

1 SANDRA R. BROWN
Acting United States Attorney
2 LAWRENCE S. MIDDLETON
Assistant United States Attorney
3 Chief, Criminal Division
WILLIAM M. ROLLINS (Cal. Bar No. 287007)
4 Assistant United States Attorney
General Crimes Section
5 1200 United States Courthouse
312 North Spring Street
6 Los Angeles, California 90012
Telephone: (213) 894-7407
7 Facsimile: (213) 894-0141
E-mail: william.rollins@usdoj.gov

8 Attorneys for Plaintiff
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

No. CR 17-00055-RGK

13 Plaintiff,

PLEA AGREEMENT FOR DEFENDANT
JUSTIN ROBERT BURKETT

14 v.

15 JUSTIN ROBERT BURKETT,

16 Defendant.

17
18 1. This constitutes the plea agreement between JUSTIN ROBERT
19 BURKETT ("defendant") and the United States Attorney's Office for the
20 Central District of California (the "USAO") in the above-captioned
21 case. This agreement is limited to the USAO and cannot bind any
22 other federal, state, local, or foreign prosecuting, enforcement,
23 administrative, or regulatory authorities.

24 DEFENDANT'S OBLIGATIONS

25 2. Defendant agrees to:

26 a. At the earliest opportunity requested by the USAO and
27 provided by the Court, appear and plead guilty to Count One of the
28 indictment in United States v. Justin Robert Burkett, CR No. 17-

1 00055-RGK, which charges defendant with Possession with Intent to
2 Distribute Methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1),
3 (b)(1)(A)(viii).

4 b. Not contest facts agreed to in this agreement.

5 c. Abide by all agreements regarding sentencing contained
6 in this agreement.

7 d. Appear for all court appearances, surrender as ordered
8 for service of sentence, obey all conditions of any bond, and obey
9 any other ongoing court order in this matter.

10 e. Not commit any crime; however, offenses that would be
11 excluded for sentencing purposes under United States Sentencing
12 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
13 within the scope of this agreement.

14 f. Be truthful at all times with Pretrial Services, the
15 United States Probation Office, and the Court.

16 g. Pay the applicable special assessment at or before the
17 time of sentencing unless defendant lacks the ability to pay and
18 prior to sentencing submits a completed financial statement on a form
19 to be provided by the USAO.

20 THE USAO'S OBLIGATIONS

21 3. The USAO agrees to:

22 a. Not contest facts agreed to in this agreement.

23 b. Abide by all agreements regarding sentencing contained
24 in this agreement.

25 c. At the time of sentencing, move to dismiss the
26 remaining count of the indictment as against defendant. Defendant
27 agrees, however, that at the time of sentencing the Court may
28 consider any dismissed charge in determining the applicable

1 Sentencing Guidelines range, the propriety and extent of any
2 departure from that range, and the sentence to be imposed.

3 d. At the time of sentencing, provided that defendant
4 demonstrates an acceptance of responsibility for the offense up to
5 and including the time of sentencing, recommend a two-level reduction
6 in the applicable Sentencing Guidelines offense level, pursuant to
7 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an
8 additional one-level reduction if available under that section.

9 NATURE OF THE OFFENSE

10 e. Defendant understands that for defendant to be guilty
11 of the crime charged in Count One, that is, Possession with Intent to
12 Distribute Methamphetamine, in violation of Title 21, United States
13 Code, Sections 841(a)(1), (b)(1)(A)(viii), the following must be
14 true: (1) defendant knowingly possessed 50 grams or more of
15 methamphetamine; and (2) defendant possessed it with the intent to
16 distribute it to another person.

17 4. Defendant understands that for defendant to be subject to
18 the statutory maximum and statutory minimum sentences set forth
19 below, the government must prove beyond a reasonable doubt that
20 defendant possessed at least 50 grams of methamphetamine, pursuant to
21 Title 21, United States Code, Section 841(a)(1), (b)(1)(A)(viii).
22 Defendant admits that defendant, in fact, possessed 110.83 grams of
23 methamphetamine, as described in Count One of the indictment.

24 PENALTIES

25 5. Defendant understands that the statutory maximum sentence
26 that the Court can impose for a violation of Title 21, United States
27 Code, Sections 841(a)(1), (b)(1)(A)(viii), is: a lifetime term of
28 imprisonment; a lifetime period of supervised release; a fine of

1 \$10,000,000 or twice the gross gain or gross loss resulting from the
2 offense, whichever is greatest; and a mandatory special assessment of
3 \$100.

4 6. Defendant understands that the statutory mandatory minimum
5 sentence that the Court must impose for a violation of Title 21,
6 United States Code, Sections 841(a)(1), (b)(1)(A)(viii) is: a 10-
7 year term of imprisonment, followed by a 5-year period of supervised
8 release, and a mandatory special assessment of \$100.

