

FILED IN OPEN COURT

DATE: 8/23/24

TIME: _____

INITIALS: BTC

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

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

Cr. No. 23-cr-20191-MSN

EMMITT MARTIN, III,)

Defendant.)

PLEA AGREEMENT

The Defendant, EMMITT MARTIN, III, by and through his counsel, and the United States, through the United States Attorney for the Western District of Tennessee and the Assistant Attorney General for the Department of Justice, Civil Rights Division, and the undersigned Assistant U.S. Attorneys and Civil Rights Division counsel, have reached the following agreement.

1. The Defendant agrees:

(A) to plead guilty to Counts One and Three of the Indictment in the above styled case;

(B) to waive, except with respect to claims of ineffective assistance of counsel or prosecutorial misconduct, his rights to appeal any and all issues related to the case, including, but not limited to, a motion brought pursuant to 28 U.S.C. § 2255 and consents to the final disposition of the matter by the district court;

(C) that his knowing and voluntary waiver of the right to appeal or collaterally attack the conviction and sentence includes waiving the right to raise on appeal or on collateral review any argument that (1) the statute to which the defendant is pleading guilty is unconstitutional and (2) the admitted conduct does not fall within the scope of the statute;

(D) that the special assessment of \$100 per count is due and payable to the U.S. District Clerk's Office immediately following the defendant's sentencing.

2. The defendant agrees that he is pleading guilty knowingly and voluntarily because he is in fact guilty of the offenses charged in Counts One and Three of the Indictment. The defendant admits the facts set forth in the Statement of Facts filed with this Plea Agreement and agrees that those facts establish guilt of the offenses charged beyond a reasonable doubt. The

Statement of Facts, which is incorporated into this Plea Agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(c) of the Sentencing Guidelines.

3. The United States agrees:

(A) pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure and in consideration for the defendant's plea of guilty, to recommend that the defendant receive three points for acceptance of responsibility under U.S. Sentencing Guidelines § 3E1.1, provided he continues to exhibit acceptance of responsibility. The Defendant understands that if, in the opinion of the United States, it is learned that the Defendant has engaged in additional conduct inconsistent with acceptance of responsibility, including, but not limited to, participation in any additional criminal activities or inaccurately portraying his involvement in this offense, between now and the time of sentencing, this position could change.

(B) that it will recommend a sentence not to exceed 480 months of incarceration. The defendant understands that if, in the opinion of the United States, it is learned that the defendant has engaged in additional conduct inconsistent with acceptance of responsibility, including, but not limited to, participation in any additional criminal activities or inaccurately portraying his involvement in this offense, between now and the time of sentencing, then the United States will be released from its obligations and would become free to argue for any sentence within statutory limits.

(C) that the defendant will be free to argue for a sentence of less than 480 months of incarceration.

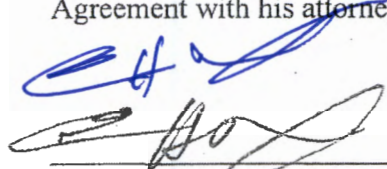
4. Neither the United States nor any law enforcement officer can or does make any promises or representations as to what sentence will be imposed by the Court. The defendant understands that any discussions with his attorney regarding a sentence are estimates about possible outcomes, not promises or guarantees.

5. If the United States, solely within its discretion, judges that the defendant has violated any federal, state or local law, or has engaged in any conduct constituting obstructing or impeding justice within the meaning of U.S. Sentencing Guidelines § 3C1.1 or has failed to make any court appearances in this case, or if the defendant attempts to withdraw the plea, or if he engages in any conduct inconsistent with acceptance of responsibility, including, but not limited to, minimizing the scope of his criminal involvement, from the date of the defendant's signing of this plea agreement to the date of the defendant's sentencing, then the United States will be released from its obligations and would become free to argue for any sentence within statutory limits. Such a breach by the defendant would not release the defendant from this plea of guilty. If the United States violates the terms of this plea agreement, the Defendant will have the right to withdraw from this agreement.

6. It is contemplated that the government may recommend to the Court a departure in the defendant's sentence pursuant to U.S. Sentencing Guidelines § 5K1.1 and 18 U.S.C. § 3553(e).

This would be solely within the discretion of the government and is not part of the plea agreement. The defendant acknowledges that the government's determination of whether the defendant has cooperated fully and provided substantial assistance, and the government's assessment of the value, truthfulness, and completeness of the defendant's assistance, is solely within the judgment and discretion of the government and shall be binding on the defendant. Additionally, the defendant understands that the United States retains complete discretion in determining whether a departure motion will be filed. Substantial assistance is understood by both parties to require good faith during all phases of the cooperation period, including the defendant's provision of complete and truthful information which assists in the investigation or prosecution of other individuals and complete and truthful testimony at subsequent proceedings when needed.

