

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT ~~BOWLING GREEN~~ Louisville

**FILED**  
Jeffrey A. Apperson, Clerk

MAY 25 2007

U. S. DISTRICT COURT,  
WEST'N DIST. KENTUCKY  
PLAINTIFF

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:07CR-10-R

**WILLIE COLLINS**

DEFENDANT

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the United States of America, by David L. Huber, United States Attorney for the Western District of Kentucky, and defendant, Willie Collins, and his attorney, Laura Wyrosdick, have agreed upon the following:

1. Defendant acknowledges that he has been charged in the Superseding Indictment in this case with violations of Title 18, United States Code, Sections 1343 and 1028A.

2. Defendant has read the charges against him contained in the Superseding Indictment, and that the charges have been fully explained to him by his attorney. Defendant fully understands the nature and elements of the crimes with which he has been charged.

3. Defendant will enter a voluntary plea of guilty to Counts 1 and 4 in this case. Defendant will plead guilty because he is in fact guilty of the charges. The parties agree to the following factual basis for this plea:

In November and December of 2006 **Willie Collins** and his co-conspirators stole the identity of J.F. in order to fraudulently open a bank account at B.B. & T. Bank in Louisville, Kentucky. **Collins** and his co-conspirators used the driver's license, name, date of birth, and social security number of J.F. in order to open the account. Once the account was open **Collins** and his co-conspirators deposited a \$294,567.22 check into the account. **Collins** and his co-conspirators later unsuccessfully attempted to wire and withdrawal the funds from the account.

**Collins** knew the money deposited in the account was fraudulently obtained by his co-conspirators. In addition, he knowingly used the social security number, date of birth, and name of J.F. in order to fraudulently open the B.B. and T. Bank account.

4. Defendant understands that the charges to which he will plead guilty carry a combined maximum term of imprisonment of 32 years, a combined maximum fine of \$1,000,000 and a five-year term of supervised release. Defendant understands that an additional term of imprisonment may be ordered if the terms of the supervised release are violated, as explained in 18 U.S.C. § 3583.

5. Defendant understands that if a term of imprisonment of more than one year is imposed, the Sentencing Guidelines require a term of supervised release and that he will then be subject to certain conditions of release. §§5D1.1, 5D1.2, 5D1.3.

6. Defendant understands that by pleading guilty, he surrenders certain rights set forth below. Defendant's attorney has explained those rights to him and the consequences of his waiver of those rights, including the following:

A. If defendant persists in a plea of not guilty

to the charge against him, he has the right to a public and speedy trial. The trial could either be a jury trial or a trial by the judge sitting without a jury. If there is a jury trial, the jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that defendant is presumed innocent and that it could not convict him unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt.

B. At a trial, whether by a jury or a judge, the United States would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them. In turn, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court.

C. At a trial, defendant would have a privilege against self-incrimination and he could decline to testify, without any inference of guilt being drawn from his refusal to testify. If defendant desired to

do so, he could testify in his own behalf.

7. Defendant understands that the United States Attorney's Office has an obligation to fully apprise the District Court and the United States Probation Office of all facts pertinent to the sentencing process, and to respond to all legal or factual inquiries that might arise either before, during, or after sentencing. Defendant admits all acts and essential elements of the Superseding Indictment counts to which he pleads guilty.

8. Defendant acknowledges liability for the special assessment mandated by 18 U.S.C. § 3013 and will pay the assessment in the amount \$100 per count for felony offenses involving individuals the United States District Court Clerk's Office on the date of sentencing.

9. At the time of sentencing, the United States will

- recommend a sentence of imprisonment at the lowest end of the applicable Guideline Range, but not less than any mandatory minimum term of imprisonment required by law.

- recommend a reduction of 3 levels below the otherwise applicable Guideline for "acceptance of responsibility" as provided by §3E1.1(a) and (b), provided the defendant does not engage in future conduct which violates a condition of bond, constitutes obstruction of justice, or otherwise demonstrates a lack of acceptance of responsibility. Should such conduct occur and the United States, therefore, opposes the reduction for acceptance, this plea agreement remains binding and the defendant will not be allowed to withdraw his plea.

- consider making a motion pursuant to §5K1.1 of the

Sentencing Guidelines stating the extent to which the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense. Whether or not to make such motion, and the extent of any departure recommended, shall be in the discretion of the United States Attorney. The defendant, however, is not precluded from making a \$5K1.1 motion on his own behalf.

10. Both parties have independently reviewed the Sentencing Guidelines applicable in this case, and in their best judgment and belief, conclude as follows:

A. The Applicable Offense Level should be determined as follows:

USSG § 2B1.1(a)(1) [Base offense level]: 7

<sup>BEL</sup> (b)(1)(H) [intended loss more than \$200,000]: +12

~~3B1.2(b) [minor participant]: -2~~

3E1.1(a) & (b) [acceptance]: -3 <sup>BEL</sup>

**\*Total Adjusted Offense Level:**

14 <sup>12-14</sup> ~~12-16~~

<sup>BEL</sup> \* The parties agree to leave open for argument any downward adjustments under § 3B1.2 (A) ~~(b)~~. <sup>Wife</sup> 25

B. The Criminal History of defendant shall be determined upon completion of the presentence investigation, pursuant to Fed. R. Crim. P. 32(c). Both parties reserve the right to object to the USSG §4A1.1 calculation of defendant's criminal history.

