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Clerk, US Bankruptcy Court
District Of Montana

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ATTORNEYS FOR PLAINTIFF
UNITED STATES OF AMERICA

**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF MONTANA
 BILLINGS DIVISION**

UNITED STATES OF AMERICA, Plaintiff, vs. SCOT DONALD PETRIE, Defendant.	CR 19-33-BLG-DLC PLEA AGREEMENT
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Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America, by Zeno B. Baucus and Bryan T. Dake, Assistant United States Attorneys for the District of Montana, and the Defendant, Scot Donald Petrie, and the Defendant's attorney, Steven Babcock have agreed upon the following:

1. Scope: This plea agreement is between the United States Attorney's Office for the District of Montana and the defendant. It does not bind any other federal, state or local prosecuting, administrative or regulatory authority, or the United States Probation Office.

2. Charges: The Defendant agrees to plead guilty to count IV of the indictment. Count IV charges Transportation of a Person with Intent to Engage in Criminal Sexual Activity, in violation of 18 U.S.C. § 2421 and Aiding and Abetting pursuant to 18 U.S.C. § 2. The offense charged in count IV carries a maximum term of ten years of imprisonment, a \$250,000 fine, five years to lifetime supervised release, and a \$5,000 special assessment. Restitution is mandatory.

The defendant also agrees to restitution and an entry of forfeiture, as described in Paragraph 4 below.

At the time of sentencing, the United States will move to dismiss counts I-III of the indictment against the defendant if the Court accepts this plea agreement.

3. Nature of the Agreement: The parties agree that this plea agreement shall be filed and become a part of the record in this case, and will be governed by Rule 11(c)(1)(A) and (B), *Federal Rules of Criminal Procedure*. The defendant acknowledges that the agreement will be fulfilled provided: a) the United States

moves to dismiss counts I-III of indictment, and the Court agrees to dismiss counts I-III of the indictment; and b) makes the recommendations provided below. The defendant understands that if the agreement is accepted by the Court, there will not be an automatic right to withdraw the plea even if the Court does not accept or follow the recommendations made by the United States.

4. Admission of Guilt: The defendant will plead guilty because defendant is in fact guilty of the charges contained in count IV of the indictment. In pleading guilty to count IV, the defendant acknowledges that:

The defendant knowingly transported a person in interstate or foreign commerce; and

The defendant transported a person with the intent that such person engage in prostitution or any sexual activity for which a person can be charged with a criminal offense.

Under the laws of the State of Montana, Montana Code Annotated, § 45-5-601, prostitution is illegal.

Restitution: The defendant agrees to be responsible for complete restitution regardless of whether a count or counts of the indictment have been dismissed as part of this plea agreement. 18 U.S.C. § 3663(a)(3).

Forfeiture: The defendant agrees to abandon all right title and interest in, execute a release and waiver to that effect for, or agree to the entry of an Order of

Forfeiture transferring the following property to the United States as property used or intended to be used to commit or facilitate the commission of the criminal conduct and as real property constituting or derived from proceeds obtained, directly or indirectly, from the criminal conduct, specifically:

- 1117 Central Avenue, Billings, Montana 59101; Lot 4, Block 1, of Sanderson Subdivision, in the City of Billings, Yellowstone County, Montana.

5. Waiver of Rights by Plea:

(a) The government has a right to use against the Defendant, in a prosecution for perjury or false statement, any statement that the Defendant gives under oath during the plea colloquy.

(b) The Defendant has the right to plead not guilty or to persist in a plea of not guilty.

(c) The Defendant has the right to a jury trial unless the Defendant, by written waiver, consents to a non-jury trial. The government must also consent and the Court must approve a non-jury trial.

(d) The Defendant has the right to be represented by counsel, and if necessary, have the Court appoint counsel, at trial and at every other stage of these proceedings.

(e) If the trial is a jury trial, the jury would be composed of 12 laypersons selected at random. The Defendant and the defense attorney would have a say in determining who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that the Defendant is presumed innocent, and that it could not convict the Defendant unless, after hearing all the evidence, it was persuaded of the Defendant's guilt beyond a reasonable doubt.

