

DISTRICT COURT OF THE VIRGIN ISLANDS

UNITED STATES OF AMERICA

v.

Defendant.

Criminal No. _____

APPLICATION FOR PERMISSION TO ENTER PLEA OF GUILTY

I, _____, hereby certify as follows:

1. My full name is _____, and I request that all proceedings against me be held in that name.
2. I understand that the Constitution and laws of the United States guarantee me the right to be represented by a lawyer at every stage in these proceedings, including any trial on these charges, and that if I cannot afford to hire a lawyer, the Court will provide one for me.
3. I have a lawyer who is representing me in this proceeding. My lawyer's name is _____. I am satisfied that I have had enough time to discuss this matter with my lawyer.
4. My date of birth is _____. I am _____ and _____. I have _____ children.
5. English _____ my native language. My formal education stopped after grade _____.
6. I am presently _____ as a _____.
7. I have taken _____ drugs or medication within the past twenty-four hours: _____. I _____ consumed alcoholic beverages within the past twenty-four hours.
8. I _____ been a patient in a mental hospital or institution. I _____ believe at the present time I am mentally ill or mentally incompetent in any respect.

9. I received a copy of the _____ and I have read and discussed it with my lawyer. I understand the substance of the charge(s) against me.
10. I have told my lawyer all the facts and circumstances known to me about the charges set forth in the _____.
11. I am satisfied that my lawyer understands the information that I have provided, and that my lawyer has counseled and advised me on the nature of each charge and on all possible defenses that I might have in this case.
12. In addition, my lawyer has explained to me, and I understand, that if I enter a plea of NOT GUILTY (or persist in my plea of NOT GUILTY), under the Constitution and laws of the United States, I would be entitled to a speedy and public trial by a jury of twelve persons on the charges contained in this _____.
13. My lawyer has explained to me, and I understand, that at such trial the jury would be told by the judge that I am presumed to be innocent, and that the Government would be required to prove me guilty of the charges beyond a reasonable doubt. I understand that I would not have to prove that I am innocent, and that I could not be convicted unless all twelve jurors voted unanimously for conviction.
14. My lawyer has discussed with me, and I understand, that if I went to trial on these charges, the Government would have to produce in open court the witnesses against me, and that my lawyer, on my behalf, could confront and cross-examine them and object to evidence offered by the Government.
15. My lawyer has further explained to me, and I understand, that I have the right to produce witnesses and could offer evidence in my defense at a trial on these charges, and that I would have the right, if I so chose, to testify on my own behalf at that trial; but if I chose not to testify, the jury could draw no suggestion or inference of guilt from that fact.
16. My lawyer has informed me, and I understand, the potential punishment which the law provides for the offense(s) charged in this _____.

I understand that if I plead **GUILTY** to Count(s) _____ of the _____, I face a maximum sentence on that/those Count(s) of _____ years imprisonment and a mandatory minimum sentence of _____ years imprisonment, plus a minimum aggregate fine of \$ _____ and a mandatory minimum aggregate fine of \$ _____. I further understand that I will be assessed \$100.00 for each felony for which I am sentenced and \$25.00 for each misdemeanor, if any.

My lawyer has also explained, and I understand, that in addition to or in lieu of the penalties already discussed, I may be ordered to make restitution to any victim of the offense and that the Court may require me to make restitution to a designated third person or organization instead of the victim. I understand that in determining whether to order restitution and the amount of restitution, the Court will consider the amount of the

loss sustained by any victim as a result of the offense, my financial resources, the financial needs and earning ability of my dependents, and any other factors as the Court deems appropriate.

17. My lawyer has explained to me, and I understand, that if I plead **GUILTY** to any charge(s) in this _____ and the judge accepts my plea, **I WAIVE MY RIGHT TO TRIAL AND THE OTHER RIGHTS SET FORTH ABOVE**. I am aware and understand that **if my GUILTY plea is accepted, there will be no trial** and a judgment of **GUILTY** will be entered after which the judge, upon consideration of my presentence report, will impose punishment upon me. I understand that if I plead **GUILTY**, the judge may impose the same punishment as if I had pleaded “not guilty,” went to trial, and was convicted by a jury.
18. My lawyer has also explained to me, and I understand, that if I plead **GUILTY, I WAIVE THE RIGHT NOT TO INCRIMINATE MYSELF**. I understand that the judge will ask me for the factual basis of my plea and I will have to acknowledge my guilt as charged by setting forth my actions so that the judge is satisfied that I am, indeed, guilty. I understand that any statements I make at the time I plead **GUILTY**, if untrue and made under oath, can be the basis of a perjury prosecution against me.
19. I hereby declare that no officer or agent of any branch of government (Federal, State or Local), nor my lawyer, nor any other person has made any promise or suggestion of any kind to me, or within my knowledge to anyone else, that I will receive a lighter sentence, or probation, or any other form of leniency if I plead **GUILTY**. My lawyer has explained, and I understand, that only the judge may decide what punishment I shall receive.

