



U.S. Department of Justice

Ronald C. Machen Jr.  
United States Attorney

*District of Columbia*

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

May 2, 2014

**VIA EMAIL**

Madalyn Harvey  
Galit Lipa  
Counsel to Defendant Leon Smith  
Public Defender's Service  
633 Indiana Avenue, N.W.  
Washington, D.C. 20004

Re: United States v. Leon Smith, 2012 CF1 15365

Dear Counsel,

We write to convey a plea offer to your client, Leon Smith, which will remain open on the following two conditions. First, your client must enter his plea no later than Friday, May 9, 2014. Second, the government reserves the right to revoke this plea offer at any point before your client enters a guilty plea in open court and the guilty plea is accepted by the Court. ms

If your client accepts the terms and conditions set forth below, please have him execute this document in the space provided. Upon receipt of the executed document, subject to the two conditions noted above, 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 and conditions of the plea offer are as follows:<sup>1/</sup>

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<sup>1/</sup> Any references to "the defendant" or "your client" refer to Leon Smith. Any reference to "the government" refers to the United States Attorney's Office for the District of Columbia. Any reference to "the parties" refers to Leon Smith and the United States Attorney's Office for the District of Columbia. Any reference to the "agreement" refers to this plea agreement.



## TERMS AND CONDITIONS

1. Your client agrees to admit guilt and enter a plea of guilty to a criminal information charging the following offenses:
  - a) **Second Degree Murder While Armed**, in violation of D.C. Code §§ 22-2103, 4502. Your client understands that the offense of Second Degree Murder While Armed carries a potential maximum penalty of 40 years of imprisonment, and a maximum of 5 years of supervised release.
  - b) **Obstruction of Justice**, in violation of D.C. Code § 22-722. Your client understands that the offense of Obstruction of Justice carries a potential maximum penalty of thirty years in prison and/or a fine of \$10,000. Additionally, the offense of Obstruction of Justice carries with it a mandatory minimum penalty of three years in prison.
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 all remaining charges against your client at the time of sentencing;
  - b) waive the filing of any applicable sentencing enhancement papers; and
  - c) agree not to indict your client on any additional or greater charges arising out of this incident, as detailed in the attached factual proffer.
3. The parties agree that your client will remain incarcerated pending sentencing.
4. The parties agree that your client shall, on the date of the plea, after taking an oath to tell the truth, in open court, agree to the attached factual proffer, which is consistent with the version of events presented in the affidavit in support of an arrest warrant.
5. The parties agree that a **sentence of between twenty-four years and twenty-five years of incarceration** is the appropriate sentence in this case. Pursuant to Rule 11(e)(1)(C) of the Superior Court Rules of Criminal Procedure, the parties agree to present this plea agreement to the Court for its approval. If the Court accepts the plea agreement and the specific sentence agreed upon by the parties, that is, a sentence of between twenty-four years and twenty-five years of incarceration, to be imposed consecutive to any other sentence, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(e)(3) of the Superior Court Rules of Criminal Procedure.

The parties understand, however, that in light of other factors the Court may not agree that such a sentence is an appropriate one and may reject the plea agreement pursuant to Rule 11(e)(4) of the Superior Court Rules of Criminal Procedure. Upon such a rejection, pursuant to Rule 11(e)(4), neither party would then be bound by this plea agreement. Your client understands that if this happens, the Court, in accordance with the requirements of Rule 11(e)(4), will inform the parties of its rejection of the plea

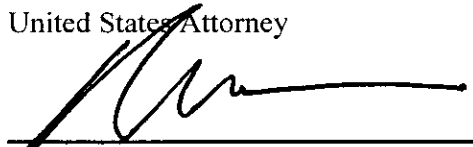
agreement, and will afford your client an opportunity to withdraw the plea, or if your client persists in the guilty plea, will inform your client that a final disposition may be less favorable to your client than that contemplated by this agreement.

