

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**FILED**

NOV 06 2002

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS OFFICE

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
DAVID B. HUGGINS, )  
)  
Defendant. )

CRIMINAL NO. 02-30140-WBS

**DEFENDANT'S AGREEMENT TO PLEAD GUILTY**

Pursuant to Rule 11 of Federal Rules of Criminal Procedure, the attorney for the Government has been informed by the attorney for the Defendant that the defendant contemplates the entry of an open plea of guilty in this cause.

The terms of this Plea are as follows:

I.

1. Defendant acknowledges that he has been advised of and does fully understand the following:

- (a) the nature of the charges to which the plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law; and
- (b) that he has the right to plead not guilty or to persist in that plea if it has already been made, and he has the right to be tried by a jury and at that trial has the right to the assistance of counsel, the right to confront and cross-examine witnesses against him, and the right not to be compelled to incriminate himself; and
- (c) that if he pleads guilty, there will not be a further trial of any kind, so that by pleading guilty, he waives the right to a trial; and
- (d) that if he pleads guilty, the Court may ask him questions about the offense to which he has pleaded, and if he answers these questions under oath, on the record,

and in the presence of counsel, his answers may later be used against him in a prosecution for perjury or false statement; and

(e) that if he pleads guilty, he will waive his right to persist in his plea of not guilty, to be tried by a jury, to have assistance of counsel at the trial, and to confront and cross-examine witnesses against him at trial.

(f) that if he pleads, he is pleading guilty to a felony punishable by a term of imprisonment exceeding one year. Therefore, no matter what sentence the Court imposes (whether probation or any term of imprisonment), he will be forbidden by federal firearms laws from possessing any type of firearm in his lifetime, unless he obtains relief pursuant to 18 U.S.C. § 925, or other appropriate federal statute.

2. Defendant acknowledges that this Agreement to Plead Guilty and Stipulation of Facts constitutes the entire agreement and that no promises, inducements or representations, other than those specifically set forth in this Agreement to Plead Guilty and Stipulation of Facts, were made to induce him to enter into this Agreement to Plead Guilty.

3. It is further understood that this agreement is limited to the Southern District of Illinois, and nothing herein is intended to bind other federal, state or local prosecuting authorities. It is further understood that this Agreement to Plead Guilty does not prohibit the United States, any agency thereof, or any third party from initiating or prosecuting any civil proceedings directly or indirectly involving the Defendant.

4. Defendant understands that this offense is subject to provisions and guidelines of the "Sentencing Reform Act of 1984" (Ch. II of the Comprehensive Crime Control Act of 1984, Title 28, United States Code, Section 994(a)).

5. Defendant understands that pursuant to Title 18, United States Code, Section 3013, as amended by Act of April 24, 1996, the Court will assess a "Special Assessment" of \$100 per felony count (for offenses committed on or after April 24, 1996). Defendant understands that he will be ordered to pay the full amount of the special assessment prior to or at the time of sentencing.

6. Defendant understands that the Court must impose a term of "supervised release" to follow incarceration. *See* 18 U.S.C. § 3583; U.S.S.G. § 5D1.1.

7. Defendant understands that the Court may impose a fine, costs of incarceration, and costs of supervision and that the Government will recommend the imposition of a fine. The estimated costs of such incarceration or community confinement or supervision, pursuant to an advisory notice from the Administrative Office of the United States Courts dated May 31, 2001, are, for imprisonment: \$1,800.11 per month; for community confinement: \$1,593.32 per month; and for supervision: \$243.98 per month. The Defendant agrees to make complete financial disclosure by truthfully filling out, at the request of the United States Attorney, a Financial Statement (OMB-500).

8. The Defendant states that he has read this agreement and has discussed it with his attorney, and understands it.

## II.

1. The Defendant will waive his right to have his case presented to a grand jury, and he will enter a plea of guilty to an Information charging him with Receiving Child Pornography over the Internet in violation of Title 18, United States Code, Section 2252(a)(2). The maximum penalty that can be imposed is fifteen (15) years' imprisonment or a \$250,000 fine, or both, and at least 3 years' supervised release.