9 7. Defendant understands that supervised release is a period
10 of time following imprisonment during which defendant will be subject
11 to various restrictions and requirements. Defendant understands that
12 if defendant violates one or more of the conditions of any supervised
13 release imposed, defendant may be returned to prison for all or part
14 of the term of supervised release authorized by statute for the
15 offense that resulted in the term of supervised release.

16 8. Defendant understands that, by pleading guilty, defendant
17 may be giving up valuable government benefits and valuable civic
18 rights, such as the right to vote, the right to possess a firearm,
19 the right to hold office, and the right to serve on a jury.
20 Defendant understands that once the Court accepts defendant's guilty
21 plea, it will be a federal felony for defendant to possess a firearm
22 or ammunition. Defendant understands that the conviction in this
23 case may also subject defendant to various other collateral
24 consequences, including but not limited to revocation of probation,
25 parole, or supervised release in another case and suspension or
26 revocation of a professional license. Defendant understands that
27 unanticipated collateral consequences will not serve as grounds to
28 withdraw defendant's guilty plea.

1 9. Defendant understands that under 21 U.S.C. § 862a,
2 defendant will not be eligible for assistance under state programs
3 funded under the Social Security Act or Federal Food Stamp Act or for
4 federal food stamp program benefits, and that any such benefits or
5 assistance received by defendant's family members will be reduced to
6 reflect defendant's ineligibility.

7 10. Defendant understands that, if defendant is not a United
8 States citizen, the felony conviction in this case may subject
9 defendant to: removal, also known as deportation, which may, under
10 some circumstances, be mandatory; denial of citizenship; and denial
11 of admission to the United States in the future. The Court cannot,
12 and defendant's attorney also may not be able to, advise defendant
13 fully regarding the immigration consequences of the felony conviction
14 in this case. Defendant understands that unexpected immigration
15 consequences will not serve as grounds to withdraw defendant's guilty
16 plea.

17 FACTUAL BASIS

18 11. Defendant admits that defendant is, in fact, guilty of the
19 offense to which defendant is agreeing to plead guilty. Defendant
20 and the USAO agree to the statement of facts provided below and agree
21 that this statement of facts is sufficient to support a plea of
22 guilty to the charge described in this agreement and to establish the
23 Sentencing Guidelines factors set forth in paragraph 13 below but is
24 not meant to be a complete recitation of all facts relevant to the
25 underlying criminal conduct or all facts known to either party that
26 relate to that conduct.

27 On December 13, 2016, in Santa Barbara County, in the Central
28 District of California, defendant knowingly and intentionally

1 possessed with the intent to distribute at least 50 grams, that is,
2 approximately 110.83 grams, of methamphetamine, a Schedule II
3 controlled substance.

4 Specifically, at around 2:25 p.m. on December 13, 2016, a
5 California Highway Patrol ("CHP") officer patrolling the 101 freeway
6 in Santa Barbara pulled defendant over for speeding while he was
7 behind the wheel of a blue Chrysler 300. Defendant was the sole
8 occupant inside the Chrysler, which had been reported stolen. During
9 a search of the car that day and again the next day after the car had
10 been impounded, officers found approximately 110.83 grams of
11 methamphetamine hidden in various compartments of the Chrysler, all
12 of which belonged to defendant. Defendant admits that he possessed
13 this methamphetamine with the intent to sell it to another person.

14 During their search of the Chrysler driven by defendant, police
15 also found a firearm, namely, a Taurus Model 85 .38 caliber revolver,
16 inside the car in close proximity to the 110.83 grams of
17 methamphetamine. Defendant admits that he possessed this firearm in
18 connection with the offense.

19 SENTENCING FACTORS

20 12. Defendant understands that in determining defendant's
21 sentence the Court is required to calculate the applicable Sentencing
22 Guidelines range and to consider that range, possible departures
23 under the Sentencing Guidelines, and the other sentencing factors set
24 forth in 18 U.S.C. § 3553(a). Defendant understands that the
25 Sentencing Guidelines are advisory only, that defendant cannot have
26 any expectation of receiving a sentence within the calculated
27 Sentencing Guidelines range, and that after considering the
28 Sentencing Guidelines and the other § 3553(a) factors, the Court will

1 be free to exercise its discretion to impose any sentence it finds
2 appropriate between the mandatory minimum and up to the maximum set
3 by statute for the crime of conviction.

4 13. Defendant and the USAO agree to the following applicable
5 Sentencing Guidelines factors:

6 Base Offense Level: 30 U.S.S.G. § 2D1.1(c)(5)

7 Specific Offense
8 Characteristics

9 Possessing a dangerous weapon +2 U.S.S.G. § 2D1.1(b)(1)

10 Defendant and the USAO reserve the right to argue that
11 additional specific offense characteristics, adjustments, and
12 departures under the Sentencing Guidelines are appropriate.

