the
25 Guidelines Range doesn't mean, in fact, that I will impose

1 such a sentence?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And what that means, Mr. Grods, is
4 I can sentence you to below the Guidelines Range, within the
5 Guidelines Range, or even above the Guidelines Range, up to
6 the statutory maximum penalty as your final sentence?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And, Mr. Grods, if, for whatever
9 reason, you're not happy with the final sentence I impose,
10 that would not be a basis for you to withdraw your plea.
11 Is that understood?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right.

14 Mr. Grods, let's move on to the concept of
15 restitution.

16 Restitution is a concept in which somebody who is
17 convicted of an offense has to pay a certain amount to the
18 victim in this case to make that victim whole. In this
19 case, the victim would be the United States and the damage
20 that was done to the property of the Capitol building.

21 Do you understand that as part of your plea,
22 you've agreed that the approximate damage to the Capitol
23 building was just south of \$1.5 million? Do you understand
24 that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And you've agreed, as part of this
2 plea agreement, to pay \$2,000 in restitution?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Now, do you understand, Mr. Grods,
5 that the decision about what restitution will actually be,
6 that that's up to me ultimately and that's my decision?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And if for some reason I decide that
9 the restitution amount should be greater than \$2,000, that
10 wouldn't be a basis to withdraw your plea?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Okay.

13 Now, Mr. Grods, there is another document that's
14 associated with this plea agreement, it's called Statement
15 of Offense. Do you have that in front of you, sir? Or I'll
16 ask the Courtroom Deputy to pass that up.

17 All right. I'll just ask you to take a look at
18 this six-page document, Mr. Grods, and ask -- and let me
19 know and confirm that this is the Statement of Offense that
20 is associated with your plea agreement, sir?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right.

23 Now, Mr. Grods, on page 6 of that agreement, is
24 that your signature, sir?

25 THE DEFENDANT: Yes, Your Honor, it is.

1 THE COURT: And have you had an opportunity to
2 read this document or have you had it read to you, sir?

3 THE DEFENDANT: Both, sir.

4 THE COURT: And any questions that you may have
5 about this document, have they been answered to your
6 satisfaction?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right.

9 Before we turn to the document itself, I'm going
10 to ask the government to just announce what the elements are
11 for each offense.

12 And so I'll ask you to listen to government
13 counsel and then I'll ask you whether you understand what
14 the elements are for each offense.

15 THE DEFENDANT: Yes, Your Honor.

16 MR. EDWARDS: Thank you, Your Honor.

17 For the first offense, 18 U.S.C. Section 371,
18 criminal conspiracy, the elements are that the defendant
19 entered into an agreement with at least one other person to
20 commit a specific offense, in this case, obstruction of an
21 official proceeding.

22 The second element is the defendant knowingly
23 participated in the conspiracy with the intent to commit the
24 offense and at least one overt act was committed in
25 furtherance of the conspiracy.

1 THE COURT: All right. Thank you, Mr. Edwards.

2 All right, Mr. Grods, do you understand those
3 elements to be the elements of the offenses with which you
4 are charged and intend to plead guilty?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right.

7 Now, Mr. Grods is -- you can have a seat,
8 Mr. Edwards.

9 MR. EDWARDS: If you would like, I can go over the
10 elements for the second charge.

11 THE COURT: Oh, I'm sorry. I thought you went
12 over both.

13 MR. EDWARDS: That's okay.

14 THE COURT: Sorry. Go ahead.

15 MR. EDWARDS: For the second offense, 18 U.S.C.
16 Section 1512(c)(2), obstruction of an official proceeding,
17 the elements are that the defendant obstructed, influenced,
18 or impeded any official proceeding and that the defendant
19 acted corruptly.

20 THE COURT: All right. Thank you, Mr. Edwards.

21 Mr. Grods, those are the elements with respect to
22 the second offense. Do you understand those elements, sir?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right.

25 Now, with respect to the remaining portions --

1 with respect to this Statement of Offense, this Statement of
2 Offense document describes the conduct that is the basis of
3 your guilty plea; is that correct, sir?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And does this document fairly and
6 accurately describe the conduct that is the basis of the
7 guilty plea?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And in particular, if I could just ask
10 you to confirm, Mr. Grods, on paragraph 17 of the guilty
11 plea, you have agreed that at the time you forcibly entered
12 the building, you believed that you and others, other
13 co-conspirators, were trying to obstruct, influence, and
14 impede an official proceeding; that is, a proceeding before
15 Congress, specifically, Congress's certification of the
16 Electoral College vote; is that correct?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And in paragraph 18, you've agreed
19 that you acted to affect the government by stopping or
20 delaying the congressional proceeding and, in fact, did so,
21 and that you accomplished this by intimidating and coercing
22 government personnel who are participating in or supporting
23 the congressional proceeding?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Okay.

