

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
ST. JOSEPH DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JULIANE L. COLBY,  
[DOB: 09/25/1977]

Defendant.

Case No. \_\_\_\_\_

COUNT ONE:

*Conspiracy to Distribute Heroin*

21 U.S.C. §§ 841(a)(1), (b)(1)(C) and 846

NMT 20 Years' Imprisonment

NMT \$1,000,000 Fine

NMT 3 Years' Supervised Release

Class C Felony

COUNTS TWO and THREE:

*Use of a Communication Facility*

21 U.S.C. §§ 843(b) and (d)

NMT 4 Years' Imprisonment

NMT \$250,000 Fine

NMT 1 Year Supervised Release

Class E Felony

COUNT FOUR:

*Attempted Distribution of Heroin*

21 U.S.C. §§ 841(a)(1), (b)(1)(C) and 846

NMT 20 years' Imprisonment

NMT \$1,000,000 Fine

NMT 3 Years' Supervised Release

Class C Felony

\$100 Mandatory Special Assessment on Each  
Count

**SECRET INDICTMENT**

THE GRAND JURY CHARGES THAT:

**COUNT ONE**

The Conspiracy and Its Object

1. Beginning at a time unknown to the Grand Jury, but by no later than on or about August 1, 2019, and continuing through and until at least on or about August 10, 2019, said dates being approximate, in the Western District of Missouri and elsewhere, Juliane L. Colby, defendant

herein, and co-conspirators not indicted herein, did knowingly and intentionally combine, conspire, confederate and agree with each other and others, both known and unknown to the Grand Jury, to distribute a mixture or substance containing a detectable amount of heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(C) and 846.

Manner and Means By Which The Conspiracy Was Carried Out

2. The members of the conspiracy used various manners and means to carry out the scheme to smuggle heroin and contraband into the Western Missouri Correctional Center (WMCC) in Cameron, Missouri, including, but not limited to, the following:

3. It was part of the conspiracy that defendant Juliane L. Colby, acquired heroin to smuggle to an inmate at the WMCC in Cameron, Missouri.

4. It was further part of the conspiracy that the conspirators, including defendant Juliane L. Colby, made telephone calls, i.e., used a communication facility, for the purpose of promoting or carrying out the smuggling of heroin and other contraband to an inmate at the WMCC.

5. It was further part of the conspiracy that the conspirators, including defendant Juliane L. Colby secreted heroin into an envelope marked as "Legal Mail" and also placed numerous pleadings and documents from a criminal court case along with other contraband into the envelope labelled with a return address for a law firm purportedly located in Harrisonville, Missouri.

6. It was further part of the conspiracy that the conspirators, including defendant Juliane L. Colby identified an inmate associated with and housed with conspirators within the

WMCC to receive the contraband envelope. This inmate at the WMCC was listed as the addressee on the envelope marked “Legal Mail” containing heroin and contraband.

7. It was further a part of the conspiracy that the conspirators, including defendant Juliane L. Colby, used the United States Mail as a method to deliver heroin and other contraband to conspirators at the WMCC.

#### Overt Acts

8. In furtherance of the conspiracy, and to accomplish the object of the conspiracy, one or more members of the conspiracy committed or caused to be committed various overt acts within the Western District of Missouri and elsewhere including, but not limited to, the following:

9. Between on or about August 3, 2019, and August 9, 2019, defendant Juliane L. Colby and a conspirator at the WMCC had a series of phone conversations during which they used a variety of code words to discuss the plan to mail heroin and contraband into the WMCC.

10. On or about August 6, 2019, defendant Juliane L. Colby executed the plan the conspirators had discussed over the phone when she mailed an envelope marked as “Legal Mail” purportedly from a Harrisonville, Missouri, law firm from a post office in Shawnee, Kansas, to an inmate at the WMCC. The envelope defendant Juliane L. Colby mailed contained a mixture or substance containing a detectable amount of heroin, legal paperwork, and other contraband items.

11. Each of the acts charged in Counts Two through Four are incorporated herein by reference as overt acts committed and caused to be committed in furtherance of the charged conspiracy.

#### COUNT TWO

12. On or about August 3, 2019, in the Western District of Missouri and elsewhere, Juliane L. Colby, defendant herein, did knowingly and intentionally use a communication facility,

a cellular telephone, in committing, causing, and facilitating the offenses set forth in Counts One and Four of this Indictment, incorporated by reference herein. All in violation of Title 21, United States Code, Sections 843(b) and (d).

**COUNT THREE**

13. On or about August 6, 2019, in the Western District of Missouri and elsewhere, Juliane L. Colby, defendant herein, did knowingly and intentionally use a communication facility, the United States Postal Service, in committing, causing, and facilitating the offenses set forth in Counts One and Four of this Indictment, incorporated by reference herein.

All in violation of Title 21, United States Code, Sections 843(b) and (d).

**COUNT FOUR**

14. On or about August 6, 2019, in the Western District of Missouri and elsewhere, Juliane L. Colby, defendant herein, did knowingly and intentionally attempt to distribute some amount of a mixture or substance containing a detectable amount of heroin, a Schedule I controlled substance. Juliane L. Colby placed a mixture or substance containing a detectable amount of heroin into an envelope marked as “Legal Mail” and she paid the postage to mail the envelope to an inmate at the WMCC, both acts constituting a substantial step towards the distribution of a mixture or substance containing heroin to another person.

All in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(C) and 846.

A TRUE BILL.

/s/ Pamela Carter-Smith  
FOREPERSON OF THE GRAND JURY

/s/ Brent Venneman  
Brent Venneman  
Assistant United States Attorney

Dated: 3/16/2021

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JULIANE L. COLBY,

Defendant.

