

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
LEXINGTON**

CRIMINAL ACTION NO. 23-CR-00028-GFVT

UNITED STATES OF AMERICA

PLAINTIFF

V.

PLEA AGREEMENT

JOHN M. HOSKINS III

DEFENDANT

* * * * *

1. Pursuant to Federal Rule of Criminal Procedure 11(c), the Defendant will enter guilty pleas to Counts 1, 5, 6, and 7 of the Indictment. Counts 1, 5, and 6 charge a violation of 21 U.S.C. § 841(a)(1), distribution of 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine. Count 7 charges a violation of 18 U.S.C. § 924(c)(1)(A), carrying a firearm during and in relation to a drug trafficking crime. Pursuant to Rule 11(c)(1)(A), the United States will move at sentencing to dismiss Counts 2, 3, and 4 of the Indictment.

2. The essential elements of Counts 1, 5, and 6 are as follows:

- (a) That the defendant knowingly distributed 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance;
- (b) That the defendant knew at the time of distribution that the substance was a controlled substance.

3. The essential elements of Count 7 are as follows:

- (a) That the defendant committed a drug trafficking crime as charged in Count 6 of the Indictment which may be prosecuted in a court of the United States;
- (b) That the defendant knowingly carried a firearm; and
- (c) That the carrying of the firearm was during and in relation to the crime charged in Count 6.

4. As to Counts 1, 5, 6, and 7 of the Indictment, the United States could prove the following facts that establish the essential elements of the offenses beyond a reasonable doubt, and the Defendant admits these facts:

- a. Between May and July 2022, local law enforcement and ATF conducted multiple controlled drug transactions with the Defendant through the use of a confidential informant. During these transactions, the Defendant sold the informant various amounts of methamphetamine, a Schedule II controlled substance. All transactions occurred in Fayette County in the Eastern District of Kentucky. The approximate quantities and dates of the transactions are listed as follows:

<u>DATE</u>	<u>QUANTITY</u>
May 19, 2022	56 grams
May 25, 2022	56 grams
June 6, 2022	14 grams
June 7, 2022	112 grams
June 22, 2022	112 grams
July 7, 2022	112 grams

- b. During the May 25, 2022, drug transaction, the Defendant sold the informant a Chinese SKS rifle along with methamphetamine. During the July 7, 2022, drug transaction, while waiting for the Defendant's drug supplier, the Defendant and the confidential informant discussed a firearm observed in the Defendant's apartment bedroom. During the discussion, the informant asked the Defendant

what kind of firearm the Defendant was “packing.” The Defendant described the firearm as a “Kimber.” When the supplier arrived, the Defendant armed himself with the firearm and carried the firearm with him to meet with the supplier. Upon returning with the methamphetamine, the Defendant removed the firearm from his pocket and placed it on a table.

- c. The Defendant admits that he knowingly distributed methamphetamine to a confidential informant on the dates listed above. The Defendant further admits that he sold quantities of 50 grams or more on at least five occasions to the informant. The Defendant further admits that he carried a firearm during and in relation to a drug trafficking crime on July 7, 2022.

5. The statutory punishment for Counts 1, 5, and 6 is not less than 5 years imprisonment, not more than a \$5,000,000 fine, and not less than 4 years of supervised release. The statutory punishment for Count 7 is not less than 5 years imprisonment, not more than life imprisonment, consecutive to any other sentence, a fine of not more than \$250,000, and a term of supervised release of not more than 5 years. A mandatory special assessment of \$400 applies, and the Defendant will pay this assessment to the U.S. District Court Clerk at the time of sentencing.

6. Pursuant to Rule 11(c)(1)(B), the United States and the Defendant recommend the following sentencing guideline calculations, and they may object to or argue in favor of other calculations. This recommendation does not bind the Court.

- (a) The United States Sentencing Guidelines (USSG) in effect as of November 1, 2021, will determine the Defendant’s guidelines range.
- (b) Pursuant to USSG § 1B1.3, the Defendant’s relevant conduct includes the facts set forth in paragraph 4 and all provided discovery materials.

- (c) Pursuant to USSG § 2D1.1(a)(5) and (c)(6), the base offense level for Counts 1, 5, and 6 is 28 as the offense involved at least 350 grams but less than 500 grams of methamphetamine.
- (d) Pursuant to USSG § 2K2.4(b), the guideline sentence for Count 7 is the minimum term of imprisonment required by statute which is 5 years consecutive to any other sentence.
- (e) Pursuant to U.S.S.G. § 3E1.1 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. If the offense level determined prior to this 2-level decrease is level 16 or greater, 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.

7. It is the United States's position that a two level enhancement pursuant to USSG § 2D1.1(b)(1) applies based on the possession of a dangerous weapon. The Defendant disagrees and reserves the right to object to this enhancement at sentencing.

8. The Defendant will not file a motion for a decrease in the offense level based on a mitigating role pursuant to U.S.S.G. § 3B1.2 or a departure motion pursuant to U.S.S.G. Chapter 5, Parts H or K.

9. 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 the advisory sentencing guidelines range as determined by the Court at sentencing. Except for claims of ineffective assistance of counsel, the Defendant also waives the right to attack collaterally the guilty plea, conviction, and sentence.

10. The Defendant abandons any interest in, and consents to the official use, destruction, or other disposition of, any item obtained by any law enforcement agency during the course of the investigation, unless an item is specifically provided for in another provision of this Agreement. The Defendant also waives any notice of a proceeding to implement the official use, destruction, or other disposition of any item abandoned under this paragraph.

11. 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).

12. 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 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.

13. 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.


14. This document contains the complete and only Plea Agreement between the United States Attorney for the Eastern District of Kentucky and the Defendant. The United States has not made any other promises to the Defendant.

15. This Agreement does not bind the United States Attorney's Offices in other districts, or any other federal, state, or local prosecuting authorities.

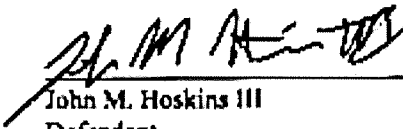
16. The Defendant and the Defendant's attorney acknowledge that the Defendant understands this Agreement, that the Defendant's attorney has fully explained this Agreement to the Defendant, and that the Defendant's entry into this Agreement is voluntary.

CARLTON S. SHIER, IV
UNITED STATES ATTORNEY


Date: 6-21-23

By: 
Francisco J. Villalobos II
Assistant United States Attorney

Date: 6-20-23


John M. Hoskins III
Defendant

Date: 6/20/2023


Brandi Lewis
Attorney for Defendant