1 All right, now, Mr. Grods, let's turn to one last
2 thing and then we'll get to your rights.

3 I want to just make sure you understand, with
4 respect to whether you are released or not pending
5 sentencing, Mr. Grods, the decision about whether to release
6 you pending sentencing, that's my decision. Do you
7 understand that, sir?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And if for whatever reason I were to
10 decide to hold you and you're unhappy about that, that would
11 not be a basis for you to withdraw your plea. Is that
12 understood?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: All right.

15 Let's talk then about the rights you are giving
16 up, Mr. Grods, by entering this plea.

17 Let's start off, Mr. Grods, do you understand that
18 you are not required to plead guilty and that if you want to
19 go and have a trial and sit for a trial on the charges, you
20 have a right to do that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right.

23 Let's start with the way you're charged,
24 Mr. Grods. You are pleading to what's called an
25 information; however, because you are pleading to felony

1 charges, you have a right under the Constitution to be
2 charged by a Grand Jury. What that means is that there are
3 a group of citizens who would sit and listen to the
4 government's evidence as it was presented and they would
5 determine whether there was probable cause to charge you.
6 Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: By entering a plea, however, and
9 agreeing to plead to an information, Mr. Grods, you're
10 giving up your right to be indicted and charged by a
11 Grand Jury. Do you understand that, sir?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: You would have a right to go to a
14 trial if you wish, Mr. Grods, and you would be presumed
15 innocent at that trial. Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And the government would bear the
18 burden of proving your guilt at trial beyond a reasonable
19 doubt, and a part of that burden would involve having the
20 government proving your guilt to 12 jurors, and those jurors
21 would have to decide unanimously to convict you. Do you
22 understand that, sir?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: By entering a plea today, Mr. Grods,
25 do you understand there will be no presumption of innocence

1 that will apply at a trial?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And you also are relieving the
4 burden -- you're agreeing to relieve the government of the
5 burden of having to convince 12 jurors unanimously to
6 convict you beyond a reasonable doubt?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: You also would have the right to have
9 a lawyer present with you at trial, Mr. Grods; that is,
10 Mr. Lockwood would be your counsel. Among other things, he
11 would make motions, he would make objections to the
12 government's evidence, and he would have an opportunity to
13 question the government's witnesses. Is that understood?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: By entering a plea, however, you are
16 giving up your right to have a lawyer represent you at
17 trial?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: You also would have the right to
20 present a defense, Mr. Grods. And what that means is, with
21 your lawyer's assistance, you could call any witnesses or
22 present any evidence that you wish that you believe would
23 assist you in demonstrating to the ladies and gentlemen that
24 you are not guilty of the offenses with which you are
25 charged. Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: However, by entering a plea today,
3 sir, you understand you're giving up your right to present a
4 defense at trial?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: You also would have the right to
7 testify at trial, Mr. Grods. And what that means is that
8 you could get up on this witness stand and explain to the
9 ladies and gentlemen of the jury why you are not guilty of
10 the offenses with which you are charged. Do you understand
11 that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: You also would have the right not to
14 testify, Mr. Grods, in which case I would advise -- not
15 advise -- I would instruct the ladies and gentlemen of the
16 jury that that decision could not be used against you.
17 Do you understand that, sir?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: By entering a plea, however, you're
20 giving up your right to testify at trial, Mr. Grods, and
21 you're giving up your right to remain silent and have me
22 instruct the jury that that decision could not be used
23 against you?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: You also, Mr. Grods, would have the

1 right to an appeal following a trial. What that means is
2 that if you were convicted following a trial, there's a
3 higher court, the D.C. Circuit, the D.C. Circuit would
4 review all the proceedings before me, both before, during,
5 and after trials, and decide whether I had made any mistakes
6 and whether you were entitled to a new trial. Do you
7 understand that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: If you could not afford a lawyer for
10 purposes of an appeal, the Court of Appeals would appoint
11 one for you. Do you understand that, sir?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: By entering a plea today, however,
14 sir, do you understand you're giving up your right to an
15 appeal following a trial and having the Court of Appeals
16 appoint a lawyer for you if you could not afford one, sir?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: You also would have the right,
19 Mr. Grods, to appeal your sentence in this case. And what
20 that means is that at sentencing, your lawyer could make
21 arguments, objections, and you could appeal those arguments
22 and objections if I disagree with them; you could appeal the
23 sentence itself; you could appeal the Guidelines
24 calculation; there could be any number of decisions that I
25 make that you could appeal following sentencing. Do you

1 understand that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: By entering this plea, however, sir,
4 you're giving up your right to appeal your sentence, do you
5 understand that, with a couple of exceptions?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Those exceptions are, you're reserving
8 your right to appeal a sentence above the statutory maximum
9 penalties, as well as appeal a sentence above the Guidelines
10 Range. Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right.

