

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 01-8076-CR-Middlebrooks PM 1:58

UNITED STATES OF AMERICA,
Plaintiff,

v.
WILLIAM CAUDELL,
Defendant.

FILED by MB D.C.
AUG 23 2001
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S. D. OF FLA. MIAMI

PLEA AGREEMENT

The United States of America and WILLIAM CAUDELL (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to waive indictment and to plead guilty to Counts 1 and 2 of the Information, which charge the defendant with Conspiracy to Launder Monetary Instruments, in violation of Title 18, United States Code, Section 1956(h) and with Conspiracy to Commit Mail and Wire Fraud in violation of 18 U.S.C.S 371.

2. The defendant is aware that the sentence will be imposed in conformity with the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"), and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the Court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the Court may depart from the

applicable guideline range and impose a sentence that is either more severe or less severe than the guidelines range. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

3. The defendant also understands and acknowledges that the Court may impose a statutory maximum term of imprisonment of up to five years on Count 1 and up to twenty years on Count 2, followed by a term of supervised release. In addition to a term of imprisonment and supervised release on Count 2, the Court may impose a fine of up to \$500,000.00 or alternatively, not more than twice the value of the criminally derived property involved in the transaction and, on Count 1, the Court may impose a fine of up to \$250,000.

4. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph 3 of this agreement, a special assessment in the amount of \$100.00 on each count of conviction will be imposed on the defendant, which will be paid by the defendant at the time of entry of this plea.

5. The Office of the United States Attorney for the Southern District of Florida (hereinafter "Office") reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well

as concerning the defendant and the defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

6. The United States and the defendant stipulate and agree that the value of the funds involved in Counts 1 and 2 was approximately \$13 million.

7. The United States agrees that it will recommend at sentencing that the Court reduce by 3 levels the sentencing guideline level applicable to the defendant's offense conduct, pursuant to Section 3E1.1 of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. However, the United States will not be required to make this sentencing recommendation if the defendant: (1) fails or refuses to make full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (2) is found to have misrepresented facts to the government prior to entering this plea agreement; or, (3) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official.

8. The defendant agrees that he will cooperate fully with this Office by:

(a) providing truthful and complete information and testimony, and producing documents, records, recordings and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other Court proceeding;

(b) appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office.

9. This Office reserves the right to evaluate the nature and extent of the defendant's cooperation and to make the defendant's cooperation, or lack thereof, known to the Court at the time of sentencing. If, in the sole and unreviewable judgment of this Office, the defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the Court's downward departure from the sentence required by the Sentencing Guidelines, this Office may at or before sentencing make a motion pursuant to Section 5K1.1 of the Sentencing Guidelines or a Rule 35 motion subsequent to sentencing, reflecting that the defendant has provided substantial assistance and recommending sentence reduction. The defendant acknowledges and agrees, however, that nothing in this Agreement may be construed to require this Office to file such a motion and that this Office's assessment of the nature, value, truthfulness, completeness, and accuracy of the defendant's cooperation shall be binding on the defendant.

10. The United States agrees to recommend that the defendant be sentenced at the low end of the applicable guideline range determined by the Court.

11. This agreement resolves the defendant's federal criminal liability in the Southern District of Florida growing out of any criminal conduct by the defendant known to the United States Attorney's Office for the Southern District of Florida as of the date of this plea agreement.

12. The defendant understands and acknowledges that the Court is under no obligation to grant a government motion pursuant to 5K1.1 of the Sentencing Guidelines or Rule 35 of the Federal Rules of Criminal Procedure, as referred to in paragraph 9 of this agreement, should the government exercise its discretion to file such a motion.

13. The defendant is aware that the sentence has not yet been determined by the Court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the Court. The defendant understands further that any recommendation that the government makes to the Court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 2 above, that

the defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

14. The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Title 18, United States Code, Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which that sentence was determined, unless (1) the sentence exceeds the maximum permitted by statute, (2) the sentence is the result of an upward departure from the guideline range the court establishes at sentencing, and/or (3) the court decides not to follow one or more of the sentencing recommendations made pursuant to paragraph 7 above. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in 18 U.S.C. § 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. The defendant understands that, although the defendant will be sentenced in conformity with the Sentencing Guidelines, by this agreement the defendant waives the right to appeal the sentence on the basis that the sentence is the result of an incorrect application of the Sentencing Guidelines.

15. The defendant understands and agrees that the Court may order the defendant to make restitution in the amount of \$12.8 million to the victims of the crimes in Counts 1 and 2.

16. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

GUY A. LEWIS
UNITED STATES ATTORNEY

Date: 8/23/01

Paul F. Schwartz
PAUL F. SCHWARTZ
ASSISTANT UNITED STATES ATTORNEY

Date: 8/23/01

Patrice M. Mulken
PATRICE M. MULKEN
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE

Date: 8/23/01

Steven Golembe
STEVEN GOLEMBE
ATTORNEY FOR DEFENDANT

Date: 8/23/01

William Caudell
WILLIAM CAUDELL
DEFENDANT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 01-8076-CR-Middlebrooks-01

UNITED STATES OF AMERICA,
Plaintiff,

vs.

William Caudell
Defendant.

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CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. MIAMI

CHANGE OF PLEA

On August 23, 2001 the above named defendant appeared in person before the Honorable Donald M. Middlebrooks, United States District Judge, with Stephen P. Golembe, Esq. counsel ~~appointed by the Court~~ retained by the defendant, and said defendant stated in open court that _____ desired to withdraw the plea of not guilty heretofore entered and desired to enter a plea of guilty as to Count(s) One & Two of the ~~Indictment~~/Information.*

After the defendant was duly sworn, the Court made inquiry as to guilt. The Court, being satisfied there was a factual basis for the plea, accepted the plea of guilty and found the defendant guilty as charged.

Whereupon:

- () The Court proceeded to pronounce sentence. (See J&C)
- (X) The Court postponed sentencing until Monday, January 7, 2002, at 4:30pm in Miami
- (X) The defendant being allowed to remain on bond until sentencing.
- () The defendant being remanded to the custody of the U. S. Marshal Service until a _____ bond in the amount of \$ _____ is approved and posted.
- () The defendant being remanded to the custody of the U. S. Marshal awaiting sentencing.

The U. S. Attorney announced Count(s) _____ would be dismissed on the government's motion at sentencing.

AUSA: Paul E. Schmitz + Patrice M. Mulhern (OAs)

Reporter R. Watford

Courtroom Deputy M. Beck

*Waiver of Indictment previously executed & filed.

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AUG 23 2001
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CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

UNITED STATES OF AMERICA

CASE NO. 01-8076-CR-MIDDLEBROOKS-01

vs

WILLIAM CAUDELL
Reg. No. Unknown
No interpreter required

NOTICE OF SENTENCING

TO: DEFENDANT, DEFENSE COUNSEL and U.S. ATTORNEY'S OFFICE

By direction of the Honorable DONALD M. MIDDLEBROOKS, United States District Judge, **YOU ARE HEREBY ORDERED** to appear in the United States District Court for the Southern District of Florida on **MONDAY, JANUARY 7, 2002, at 4:30 p.m.**, for imposition of sentence. On that date, report to the United States Courthouse, 301 North Miami Avenue, Sixth Floor Courtroom, Miami, Florida 33128, where sentence will be imposed. You will receive no further notice.

If the above-named defendant has executed a bond with this Court, let this notice advise the defendant that failure to appear as directed herein could result in his being charged with a violation of the Comprehensive Crime Control Act (18 U.S.C. § 3146), which carries a maximum sentence of up to ten (10) years imprisonment and a fine of \$25,000, or both, if convicted.

IT IS FURTHER ORDERED that a Presentence Investigation and Report to this Court will be completed. DEFENSE COUNSEL ARE TO REPORT IMMEDIATELY TO THE UNITED STATES PROBATION OFFICE OF THE COURT AT THE OLD COURTHOUSE, ROOM 315, 300 N.E. 1st AVENUE, MIAMI, FLORIDA, FOR INTERVIEW AND FURTHER INSTRUCTIONS. IF ON BOND, THE DEFENDANT SHALL REPORT TO THE PROBATION OFFICE ALSO.

IT IS FURTHER ORDERED that the U.S. Attorney's Office shall immediately provide the U.S. Probation Department with the necessary information to prepare the Prosecution version of the Presentence Report.

CLARENCE MADDOX
COURT ADMINISTRATOR • CLERK OF COURT

By: Michael W. Beck MB
Deputy Clerk

DATE: August 23, 2001

COUNSEL: Stephen P. Golembe, Esq.
305-858-0404

GUILTY PLEA XX
TRIAL

BOND XX
FEDERAL CUSTODY _____
STATE CUSTODY _____
U.S.M. CUSTODY _____

TO COUNTS: 1 and 2
OF TOTAL COUNTS: Two
AUSA Paul F. Schwartz
954-356-7255

cc: U.S. Attorney
Pre-Trial Services

U.S. Marshal
Defense Counsel

U.S. Probation Office
Defendant