Case No. 21-06003-01-CR-W-DGK

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the parties described below have entered into the following plea agreement:

**1. The Parties.** The parties to this agreement are the United States Attorney's Office for the Western District of Missouri (otherwise referred to as "the Government" or "the United States"), represented by Teresa A. Moore, United States Attorney, and Brent Venneman, Assistant United States Attorney, and the defendant, Juliane L. COLBY ("the defendant"), represented by Marc Ermine.

The defendant understands and agrees that this plea agreement is only between her and the United States Attorney for the Western District of Missouri, and that it does not bind any other federal, state, or local prosecution authority or any other government agency, unless otherwise specified in this agreement.

**2. Defendant's Guilty Plea.** The defendant agrees to and hereby does plead guilty to Count One of the Indictment, charging her with a violation of 18 U.S.C. §§ 841(a)(1), (b)(1)(C), and 846, conspiracy to distribute heroin. By entering into this plea agreement, the defendant admits that she knowingly committed this offense, and is in fact guilty of this offense.

**3. Factual Basis for Guilty Plea.** The parties agree that the facts constituting the offense to which she is pleading guilty are as follows:

Between on or about August 1, 2019, and continuing through on or about August 10, 2019, Juliane L. Colby, entered into an agreement with at least one other person to deliver heroin to an inmate residing at the Western Missouri Correctional Center (WMCC) in Cameron, Missouri, located in the Western District of Missouri. During this timeframe, to accomplish the object of this conspiracy, COLBY and her conspirators did the following.

COLBY and an inmate conspirator, Conspirator 1, at the WMCC made telephone calls to discuss the time and method of delivery of heroin into the WMCC. These calls were monitored and recorded by the WMCC and investigators recognized a variety of code words used by COLBY and the inmate to discuss their plan to smuggle heroin into the facility.

COLBY acquired heroin and secreted the heroin into an envelope marked as "Legal Mail" and also inserted numerous pleadings and documents from a criminal court case along with photos of herself. The envelope was labelled with a return address for a law firm purportedly located in Harrisonville, Missouri. COLBY mailed this envelope from a United States Post Office in Shawnee, Kansas, on August 6, 2019. Investigators obtained banking and credit card records associated with COLBY's Community America Credit Union account and learned that COLBY's credit card was used at this Post Office to pay the postage fee of \$2.80.

The envelope mailed by COLBY was addressed to another inmate at the WMCC, Conspirator 2, who was housed in the same unit as Conspirator 1. On August 9, 2019, corrections officers at the WMCC intercepted a large brown envelope from the incoming mail that was marked as "Legal Mail" and addressed to Conspirator 2. During a routine search of the contents, officers discovered pictures of COLBY that were hidden within documents related to an inactive Jackson County, Missouri, criminal case against Conspirator 2.

Officers more thoroughly searched the envelope and found eight small baggies containing black tar heroin that had been taped behind the flap of the envelope. The suspected heroin was transferred to the Missouri State Highway Patrol Crime Lab where it was determined that the substance weighed 3.25 grams and contained heroin.

**4. Use of Factual Admissions and Relevant Conduct.** The defendant acknowledges, understands and agrees that the admissions contained in Paragraph 3 and other portions of this plea agreement will be used for the purpose of determining her guilt and advisory sentencing range under the United States Sentencing Guidelines ("U.S.S.G.") including the calculation of the defendant's offense level in accordance with U.S.S.G. § 1B1.3(a)(2). The defendant

acknowledges, understands and agrees that the conduct charged in any dismissed counts of the indictment as well as all other uncharged related criminal activity may be considered as “relevant conduct” pursuant to U.S.S.G. § 1B1.3(a)(2) in calculating the offense level for the charge to which she is pleading guilty.

**5. Statutory Penalties.** The defendant understands that upon her plea of guilty to Count One of the Indictment, conspiracy to distribute heroin, the maximum penalty the Court may impose is 20 years of imprisonment, a \$1,000,000 fine, not less than 3 years of supervised release, and a \$100 mandatory special assessment per felony count of conviction which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class C felony.

**6. Sentencing Procedures.** The defendant acknowledges, understands and agrees to the following:

a. in determining the appropriate sentence, the Court will consult and consider the United States Sentencing Guidelines promulgated by the United States Sentencing Commission; these Guidelines, however, are advisory in nature, and the Court may impose a sentence either less than or greater than the defendant’s applicable Guidelines range, unless the sentence imposed is “unreasonable”;

b. the Court will determine the defendant’s applicable Sentencing Guidelines range at the time of sentencing;

c. in addition to a sentence of imprisonment, the Court may impose a term of supervised release of up to three (3) years; that the Court must impose a period of supervised release if a sentence of imprisonment of more than one year is imposed;

d. if the defendant violates a condition of her supervised release, the Court may revoke her supervised release and impose an additional period of imprisonment of up to two (2) years without credit for time previously spent on supervised release. In addition to a new term of imprisonment, the Court also may impose a new period of supervised release, the length of which cannot exceed three (3) years, less the term of imprisonment imposed upon revocation of the defendant’s first supervised release;

e. the Court may impose any sentence authorized by law, including a sentence that is outside of, or departs from, the applicable Sentencing Guidelines range;

f. any sentence of imprisonment imposed by the Court will not allow for parole;

g. the Court is not bound by any recommendation regarding the sentence to be imposed or by any calculation or estimation of the Sentencing Guidelines range offered by the parties or the United States Probation Office; and

h. the defendant may not withdraw her guilty plea solely because of the nature or length of the sentence imposed by the Court.

7. **Government's Agreements.** Based upon evidence in its possession at this time, the United States Attorney's Office for the Western District of Missouri, as part of this plea agreement, agrees not to bring any additional charges against defendant for any federal criminal offenses related to the conspiracy that is described in paragraph three of this plea agreement for which it has venue and which arose out of the defendant's conduct described above. Additionally, the United States agrees to dismiss Counts 2, 3, and 4 of the Indictment at sentencing.