13 You also would be entitled, Mr. Grods, to the
14 appointment of counsel for purposes of an appeal following a
15 sentence if you could not afford one. But by entering this
16 plea today, sir, you're giving up the right to have such
17 counsel appointed, except for with respect to those two
18 exceptions. Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: You are preserving the right, however,
21 Mr. Grods, to raise on appeal that you've not received
22 effective assistance of counsel either in connection with
23 this plea here today or in connection with your sentencing.
24 Do you understand?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right, Mr. Grods, we're almost
2 getting toward the end.

3 The final right that you're giving up here, you're
4 giving up your right to file what's called a collateral
5 attack of your conviction and sentence. And what the
6 collateral attack is essentially a motion you could file in
7 which you would argue that there was something fundamentally
8 wrong with these proceedings or that your rights were
9 impaired or violated in some way. Do you understand that,
10 sir?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: You are, however, by entering this
13 plea, giving up your right to file a collateral attack, with
14 a couple of exceptions. Do you understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Those two exceptions, Mr. Grods, are
17 that if newly discovered evidence is -- if you discover new
18 evidence that goes to your innocence, you could file a
19 collateral attack. Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And you also are reserving your right
22 to file a collateral attack motion if you believe your
23 lawyer has not provided you with effective assistance of
24 counsel, either in connection with your plea or at
25 sentencing. Is that understood?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right.

3 Now, Mr. Grods, in addition to all of these rights
4 that you're giving up, your trial rights, your Grand Jury
5 rights, your appeal rights, collateral attack rights, by
6 entering a plea today, because these two counts are
7 felonies, you may be deprived of valuable civil rights, such
8 as the right to vote, the right to hold certain jobs, the
9 right to serve on a jury, and the right to possess a
10 firearm. Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Now, understanding all the rights that
13 you're giving up by pleading guilty, do you still wish to
14 plead guilty, sir?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And do you have any questions about
17 what rights you're giving up or anything else in connection
18 with this guilty plea, sir?

19 THE DEFENDANT: No. Nothing.

20 THE COURT: All right.

21 Has anybody forced you, threatened you, or coerced
22 you in any way to get you to plead guilty, sir?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: All right.

25 Then how do you plead on Count 1, the charge of

1 conspiracy, sir?

2 THE DEFENDANT: Guilty.

3 THE COURT: And on Count 2, obstruction of an
4 official proceeding, how do you plead, sir?

5 THE DEFENDANT: Guilty.

6 THE COURT: All right.

7 Any questions I didn't ask of Mr. Grods that
8 I should have?

9 MR. EDWARDS: Your Honor, the only question --
10 I know that we went over the right to an indictment. I was
11 curious if the Court was interested in having him go over
12 the actual Waiver of Indictment and that he actually signed
13 it, just in case the Court was interested.

14 THE COURT: I can do that if necessary.

15 Mr. Douyon, do you have the waiver forms -- or
16 I guess I have the waiver forms.

17 Just to confirm, I want to pass up a couple of
18 documents; one is called Waiver of Trial and one is called
19 Waiver of Indictment. Do you see those forms in front of
20 you, sir?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And can I just ask you to confirm that
23 that is your signature on those pages, sir?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: All right.

1 And you've had an opportunity to read those
2 documents before you signed it?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Okay. Thank you.

5 All right. Anything else?

6 MR. EDWARDS: Nothing from the government.

7 THE COURT: Anything from defense counsel?

8 MR. LOCKWOOD: Not from defense, Your Honor.

9 THE COURT: All right.

10 So I'm satisfied that Mr. Grods understands his
11 rights and what he's waiving and agreeing to plead guilty
12 to. I find that he's entering his plea voluntarily. I find
13 that there's a factual basis for the plea, and, therefore, I
14 accept Mr. Grods' plea and find him guilty of one count of
15 conspiracy, in violation of 18 U.S.C. 371 and one count of
16 obstruction of an official proceeding, in violation of
17 18 U.S.C. 1512(c)(2).

18 Now, Mr. Grods, there will be -- as I mentioned
19 earlier, there will be something called a Presentence Report
20 prepared before sentencing in this case. What that will
21 involve is an interview of you by the Probation Office; the
22 office will ask you a whole host of questions about your
23 background, family, occupational history, et cetera.

