

FILED

Sheryl Guy

Antrim 13th Circuit Court
03/21/2023

**STATE OF MICHIGAN
IN THE 13 CIRCUIT COURT
FOR THE COUNTY OF ANTRIM**

THE PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

Hon. Charles M. Hamlyn
Case Nos. 22-005165-FH

vs.

BRIAN HIGGINS

Defendant.

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GUILTY PLEA AND COOPERATION AGREEMENT

The Department of Michigan Attorney General, (the "People") and Brian Higgins (Defendant Higgins), who is represented by counsel, voluntarily, knowingly, and intelligently enter into a cooperation and plea agreement as follows:

1. Criminal Complaint and Acceptance of Plea of Guilty:

Defendant Higgins acknowledges and agrees that the People filed a Criminal Complaint and Information against him alleging one count of Material Support for Terrorism pursuant to MCL 750.543K. In consideration for the plea offer and

cooperation agreement detailed below, Defendant Higgins admits, accepts, and acknowledges that he is responsible under Michigan law for the acts alleged in the charging documents. Defendant Higgins agrees to plead guilty to Attempt Material Support for Terrorism, MCL 750.543k; MCL 750.92, a lesser charge.

2.Elements of the Offense:

In order for Defendant Higgins to be guilty of Attempt Material Support for Terrorism the following elements must be proven:

1) The defendant attempted to provide material support in the form training, communications equipment, weapons, personnel, transportation to Adam Fox and Barry Croft.

2) That when the defendant attempted to provide material support to Adam Fox and Barry Croft, he knew that Adam Fox and Barry Croft would use that support or those resources at least in part to plan, prepare, carry out, facilitate, or avoid apprehension for committing an act of terrorism against the United States or its citizens, Michigan or its citizens, a political subdivision or agency of Michigan, or a local unit of government.

An act of terrorism is committing or attempting to commit a violent felony of kidnapping or murder or both that would be dangerous to human life and was intended to intimidate or coerce a civilian population or influence or affect the conduct of government or unit of government through intimidation or coercion.

Defendant Higgins is pleading guilty because he is guilty of the charge described above.

3. Factual Basis of Guilty Plea

Defendant Higgins agrees that he gave a proffered statement to the Federal Bureau of Investigations (FBI) on December 22, 2021. Defendant Higgins has reviewed an FBI report of his proffer with his counsel. Defendant Higgins agrees that the contents of the report are true and accurate. Specifically, based on that proffer statement and his actions, the Defendant Higgins agrees as the basis for guilt that:

- A. Defendant Higgins attended a training of militia groups in Luther, Michigan between September 10 and September 13, 2020.
- B. On Saturday, September 12, 2020, Defendant Higgins, Barry Croft, and several others had breakfast at the motel they were staying in for the training.
- C. At the training Higgins learned of a plan to kidnap the governor of the State of Michigan. Defendant Higgins hated Governor Whitmer, had previously sent messages to associates about wanting her removed and thought a civil war had started.
- D. During the training, the opportunity to do surveillance of the Governor's vacation home presented itself. Defendant Higgins willfully and knowingly attended the surveillance operation with other co-conspirators including but not limited to Adam Fox, Barry Croft, William Null, and Michael Null. Defendant Higgins supplied his night-vision monocular on the trip and transported two individuals in his vehicle.

- E. During the trip, the group of men stopped at a Wal-Mart in Cadillac, Michigan and discussed the operation plan. Defendant Higgins suggested he could use his dash camera to record the surveillance. Defendant Higgins knew the surveillance was intended for illegal activity because the participants possessed a RF detector that was used to sweep the participants for electronic listening or tracking devices used by law enforcement, night vision, and a team of operators in each car.
- F. Defendant Higgins role during the surveillance was to drive his car past the Governor's residence, flash his headlights so others could see from how far away the vehicle could be seen and record the events on his dash-cam.
- G. On September 13, 2020, Defendant Higgins engaged in a group discussion with the team that surveilled the Governor's residence led by Adam Fox and Barry Croft. Defendant Higgins stated he could provide the dash-cam video to review the operations.
- H. Defendant Higgins agrees that no FBI source, FBI agent, or any other terrorism subject coerced, enticed, or forced him to do any of the above acts. Defendant Higgins performed these acts on his own accord. None of the participants in the surveillance to kidnap Governor Whitmer, including Defendant Higgins, were entrapped nor induced to commit any crimes.