The defendant understands that this plea agreement does not foreclose any prosecution for an act of murder or attempted murder, an act or attempted act of physical or sexual violence against the person of another, or a conspiracy to commit any such acts of violence or any criminal activity of which the United States Attorney for the Western District of Missouri has no knowledge.

The defendant recognizes that the United States' agreement to forego prosecution of all of the criminal offenses with which the defendant might be charged is based solely on the promises made by the defendant in this agreement. If the defendant breaches this plea agreement, the United States retains the right to proceed with the original charges and any other criminal violations established by the evidence. The defendant expressly waives her right to challenge the



initiation of the dismissed or additional charges against her if she breaches this agreement. The defendant expressly waives her right to assert a statute of limitations defense if the dismissed or additional charges are initiated against her following a breach of this agreement. The defendant further understands and agrees that if the Government elects to file additional charges against her following her breach of this plea agreement, she will not be allowed to withdraw her guilty plea.

**8. Preparation of Presentence Report.** The defendant understands the United States will provide to the Court and the United States Probation Office a government version of the offense conduct. This may include information concerning the background, character, and conduct of the defendant, including the entirety of her criminal activities. The defendant understands these disclosures are not limited to the count to which she has pleaded guilty. The United States may respond to comments made or positions taken by the defendant or the defendant's counsel and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject only to any limitations set forth in this plea agreement. The United States and the defendant expressly reserve the right to speak to the Court at the time of sentencing pursuant to Rule 32(i)(4) of the Federal Rules of Criminal Procedure.

**9. Withdrawal of Plea.** Either party reserves the right to withdraw from this plea agreement for any or no reason at any time prior to the entry of the defendant's plea of guilty and its formal acceptance by the Court. In the event of such withdrawal, the parties will be restored to their pre-plea agreement positions to the fullest extent possible. However, after the plea has been formally accepted by the Court, the defendant may withdraw her plea of guilty only if the Court rejects the plea agreement or if the defendant can show a fair and just reason for requesting the withdrawal. The defendant understands that if the Court accepts her plea of guilty and this

plea agreement but subsequently imposes a sentence that is outside the defendant's applicable Sentencing Guidelines range, or imposes a sentence that the defendant does not expect, like or agree with, she will not be permitted to withdraw her plea of guilty.

**10. Agreed Guidelines Applications.** With respect to the application of the Sentencing Guidelines to this case, the parties stipulate and agree as follows:

a. The Sentencing Guidelines do not bind the Court and are advisory in nature. The Court may impose a sentence that is either above or below the defendant's applicable Guidelines range, provided the sentence imposed is not "unreasonable";

b. The applicable Guidelines section for the offense of conviction is U.S.S.G. § 2D1.1(c), for what the parties believe is a base offense level of 12 for the amount of heroin recovered by investigators;

c. The parties acknowledge that a two-level enhancement is applicable because the offense involved the distribution of a controlled substance in a prison under U.S.S.G. § 2D1.1(b)(4);

d. While the parties recognize there might be other specific aggravating or mitigating U.S.S.G. applications, the parties agree that each side shall be free to argue their respective positions of any additional Guidelines issues at the sentencing hearing;

e. The defendant has admitted her guilt and clearly accepted responsibility for her actions, and has assisted authorities in the investigation or prosecution of her own misconduct by timely notifying authorities of her intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Government and the Court to allocate their resources efficiently. Therefore, she is entitled to a two-level reduction, if the offense level is 14 or less, or a three level reduction if her offense level is 16 greater. The Government, at the time of sentencing, will file a written motion with the Court to that effect, unless the defendant (1) fails to abide by all of the terms and conditions of this plea agreement and her pretrial release; or (2) attempts to withdraw her guilty plea, violates the law, or otherwise engages in conduct inconsistent with her acceptance of responsibility;

f. There is no agreement between the parties regarding the defendant's criminal history category. The parties agree that the Court will determine her applicable criminal history category after receipt of the presentence investigation report prepared by the United States Probation Office;

g. The defendant understands that the estimate of the parties with respect to the Guidelines computation set forth in the subsections of this paragraph does not bind the Court or the United States Probation Office with respect to the appropriate Guidelines levels. Additionally, the failure of the Court to accept these stipulations will not, as outlined in Paragraph 9 of this plea agreement, provide the defendant with a basis to withdraw her plea of guilty;

h. The United States agrees not to seek an upward departure from the Guidelines or a sentence outside the Guidelines range. The United States agrees the defendant may seek a downward variance or departure below the Guidelines, including a sentence of probation. This agreement by the parties is not binding upon the Court or the United States Probation Office and the Court may impose any sentence authorized by law, including any sentence outside the applicable Guidelines range that is not “unreasonable”;

i. The defendant consents to judicial fact-finding by a preponderance of the evidence for all issues pertaining to the determination of the defendant’s sentence, including the determination of any mandatory minimum sentence (including the facts that support any specific offense characteristic or other enhancement or adjustment), and any legally authorized increase above the normal statutory maximum. The defendant waives any right to a jury determination beyond a reasonable doubt of all facts used to determine and enhance the sentence imposed, and waives any right to have those facts alleged in the indictment. The defendant also agrees that the Court, in finding the facts relevant to the imposition of sentence, may consider any reliable information, including hearsay; and

j. The defendant understands and agrees that the factual admissions contained in Paragraph 3 of this plea agreement, and any admissions that she will make during her plea colloquy, support the imposition of the agreed-upon Guidelines calculations contained in this agreement.

