

Eastern District of Kentucky  
FILED

NOV 21 2023

As Pikeville  
Robert R. Carr  
CLERK U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
SOUTHERN DIVISION  
PIKEVILLE

CRIMINAL ACTION NO.

7:23-018-DCR

UNITED STATES OF AMERICA

PLAINTIFF

V.

PLEA AGREEMENT

RYAN O. ELLIOTT

DEFENDANT

\* \* \* \* \*

1. Pursuant to Federal Rule of Criminal Procedure 11(c), the Defendant will enter a guilty plea to the two counts of the Information filed against him. The Information charges a violation of 18 U.S.C. § 242, Deprivation of Rights Under Color of Law, and a violation of 18 U.S.C. § 1519, Falsification of Records in Federal Investigations.

2. The essential elements of Count 1 of the Information are:

- (a) that the Defendant acted under color of law;
- (b) that the Defendant deprived the victim of a right secured and protected by the Constitution and laws of the United States;
- (c) that the Defendant did so willfully, and;
- (d) that the Defendant's conduct resulted in bodily injury.

3. The essential elements of Count 2 of the Information are:

- (a) that the Defendant knowingly falsified or made a false entry in a record or document;
- (b) that the record or document related to a matter within the jurisdiction of any department or agency of the United States, and;

(c) that the Defendant acted with the intent to impede, obstruct, or influence the investigation or proper administration of that matter.

4. The parties agree that, as to the Information, the United States could prove the following facts that establish the essential elements of the offense beyond a reasonable doubt, and the Defendant admits these facts. The parties further agree that the following facts do not encompass all of the evidence that would have been presented had this matter proceeded to trial:

(a) On or about March 26, 2021, the Defendant was working a shift as a Lieutenant at United States Penitentiary Big Sandy ("Big Sandy"). That same day, the Defendant came into the Lieutenants' Office complex where he found that an inmate, N.D., had been taken into the holding cell in the complex. N.D. had been taken to the holding cell for a violation of prison rules, masturbating in front of a female officer, which had occurred earlier that day. The Defendant heard Lieutenant T.M. tell N.D., among other things, that "that type of behavior is not going to fly here." The Defendant then saw T.M. kick N.D. twice in the knee with his shod foot. The Defendant observed no behavior by N.D. that could have justified T.M.'s assault on N.D. The Defendant then tackled N.D. onto the ground and struck N.D. in the side with his fist three or four times. The Defendant was joined on the ground by defendant Clinton Pauley who assisted with the assault. The Defendant then placed N.D. into hand restraints. T.M. ordered defendant Pauley to bind N.D. in leg restraints and transfer him to the facility's Special Housing Unit. N.D. was compliant throughout his entire time in the office and was not resisting or physically aggressive at any point. The Defendant used force on N.D. in order to punish him for a prior violation of prison rules and not due to any legitimate correctional purpose. The Defendant knew that his actions were unlawful and violated Constitutional limits on the use of force and the federal Bureau of Prisons' policies and training regarding use of force.

(b) On or about March 26, 2021, Lieutenant T.M. directed the Defendant to draft an incident report in which he omitted any mention of an assault on N.D. In his report, the Defendant falsely claimed that N.D. had become violent and assaultive during his time in the holding cell and that N.D. had kicked the Defendant in the leg. He then falsely claimed that staff had used the least amount of force necessary to control N.D. and that he (the Defendant) had suffered a minor injury to his shin from N.D.'s actions. At

no point did the Defendant document that he had struck N.D. or that T.M. had kicked N.D. The Defendant wrote this false report in order to cover up his and other correctional officers' unlawful uses of force on N.D., and to provide a false justification for N.D.'s multi-hour detention in the restraint chair.

(c) On or about April 29, 2021, the Defendant was working a shift as a Lieutenant at Big Sandy. That day, the Defendant was in the Lieutenants' Office when inmate C.T. entered the office and requested protective custody. While the Defendant was present for C.T.'s initial request, he left the office shortly thereafter. When he left the office, C.T. was not injured and was not behaving in a threatening or aggressive manner. Shortly thereafter, he saw inmate C.T. being escorted out of the Lieutenants' Office with an injury on his head. The Defendant had not heard any requests for assistance by staff nor was C.T. handcuffed. Based on these facts, the Defendant concluded that Big Sandy staff had assaulted C.T. in the Lieutenants' Office.

