



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

September 18, 2013

VIA ELECTRONIC MAIL

Mr. Dorsey Jones



Re: United States v. Immanuel Swann, 2012 CF3 20346

Dear Mr. Jones:

This letter is to confirm the plea offer for your client, Immanuel Swann. This plea offer will remain open until September 20, 2013. However, the Government reserves the right to revoke this plea offer at any time before your client enters a guilty plea in this case. If your client accepts the terms and conditions set forth below, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the plea agreement between your client and the Office of the United States Attorney for the District of Columbia. The terms of the offer are as follows:

DEFENDANT'S OBLIGATIONS

1. Your client, Immanuel Swann, agrees to admit guilt and enter a plea of guilty to the following offenses:

- a. **Voluntary Manslaughter While Armed**, in violation of D.C. Code §§ 22-2105, 4502, as a lesser included offense of Count 9 of the Second Superseding Indictment (Felony Murder While Armed). Your client understands that the maximum penalty for this offense is **30 years' incarceration**.
- b. **Armed Robbery** (of Olijawon Griffin), in violation of D.C. Code §§ 22-2801, 4502(a)(1), which is Count 2 of the Second Superseding Indictment. Your client understands that the maximum penalty for this offense is **30 years' incarceration**. There is no mandatory minimum.
- c. **Armed Robbery** (of Isaac Chase), in violation of D.C. Code §§ 22-2801,

4502(a)(1), which is Count 5 of the Second Superseding Indictment. Your client understands that the maximum penalty for this offense is **30 years' incarceration**. There is no mandatory minimum.

2. Your client understands that, in exchange for his plea of guilty to the offenses described in paragraph 1, supra, the government will:
 - a) **dismiss**, at the time of sentencing, all greater and remaining counts in the Second Superseding Indictment; and
 - b) **waive** the filing of any applicable sentencing enhancement papers.
3. The parties agree that your client will remain incarcerated pending sentencing.
4. The parties further agree that your client, after taking an oath to tell the truth, shall agree to a proposed factual proffer in open court on the date of the plea. The language of the proffer is attached to this letter.
5. Your client understands that the Court may use the District of Columbia Sentencing Commission's Voluntary Sentencing Guidelines in imposing the sentence in this case. This plea offer is contingent upon an agreement between the Government and your client that neither party will seek an upward or downward departure outside of your client's applicable guideline range. Your client further understands that the applicable guideline range will not be determined by the Court until the time of sentencing.
6. Your client agrees that this letter is binding on the Government, but not binding on the Court, and that your client cannot withdraw this plea at a later date because of the harshness of any sentence imposed by the Court. The Government understands that your client is not bound by the Government's allocution, and may request a lesser sentence, subject to the terms set forth in paragraph 5, above.
7. Your client acknowledges and has been made aware that pursuant to the Innocence Protection Act, there may be physical evidence which was seized from the victim, crime scene or from your client or from some other source that can be tied to your client that could contain probative biological material. Your client understands and agrees that in order to plead guilty in this case, your client must waive and give up DNA testing in this case and must execute the attached written waiver of DNA testing. Your client further understands that should he waive and give up DNA testing now, it is unlikely that he will have another opportunity to have the DNA tested in this case.
8. Your client also agrees that if any illegal firearms or illegal contraband were seized by any law enforcement agency from the possession of or the direct or indirect control of your client, then your client consents to the administrative forfeiture, official use and/or

destruction of said firearms or contraband by any law enforcement agency involved in the seizure of these items.

9. In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute. In particular, your client knowingly and voluntarily waives or gives up his right against self-incrimination with respect to the offenses to which your client is pleading guilty before the Court which accepts your client's plea. Your client also understands that by pleading guilty your client is waiving or giving up your client's right to be tried by a jury or by a judge sitting without a jury, the right to be assisted by an attorney at trial and the right to confront and cross-examine witnesses.
10. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the United States Attorney's Office for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this Office and your client.
11. Enclosed for your review:
 - a. Defendant's Acceptance & Attorney's Acknowledgment
 - b. Proffer of Facts & Defendant's Acknowledgment
 - e. Defendant's Agreement to Waive DNA testing

Respectfully,

RONALD C. MACHEN JR.
United States Attorney

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DEFENDANT’S ACCEPTANCE

I have read or had read to me each of the seven (7) pages of this plea agreement and have discussed this plea agreement with my attorney. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me, nor am I under the influence of anything that could impede my ability to understand this agreement fully. I am pleading guilty because I am in fact guilty of the offenses set forth herein.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

Date: _____

Immanuel Swann

ATTORNEY’S ACKNOWLEDGMENT

I have read each of the seven (7) pages of this plea agreement, fully reviewed them with my client, Immanuel Swann, and fully discussed the provisions of the agreement with my client. These pages accurately and completely set forth the entire plea agreement.