13 14. Defendant understands that there is no agreement as to
14 defendant's criminal history or criminal history category.

15 15. Defendant and the USAO reserve the right to argue for a
16 sentence outside the sentencing range established by the Sentencing
17 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),
18 (a)(2), (a)(3), (a)(6), and (a)(7).

19 WAIVER OF CONSTITUTIONAL RIGHTS

20 16. Defendant understands that by pleading guilty, defendant
21 gives up the following rights:

- 22 a. The right to persist in a plea of not guilty.
23 b. The right to a speedy and public trial by jury.
24 c. The right to be represented by counsel -- and if
25 necessary have the Court appoint counsel -- at trial. Defendant
26 understands, however, that, defendant retains the right to be
27 represented by counsel -- and if necessary have the Court appoint
28 counsel -- at every other stage of the proceeding.

1 d. The right to be presumed innocent and to have the
2 burden of proof placed on the government to prove defendant guilty
3 beyond a reasonable doubt.

4 e. The right to confront and cross-examine witnesses
5 against defendant.

6 f. The right to testify and to present evidence in
7 opposition to the charge, including the right to compel the
8 attendance of witnesses to testify.

9 g. The right not to be compelled to testify, and, if
10 defendant chose not to testify or present evidence, to have that
11 choice not be used against defendant.

12 h. Any and all rights to pursue any affirmative defenses,
13 Fourth Amendment or Fifth Amendment claims, and other pretrial
14 motions that have been filed or could be filed.

15 WAIVER OF APPEAL OF CONVICTION

16 17. Defendant understands that, with the exception of an appeal
17 based on a claim that defendant's guilty plea was involuntary, by
18 pleading guilty defendant is waiving and giving up any right to
19 appeal defendant's conviction on the offense to which defendant is
20 pleading guilty.

21 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

22 18. Defendant agrees that, provided the Court imposes a term of
23 imprisonment at or below 10 years, defendant gives up the right to
24 appeal all of the following: (a) the procedures and calculations
25 used to determine and impose any portion of the sentence, with the
26 exception of the Court's calculation of defendant's criminal history
27 category; (b) the term of imprisonment imposed by the Court, except
28 to the extent it depends on the Court's calculation of defendant's

1 criminal history category; (c) the fine imposed by the court,
2 provided it is within the statutory maximum; (d) the term of
3 probation or supervised release imposed by the Court, provided it is
4 within the statutory maximum; and (e) any of the following conditions
5 of probation or supervised release imposed by the Court: the
6 conditions set forth in General Orders 318, 01-05, and/or 05-02 of
7 this Court; the drug testing conditions mandated by 18 U.S.C.
8 §§ 3563(a)(5) and 3583(d); and the alcohol and drug use conditions
9 authorized by 18 U.S.C. § 3563(b)(7); and any conditions of probation
10 or supervised release agreed to by defendant in paragraph 2 above.

11 19. The USAO agrees that, provided all portions of the sentence
12 are at or above the statutory minimum and at or below the statutory
13 maximum specified above, the USAO gives up its right to appeal any
14 portion of the sentence.

15 RESULT OF WITHDRAWAL OF GUILTY PLEA

16 20. Defendant agrees that if, after entering a guilty plea
17 pursuant to this agreement, defendant seeks to withdraw and succeeds
18 in withdrawing defendant's guilty plea on any basis other than a
19 claim and finding that entry into this plea agreement was
20 involuntary, then: (a) the USAO will be relieved of all of its
21 obligations under this agreement; (b) should the USAO choose to
22 pursue any charge that was either dismissed or not filed as a result
23 of this agreement, then (i) any applicable statute of limitations
24 will be tolled between the date of defendant's signing of this
25 agreement and the filing commencing any such action; and
26 (ii) defendant waives and gives up all defenses based on the statute
27 of limitations, any claim of pre-indictment delay, or any speedy
28 trial claim with respect to any such action, except to the extent

1 that such defenses existed as of the date of defendant's signing this
2 agreement.

3 21. Defendant agrees that if the count of conviction is
4 vacated, reversed, or set aside, both the USAO and defendant will be
5 released from all their obligations under this agreement.

6 EFFECTIVE DATE OF AGREEMENT

7 22. This agreement is effective upon signature and execution of
8 all required certifications by defendant, defendant's counsel, and an
9 Assistant United States Attorney.

