

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
KNOXVILLE**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
<b>Plaintiff</b>	)	
	)	<b>No. 3: 21-CR-122</b>
	)	<b>Judge Crytzer</b>
<b>v.</b>	)	
	)	
	)	
<b>ANDREW COUCH</b>	)	
	)	
<b>Defendant</b>	)	

**MOTION TO WITHDRAW PLEA**

Comes the Accused by and through Counsel and ask this Court to Allow him to withdraw his guilty plea in this case. In support of his motion he would show as follows:

- 1) As related in his motion to continue sentencing, the parties used a preple guideline calculation prepared for the government by the probation office to try and avoid surprises as these types of cases seem particularly susceptible to un foreseen enhancements;
- 2) It was based on this calculation that Mr. Couch entered his plea;
- 3) That calculation suggested a guideline range of level 40 starting at 292 months;
- 4) That calculation, like the final PSR recognized that the guidelines would have led to a life sentence and that the offenses of conviction did not support a life sentence. The first calculation then stopped adding levels once level 43 which is life; It then gave the 3 levels for acceptance and ended up at level 40 starting at 292 months. The final PSR continued adding to get to the fifties (off the chart) then relied on U.S.S.G. 5G1.3 to settle on a sentence of 60 years or almost 3 times what was anticipated by the parties when entering the plea.
- 5) Looking at the plea agreement as a contract it is clear that a near tripling of the length of sentence would suggest that the parties did not reach a meeting of the minds and as such, Mr. Couch should be allowed to withdraw his guilty plea.

For these reasons, Mr. Couch would ask this Court to allow him to withdraw his guilty plea.

Respectfully submitted this the 2nd day of January, 2023.

S/Mike Whalen  
Mike Whalen  
Lawyer for Andrew Couch  
905 Locust Street  
Knoxville, TN 37902  
(865) 525-1393  
[whalenlaw@bellsouth.net](mailto:whalenlaw@bellsouth.net)

**CERTIFICATE OF SERVICE**

I Mike Whalen, certify that I have served a true and exact copy of the foregoing motion on AUSA Jennifer Kolman by filing same in the Court's ECF system.

This the 2<sup>nd</sup> day of January, 2023.

S/Mike Whalen  
Mike Whalen  
Lawyer for Andrew Couch