**11. Effect of Non-Agreement on Guidelines Applications.** The parties understand, acknowledge and agree that there are no agreements between the parties with respect to any Sentencing Guidelines issues other than those specifically listed in Paragraph 10, and its subsections. As to any other Guidelines issues, the parties are free to advocate their respective positions at the sentencing hearing.

**12. Change in Guidelines Prior to Sentencing.** The defendant agrees that if any applicable provision of the Guidelines changes after the execution of this plea agreement, then any

request by defendant to be sentenced pursuant to the new Guidelines will make this plea agreement voidable by the United States at its option. If the Government exercises its option to void the plea agreement, the United States may charge, reinstate, or otherwise pursue any and all criminal charges that could have been brought but for this plea agreement.

**13. Government's Reservation of Rights.** The defendant understands that the United States expressly reserves the right in this case to:

- a. oppose or take issue with any position advanced by defendant at the sentencing hearing which might be inconsistent with the provisions of this plea agreement;
- b. comment on the evidence supporting the charge in the information;
- c. oppose any arguments and requests for relief the defendant might advance on an appeal from the sentences imposed and that the United States remains free on appeal or collateral proceedings to defend the legality and propriety of the sentence actually imposed, even if the Court chooses not to follow any recommendation made by the United States; and
- d. oppose any post-conviction motions for reduction of sentence, or other relief.

**14. Waiver of Constitutional Rights.** The defendant, by pleading guilty, acknowledges that she has been advised of, understands, and knowingly and voluntarily waives the following rights:

- a. the right to plead not guilty and to persist in a plea of not guilty;
- b. the right to be presumed innocent until her guilt has been established beyond a reasonable doubt at trial;
- c. the right to a jury trial, and at that trial, the right to the effective assistance of counsel;
- d. the right to confront and cross-examine the witnesses who testify against her;
- e. the right to compel or subpoena witnesses to appear on her behalf; and

f. the right to remain silent at trial, in which case her silence may not be used against her.

The defendant understands that by pleading guilty, she waives or gives up those rights and that there will be no trial. The defendant further understands that if she pleads guilty, the Court may ask her questions about the offense or offenses to which she pleaded guilty, and if the defendant answers those questions under oath and in the presence of counsel, her answers may later be used against her in a prosecution for perjury or making a false statement. The defendant also understands she has pleaded guilty to a felony offense and, as a result, will lose her right to possess a firearm or ammunition and might be deprived of other rights, such as the right to vote or register to vote, hold public office, or serve on a jury.

**15. Waiver of Appellate and Post-Conviction Rights.**

a. The defendant acknowledges, understands and agrees that by pleading guilty pursuant to this plea agreement she waives her right to appeal or collaterally attack a finding of guilt following the acceptance of this plea agreement, except on grounds of (1) ineffective assistance of counsel; or (2) prosecutorial misconduct.

b. The defendant expressly waives her right to appeal her sentence, directly or collaterally, on any ground except claims of (1) ineffective assistance of counsel; (2) prosecutorial misconduct; or (3) an illegal sentence. An “illegal sentence” includes a sentence imposed in excess of the statutory maximum, but does *not* include less serious sentencing errors, such as a misapplication of the Sentencing Guidelines, an abuse of discretion, or the imposition of an unreasonable sentence. However, if the United States exercises its right to appeal the sentence imposed as authorized by 18 U.S.C. § 3742(b), the defendant is released from this waiver and may, as part of the Government’s appeal, cross-appeal her sentence as authorized by 18 U.S.C. § 3742(a) with respect to any issues that have not been stipulated to or agreed upon in this agreement.

**16. Financial Obligations.** By entering into this plea agreement, the defendant represents that she understands and agrees to the following financial obligations:

a. The Court must order restitution to the victims of the offense to which the defendant is pleading guilty. The defendant agrees that the Court may order

restitution in connection with the conduct regarding all other uncharged related criminal activity.

b. The United States may use the Federal Debt Collection Procedures Act and any other remedies provided by law to enforce any restitution order that may be entered as part of the sentence in this case and to collect any fine.

c. The defendant will fully and truthfully disclose all assets and property in which he has any interest, or over which the defendant exercises control directly or indirectly, including assets and property held by a spouse, nominee or other third party. The defendant's disclosure obligations are ongoing, and are in force from the execution of this agreement until the defendant has satisfied the restitution order in full.

d. Within 10 days of the execution of this plea agreement, at the request of the USAO, the defendant agrees to execute and submit: (1) a Tax Information Authorization form; (2) an Authorization to Release Information; (3) a completed financial disclosure statement; and (4) copies of financial information that the defendant submits to the U.S. Probation Office. The defendant understands that compliance with these requests will be taken into account when the United States makes a recommendation to the Court regarding the defendant's acceptance of responsibility.

e. At the request of the USAO, the defendant agrees to undergo any polygraph examination the United States might choose to administer concerning the identification and recovery of substitute assets and restitution.

f. The defendant hereby authorizes the USAO to obtain a credit report pertaining to him to assist the USAO in evaluating the defendant's ability to satisfy any financial obligations imposed as part of the sentence.

g. The defendant understands that a Special Assessment will be imposed as part of the sentence in this case. The defendant promises to pay the Special Assessment of \$100 by submitting a satisfactory form of payment to the Clerk of the Court prior to appearing for the sentencing proceeding in this case. The defendant agrees to provide the Clerk's receipt as evidence of her fulfillment of this obligation at the time of sentencing.

h. The defendant certifies that she has made no transfer of assets or property for the purpose of (1) evading financial obligations created by this Agreement; (2) evading obligations that may be imposed by the Court; nor (3) hindering efforts of the USAO to enforce such financial obligations. Moreover, the defendant promises that she will make no such transfers in the future.

i. In the event the United States learns of any misrepresentation in the

financial disclosure statement, or of any asset in which the defendant had an interest at the time of this plea agreement that is not disclosed in the financial disclosure statement, and in the event such misrepresentation or nondisclosure changes the estimated net worth of the defendant by ten thousand dollars (\$10,000) or more, the United States may at its option: (1) choose to be relieved of its obligations under this plea agreement; or (2) let the plea agreement stand, collect the full forfeiture, restitution, and fines imposed by any criminal or civil judgment, and also collect 100% (one hundred percent) of the value of any previously undisclosed assets. The defendant agrees not to contest any collection of such assets. In the event the United States opts to be relieved of its obligations under this plea agreement, the defendant's previously entered pleas of guilty shall remain in effect and cannot be withdrawn.