Date: _____

Dorsey Jones
Attorney for Immanuel Swann

PROFFER OF FACTS

On or about November 16 and 17, 2012, defendant Immanuel Swann, also known as “Man Man,” agreed to commit robberies with Muquan “Squirrel” Cawthorne, Isaiah “Cockstrong” Gant, Deon “J.R.” Jefferson, Gary “Gator” Maye, Chavez “Vez” Myers, Tyrell “Huntwood” Smith, Greg “Scrape” Whittaker, and two juveniles with the initials D.T. and A.W. (collectively hereinafter “the defendants” or “codefendants”). The agreement was to commit robberies in and around the Gallery Place/Chinatown and Adams-Morgan neighborhoods of Washington, DC, and the goal of the agreement was to rob people of their iPhones and other personal items. Each of the defendants willingly entered into the agreement and was fully aware that the agreement was to commit robberies that night.

Shortly after midnight on November 17, 2012, Olijawon Griffin approached Swann and his codefendants in front of the McDonald’s located at 2481 18th St. NW in Washington, DC. Mr. Griffin was wearing a black Helly Hansen jacket with two horizontal, reflective white

stripes. Mr. Griffin asked the defendants if they had any marijuana to sell him. When Maye responded yes, Mr. Griffin briefly went inside the McDonald's. While he was inside, the defendants agreed to rob Mr. Griffin of his jacket, and Swann heard this discussion. All of the defendants knew that there was going to be a robbery and agreed, tacitly or explicitly, to participate.

When Mr. Griffin returned outside, the defendants walked to Lanier Place, a street that is adjacent to the Exxon gas station located at 1827 Adams Mill Road NW in Washington, DC. On the way there, Swann saw Cawthorne, who had been carrying a loaded semiautomatic pistol most of the night, hand that gun to Maye. Swann saw Mr. Griffin, Maye, Jefferson, and Cawthorne go down Lanier Place while the other defendants, all of whom knew that they were about to rob Mr. Griffin, stayed a short distance away to act as lookouts. Swann then saw Maye point the gun at Mr. Griffin and saw Jefferson remove Mr. Griffin's coat, while Cawthorne stood immediately next to them to act as backup. Mr. Griffin then started to run away but was tripped. When Mr. Griffin fell to the ground, Swann kicked him. Swann also saw A.W. take Mr. Griffin's shoes but give them back when Gant told him to do so.

After the robbery was complete, Mr. Griffin left, and all of the defendants walked to the Woodley Park Metro station, where they intended to go back to West Hyattsville. Shortly after they arrived at the Metro station, the defendants, including Swann, saw Mr. Griffin and his friend Isaac Chase approach them in an effort to get Mr. Griffin's property back. At that time, Swann saw that Jefferson was wearing the Helly Hansen jacket that he and the other defendants had stolen from Mr. Griffin, while D.T. was wearing a blue L.A. Kings baseball cap they had stolen from him. Swann saw that D.T. was also wearing a black Helly Hansen coat with a thick, dark grey stripe in the middle of it, and blue jeans with the cuffs rolled up. Swann saw that Cawthorne was wearing light grey jeans and a jacket with several distinctive yellow or green vertical zippers. Swann saw that Maye was wearing a black or dark grey jacket, dark jeans with the cuffs rolled up, and a rolled-up ski mask on top of his head. Swann saw that Myers was wearing a long grey coat, black or dark grey pants, a black or dark grey half-zip sweater, and a black polo ski cap with a rolled up ski mask underneath it. Swann himself was wearing blue jeans and a black nylon zip-up jacket with a bright red or orange hood, as well as a baseball cap with shiny decals on the front and the bill. Swann saw that Whittaker was wearing a long, puffy, black coat, dark pants, a white t-shirt, and tan Timberland boots.

As Mr. Chase approached, Swann heard Cawthorne ask Jefferson if he (Cawthorne) should shoot Mr. Chase. Jefferson said no. Swann then saw Mr. Chase taken to the ground and, along with Cawthorne, Maye, Smith, D.T., and A.W., Swann repeatedly punched, kicked, and stomped Mr. Chase, while Gant, Jefferson, Myers, and Whittaker moved toward Mr. Griffin in an effort to keep Mr. Griffin from helping Mr. Chase. While Mr. Chase was on the ground, Swann heard at least one of his codefendants say, "Get his shoes!" Although there was no discussion of the fact that Mr. Chase would be robbed during this attack, Swann assumed that he would be and believes that all of his codefendants knew that as well.