2. The Defendant understands that he is entering an "open plea" whereby the Government has not agreed to recommend any particular sentence or guideline range and may in fact recommend that the defendant be sentenced to any sentence of incarceration, supervised release, fine, and/or restitution, up to and including the maximum allowed by law.

3. The Government submits to the Court that under the Sentencing Guidelines, after all facts have been considered, Defendant will have an Offense Level of 22 and a Criminal History of I, whereby the sentencing range is 41-51 months. The Government further submits to the Court that the Defendant's fine range will be \$ 7,500 to \$ 75,000 according to U.S.S.G. § 5E1.2. The Government and Defendant understand that this provision is not binding on the Court and constitutes the Government's good faith effort to inform the Court of the applicable sentencing range and that the Court ultimately will determine the guideline range after receiving the Presentence Report and giving both parties the opportunity to comment thereon. The Defendant expressly recognizes that, regardless of the guideline range found by the Court, he will not be permitted to withdraw his plea. The Government and the Defendant agree that the offense level and the criminal history category calculations submitted by the Government herein constitutes the Governments' good faith efforts to inform the Court of its belief as to the applicable sentencing range. The Government and the Defendant acknowledge that it is the Court which is ultimately responsible for determining the applicable Guideline range. The Government specifically reserves the right to argue for and present testimony in support of or in opposition to the Probation Office's or the Court's findings as to Offense Level and Criminal History Category (which may be in excess of the calculations set forth herein).

4. The Government anticipates that the Offense Level in this case will be 17 pursuant to U.S.S.G. § 2G2.2(a). The Government further anticipates that several specific offense characteristics will apply as follows:

There is a two level increase because the material depicted prepubescent minors  
(U.S.S.G. § 2G2.2(b)(1))

There is a four level increase because the material depicted sadistic or masochistic conduct (U.S.S.G § 2G2.2(b)(3))

There is a two level increase because a computer was used to transmit the material (U.S.S.G. § 2G2.2(b)(5))

Thus, taking all of these specific offense characteristics into account, the Defendant's initial Guideline Offense level should be increased eight levels, creating a base offense level of 25.

5. The Government anticipates that no victim-related adjustments will apply to this offense. *See* U.S.S.G. § 3.A.

6. The Government anticipates that the Defendant's role in the offense will be neither increased (under 3B1.1) nor decreased (under 3B1.2).

7. The Government anticipates that there will be no finding that Defendant has obstructed justice in this case and therefore, pursuant to U.S.S.G. § 3C1.1, the Defendant's base offense level will not be increased.

8. The Government anticipates that by pleading guilty the Defendant may be entitled to a reduction of 3 Levels based upon a finding by the Court that the Defendant has demonstrated an acceptance of personal responsibility for his criminal conduct which would thereby reduce the Offense Level to 22 (from Offense Level 25). *See* U.S.S.G. § 3E1.1.

9. The Government submits to the Court that it appears that the Defendant has amassed zero (0) Criminal History points and that his Sentencing Guideline Criminal History Category is I. This calculation is based upon the following information:

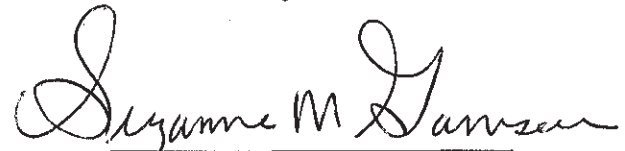
Date                      Charge                      Disposition                      Guideline                      Score


*no known prior convictions*


Defendant expressly recognizes that this calculation is not binding on the Government or the Court and that the final calculation will be determined by the Court after considering the Presentence Report, the views of the parties and any evidence submitted prior to sentencing. Defendant recognized that, regardless of the Criminal History found by the Court, he will not be able to withdraw his plea.

10. The Defendant understands that the Government will recommend the imposition of a fine commensurate with the defendant's ability to pay. The Defendant understands that the Government's recommendation may be based in part on the Defendant's projected earnings through the Inmate Financial Responsibility Program.

MIRIAM F. MIQUELON  
United States Attorney

  
SUZANNE M. GARRISON  
Assistant United States Attorney

  
DAVID B. HUGGINS  
Defendant

  
JOHN D. STOBBS, II  
Attorney for Defendant

Date: 1/16/02

Date: 11/5/2002