**17. Waiver of FOIA Request.** The defendant waives all of her rights, whether asserted directly or by a representative, to request or receive, or to authorize any third party 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. § 552a.

**18. Waiver of Claim for Attorney's Fees.** The defendant waives all of her claims under the Hyde Amendment, 18 U.S.C. § 3006A, for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

**19. Defendant's Breach of Plea Agreement.** If the defendant commits any crimes, violates any conditions of release, or violates any term of this plea agreement between the signing of this plea agreement and the date of sentencing, or fails to appear for sentencing, or if the defendant provides information to the Probation Office or the Court that is intentionally misleading, incomplete, or untruthful, or otherwise breaches this plea agreement, the United States will be released from its obligations under this agreement. The defendant, however, will remain

bound by the terms of the agreement, and will not be allowed to withdraw her plea of guilty.

The defendant also understands and agrees that in the event she violates this plea agreement, all statements made by her to law enforcement agents subsequent to the execution of this plea agreement, any testimony given by her before a grand jury or any tribunal or any leads from such statements or testimony shall be admissible against her in any and all criminal proceedings. The defendant waives any rights that she might assert under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that pertains to the admissibility of any statements made by her subsequent to this plea agreement.

**20. Defendant's Representations.** The defendant acknowledges that she has entered into this plea agreement freely and voluntarily after receiving the effective assistance, advice and approval of counsel. The defendant acknowledges that she is satisfied with the assistance of counsel, and that counsel has fully advised her of her rights and obligations in connection with this plea agreement. The defendant further acknowledges that no threats or promises, other than the promises contained in this plea agreement, have been made by the United States, the Court, her attorneys or any other party to induce her to enter her plea of guilty.

**21. Defendant Will Surrender to Custody At The Plea.** The defendant understands that the crime to which she is pleading guilty is one of the offenses listed in 18 U.S.C. § 3142(f)(1)(A), (f)(1)(B) or (f)(1)(C). Accordingly, pursuant to 18 U.S.C. § 3143(a)(2), the Court must detain the defendant after she pleads guilty. The defendant agrees not to contest being detained immediately after the Court's acceptance of the guilty plea, and to surrender to the custody of the U.S. Marshals at that time.

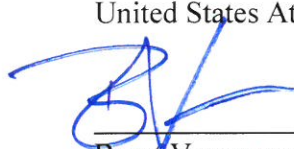


22. **No Undisclosed Terms.** The United States and defendant acknowledge and agree that the above-stated terms and conditions, together with any written supplemental agreement that might be presented to the Court in camera, constitute the entire plea agreement between the parties, and that any other terms and conditions not expressly set forth in this agreement or any written supplemental agreement do not constitute any part of the parties' agreement and will not be enforceable against either party.

23. **Standard of Interpretation.** The parties agree that, unless the constitutional implications inherent in plea agreements require otherwise, this plea agreement should be interpreted according to general contract principles and the words employed are to be given their normal and ordinary meanings. The parties further agree that, in interpreting this agreement, any drafting errors or ambiguities are not to be automatically construed against either party, whether or not that party was involved in drafting or modifying this agreement.

Teresa A. Moore  
United States Attorney

Dated: Feb. 8, 2022



\_\_\_\_\_  
Brent Venneman  
Assistant United States Attorney

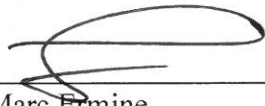
I have consulted with my attorney and fully understand all of my rights with respect to the offense charged in the Indictment. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this plea agreement and I voluntarily agree to it.

Dated: 2/8/22

  
\_\_\_\_\_  
Juliane Colby  
Defendant

I am defendant Juliane Colby's attorney. I have fully explained to Ms. Colby her rights with respect to the offense charged in the Indictment. Further, I have reviewed with her the provisions of the Sentencing Guidelines which might apply in this case. I have carefully reviewed every part of this plea agreement with her. To my knowledge, Ms. Colby's decision to enter into this plea agreement is an informed and voluntary one.

Dated: 2/8/22

  
\_\_\_\_\_  
Marc Ermine  
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JULIANE L. COLBY,

Defendant.

Case No. 21-06003-01-CR-W-DGK

**GOVERNMENT’S SENTENCING MEMORANDUM**

**I. INTRODUCTION**

Sentencing is scheduled for Tuesday August 9, 2022, at 3:00 p.m., before United States District Court Judge Greg Kays. As more fully explained below, the Government recommends that the Court impose a sentence of 18 months’ imprisonment, the high-end of the applicable Guidelines range, and three years of supervised release.

**II. FACTUAL SUMMARY**

On February 8, 2022, the defendant, Juliane Colby, pleaded guilty, pursuant to a written plea agreement, to Count One of a four-count Indictment charging her with conspiracy to distribute heroin in violation of Title 21, United States Code, §§ 841(a)(1), (b)(1)(C), and 846. Colby admitted that in August 2019, she conspired with others to deliver heroin to an inmate in the Western Missouri Correctional Center (WMCC), a facility within the Missouri Department of Corrections (MDOC).