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: You'll have the opportunity, if you

1 wish, to have your lawyer with you at that interview.

2 Do you understand that, sir?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: You also will have the right to review
5 that Presentence Report before it's final and submitted to
6 me?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And then, Mr. Grods, you also, through
9 your lawyer, will have the opportunity to present any
10 information that you'd like for me to consider at
11 sentencing?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And, finally, sir, you'll have the
14 opportunity to address me at sentencing if you wish?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Okay.

17 Gentlemen, why don't you have a seat. Let's talk
18 about next steps.

19 Mr. Edwards, I take it you want to put off a
20 sentencing date and put off a presentence report?

21 MR. EDWARDS: That's right, Your Honor.

22 THE COURT: Okay.

23 So why don't we do, as I think we've done with
24 others, which is just, we'll ask you all to submit a Joint
25 Status Report in 60 days.

1 MR. EDWARDS: Understood.

2 THE COURT: And just let me know how you wish to
3 proceed on that 60-day mark and we'll take it from there,
4 all right?

5 MR. EDWARDS: Sounds good.

6 THE COURT: In terms of conditions of release,
7 what is the government asking for?

8 MR. EDWARDS: Your Honor, the government would
9 request, and I believe Pretrial is on the line, that
10 Mr. Grods surrender his passport, that he stay away from the
11 District of Columbia except for court business, meetings
12 with his attorney, if needed, and business with Pretrial
13 Services; that Mr. Grods not possess any firearms,
14 destructive devices, or other weapons; that he have no
15 contact with anyone associated with the Oath Keepers or
16 defendants in Case No. 21-CR-28, the other case that is
17 related to this matter, and that he report weekly to
18 Pretrial Services.

19 THE COURT: Okay.

20 And, Mr. Grods, I don't know where you live, sir,
21 but what state do you live in, sir?

22 THE DEFENDANT: The state of Alabama, sir.

23 THE COURT: Alabama.

24 In which District?

25 MR. LOCKWOOD: The Southern District.

1 MR. EDWARDS: Southern District.

2 THE COURT: Is it the Southern District of
3 Alabama? Okay.

4 Mr. Lockwood, are there any objections to those
5 conditions of release?

6 MR. LOCKWOOD: No objections, Your Honor.

7 THE COURT: All right.

8 So I will release Mr. Grods pending sentencing,
9 subject to the conditions just mentioned by the government.

10 Mr. Grods, what that means is you will be released
11 until your sentencing in this case, that sentencing is going
12 to be set off into a future date; however, you will have to
13 comply with those conditions of release, and if you do
14 violate any of those conditions of release, sir, that could
15 result in those conditions of release -- excuse me, that --
16 your release being revoked. Do you understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right.

19 Is there anything else we need to take up?
20 I've signed the Waiver of Right to Trial, as well as the
21 Waiver of Indictment.

22 Anything else we need to take care of today?

23 MR. EDWARDS: Nothing further for the government,
24 thank you.

25 MR. LOCKWOOD: Thank you, Your Honor.

1 PRETRIAL SERVICES OFFICER: Your Honor --

2 THE COURT: Oh. Yes.

3 PRETRIAL SERVICES OFFICER: -- this is Christine
4 Schuck with Pretrial.

5 THE COURT: Hi, Ms. Schuck.

6 PRETRIAL SERVICES OFFICER: Hi, Your Honor.

7 In regards to the conditions of release, we would
8 just ask that Mr. Grods be supervised by the Southern --
9 U.S. Pretrial-Probation Office for the Southern District of
10 Alabama and that he report to them as directed versus
11 weekly. When we send the cases out to their home
12 jurisdiction, we prefer it to have "as directed" to allow
13 that jurisdiction to determine the reporting schedule.

14 THE COURT: Okay.

15 Yes, certainly no problem with that. And that's
16 why I asked where he resided.

17 So, yes, supervision by the Southern District of
18 Alabama, just to be clear, not D.C., and the office there
19 will direct you how frequently you need to report and the
20 manner in which you need to report, okay?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right.

23 Thank you, everyone.

24 MR. EDWARDS: Thank you, Your Honor.

25 COURTROOM DEPUTY: All rise.

1 THE COURT: Don't wait for me, everybody.

2 Thank you.

3 COURTROOM DEPUTY: The Court stands adjourned.

4 (Proceedings concluded at 2:50 p.m.)

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C E R T I F I C A T E

I, William P. Zaremba, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-titled matter.

Date: July 24, 2021 /S/ William P. Zaremba

William P. Zaremba, RMR, CRR

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MR. LOCKWOOD: [17]
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THE COURT: [165]
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