The following day, April 30, Lieutenant Kevin Pearce approached the Defendant and told him that he (Lieutenant Pearce) had written a memo about the incident involving C.T. that listed the Defendant as a witness to the events involving C.T., and he told the Defendant that the Defendant needed to write a memo supporting that narrative. The Defendant knew that he had not been present for the events the Defendant was describing and also knew that Lieutenant Pearce was attempting to cover up an unlawful use of force that had occurred on C.T. Based on Lieutenant Pearce's seniority and his supervisory role as the operations lieutenant, the Defendant agreed to write a false report supporting Lieutenant Pearce's narrative. Lieutenant Pearce then watched over the Defendant's shoulder as the Defendant wrote his false report. Lieutenant Pearce instructed the Defendant to backdate the report to the day before to make it seem as if he'd written it on the day of the incident, instructed the Defendant what time to put in the report, and finally instructed the Defendant to put that C.T. had left the Lieutenants' Office "without incident." The Defendant wrote this report knowing that it was false and did so to assist Lieutenant Pearce in covering up the unlawful uses of force on C.T. His false report related to a matter within the jurisdiction of an agency of the United States.

5. The statutory punishment for Count 1 of the Information is imprisonment for not more than 10 years, a fine of not more than \$250,000, and a term of supervised release of not more than 3 years. The statutory punishment for Count 2 of the Information is

imprisonment for not more than 20 years, a fine of not more than \$250,000, and a term of supervised release of not more than 3 years. A mandatory special assessment of \$100 per count applies, and the Defendant will pay this assessment to the U.S. District Court Clerk at the time of the entry of the plea.

6. Pursuant to Rule 11(c)(1)(B), the United States and the Defendant recommend the following sentencing guidelines calculations. This recommendation does not bind the Court.

(a) United States Sentencing Guidelines (U.S.S.G.), November 1, 2021, manual, will determine the Defendant's guidelines range.

(b) Pursuant to U.S.S.G. § 2H1.1(a), the base offense level for Count 1 is 12 because the offense involved two or more participants.

(c) Pursuant to U.S.S.G. § 2H1.1(b)(1), increase the offense level by 6 because the offense was committed under color of law.

(d) Pursuant to U.S.S.G. § 3C1.1, increase the offense level by 2 levels because the Defendant willfully attempted to obstruct or impede the administration of justice with respect to the investigation of the instant offense and the obstructive conduct related to the Defendant's offense of conviction and relevant conduct.

(e) Pursuant to U.S.S.G. § 3E1.1(a) and unless the Defendant commits another crime, obstructs justice, or violates a court order, decrease the offense level by 2 levels for the Defendant's acceptance of responsibility. Because the offense level determined prior to this 2-level decrease is level 16 or greater, pursuant to U.S.S.G. § 3E1.1(b), the United States will move at sentencing to decrease the offense level by 1 additional level based on the Defendant's timely notice of intent to plead guilty.

(f) Pursuant to U.S.S.G. § 2J1.2, the base offense level for Count 2 is 14.

(g) Pursuant to U.S.S.G. § 3E1.1(a) and unless the Defendant commits another crime, obstructs justice, or violates a court order, decrease the offense level by 2 levels for the Defendant's acceptance of responsibility.

(h) Pursuant to U.S.S.G. § 3D1.4(a) and (b), Count 1 represents 1 unit and Count 2, as an offense 5 to 8 levels less serious than Count 1, represents  $\frac{1}{2}$  unit.

(i) Pursuant to U.S.S.G. § 3D1.4, the total number of units is  $1\frac{1}{2}$  and the overall offense level is increased by 1, leading to a total overall offense level of 18.

7. No agreement exists about the Defendant's criminal history category pursuant to U.S.S.G. Chapter 4.

8. The Defendant waives the right to appeal the guilty plea and conviction. The Defendant waives the right to appeal any determination made by the Court at sentencing with the sole exception that the Defendant may appeal any aspect of the sentence if the length of the term of imprisonment exceeds 33 months. Except for claims of ineffective assistance of counsel, the Defendant also waives the right to attack collaterally the guilty plea, conviction, and sentence.