The defendant and Conspirator1 began a romantic relationship in 2017 while the defendant was working as a mitigation specialist for the State of Missouri Public Defender’s Office. Conspirator 1 was represented by the Public Defender at this time and was an inmate at the

Jackson County Detention Center facing charges of first-degree murder. (PSR 4, ¶ 9.) While the murder case was pending, Conspirator 1 was discovered to have illegally possessed a cellular telephone that had been smuggled into the jail. The defendant and Conspirator 1 communicated with each other using the contraband cell phone in violation of Missouri law prohibiting the possession or use of cellular phones in correctional facilities. (PSR 4, ¶ 9.) As a result, the defendant faced criminal charges for acting in concert in possession of a cellular telephone in a correctional facility. (PSR 4, ¶ 9, and 8, ¶ 31.) She entered a diversion agreement which she successfully completed on May 14, 2019, and the charges were dismissed. (PSR 8, ¶ 31.)

According to WMCC visitor logs, in August 2019, the defendant regularly visited Conspirator 1 at WMCC where he was serving a sentence for his murder conviction. (PSR 4, ¶ 6.) WMCC records also revealed numerous telephone conversations between the defendant and Conspirator 1 in August 2019 during which they discussed a plan for the defendant to deliver heroin to Conspirator 1 inside the WMCC. During these calls, the defendant and Conspirator 1 also discussed a previous successful delivery of heroin. (PSR 4, ¶ 6.) These calls were monitored and recorded by the WMCC.

On August 9, 2019, corrections officers at the WMCC intercepted a large brown envelope addressed to Conspirator 2 that the defendant had mailed from a United States Post Office in Shawnee, Kansas, on August 6, 2019. The envelope contained eight small baggies with black tar heroin that were hidden by taping them behind the flap of the envelope. (PSR 3-4, ¶ 4.) The defendant marked the envelope as “Legal Mail” and also inserted numerous case pleadings and documents from Conspirator 2’s previous Jackson County, Missouri, Circuit Court case along with photos of herself. The defendant also used a fictitious return address on the envelope for a law firm purportedly located in Harrisonville, Missouri. (PSR 3-4, ¶¶ 4-5.)

### **III. SENTENCING RECOMMENDATIONS**

#### **A. Guidelines Summary**

As detailed in the final PSR, Probation Officer Tyler Cunningham determined the base offense level was 12 for a violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), and 846 under U.S.S.G. §§ 2D1.1(a)(5) and (c)(14) for an offense involving less than 10 grams of heroin. (PSR 5, ¶ 14.) Probation Officer Cunningham applied a two-level specific offense enhancement because the heroin was distributed into a prison, correctional facility, or detention facility pursuant to § 2D1.1(a)(5). (PSR 5, ¶ 14.) An additional, two-level role adjustment was applied pursuant to § 3B1.3 because the defendant abused a position of trust or used a special skill in a manner that facilitated the commission or concealment of the offense. (PSR 6, ¶ 18.)

The PSR awarded a three-level reduction for credit of acceptance of responsibility pursuant to U.S.S.G. § 3E1.1 and determined the total offense level was 13. (PSR 6, ¶¶ 22-24.)

Probation Officer Cunningham calculated a criminal history score of 0 establishing a criminal history category of I. (PSR 7, ¶¶ 28-29.) The resulting guideline range is 12 to 18 months of imprisonment. (PSR 13, ¶ 75.) The guidelines range for a term of supervised release is 3 years. (PSR 12, ¶¶ 56, 58.)

#### **B. Guidelines Disputes**

The defendant has filed an objection to the two-level role adjustment pursuant to § 3B1.3 that was applied because the defendant abused a position of trust or used a special skill in a manner that facilitated the commission or concealment of the offense. (PSR Addendum.)

As stated in the plea agreement, the parties are open to argue the application of any enhancement not specifically addressed by the plea agreement. (P.A. 8, ¶ 10(d).) The Government agrees with the application of this adjustment and concurs with the response to the objection

provided by the Probation Department. (PSR Addendum 1-2.) The government contends that this two-level enhancement is warranted because Colby employed a special skill obtained through her legal training and employment as an attorney when conspiring to deliver heroin to an inmate at the WMCC.

Under § 3B1.3, a defendant's offense level is enhanced by two points if the defendant either "abused a position of public or private trust, or used a special skill, in a manner that significantly facilitated the commission or concealment of the offense..." USSG § 3B1.3. Special skill "refers to a skill not possessed by members of the general public and usually requiring substantial education, training or licensing. Examples would include pilots, lawyers, doctors, accountants, chemists, and demolition experts." USSG § 3B1.3 cmt. n. 4.

The Eighth Circuit has considered this issue and held, "[t]he legal question is not whether the task could be performed by a person without special skills, but whether the defendant's special skills aided him in performing the task..." *United States v. Bush*, 252 F.3d 959, 962 (8th Cir. 2001) quoting *United States v. Covey*, 232 F.3d 641, 647 (8th Cir. 2000).

The Government would proffer at sentencing that FBI S.A. Scott Macke would state that legal mail is afforded a special standard of care and jail employees are trained to exercise caution to avoid violations of the Sixth Amendment. At the time of the offense, the Missouri Department of Corrections processed and delivered legal mail differently than regular mail to protect confidential attorney-client communications. Where ordinary mail would be subject to search by staff working in the mail room, the procedure for legal mail required that it be opened by an inmate's case manager in the presence of the inmate.

