



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*

December 9, 2013

Delivered via Email

Andrew Stanner, Esq.
Public Defender Service
633 Indiana Avenue, NW
Washington, D.C. 20004
AStanner@pdsdc.org

Re: Plea Offer in United States v. Cedric Spicer, 2013CF1002940

This letter is to confirm the plea offer for your client, Cedric Spicer. This plea offer will remain open until December 9, 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:

1. Your client, Cedric Spicer, agrees to admit guilt and enter a plea of guilty to the following offense:

(A) **Second Degree Murder While Armed** (lesser included offense to Count One of the indictment), in violation of D.C. Code Sections 22-2103, 4502 (2011 ed.)

Your client understands that the offense of Second Degree Murder While armed carries a potential maximum penalty of 40 years imprisonment, a mandatory minimum penalty of 5 years imprisonment and a maximum of 5 years of supervised release.

2. Your client understands that the Government will reserve stepback pending sentencing, will waive any sentencing enhancement papers, and will reserve allocation at sentencing, subject to the terms set forth in paragraph 6 of this agreement.

3. Your client understands that the Government agrees that it will dismiss any greater or remaining counts of the indictment at the time of sentencing.



4. The parties further agree that your client, after taking an oath to tell the truth shall agree to the attached factual proffer in open court on the day of the plea.

5. Your client understands that subject to the terms and conditions set forth in paragraph 6 below, the Court may utilize the District of Columbia Sentencing Commission's Voluntary Sentencing Guidelines in imposing the sentence in this case.

6. Your client and the Government agree that a sentence of 276 months of incarceration is the appropriate sentence in this case. Your client and the Government agree, pursuant to Rule 11(e)(1)(C) of the Superior Court Rules of Criminal Procedure, 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, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(e)(1)(C) 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)(1)(c) 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 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.

7. Your client agrees that this letter is binding on the Government but not binding on the Court, and that he cannot withdraw this plea at a later date because of the harshness of any sentence imposed by the Court.

8. Your client acknowledges and has been made aware that pursuant to the Innocence Protection Act. That 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 his right to independent 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 his right to have independent DNA testing now, it is unlikely that he will have another opportunity to have the DNA tested in this case.

9. Your client also agrees that if any illegal firearm 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 firearm or contraband by any law enforcement agency involved in the seizure of these items.

10. 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 offense 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 jury, the right to be assisted by an attorney at trial and the right to confront and cross-examine witnesses.

11. 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

By: 

GEORGE A. PAGE, JR.
ASSISTANT U.S. ATTORNEY

DEFENDANT'S ACCEPTANCE

I have read this plea agreement and factual proffer and have discussed it with my attorney, Andrew Stanner, Esq. 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 attorney in connection with this plea agreement and matters related to it.


Date: 12/8/13


Cedric Spicer
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read each of the pages constituting this plea agreement, reviewed them with my client, Cedric Spicer, and discussed the provisions of the agreement with my client, fully. These pages accurately and completely sets forth the entire plea agreement.

Date: 12/8/13



Andrew Stanner, Esq.
Attorney for Cedric Spicer

PROFFER OF FACTS

Had this case gone to trial, the Government's evidence would have shown beyond a reasonable doubt that on February 23, 2013, at approximately 1:00 a.m., decedent Joseph Hardin, 30 years of age, was with his girlfriend (hereinafter referred to as W-1) and several other friends inside a night club called "D.C. 1920" located at 1920 9th Street, NW (between T and U Streets), Washington, D.C. Also inside the club were defendant Spicer, and his party consisting of a female and several males. While on or around the second level dance floor, W-1 became involved in a verbal argument with aforementioned female associate of defendant Spicer. As tension between W-1 and the female escalated, decedent and defendant began to argue with one another as well. Attempts were made by employees of the night club to intercede in the confrontation, ultimately leading to both the decedent's and defendant's parties exiting the club through the front door leading onto 9th Street, NW.

Immediately in front of the club, another verbal confrontation ensued between decedent and two to three males associated with defendant while inside the club – defendant was not part of this group. Decedent was standing in the street, facing the night club on the west side of the street. At approximately 1:18 a.m., defendant Spicer approached decedent on foot from the south while wearing a black ski mask. Decedent was still arguing with the group of males at the time. Once he got within two to three feet of decedent's left flank, defendant shot decedent multiple times with a .40 caliber, semi-automatic pistol. At the time of the shooting, defendant Spicer intended to kill or seriously injure decedent or acted in conscious disregard of an extreme risk of death or serious bodily injury to decedent. Defendant Spicer did not shoot decedent in self-defense nor were there mitigating circumstances.

After discharging at least eight rounds, defendant fled southbound toward T Street, NW. Several MPD/Third District officers were in the immediate area on routine patrol and responded toward the 1900 block of 9th Street, NW in response to the sound of gunshots. As the officers neared the intersection of 9th and T Streets NW, they observed defendant running from the 1900 block of 9th Street, NW. As he was running, officers observed defendant toss a subsequently recovered Smith and Wesson, .40 caliber handgun with one round remaining in the chamber. When defendant attempted to evade capture by changing direction he slipped and fell on the wet pavement, enabling officers to apprehend him in the 800 block of T Street, NW. A witness (hereinafter referred to as W-2) to the shooting walked from the 1900 block of 9th Street, NW to the 800 block of T Street, NW and positively identified defendant as the person he saw shoot decedent. W-2 was also in possession of a memory card which contained images of defendant in the act of shooting decedent. Lastly, eight .40 caliber shell casings and a black ski mask were recovered from the 1900 block of 9th Street, NW and 800 block of T Street, NW, respectively.

Third District officers responded to the 1900 block of 9th Street, NW and discovered decedent lying in front of 1918 9th Street, NW. Decedent was unconscious and unresponsive, suffering from multiple gunshot wounds. DCFEMS also responded to the scene and determined that decedent had no signs of life. Decedent's remains were subsequently transported to the


Office of the Chief Medical Examiner of the District of Columbia (OCME) pending an autopsy.

On February 23, Dr. Nikki Mourtzinis of the OCME performed an autopsy on decedent. Dr. Mourtzinis determined the cause of death as multiple gunshot wounds and the manner of death as homicide.

DEFENDANT'S ACKNOWLEDGMENT

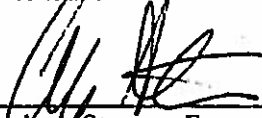
I have read and discussed the Government's Proffer of Facts with my attorney, Andrew Stanner, Esq. I agree, and acknowledge by my signature that this Proffer of Facts is true and correct.

Date: 12/8/13



Cedric Spicer
Defendant

Date: 12/8/2013




Andrew Stanner, Esq.
Attorney for Cedric Spicer

DEFENDANT'S AGREEMENT TO WAIVE DNA TESTING

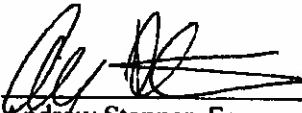
My attorney had discussed the contents of this plea agreement with me, including the fact that I may request or waive independent DNA testing. I understand the conditions of the plea and agree to them. I knowingly, intentionally, and voluntarily waive and give up independent DNA testing of any biological 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: 12/8/13



Cedric Spicer
Defendant

Date: 12/8/13



Andrew Stanner, Esq.
Attorney for Cedric Spicer