Your client agrees that this letter is binding on the government, but, other than as noted herein, not binding on the Court. Your client further agrees that, other than as noted herein, he cannot withdraw his plea at a later date because of the harshness of any sentence imposed by the Court.

6. In accepting this plea agreement and entering a plea of guilty to the offenses specified in paragraph 1, supra, your client understands and agrees to knowingly, intelligently, and voluntarily waive certain rights afforded to him by the United States Constitution and/or by statute. These rights include, but are not necessarily limited to, the right to a probable cause determination by a magistrate, the right against self-incrimination, the 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, the right to confront and cross-examine witnesses, and the right to appeal his conviction.
7. The charge to which your client would be entering a guilty plea is a crime of violence as defined in D.C. Code Section 23-1331(4). Some of the evidence that was recovered in this case may contain biological material, which could be subjected to DNA testing. Before the government will agree to the above plea offer, the defendant must waive, in writing below and in open court at the time of the plea, any right he might have to test the evidence for the presence of DNA.
8. 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.

Respectfully,

RONALD C. MACHEN JR.  
United States Attorney



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**DEFENDANT'S AGREEMENT TO WAIVE DNA TESTING**

My attorneys have discussed the contents of this plea agreement with me, including the fact that I may request or waive DNA testing (or independent DNA testing, if applicable). I understand the conditions of the plea and agree to them. I knowingly, intentionally, and voluntarily waive and give up DNA testing (or independent DNA testing, if applicable) 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: 5/6/2014

Leon Smith  
LEON SMITH, Defendant

Date: 5/6/14


Maddalyn Harvey, Esq.  
Galit Lipa, Esq.  
Attorneys for Defendant Leon Smith

**DEFENDANT'S ACCEPTANCE**

I have read this plea agreement, or had it read to me, and have discussed it with my attorneys. 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 offense 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 attorneys in connection with this plea agreement and matters related to it.

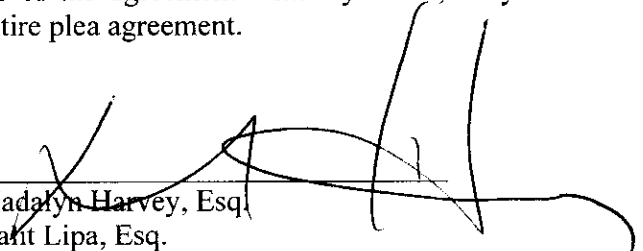
Date: 5/6/14

  
\_\_\_\_\_  
LEON SMITH  
Defendant

**ATTORNEY'S ACKNOWLEDGMENT**

I have read each of the five pages constituting this plea agreement, reviewed them with my client, Leon Smith, and discussed the provisions of the agreement with my client, fully. These pages accurately and completely set forth the entire plea agreement.

Date: 5/6/14

  
\_\_\_\_\_  
Madalyn Harvey, Esq.  
Gaht Lipa, Esq.  
Attorneys for Defendant Leon Smith

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA  
CRIMINAL DIVISION – FELONY BRANCH**

<b>UNITED STATES OF AMERICA</b>	)	<b>Case No. 2012 CF1 15365</b>
	)	
<b>v.</b>	)	<b>Judge Ramsey Johnson</b>
	)	
<b>LEON SMITH,</b>	)	
<b>Defendant.</b>	)	
<hr/>	)	

**PROFFER OF FACTS**

Had the case of United States v. Leon Smith, 2012 CF1 15365, proceeded to trial, the government would have proven beyond a reasonable doubt, among other things, that:

On September 1, 2012, Leon Smith spent the day with his girlfriend, W-2. After they spent the day together, Leon Smith and W-2 parted ways. Mr. Smith went to 203 N Street Southwest to see his mother. W-2 went to Suitland, Maryland to meet up with a close female friend (W-1) and W-1's boyfriend Stephan Pool.

