

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Criminal Case No. 09-cr-00398-MSK

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. THOMAS W. QUINTIN,

Defendant.

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**PLEA AGREEMENT AND STATEMENT OF FACTS  
RELEVANT TO SENTENCING**

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The United States of America (the government), by and through Robert E. Mydans, Assistant United States Attorney for the District of Colorado, and the defendant, Thomas W. Quintin, personally and by counsel, Edward R. Harris, submit the following Plea Agreement and Statement of Facts Relevant to Sentencing pursuant to D.C.COLO.LCrR 11.1.

**I. PLEA AGREEMENT**

The defendant agrees to plead guilty to Count 1 of the one count Indictment, which was returned on September 15, 2009, charging a violation of 18 U.S.C. §§ 751(a)(Escape) and 4082(a) . The parties agree and understand that the United States Sentencing Guidelines must be considered by the sentencing court, but that they are not mandatory in their application.



This plea agreement is entered into pursuant to the provisions of Rule 11(c)(1)(B). Each party is free to recommend to the Court what the appropriate sentence is, whether that is within the adjusted advisory sentencing guideline range or not. The defendant, because of his timely notice of an intent to enter a plea of guilty, is entitled to the maximum reduction for acceptance of responsibility without further motion by the government.

## **II. ESSENTIAL ELEMENTS OF THE OFFENSE**

The essential elements of the Title 18, United States Code, Section 751(a) are:

1. The defendant was in federal custody at an institution or facility where the defendant was confined by direction of the Attorney General for conviction of a felony offense,
2. The defendant departed without permission, and
3. The defendant knew he did not have permission to leave federal custody.

## **III. STATUTORY PENALTIES**

The maximum statutory penalty for a violation of 18 U.S.C. § 751(a) is: not more than 5 years imprisonment; not more than \$250,000.00 fine, or both; not more than 3 years supervised release; and \$100.00 special assessment fee per count of conviction.

The conviction may cause the loss of civil rights, including but not limited to the rights to possess firearms, vote, hold elected office, and sit on a jury. A violation of the conditions of probation or supervised release may result in a separate prison sentence.

## **IV. STIPULATION OF FACTUAL BASIS AND FACTS**

The parties agree that there is no dispute as to the material elements which establish a factual basis of the offense of conviction.

Pertinent facts are set out below in order to provide a factual basis for the plea and to provide facts which the parties stipulate are relevant, pursuant to §1B1.3, for computing the appropriate advisory guideline range. To the extent the parties disagree about the facts relevant to sentencing, the statement of facts identifies which facts are known to be in dispute at the time of the plea. (§6B1.4(b)) The parties agree that disputed facts will be resolved by the Court at sentencing.

The statement of facts herein does not preclude either party from presenting and arguing, for sentencing purposes, additional facts or factors not included herein which are relevant to the guideline computation (§1B1.3) or to sentencing in general (§1B1.4). In "determining the factual basis for the sentence, the Court will consider the stipulation [of the parties], together with the results of the presentence investigation, and any other relevant information." (§6B1.4 Comm.)

The parties agree that the evidence would show that the date on which conduct relevant to the offense (§1B1.3) began is approximately July 17, 2009. The parties agree that the government's evidence would be:

On August 6, 2007, this defendant was sentenced on six counts in case number 07-cr-00085-WYD to 46 months in the custody United States Bureau of Prisons. He had previously pled guilty to a six count information. All counts were to be served concurrently. On June 11, 2009, this defendant was transferred to Independence House, 2765 South Federal Boulevard, Denver, Colorado. That facility is located within the Federal Judicial District of Colorado. It is a community correction center as defined in Title 18, United States Code, Section 4082(a).

The defendant, upon arrival on June 11, 2009, signed and dated a Program Statement of the Federal Bureau of Prisons entitled "Escape From Extended Limits of Confinement." That program statement informed the defendant that "The willful failure of a prisoner to remain within the extended limits of his confinement, or to return within the time prescribed to an institution or facility designated by the Attorney General, shall be deemed an escape from the custody of the Attorney General punishable as provided in chapter 35 of this title." The Program Statement further provides that "This statute authorizes an inmate's prosecution should he or she escape while participating in a community based program such as a furlough, Community Corrections Center (CCC), residence, or other community based program."