In *United States v. Keiser*, 578 F.3d 897 (8th Cir. 2009), Keiser, a North Dakota farmer and licensed commodities broker, promoted two fraudulent bank trading programs and was

ultimately convicted of multiple counts of conspiracy, wire fraud, and money laundering. Keiser argued the district court erred in applying the § 3B1.3 enhancement because there was no evidence that he used his commodities broker's license to significantly facilitate the commission or concealment of his offenses. *Id.* at 906. The Court rejected this argument and referred to *United States v. Bush*, 252 F.3d 959, 962 (8th Cir. 2001). The Court stated, "it is irrelevant that Keiser did not specifically use his commodities broker's license to commit the offenses. Like the defendant in *Bush*, Keiser's 'training and experience' and 'understanding of the intricacies' involved in the scheme facilitated his solicitation of victims and commission of the fraud." *United States v. Keiser*, 578 F.3d at 907.

Here, the defendant's prior legal training and work experience—including her work meeting with inmates as an employee of the Public Defender—were utilized in the effort to avoid correctional officers' detection of heroin by concealing it in an envelope marked with the term "legal mail." The envelope's markings also represented that the envelope was sent from a law firm and its contents included case pleadings and legal documents.

Therefore, the defendant utilized both her status and experience as an attorney to circumvent the normal and appropriate review of inmate mail. Specifically, using her experience—and marking her mailing as "legal mail"—the defendant sought to create a situation where her mailing would not face a level of review that would uncover the concealed heroin, so the use of the special skill enhancement is properly applied.

### **C. Recommended Sentence of Imprisonment and Supervised Release**

Based on the serious and dangerous nature of the crime committed and other sentencing factors set forth in 18 U.S.C. § 3553(a), the United States recommends that Colby be

sentenced to 18 months' imprisonment, the high-end of the Guidelines range, followed by a three-year term of supervised release.

The Government's recommendation for a sentence of the high end of the Guidelines range is based on careful consideration of the § 3553(a) factors but particularly the seriousness of the offense and the defendant's prior diversion agreement for less egregious but serious misconduct.

The delivery of any controlled substance into a correctional facility is serious but heroin in particular is notoriously addictive and dangerous. The use of heroin in a correctional facility is clearly counterproductive to an inmate's rehabilitation and its use would quite obviously reduce an inmate's potential to engage or participate in productive activities or programs. As recognized by the Eighth Circuit, when illegal drugs are smuggled into a correctional facility, "additional and unique risks of harm to inmates and corrections staff arise. For obvious reasons, the ability to control inmates and maintain order in a correctional facility is detrimentally affected when prisoners use illegal drugs." *United States v. Akers*, 476 F.3d 602, 606 (8th Cir. 2007).

The severity of the defendant's conduct is further exacerbated because she had been criminally charged and diverted by the Jackson County Prosecutor for similar conduct less than two years before the instant offense. Indeed, the defendant had completed her diversion agreement less than three months before escalating her criminal behavior from illicit communications with an inmate to smuggling heroin into the WMCC.

The defendant has no criminal history points in part because she has received diversion for two serious offenses. (PSR 7-8, ¶¶ 30-31.) The defendant misused prior leniency—a high-end guideline sentence of imprisonment will have a significant impact on this defendant. To her credit, the defendant responded promptly to the plea offer from the government and saved the



government valuable time and resources preparing for trial. She also has proven through her past education and work experience she can be a productive and successful member of society.

Under these circumstances, a high-end guideline sentence is sufficient but not greater than necessary to protect the public, promote respect for the law and provide adequate deterrence.

**D. Recommended Sentence for Monetary Penalties**

1. Fine

In light of the defendant's financial situation, the United States does not object to the Court waiving imposition of a fine.

2. Special Assessment

The defendant's plea agreement requires payment of the \$100 Special Assessment at the time of sentencing.

**IV. CONCLUSION**

For the foregoing reasons, the United States respectfully requests that this Court sentence the defendant to the high-end of the Guidelines range and three years of supervised release.

Respectfully submitted,

Teresa A. Moore  
United States Attorney

By */s/ Brent Venneman*

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was delivered on July 20, 2022, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

*/s/ Brent Venneman*

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Brent Venneman  
Assistant United States Attorney

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
ST. JOSEPH DIVISION**

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

JULIANE L. COLBY,

Defendant.

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Case No. 21-cr-06003-DGK

**DEFENDANT’S SENTENCING MEMORANDUM**

After successfully participating in pre-trial release for nearly a year, Juliane Colby pled guilty to sending 3.25 grams of heroin into a state prison. Ms. Colby, who has never spent any time in custody, self-surrendered after her guilty plea on February 8, 2022, and has spent the last six months in the Bates County Jail. As a single mother who has never been away from her twelve-year-old daughter before, that time in custody is sufficient punishment for this offense. Now, the sentence should account for other sentencing factors by allowing her to move forward with the structure and assistance provided by conditions of supervised release.

**I. Difficult early childhood experiences resulted in attachment disorder and depression that led to Ms. Colby's academic striving, while also setting a trajectory resulting in the present case.**

Juliane Colby was born and abandoned in South Korea in 1977. She lived in an orphanage for the first two years of her life. Although the details of this early period of her life are unknown to her, when she was adopted at 22 months old, she was malnourished to the point she wore a nine-month old's clothing. And she was inexplicably afraid of men.

When she arrived in America with her adoptive parents, she required several years of adjustment. She suffered panic attacks for fear that she would be given back to the Korean orphanage. Then, at age 11, her father died unexpectedly at age 38 from a cardiac arrest pulmonary embolism.

- a. Ms. Colby desperately seeks approval from loved ones, always feeling as if she is not good enough to receive it.

Facing these difficulties in her early life, Ms. Colby has sought counseling since high school. That treatment has revealed diagnoses of separation and attachment disorder. She also has a history of depression and anxiety. She has received prescriptions for these conditions and continues to believe that therapy is an important part of her life.

Despite – or, rather, because of – her early childhood experiences and their effects, Ms. Colby has an impressive history of academic achievement. She has a high school diploma, an associate's degree, a bachelor's degree with a double major, a

Master of Social Work degree, a law degree, and a master's in business administration degree.