C. The foregoing statements of applicability of sections of the Sentencing Guidelines and the statement

of facts are not binding upon the Court. The defendant understands the Court will independently calculate the Guidelines at sentencing and defendant may not withdraw the plea of guilty solely because the Court does not agree with either the statement of facts or Sentencing Guideline application.

11. Defendant is aware of his right to appeal his conviction and that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. The Defendant knowingly and voluntarily waives the right (a) to directly appeal his conviction, but not the resulting sentence pursuant to Fed. R. App. P. 4(b) and 18 U.S.C. § 3742, if the sentence imposed is not imposed in accordance with this plea agreement, and (b) to contest or collaterally attack his conviction and the resulting sentence pursuant to 28 U.S.C. § 2255 or otherwise. Defendant understands and agrees that nothing in this plea agreement should be construed as a waiver by the United States of its right to appeal the sentence under 18 U.S.C. § 3742.

12. Defendant understands all financial matters, including restitution, are left to be addressed at sentencing.

13. Defendant understands and agrees that complete and truthful cooperation is a material condition of this Agreement. Defendant understands that such cooperation shall be provided to any state, local, and federal law enforcement agencies designated

by counsel for the United States. Cooperation will include:

- A. providing all information known to defendant regarding any criminal activity, including but not limited to the offenses described in this Agreement;
- B. complying with all reasonable instructions from the United States;
- C. submitting to interviews by investigators and attorneys at such reasonable times and places to be determined by counsel for the United States; and
- D. testifying fully and truthfully before any grand juries or at any trials or proceedings where defendant's testimony is deemed by the United States to be relevant.

14. The United States agrees that any statements made by defendant during the cooperation phase of this agreement shall not be used against the defendant in sentencing or in any subsequent civil or criminal prosecutions unless and until there is a determination by the Court that defendant has breached this Agreement.

15. In the event the United States believes defendant has failed to fulfill any obligations under this Agreement, then the United States shall, in its discretion, have the option of being relieved of its obligations under the plea agreement. Whether or not defendant has completely fulfilled all of the obligations

under this Agreement shall be determined by the United States.

16. Defendant and the United States agree that in the event the defendant has breached the Agreement:

A. Defendant will not be permitted to withdraw any guilty plea tendered under this Agreement and agrees not to petition for withdrawal of any guilty plea;

B. The United States will be free to make any recommendations to the Court regarding sentencing in this case;

C. Any evidence or statements made by defendant during the cooperation phase will be admissible at any trials or sentencing;

D. The United States will be free to bring any other charges it has against defendant.

17. Defendant waives and agrees to waive any rights under the Speedy Trial Act and understands and agrees that sentencing may be delayed until the cooperation phase has been completed and title to all assets has fully vested in the United States. The reason for such waiver is so that at sentencing the Court will have the benefit of all relevant information.

18. Nothing in this Agreement shall protect defendant in any way from prosecution for any offense committed after the date of this Agreement, including perjury, false declaration, or false

statement, in violation of 18 U.S.C. §§ 1621, 1623, or 1001, or obstruction of justice, in violation of 18 U.S.C. §§ 1503, 1505, or 1510, should defendant commit any of those offenses during the cooperation phase of this Agreement. Should defendant be charged with any offense alleged to have occurred after the date of this Agreement, the information and documents disclosed to the United States during the course of the cooperation could be used against defendant in any such prosecution.

19. Defendant agrees not to pursue or initiate any civil claims or suits against the United States of America, its agencies or employees, whether or not presently known to defendant, arising out of the investigation or prosecution of the offense covered by this Agreement.

20. The defendant hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 522a.

21. It is understood that pursuant to Fed. R. Crim. P. 11(c)(1)(B), the recommendations of the United States are not binding on the Court. In other words, the Court is not bound by the sentencing recommendation and defendant will have no right to

withdraw his guilty plea if the Court decides not to accept the sentencing recommendation set forth in this Agreement.

22. Defendant agrees that the disposition provided for within this Agreement is fair, taking into account all aggravating and mitigating factors. Defendant states that he has informed the United States Attorney's Office and the Probation Officer, either directly or through his attorney, of all mitigating factors.

*Defense can argue other factors*

23. This document states the complete and only Plea Agreement between the United States Attorney for the Western District of Kentucky and defendant in this case, and is binding only on the parties to this Agreement, supersedes all prior understandings, if any, whether written or oral, and cannot be modified other than in writing that is signed by all parties or on the record in Court. No other promises or inducements have been or will be made to defendant in connection with this case, nor have any predictions or threats been made in connection with this plea.

*up*

AGREED:

DAVID L. HUBER  
United States Attorney

By:

  
\_\_\_\_\_  
Bryan R. Calhoun  
Assistant U.S. Attorney

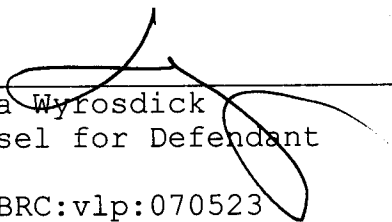
*5/25/07*  
\_\_\_\_\_  
Date

I have read this Agreement and carefully reviewed every part of it with my attorney. I fully understand it and I voluntarily agree to it.

  
\_\_\_\_\_  
Willie Collins  
Defendant

Date 5/25/09

I am the defendant's counsel. I have carefully reviewed every part of this Agreement with the defendant. To my knowledge my client's decision to enter into this Agreement is an informed and voluntary one.

  
\_\_\_\_\_  
Laura Wyrosdick  
Counsel for Defendant

Date 5/25/09

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