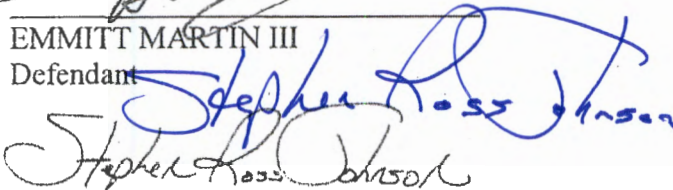
7. This writing constitutes the entire Plea Agreement between the defendant and the United States with respect to the plea of guilty. No additional promises, representations, or inducements other than those referenced in this Plea Agreement have been made to the defendant or to the defendant's attorney with regard to this Plea, and none will be made or entered into unless in writing and signed by all parties. The defendant acknowledges that he has reviewed the Agreement with his attorney and that he is satisfied with his attorney's advice and counsel.



EMMITT MARTIN III
Defendant

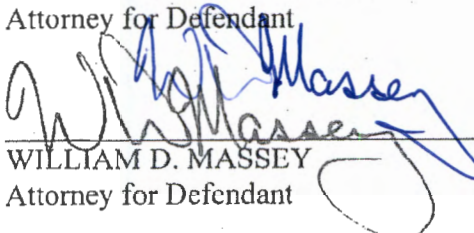
8-23-24

8-20-24
Date



STEPHEN ROSS JOHNSON
Attorney for Defendant

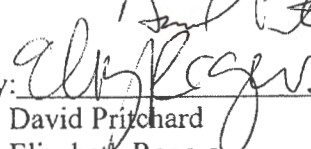
8-23-24/
August 20, 2024
Date



WILLIAM D. MASSEY
Attorney for Defendant

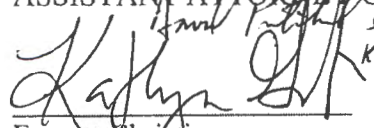
8-23-2024
August 20, 2024
Date

KEVIN RITZ
UNITED STATES ATTORNEY

By: 
David Pritchard
Elizabeth Rogers
Assistant U.S. Attorneys

8/23/24

KRISTEN CLARKE
ASSISTANT ATTORNEY GENERAL


Forrest Christian
Kathryn Gilbert
Andrew Manns
Civil Rights Division

8/23/24
Kathryn Gilbert
August 20, 2024
Date

On January 7, 2023, in the Western District of Tennessee, defendant Martin joined Bean, Haley, Mills, and Smith in willfully combining, conspiring, and agreeing to violate 18 U.S.C. § 1512(b)(3) by knowingly engaging in misleading conduct towards, corruptly persuading, and attempting to corruptly persuade their supervisor, the MPD Detective tasked with writing the Incident Report, and other persons, with the intent to hinder, delay, and present the communication to a law enforcement officer and judge of the United States of truthful information relating to the commission and possible commission of a Federal offense. Specifically, in relation to statements the defendants made to MPD officers regarding the arrest of Tyre Nichols, defendant Martin conspired with Bean, Haley, Mills, and Smith to intentionally withhold and omit material information and knowingly make false and misleading statements, all to cover up the use of unreasonable force on Nichols. Specifically, defendant Martin knew that Nichols had been struck repeatedly but Martin did not tell the MPD dispatcher, the defendants' supervisor, or Memphis Fire Department (MFD) personnel that Nichols had been struck repeatedly; defendant Martin participated in conversations with Bean, Haley, Mills, and Smith in which they discussed using force against Nichols but defendant Martin failed to provide this information to the MPD dispatcher, the defendants' supervisor, or MFD personnel; defendant Martin joined Bean, Haley, Mills, and Smith in providing the MPD Detective tasked with writing the Incident Report with false and misleading information about the arrest and in omitting material information about the arrest; and defendant Martin wrote a Response to Resistance Report that contained false and misleading information and omitted that he, Bean, Haley, Mills, and Smith had assaulted Nichols.

Defendant Martin acknowledges that he is guilty and will knowingly and voluntarily enter a plea of guilty to Count One of the Indictment, which charges a violation of 18 U.S.C. § 242 for Deprivation of Rights Under Color of Law: Excessive Force and Failure to Intervene. Regarding Count One, defendant Martin admits that he willfully used unreasonable force against Tyre Nichols

while acting under color of law as an MPD Detective and that his status as a police officer made the assault possible. Defendant Martin further admits that he aided and abetted Bean, Haley, Mills, and Smith in the use of unreasonable force in violation of Nichols' rights under the Fourth Amendment. Finally, defendant Martin admits that he failed to intervene in the use of unreasonable force by other officers, despite having an opportunity and the means to intervene in the assault. Defendant Martin admits that these violations of section 242 resulted in bodily injury to, and the death of, Tyre Nichols.

Defendant Martin acknowledges that he is guilty and will knowingly and voluntarily enter a plea of guilty to Count Three of the Indictment, which charges a violation of 18 U.S.C. § 1512(k) for Conspiracy to Witness-Tamper. Regarding Count Three, defendant Martin admits that he conspired with Bean, Haley, Mills, and Smith to knowingly engage in misleading conduct towards their MPD supervisor, an MPD Detective tasked with writing the Incident Report, and other persons, with the intent to hinder, delay, and prevent the communication to a federal law enforcement officer and judge of the United States of truthful information relating to the commission of the federal offense charged in Count One. Specifically, in relation to statements defendant Martin and Bean, Haley, Smith, and Mills made to MPD officers regarding the arrest of Tyre Nichols, they conspired to, and did in fact, intentionally withhold and omit material information and to knowingly make false and misleading statements, all to cover up their use of unreasonable force on Nichols.