Ms. Colby has certainly strived and succeeded academically, which might tend to suggest she be held to higher standard of conduct than others. But her success in the academic realm is symptomatic of her deeper struggles relating back to her life experiences. In other words, her academic success papers-over her struggles in the non-academic world. At age 44, she has attended school for most of her life and held few long-term jobs. She has twice declared bankruptcy. Having never married, she is a single-mother of a twelve-year-old daughter.

Also, Ms. Colby has never been convicted of a felony offense. But she has twice been subject to diversion agreements that she has successfully completed. Most recently, she entered into and completed a diversion agreement in 2018 through 2019 related to her communicating with a county jail inmate via cell phone while working as part of his defense team.

That situation is arguably relevant to her present circumstances because this case involves her sending 3.25 grams of heroin into a state prison in an effort to convey it to the same inmate, with whom she has had a years-long relationship, as that prior diversionary case. And that is why consideration of her life experience – particularly, Ms. Colby's history of attachment disorder and depression – is pivotal to assessing the sentencing factors here.

- b. Ms. Colby's striving for relationship attachments and approval contextualizes this offense.

Ms. Colby is not a drug dealer or even a drug user. She is not a person estranged from her family living a life on the streets from place to place. Instead, she is a person with difficult life experiences resulting in documented attachment disorder who was enlisted into a scheme to send a small amount of heroin into a prison in a misguided attempt to help a loved-one. Her willingness to do so may be symptomatic of persistent attachment disorder stemming from her youth and manifesting now as inappropriately seeking to maintain a relationship despite the consequences.

In sum, the connection between Ms. Colby's personal history and this offense should be an important aspect of the Court's assessment of the sentencing factors.

**II. Being separated from her daughter because of her actions is the most significant punishment Ms. Colby could receive.**

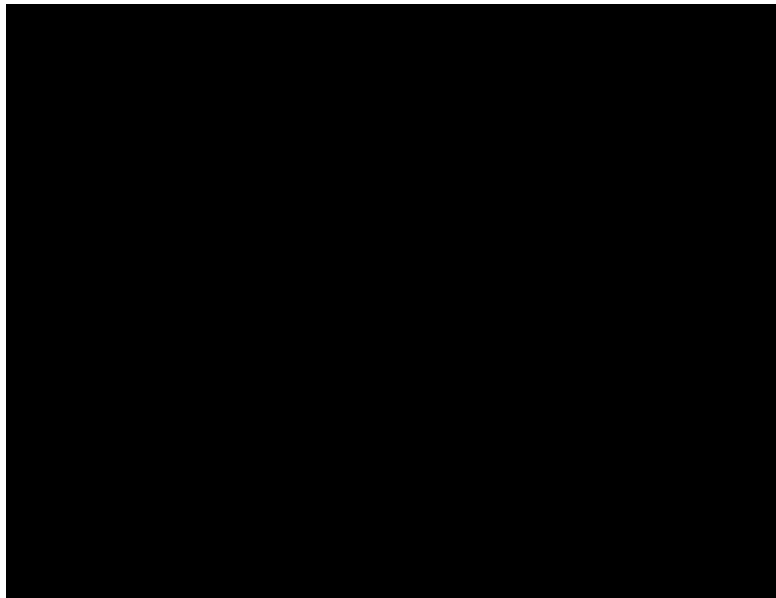
Analysis of the sentencing factors should also take account of Ms. Colby's practical situation. Again, she had no issues during a nearly year-long period of pre-trial release. She has no prior felony convictions. And before she self-surrendered after her guilty plea in this case, she never before spent any time in custody. These facts indicate additional custody time is unnecessary to afford adequate deterrence and protect the public from future crimes by Ms. Colby.

Those sentencing factors are also addressed by the impact that being in custody has had on Ms. Colby as a single mother. She has also never before been away from

her twelve-year-old daughter. In her letter to the Court, Ms. Colby's sister describes her as a mother:

Julie is a loving and devoted mother. As a single mother, trying to raise her daughter with no or very little child support, she has always made sure there was a roof over their heads and food on the table. Julie has always maintained employment to ensure that her daughter has the tools she needs to succeed. Every birthday and holiday never passes without celebration and love.

Her love for her daughter has made the six months she has spent in the Bates County Jail tortuous for Ms. Colby. That is because she recognizes that, in her poor decision-making, she chose another over her daughter. While the new experience of being in custody has been difficult for Ms. Colby, her mental self-punishment has proven to be the worst consequence of her actions. Her internalization and ownership of the consequences of her actions and the impact on others promotes specific deterrence in a way that renders further incarceration unnecessary.



Since her time in custody has already furthered the goal of deterrence and represents just punishment considering the seriousness of the offense in light of her

personal history and characteristics, the sentence should reflect the need to help Ms. Colby to move forward and to make better decisions in the future, decisions that are in line with her prioritizing her daughter, as she certainly wishes to do. The sentence, then, should provide for continued counseling as a necessary treatment to assist Ms. Colby to live with her early childhood experiences.

**III. A sentence of time-served and supervised release is the appropriate sentence considering the statutory sentencing factors because it would allow Ms. Colby to move forward with her life after having spent several months in county jail.**

The guideline range here is either 10 to 16 months or 12 to 18 months, depending on how the Court resolves Ms. Colby's objection to the PSR. That objection will be addressed more at the sentencing hearing. However the Court resolves that issue, though, consideration of the statutory sentencing factors as discussed above suggests the reasonableness of a sentence of time-served with supervised release.

Respectfully submitted,

/s/ Marc Ermine

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**CERTIFICATE OF SERVICE**

It is hereby CERTIFIED that the foregoing was electronically filed and delivered to all parties of record pursuant to ECF on July 26, 2022.

/s/ Marc Ermine  
MARC ERMINE