9. The United States will recommend releasing the Defendant on conditions of release for future court appearances if the Defendant does not violate the terms of the order setting conditions of release.

10. The Defendant agrees to cooperate fully with the United States Attorney's Office by making a full and complete financial disclosure. Within 30 days of pleading guilty, the Defendant agrees to complete and sign a financial disclosure statement or affidavit disclosing all assets in which the Defendant has any interest or over which the Defendant exercises control, directly or indirectly, including those held by a spouse, nominee, or other third party, and disclosing any transfer of assets that has taken place within three years preceding the entry of this plea agreement. The Defendant will submit to an examination, which may be taken under oath and may include a polygraph

examination. The Defendant will not encumber, transfer, or dispose of any monies, property, or assets under the Defendant's custody or control without written approval from the United States Attorney's Office. If the Defendant is ever incarcerated in connection with this case, the Defendant will participate in the Bureau of Prisons Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments. If the Defendant fails to comply with any of the provisions of this paragraph, the United States, in its discretion, may refrain from moving the Court pursuant to U.S.S.G. § 3E1.1(b) to reduce the offense level by one additional level, and may argue that the Defendant should not receive a two-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(a).

11. The Defendant understands and agrees that, pursuant to 18 U.S.C. § 3613, whatever monetary penalties are imposed by the Court will be due and payable immediately and subject to immediate enforcement by the United States. If the Court imposes a schedule of payments, the Defendant agrees that it is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. The Defendant waives any requirement for demand of payment on any fine, restitution, or assessment imposed by the Court and agrees that any unpaid obligations will be submitted to the United States Treasury for offset. The Defendant waives any defense or objection to any action to enforce the collection of financial obligations to be imposed in connection with this prosecution, including, but not limited to, collection procedures authorized by the Federal Debt Collection Procedures Act, 28 U.S.C. § 3001, et seq., 18 U.S.C. § 3664, or 18 U.S.C. § 3613. The Defendant expressly

authorizes the United States to obtain the Defendant's credit reports at any time. The Defendant authorizes the U.S. District Court to release funds posted as security for the Defendant's appearance bond in this case, if any, to be applied to satisfy the Defendant's financial obligations contained in the judgment of the Court. The Defendant authorizes the United States Attorney's Office to inspect and copy all financial documents and information held by the U.S. Probation Office.

12. If the Defendant violates any part of this Agreement, the United States may void this Agreement and seek an indictment for any violations of federal laws, and the Defendant waives any right to challenge the initiation of additional federal charges, including the right to raise any challenge based on the statute of limitations.

13. This document contains the complete and only Plea Agreement between the United States Attorney for the Eastern District of Kentucky, the Criminal Section of the Civil Rights Division of the U.S. Department of Justice, and the Defendant. The United States has not made any other promises to the Defendant.

14. This Agreement is entered into by the Defendant, represented by counsel, and the United States, represented by the United States Attorney's Office for the Eastern District of Kentucky. The agreement does not bind any other United States Attorney's Office or any other federal, state, or local prosecuting authorities.

15. The Defendant and the Defendant's attorney acknowledge that the Defendant understands this Agreement, that the Defendant's attorney has fully explained this Agreement to the Defendant, and that the Defendant's entry into this Agreement is voluntary.

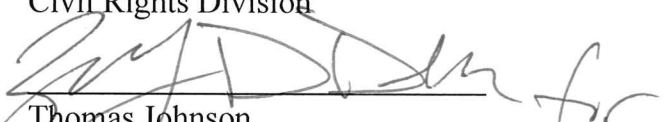
CARLTON S. SHIER IV  
UNITED STATES ATTORNEY

Date: 11/21/23

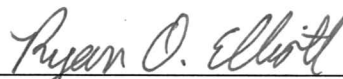
By:   
Zach Dembo  
Assistant United States Attorney

KRISTEN M. CLARKE  
ASSISTANT ATTORNEY GENERAL  
Civil Rights Division

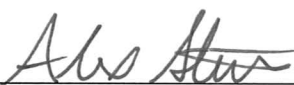
Date: 11/21/23

By:   
Thomas Johnson  
Trial Attorney

Date: 11-21-2023

  
Ryan O. Elliott  
Defendant

Date: 11 | 21 | 23

  
Alex Stewart