10 BREACH OF AGREEMENT

11 23. Defendant agrees that if defendant, at any time after the
12 signature of this agreement and execution of all required
13 certifications by defendant, defendant's counsel, and an Assistant
14 United States Attorney, knowingly violates or fails to perform any of
15 defendant's obligations under this agreement ("a breach"), the USAO
16 may declare this agreement breached. All of defendant's obligations
17 are material, a single breach of this agreement is sufficient for the
18 USAO to declare a breach, and defendant shall not be deemed to have
19 cured a breach without the express agreement of the USAO in writing.
20 If the USAO declares this agreement breached, and the Court finds
21 such a breach to have occurred, then: (a) if defendant has
22 previously entered a guilty plea pursuant to this agreement,
23 defendant will not be able to withdraw the guilty plea; and (b) the
24 USAO will be relieved of all its obligations under this agreement.
25 24. Following the Court's finding of a knowing breach of this
26 agreement by defendant, should the USAO choose to pursue any charge
27 that was either dismissed or not filed as a result of this agreement,
28 then:

1 a. Defendant agrees that any applicable statute of
2 limitations is tolled between the date of defendant's signing of this
3 agreement and the filing commencing any such action.

4 b. Defendant waives and gives up all defenses based on
5 the statute of limitations, any claim of pre-indictment delay, or any
6 speedy trial claim with respect to any such action, except to the
7 extent that such defenses existed as of the date of defendant's
8 signing this agreement.

9 c. Defendant agrees that: (i) any statements made by
10 defendant, under oath, at the guilty plea hearing (if such a hearing
11 occurred prior to the breach); (ii) the agreed to factual basis
12 statement in this agreement; and (iii) any evidence derived from such
13 statements, shall be admissible against defendant in any such action
14 against defendant, and defendant waives and gives up any claim under
15 the United States Constitution, any statute, Rule 410 of the Federal
16 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal
17 Procedure, or any other federal rule, that the statements or any
18 evidence derived from the statements should be suppressed or are
19 inadmissible.

20 COURT AND PROBATION OFFICE NOT PARTIES

21 25. Defendant understands that the Court and the United States
22 Probation Office are not parties to this agreement and need not
23 accept any of the USAO's sentencing recommendations or the parties'
24 agreements to facts or sentencing factors.

25 26. Defendant understands that both defendant and the USAO are
26 free to: (a) supplement the facts by supplying relevant information
27 to the United States Probation Office and the Court; (b) correct any
28 and all factual misstatements relating to the Court's Sentencing

1 Guidelines calculations and determination of sentence; and (c) argue
2 on appeal and collateral review that the Court's Sentencing
3 Guidelines calculations and the sentence it chooses to impose are not
4 error, although each party agrees to maintain its view that the
5 calculations in paragraph 13 are consistent with the facts of this
6 case. Although this paragraph permits both the USAO and defendant to
7 submit full and complete factual information to the United States
8 Probation Office and the Court, even if that factual information may
9 be viewed as inconsistent with the facts agreed to in this agreement,
10 this paragraph does not affect defendant's and the USAO's obligations
11 not to contest the facts agreed to in this agreement.

12 27. Defendant understands that even if the Court ignores any
13 sentencing recommendation, finds facts or reaches conclusions
14 different from those agreed to, and/or imposes any sentence up to the
15 maximum established by statute, defendant cannot, for that reason,
16 withdraw defendant's guilty plea, and defendant will remain bound to
17 fulfill all defendant's obligations under this agreement. Defendant
18 understands that no one -- not the prosecutor, defendant's attorney,
19 or the Court -- can make a binding prediction or promise regarding
20 the sentence defendant will receive, except that it will be within
21 the statutory maximum.

22 NO ADDITIONAL AGREEMENTS

23 28. Defendant understands that, except as set forth herein,
24 there are no promises, understandings, or agreements between the USAO
25 and defendant or defendant's attorney, and that no additional
26 promise, understanding, or agreement may be entered into unless in a
27 writing signed by all parties or on the record in court.

PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

29. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

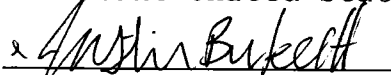
UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF
CALIFORNIA

SANDRA R. BROWN
Acting United States Attorney




WILLIAM M. ROLLINS
Assistant United States Attorney

5/22/17
Date


JUSTIN ROBERT BURKETT
Defendant

5/22/17
Date


KIM SAVO
Deputy Federal Public Defender
Attorney for Defendant
JUSTIN ROBERT BURKETT

5/22/17
Date

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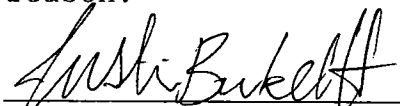
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CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charge and wish to take advantage of the promises set forth in this agreement, and not for any other reason.



JUSTIN ROBERT BURKETT
Defendant

Date 5/22/17

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