After the first attack on Mr. Chase was completed, Swann saw Mr. Chase get up and

stumble towards the escalators. Jefferson, Cawthorne and Swann followed Mr. Chase as he did this. Swann then saw Smith take Mr. Chase to the ground again, after which Swann punched and kicked Chase along with, among others, Cawthorne and Maye. Swann saw Jefferson bend down over Mr. Chase while this was happening and saw Cawthorne go through Mr. Chase's pockets and remove Mr. Chase's wallet. Swann subsequently saw Watts walk away from Mr. Chase, carrying Mr. Chase's shoes. After that second attack was complete, Swann heard Cawthorne say that he (Cawthorne) had taken money from Mr. Chase's wallet, which Cawthorne had, in fact, done. Swann also heard Cawthorne later say he (Cawthorne) had hidden the gun behind a metal box at the far end of the platform, which Cawthorne had, in fact, done. The gun was subsequently recovered by the police.

Shortly after the attack on Chase ended, Swann went up to the mezzanine level of the Metro station, the level on which the kiosk and fare machines are located. Jefferson, Maye, Myers, D.T., and Whittaker also went up to the mezzanine level at that time. Swann then stood near the fare gates, along with D.T. and Maye, and watched Myers and Whittaker briefly engage with Mr. Griffin before subsequently retreating, with Swann and the other defendants, back towards the escalators to the platform level. Then Swann, along with Whittaker and D.T., once again approached Mr. Griffin, who was challenging them to fight him one-on-one instead of jumping Mr. Chase as a group. Swann then saw Mr. Griffin square up against Whittaker (who had doffed his coat and was now wearing only the white t-shirt) in an unarmed fistfight and exchange one punch each, while Swann and D.T. stood behind Whittaker as backup. Swann then saw Myers sneak up on Mr. Griffin from behind as Mr. Griffin and Whittaker were engaged in the fistfight. Although Myers had pulled a ski mask over his face, Swann was able to recognize Myers by what he was wearing and because he had known Myers for years. Swann then saw Myers reach out and stab Mr. Griffin once in the chest.

As Mr. Griffin stumbled towards the emergency gate next to the station kiosk, Swann saw the knife in Mr. Griffin's chest fall to the ground. He then heard D.T. (whose voice he recognized) shout, "Hey, pick that knife up, cuz!", and saw Whittaker bend down and pick up the knife. Swann then shouted, among other things, "Bitch, we don't play!... Say a word!" By "say a word," Swann meant, "Don't tell anyone what just happened."

Swann agrees that, when he entered into the agreement to commit robberies that night, and then continuing throughout the night, it was reasonably foreseeable that someone could be killed. He also agrees and understands that, having agreed with his codefendants to commit robberies, he may be held legally responsible for Mr. Griffin's death at the hands of one of his coconspirators, even if he himself did not intend for Mr. Griffin to be killed. Finally, he agrees and understands that Myers caused the death of Mr. Griffin, that Myers intended to kill or seriously injure Mr. Griffin or acted in conscious disregard of an extreme risk of death or serious bodily injury to Mr. Griffin, and that Myers did not act in self-defense or defense of others when he stabbed Mr. Griffin in the chest.

This summary of the facts does not include all of the facts and circumstances of the offenses, nor does it specify all of the actions taken by the members of the conspiracy on

November 16 and 17, 2012. Rather, this summary of the facts is limited to those facts and circumstances necessary to the plea of guilty.

DEFENDANT’S ACKNOWLEDGMENT

I have read and discussed the Government’s Proffer of Facts with my attorney, Dorsey Jones. I agree, and acknowledge by my signature, that this Proffer of Facts is true and correct.

Date: _____
Immanuel Swann

Date: _____
Dorsey Jones
Attorney for Defendant Immanuel Swann

DEFENDANT’S AGREEMENT TO WAIVE DNA TESTING

My attorney has discussed the contents of this plea agreement with me, including the fact that I may request or waive DNA testing, including independent DNA testing. I understand the conditions of the plea and agree to them. I knowingly, intentionally, and voluntarily waive and give up DNA testing, including independent DNA testing, of any biological materials in this case. I further state that I am fully satisfied with the services my attorney has provided to me and am fully satisfied with the explanation my attorney has provided me concerning the terms of the plea offer, the potential evidentiary value of DNA evidence in this case, and the consequences of waiving and giving up DNA testing in this case and pleading guilty.

Date: _____
Immanuel Swann

Date: _____
Dorsey Jones
Attorney for Defendant Immanuel Swann