That night it began to rain, so W-2, W-1, and Stephan Pool cancelled their plans to attend the fish fry. W-2 and Mr. Smith began texting and decided that W-2 would join Mr. Smith at 203 N Street, S.W. Stephan Pool and W-1 agreed to give W-2 a ride to that location in Mr. Pool's SUV. Mr. Pool drove the group to 203 N Street, S.W., W-1 sat in the front passenger's seat, and W-2 sat in the rear passenger's seat, behind W-1. When they arrived at 203 N Street, S.W., W-1, Stephan Pool, and W-2 waited in the vehicle for a few minutes for Smith to come downstairs. During these few minutes, a police officer noticed the waiting SUV and approached it. The police officer had a short conversation with Stephan Pool, who explained they were waiting for someone to come downstairs and would move the car shortly. The police officer reported that nothing seemed out of the ordinary during this short but friendly conversation. The officer left and continued to patrol the area.

A few minutes later, Mr. Smith walked out the front door of 203 N Street, S.W. When she saw Mr. Smith, W-2 got out of the SUV and went to say goodbye to both W-1 and Stephan Pool. Both the driver's window and the front passenger window of the SUV were rolled down. After exiting the SUV, W-2 first reached through the open front passenger window and gave W-1 a hug. W-2 then walked around to the driver's side of the SUV. W-2 reached through the open driver's window and also gave Stephan Pool a hug. Mr. Pool said goodbye and gave W-2 a friendly peck on the cheek.

Mr. Smith, who was walking towards the SUV, saw this and became enraged. Mr. Smith walked up to W-2 and told her, "Don't leave." Mr. Smith then shoved W-2 out of the way and walked towards the SUV. Smith turned to Mr. Pool and said words to the effect of, "You want my girlfriend? You trying to talk to my woman?" Mr. Smith then raised an open pocket knife he held in his hand and—through the open driver's window, with the door still closed and Mr. Pool buckled in to the driver's seat—plunged the knife into Pool's chest.

Stephan Pool turned to W-1, said "He just stabbed me," and told W-1 to call 911. Mr. Smith turned and started walking away from the car. W-2 ran over to Mr. Smith and, crying, repeatedly asked him why he'd stabbed Mr. Pool.

When the first officer arrived on the scene, he saw W-2 screaming and pointing at Smith as he walked away from the SUV. This officer was the same officer on patrol who had seen Stephan Pool, W-1, and W-2 in the SUV minutes before. The officer pulled his vehicle up alongside Mr. Smith. When Mr. Smith saw the officer, he dropped the blue pocket knife—the murder weapon—from his hand, and continued to attempt to walk away. The officer exited his vehicle and stopped Smith on the scene. A few minutes later, as additional law enforcement arrived, the officer went over to W-2, who was crying and pointing at the defendant, saying, "He

just stabbed my girlfriend's boyfriend." The officer then walked back over to Mr. Smith and asked him what W-2 was talking about. Mr. Smith told the officer that he had a knife but he didn't stab anyone.

The decedent was taken to George Washington University Hospital. On September 2, 2012, at 1:25AM, the decedent was pronounced dead by Dr. Michael Pirri. That same day, Dr. Nikki Mourtzinis of the D.C. Medical Examiner's Office performed an autopsy on the body of decedent Pool. Dr. Mourtzinis determined that the cause of death was a single stab wound to the chest, which injured the right ventricle of the decedent's heart. Dr. Mourtzinis further determined that the manner of death was homicide.

Defendant Leon Smith was arrested on the scene of the homicide. Mr. Smith was interviewed by law enforcement in a videotaped interview in the early morning hours of September 2, 2012, following his arrest. While at the police station, Mr. Smith called W-2 in an attempt to influence her statement to the police. Specifically, Mr. Smith called W-2 and asked her, "Why did you tell them people I stabbed him? I didn't stab him." Mr. Smith also repeatedly called his friend, W-4. During these conversations, Mr. Smith at one point admitted he had just stabbed a guy and told W-4, "The dude, the dude be flirting with her and doing shit." Mr. Smith also told W-4 that, after the stabbing, Mr. Smith believed that W-2 was flirting with and rubbing up on the police officers while Mr. Smith was in the police car.