4. Terms of the Agreement:

Defendant Higgins agrees to fully cooperate with the FBI, the Michigan State Police, and the People, and any other law enforcement agency in their investigation of these charges contained in Complaint and Information, as well as the investigation of crimes over which they have actual or apparent jurisdiction.

Defendant Higgins' cooperation will consist of all steps needed to uncover and prosecute such crimes, including, but not limited to, providing investigators with a full, complete and truthful statements concerning his knowing of any all criminal activity of which he is aware; truthfully answering investigators' questions; meeting with prosecutors before testifying; truthfully testifying in court proceedings; and providing all relevant tangible evidence in his possession or under his control. Defendant Higgins' obligation to cooperate under this paragraph is an affirmative one and includes the obligation to voluntarily come forward with any and all information which he should reasonably know will assist in the investigation of other criminal activity. Defendant Higgins will not commit any criminal offense during the course of his cooperation with the department.

Defendant Higgins' obligation under this paragraph is a continuing one and shall continue after sentencing until all investigations and prosecutions in which his cooperation is deemed relevant by the department have been completed.

5. The People's Obligations:

The People will offer Defendant Higgins an Attempt Material Support for Terrorism charge in which to plead guilty and dismiss the original charge. The

People also agree that they will not bring any criminal case against Defendant Higgins arising out of any facts that have been disclosed pursuant to this investigation and negotiation for this Plea and Cooperation Agreement. The People may prosecute any conduct unrelated to the events in the conspiracy to kidnap and Providing Material Support for Terrorism.

Further, the People may also use any information related to Defendant Higgins' conduct in this transaction against him: (a) in a prosecution for perjury or obstruction of justice; (b) in a prosecution for making a false statement; or (c) in a prosecution or other proceeding relating to a violation of any term of this agreement. This agreement also does not provide any protection against prosecution for any future conduct by Defendant Higgins.

Defendant Higgins understands that as part of this agreement the People and he agree to a sentence within Michigan's statutory sentencing guidelines as scored at the time of sentencing. Defendant Higgins understands that the Michigan sentencing guidelines are not mandatory, but the court may consult and take them into account when sentencing him. Defendant Higgins can object, make suggestions and recommendations concerning the calculations the court makes regarding his guidelines range. Defendant Higgins acknowledges the court will make the final determination as to what guideline range applies in this case, and the parties agree that the sentence of the Court will be within the guideline range as determined at the time of sentencing. If the Court intends to sentence him above the range provided for by the sentencing guidelines, the People stipulate that Defendant

Higgins may withdraw his plea and proceed to trial. Defendant Higgins further understands that disagreement with the guideline range or sentence shall not constitute a basis for withdrawal of his guilty plea. There is no agreement about the final guideline range, each party can make their arguments for the appropriate guideline range to the court at the time of sentencing.

6. Violation of the Agreement:

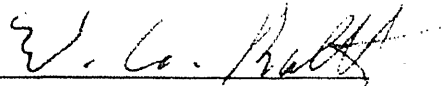
A. Consequences of Breach. If Defendant Higgins breaches any provision of this agreement, including any promise to cooperate, whether before or after sentencing, the People shall have the right to terminate this agreement, or deny any or all benefits to which Defendant Higgins would otherwise be entitled under its terms. If the agreement is terminated, the parties shall return to the same position they were in prior to the execution of this agreement. In such an event, the Defendant Higgins shall remain liable for prosecution on the original charge, and the People are free to bring additional charges as the law and facts warrant.

B. Statute of Limitations. In the event Defendant Higgins breaches any term of this agreement, he expressly waives and forever gives up his right to raise any claim that any such prosecution that result is time-barred by the applicable statute of limitations.

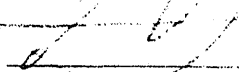
7. Entire Agreement:

This agreement is the complete agreement between the parties. It supersedes all other promises, representations, understandings, and agreements between the

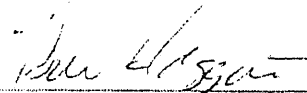
parties. No amendments, modifications or additions to this agreement shall be valid unless they are in writing and signed by the department, the attorney for Defendant Higgins and Defendant Higgins himself. Both parties enter this agreement freely, knowingly, and voluntarily and this agreement incorporates the entire understanding between the parties.



William Rollstin (P40771)
First Assistant Attorney General



Michael Naughton (P70856)
Attorney for defendant Higgins



Brian Higgins, defendant.

Dated: March 20, 2023