On July 17, 2009 at 7:42am, while assigned to Independence House, this defendant signed out to go to work at Western State Marketing, 5650 East Evans Avenue, Suite 105, Denver, CO. His return time to Independence House was 9:00pm on July 17, 2009. He never returned as required. He was placed on escape status on July 17, 2009 at approximately 11:00pm. He was subsequently indicted by a federal grand jury in Denver for the escape and arrested in Colorado on a warrant on October 6, 2009.

#### **V. SENTENCING COMPUTATION**

The parties understand that the sentencing guidelines are advisory only and are one factor the Court will consider in sentencing. The Court must also look at the factors outlined in Title 18, U.S.C. Section 3553.

The Court is free, pursuant to §§6A1.3 and 6B1.4, to reach its own findings of facts and sentencing factors considering the parties' stipulations, any pre-sentence

investigation, if ordered by the Court, and any other relevant information. (§6B1.4 Comm.; §1B1.4)

To the extent the parties disagree about the sentencing factors, the computations below identify the factors which are in dispute. (§6B1.4(b))

A. The base guideline is § 2P1.1, with a base offense level of 13, pursuant to 2P1.(a)(1).

B. No specific offense characteristics apply.

C. No victim-related, role-in-offense, obstruction and/or multiple count adjustments apply.

D. The adjusted offense level would therefore be 13.

E. The defendant should receive a two level downward adjustment for acceptance of responsibility pursuant to 3E1.1(a). The resulting offense level would therefore be 11.

F. The parties understand that the defendant's criminal history computation is tentative. The criminal history category is determined by the Court. It is believed that this defendant has a prior criminal history and approximately eight (8) criminal history points. Based on that information, if no other information were discovered, the defendant's criminal history category would be IV.

G. Assuming the tentative criminal history facts of (F) above, the career offender/criminal livelihood/armed career criminal adjustments would not apply.

H. The guideline range resulting from the estimated offense level(s) of (E) above, and the (tentative) criminal history category of (F) above, is 18-24 months. However, in order to be as accurate as possible, with the criminal history category

undetermined at this time, the estimated offense level(s) of (E) above could conceivably result in a range from 8 months (bottom of Category I), to 33 months (top of Category VI). The sentence would be limited, in any case, by the statutory maximum of 60 months.

I. Pursuant to guideline §5E1.2, assuming the estimated offense level of (E) above, the fine range for this offense would be \$2000.00 to \$20,000.00, plus applicable interest and penalties.

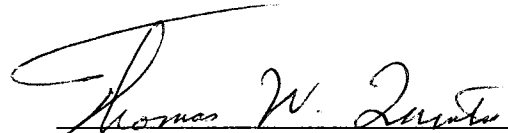
J. Pursuant to guideline §5D1.2, if the Court imposes the term of supervised release, that term shall be at least 2 years, but not more than 3 years.

#### **VI. WHY THE PROPOSED PLEA DISPOSITION IS APPROPRIATE**

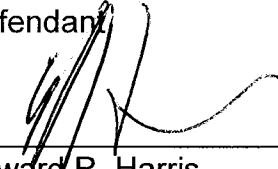
The parties believe the sentencing range of 0-6 months resulting from the proposed plea agreement is appropriate because all relevant conduct is disclosed, the sentencing guidelines take into account all pertinent sentencing factors with respect to this defendant, and the charge to which the defendant has agreed to plead guilty adequately reflects the seriousness of the actual offense behavior.

This document states the parties' entire agreement. There are no other promises, agreements (or "side agreements"), terms, conditions, understandings or assurances, express or implied. In entering this agreement, neither the government nor the defendant have relied, or are relying, on any terms, promises, conditions or assurances not expressly stated in this agreement.


Date: 1/4/10

  
Thomas W. Quintin  
Defendant

Date: 1/4/10

  
Edward R. Harris  
Attorney for Defendant

Date: 1/4/2010

  
Robert E. Mydans  
Assistant U.S. Attorney