Following his arrest, Mr. Smith waived his *Miranda* rights and agreed to speak with law enforcement. Mr. Smith gave several different accounts of the crime to the police, each of which were designed to cover up his role in the offense. Specifically, Mr. Smith initially denied all involvement in the offense. When confronted by the detective with the observations of the officer on the scene, Mr. Smith admitted that he did have a knife on his person, but maintained



that he didn't stab the decedent and that he "didn't even get close to the guy." When confronted by the detective with additional evidence, Mr. Smith stated that he did in fact hit the decedent with his hand, but denied having stabbed him.

Beginning in early November 2012, Mr. Smith made numerous recorded telephone calls to W-2 from the D.C. Jail. During these recorded and unrecorded conversations, Mr. Smith stated that W-2 was the main witness against him and strategized a number of ways that W-2 can help him and avoid testifying against him at trial.

Mr. Smith told W-2 to tell the police that she was too intoxicated, both the night of the homicide and/or at the time of her grand jury, to have made a statement. Mr. Smith told W-2 to say that she was coerced, that the police/prosecutors forced her to make a statement and put words in her mouth. Mr. Smith told W-2 to say that the defendant stabbed the decedent but that it was an accident. Mr. Smith encouraged W-2 to assert a Fifth Amendment right not to testify at trial; in one such call on November 13, 2012, Mr. Smith told W-2, "You know your amendment rights though. You know how to plead the fifth and stuff." Mr. Smith told W-2 to pretend that she was his fiancée and said that he would marry her to keep her off the stand at trial. With regards to each of the first three categories, W-2 told the defendant that what he was asserting—that she was drunk, she was coerced, it was an accident—was not in fact the truth. Despite this, Mr. Smith would persist in telling W-2 to call up the detective, attempt to take back her prior statements, and make these false statements to law enforcement. Mr. Smith admits that, in making these statements to W-2, he intended to corruptly obstruct or impede the due administration of justice in his case, an official proceeding in the District of Columbia.

During one of Mr. Smith's telephone conversations with W-2, Mr. Smith talked with W-2 about the fact that he was staying at St. Elizabeth's Hospital for an evaluation of his competency

to stand trial. In that conversation, Mr. Smith said to W-2, "I'm not saying I'm crazy but I'm not trying to go to jail."

In entering this plea of guilty, Leon Smith admits these facts freely and voluntarily, without duress or coercion.

**\*\* END OF PROFFER OF FACTS \*\***

**DEFENDANT'S ACKNOWLEDGMENT**

I have read and discussed the above Proffer of Facts with my attorney, whose signature appears below. I agree, and acknowledge by my signature, that this Proffer of Facts is true and correct.

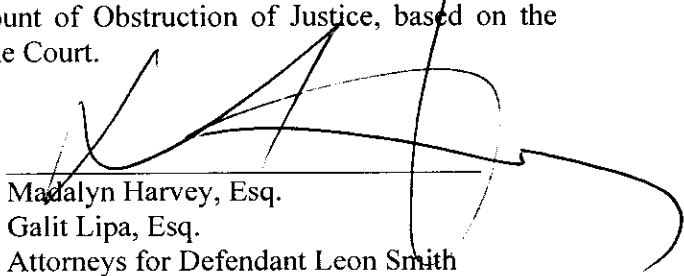
Date: 5/6/2014

  
\_\_\_\_\_  
LEON SMITH  
Defendant

**ATTORNEY'S ACKNOWLEDGMENT**

I have read and discussed the above Proffer of Facts with my client, Leon Smith, whose signature appears above. I know of no reason why his adoption of the above Proffer of Facts is not knowing, voluntary, or intelligent, or of any other reason why his guilty plea to one count of Second Degree Murder While Armed and one count of Obstruction of Justice, based on the above Proffer of Facts, should not be accepted by the Court.

Date: 5/6/14

  
\_\_\_\_\_  
Madalyn Harvey, Esq.  
Galit Lipa, Esq.  
Attorneys for Defendant Leon Smith