

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

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UNITED STATES OF AMERICA,

CR 22-50014

Plaintiff,

FACTUAL BASIS STATEMENT

vs.

STETSON EAGLE ELK,

Defendant.

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Defendant states that the following facts are true, and the parties agree that they establish a factual basis for the offenses to which Defendant is pleading guilty pursuant to Fed. R. Crim. P. 11(b)(3):

In 2016, Gary Little Bull, Jr., Stetson Eagle Elk, and Todd Little Bull were close friends who shared strong spiritual beliefs. Gary Little Bull and Stetson Eagle Elk viewed Todd Little Bull as a spiritual leader. In the late hours of August 1, 2016, into the early morning hours of August 2, 2016, Todd Little Bull called Eagle Elk and asked for Eagle Elk to come see him at a residence near Kyle, South Dakota. Todd told Eagle Elk about all the troubles Todd was having with a man others believed to also be a spiritual leader and who was Todd's spiritual mentor. Todd and the other man were increasingly at odds over the means and methods by which the other was proselytizing the faith. Todd expressed his belief that the other man was not truly a spiritual leader and was deceiving people into believing he was. Todd spoke to Eagle Elk of a plan to have himself

killed and by so doing cast suspicion on the other man, believing that the other man's fraud would be uncovered during the subsequent investigation and that he, Todd, would, by his death, be made stronger as a spiritual force. As part of this plan, Todd documented in writing his beliefs about this other man including predicting his, Todd's, own death.

During the meeting between Todd and Eagle Elk, Gary Little Bull arrived. Gary Little Bull learned of the discussion between Todd and Eagle Elk and agreed to assist with the plan. Todd asked Eagle Elk and Gary Little Bull to "take him out." Todd had a rifle in the shed where they were talking, and Eagle Elk and Gary Little Bull understood that Todd was asking Eagle Elk and Gary Little Bull to kill him. Eagle Elk and Todd saw three lights on the horizon that they had never seen before. Eagle Elk believed the lights to be the Creator guiding him and telling him to go through with Todd's plan.

Stetson Eagle Elk, Gary Little Bull, and Todd Little Bull left the residence in Eagle Elk's car and drove west on BIA 2 toward Sharp's Corner, near Kyle, on the Pine Ridge Reservation. Eagle Elk was driving, with Todd in the front passenger seat, and Gary Little Bull in the rear passenger seat. As they drove, Eagle Elk intentionally pulled the parking brake in order to try and create skid marks on the road.

In the early hours of August 2, 2016, the men stopped at a remote location on BIA 2. The three men were waiting for a sign from the Creator when Gary observed a white light just up the road. The three men took that as the sign and

drove to that location on BIA 2, which was approximately 5 miles east of BIA 27, between Sharps Corner and Kyle, South Dakota. This location is within the exterior boundaries of the Pine Ridge Reservation.

After arriving, Eagle Elk and Gary Little Bull got out of the car and Todd rolled his window down slightly. Todd did not want his window down all the way so that gunshot residue would not hit Eagle Elk and thereby incriminate him. Standing outside the front passenger side window, holding the rifle from the shed, Eagle Elk then intentionally shot Todd once in the head and then a second time in the chest. Gary Little Bull stood nearby just a few feet away knowing Eagle Elk was about to shoot Todd consistent with their agreement to help carry out the plan to shoot and kill Todd. Little Bull did nothing to prevent Eagle Elk from pulling the trigger. Todd was killed as a result of the two gunshot wounds.

After shooting and killing Todd, Eagle Elk took the rifle, ran through a field, and hid it against a tree in a ravine. Approximately six months after the shooting, Eagle Elk retrieved the rifle because he feared it would be found by law enforcement. Eagle Elk then gave the rifle to a person in Oglala, South Dakota.

When passersby arrived on scene following the shooting, Gary Little Bull and Eagle Elk told them to call the police claiming Todd had been murdered by others. When police arrived, and as part of the previously agreed upon plan, Eagle Elk and Gary Little Bull told investigators a fabricated story about being attacked by other persons on the highway. Eagle Elk told officers that he was driving his vehicle westbound on BIA 2 when two large trucks approached from

behind. Eagle Elk claimed one of the trucks passed them and then turned around and came back at them. Eagle Elk stated the trucks boxed them in on the highway and forced them to stop, with one truck in front and another behind their vehicle. Eagle Elk stated an unknown male got out of the truck, went to the passenger side window of Eagle Elk's vehicle where Todd was sitting, placed a rifle through the passenger window, and shot Todd once in the head and once in the chest. Eagle Elk stated the male then got back in the truck and both trucks departed the area towards Sharps Corner.

Gary Little Bull falsely told officers he had been sleeping in the vehicle and woke up as the vehicle was rapidly coming to a stop. Gary stated he was in the rear passenger seat and that he heard Eagle Elk yell at him to get down and then Gary Little Bull heard two shots. Gary Little Bull then falsely stated he was unable to identify the shooter because of the bright lights pointed toward their vehicle from the truck in front of them.

Eagle Elk and Gary Little Bull knew the information they provided to law enforcement was fabricated and untrue and that nobody other than Eagle Elk and Gary Little Bull were responsible for killing Todd Little Bull.

Stetson Eagle Elk is an "Indian" under the provisions of 18 U.S.C. § 1153, in that he is an enrolled member of the Rosebud Sioux Tribe. The offense occurred near Kyle, South Dakota, which is within the exterior boundaries of the Pine Ridge Indian Reservation. This location is "Indian country" within the provisions of 18 U.S.C. §§ 1151 and 1153.



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5/25/2022

Date

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5.24.22

Date

Stetson Eagle Elk  
Stetson Eagle Elk  
Defendant

5.24.22

Date

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