IF THIS IS A GUIDELINE CASE, PLEASE ANSWER 19A THROUGH 19I.
IF NOT, GO DIRECTLY TO ITEM 20.

- 19 (a). I understand that I will be sentenced according to a combination of the Advisory Sentencing Guidelines, pursuant to the Sentencing Reform Act of 1984, possible authorized departures from those Advisory Sentencing Guidelines, and other authorized statutory sentencing factors.
- 19 (b). I have discussed with my attorney how these Advisory Sentencing Guidelines might apply to my case.
- 19 (c). I understand that the Court will not be able to determine the Advisory Guideline sentence for my case until after the presentence report has been completed and both the Government and I have had an opportunity to read the report and challenge any facts reported by the probation officer.
- 19 (d). I further understand that after it has been determined which Advisory Sentencing Guideline range applies to my case, the judge has the authority to impose a sentence more severe (up to the statutory maximum) or less severe than the sentence called for by the Guidelines.

- 19 (e). I understand that the Court may be bound to impose a fine in accordance with both statute and the Advisory Sentencing Guidelines.
- 19 (f). I understand that under some circumstances the Government or I may have\ the right to appeal any sentence imposed.
- 19 (g). I understand that parole has been abolished in the federal system and that if I am sentenced to prison I will not be released on parole.
- 19 (h). I further understand that the Court may impose a term of supervised release to follow any term of imprisonment and that any violation of that term of supervised release may result in an additional term of imprisonment.
- 19 (i). I understand that I will not have the right to withdraw my plea on the grounds that the sentence imposed on me is more severe than anyone's estimate or my expectation of the sentence.
20. I hereby declare that I have not been forced, coerced or threatened in any manner by any person to plead **GUILTY** to these charges.
21. There _____ been a plea agreement entered into between the United States Attorney, by Assistant United States Attorney _____, and me.
- ☐ The plea agreement does not currently exist in written form. However, my attorney and I have discussed the oral plea agreement. My attorney has explained it to me, and I understand it. A written plea agreement will be formally filed with the Court.
- ☐ The plea agreement does exist in written form. I have read it; my lawyer has explained it to me and I understand it.
22. My lawyer has explained to me, and I understand, that the terms of the plea agreement might be unacceptable to the judge. If the judge does not accept the terms of the agreement, I understand that I may withdraw my **GUILTY** plea or continue in my plea of **GUILTY**. I understand that the disposition of my case may be less favorable than that proposed in the plea agreement.
23. I am fully satisfied with the counsel, representation, and advice given to me in this case by my attorney.

24. I know the judge will not permit anyone to plead **GUILTY** who claims to be innocent, and with that in mind and because I am **GUILTY** and make no claim of innocence, I wish to plead **GUILTY**. I respectfully request that the Court accept my plea of **GUILTY** and to have the Clerk enter my pleas of **GUILTY** as follows:

To Count(s) _____ of the _____..

25. I offer my plea of **GUILTY** freely and voluntarily and of my own volition.

26. I have seen and concur in the certification of my lawyer which is attached to this application.

27. I further declare that I wish to waive the reading of the _____ in open court, and I request to Court to enter my plea of **GUILTY**.

28. The following person(s), if any, assisted me in completing this application:

I hereby certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

Signed by me in open court in the presence of my lawyer this _____ day of 20____.

Defendant

CERTIFICATION OF COUNSEL

I, _____, hereby certify that:

1. I am member of the Criminal Justice Act Panel for the District of the Virgin Islands, or have been admitted to practice *pro hac vice* in this case, and have been _____ the Defendant.
2. I have read and have fully explained to the Defendant the allegations contained in the _____.
3. To the best of my knowledge and belief, the statements, representations, and declarations made by the Defendant in the foregoing application are in all respects accurate and true.
4. I have explained the maximum and any mandatory minimum penalty for each count to the Defendant. I have explained to _____ that _____ may be ordered to make restitution under the Victim and Witness Protection Act.

4A. IF A GUIDELINE CASE:

I have explained to the Defendant that sentencing will be governed by the Advisory Sentencing Guidelines, pursuant to the Sentencing Reform Act of 1984, possible authorized departures from those Advisory Sentencing Guidelines, and other authorized statutory sentencing factors.

5. The plea of **GUILTY** offered by the Defendant accords with my understanding of the facts and is consistent with my advice to the Defendant.
6. In my opinion, the Defendant's waiver of reading the _____ in open court as provided in Rule 10 is voluntarily and knowingly made, and I recommend that the waiver be accepted by the Court.
7. In my opinion, the Defendant's request to enter a plea of **GUILTY** is voluntarily made with the understanding of the consequences of the plea. I recommend that the Court accept the plea of **GUILTY**.

Signed by me after full disclosure of the contents of this Certification to the Defendant, this _____ day of ____ 20 ____.

Attorney for the Defendant

Pro Hac Vice Attorney for the Defendant (if applicable)