



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 27, 2014

**VIA ELECTRONIC MAIL**

Anthony Matthews, Esq.  
Emily Barth, Esq.  
Public Defender Service  
of Washington, D.C.

**Re: United States v. Andre Burks, 2013-CF1-22758**

Dear Counsel,

I write to convey a pre-indictment plea offer to your client, Andre Burks, which your client must enter no later than Monday, June 2, 2014. 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.

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 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 Andre Burks. 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 Andre Burks 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) one count of Second Degree Murder While Armed, in violation of 22 DC Code Sections 2103, 4502, which carries a maximum penalty of 40 years of incarceration; and
  - b) one count of Assault with a Dangerous Weapon, in violation of 22 DC Code Section 402, which carries a maximum penalty of 10 years.
2. Your client understands that, in exchange for his plea of guilty to the offenses described in paragraph 1, supra, the government will agree to not indict your client on any greater or remaining charges related to the shooting of Antwan Boseman and Lavelle Riddick on August 4, 2012.
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 to 156 months (13 years) for Second Degree Murder While Armed and a consecutive sentence of 24 months (2 years) for the Assault with a Dangerous Weapon, for a total sentence of 180 months (15 years) is the appropriate sentence in this case. Your client understands that this refers to the D.C. Sentencing Commission's Voluntary Sentencing Guidelines, and that the applicable guideline range will not be determined by the Court until the time of sentencing. 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.
6. 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, 156 months (13 years) for Second Degree Murder While Armed and a consecutive sentence of 24 months (2 years) for the Assault with a Dangerous Weapon, for a total sentence of 180 months (15 years), 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.
7. 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.

8. 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.
9. In accepting this plea agreement and entering a plea of guilty to the offense 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.
10. The charges to which your client would be entering a guilty plea are crimes 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.
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



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Natalia Medina  
Assistant United States Attorney  
United States Attorney's Office,  
Homicide Section  
555 4th Street, N.W., Room 9411  
Washington, D.C. 20530  
202-252-7796

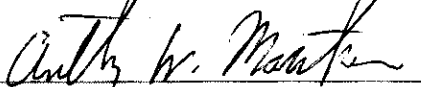
**DEFENDANT'S AGREEMENT TO WAIVE DNA TESTING**

My attorney has discussed the contents of this plea agreement with me, including the fact that I may request or waive DNA testing (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: 6.2.14

  
Andre Burks, Defendant

Date: 6/2/14

  
Anthony Matthews, Esq.  
Emily Barth, Esq.  
Attorney for the Defendant

**DEFENDANT'S ACCEPTANCE**

I have read this plea agreement, or had it read to me, and have discussed it 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 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: 6.2.14

Andre Burks  
Andre Burks  
Defendant

**ATTORNEY'S ACKNOWLEDGMENT**

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

Date: 6/2/14

Anthony W. Matthews  
Anthony Matthews, Esq.  
Emily Barth, Esq.  
Attorney for Defendant

SUPERIOR COURT  
OF THE  
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

CRIMINAL NO.: 2013 CF1 22758

v.

JUDGE REID-WINSTON

ANDRE BURKS

**PROFFER OF FACTS**

If case 2013 CF1 22758 proceeded to trial, the parties agree that the evidence would have shown the following facts beyond a reasonable doubt:

On August 4, 2012, the defendant, Andre Burks, got into an argument with the decedent, Antwan Boseman, while at the Gregory Apartments located in the 800 block of Barnaby Street SE, Washington, DC. Just after 2:00 a.m. on that same date, outside of 8███ Barnaby Street SE, Washington, DC, the defendant encountered Antwan Boseman and his friend Lavelle Riddick, shot Antwan Boseman multiple times in the neck, back, and left knee area, and shot Lavelle Riddick in the stomach. Antwan Boseman died as a result of the gunshot wounds; Lavelle Riddick survived.

**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: 6.2.14

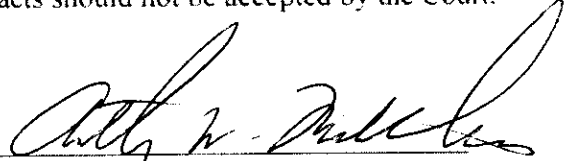
Andre Burks  
Andre Burks, Defendant

**ATTORNEY'S ACKNOWLEDGMENT**

I have read and discussed the above Proffer of Facts with my client, Andre Burks, whose signature appears on the page immediately preceding this one. 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 Second Degree Murder While Armed and Assault with a Dangerous Weapon, based on the above Proffer of Facts should not be accepted by the Court.

Date:

6/2/14



Anthony Matthews, Esq.  
Emily Barth, Esq.  
Counsel to defendant