(f) If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not the judge was persuaded of the Defendant's guilt beyond a reasonable doubt.

(g) At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against the Defendant. The Defendant would be able to confront those government witnesses and the defense attorney would be able to cross-examine them. In turn, the Defendant could present witnesses and other evidence on the Defendant's own behalf. If the witnesses for the Defendant would not appear voluntarily, their appearance could be mandated through the subpoena power of the Court.

(h) At a trial, there is a privilege against self-incrimination so that the Defendant could decline to testify and no inference of guilt could be drawn from the Defendant's refusal to testify. Or the Defendant could exercise the choice to testify on the Defendant's own behalf.

(i) If convicted, and within 14 days of the entry of the judgment and commitment, the Defendant would have the right to appeal the conviction to the Ninth Circuit Court of Appeals for review to determine if any errors were made which would entitle the Defendant to reversal of the conviction.

(j) The Defendant has a right to have the District Court conduct the change of plea hearing required by Rule 11, *Federal Rules of Criminal Procedure*. By execution of this agreement, the Defendant expressly waives that right and agrees to hold that hearing before, and allow the Rule 11 colloquy to be conducted by, the U.S. Magistrate Judge.

(k) If convicted in this matter, a defendant who is not a citizen of the United States may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

The defendant understands that by pleading guilty pursuant to this agreement the Defendant is waiving all the rights set forth in this paragraph. The

defendant's attorney has explained these rights and the consequences of waiving these rights.

6. Recommendations: The United States will recommend the defendant's offense level be decreased by two levels for acceptance of responsibility, pursuant to USSG §3E1.1(a), unless the defendant is found to have obstructed justice prior to sentencing, pursuant to USSG §3C1.1, or acted in any way inconsistent with acceptance of responsibility. The United States will move for an additional one-level reduction, pursuant to USSG §3E1.1(b), if appropriate under the Guidelines. Provided the defendant complies with the plea agreement, the United States will recommend a low-end guideline range.

Based on the information known to the government, the government agrees not to recommend a specific offense characteristics stated in USSG § 2G1.1(b)(1). The parties reserve the right to make any other arguments at the time of sentencing. The defendant understands that the Court is not bound by this recommendation.

7. Sentencing Guidelines: Although advisory, the parties agree that the U.S. Sentencing Guidelines must be applied, and a calculation determined, as part of the protocol of sentencing to determine what sentence will be reasonable.

8. Waiver of Appeal of the Sentence: The defendant understands that the law provides a right to appeal and collaterally attack the sentence imposed in

this case. 18 U.S.C. § 3742(a); 28 U.S.C. §§ 2241, 2255. The prosecution has a comparable right of appeal. 18 U.S.C. § 3742(b). By this agreement the defendant waives the right to appeal or collaterally attack any aspect of the sentence, including conditions of probation or supervised release, if the defendant has no objection to the calculation of the guidelines. This waiver includes challenges to the constitutionality of any statute of conviction and arguments that the admitted conduct does not fall within any statute of conviction. This waiver does not prohibit the right to pursue a collateral challenge alleging ineffective assistance of counsel. The United States waives its right to appeal any aspect of the sentence if it has no objection to the calculation of the guidelines.

9. Voluntary Plea: The defendant and the defendant's attorney acknowledge that no threats, promises, or representations have been made to induce the defendant to plead guilty, and this agreement is freely and voluntarily endorsed by the parties.

10. Detention/Release After Plea: The United States agrees that it will not move for detention but will defer to the discretion of the Court the decision as to whether the defendant meets the conditions of 18 U.S.C. § 3143(a)(1) or (2), and whether the defendant has clearly shown exceptional reasons why detention is not appropriate. 18 U.S.C. § 3145(c). The United States is obligated to advise the

Court of the appropriate legal standards that relate to the defendant's eligibility for post-conviction release. The defendant acknowledges that obligation and understands that advising the Court as to the law and facts is not an abrogation of its agreement not to request remand.

11. Disclosure of Financial Information: The defendant authorizes the U.S. Probation Office to release to the Financial Litigation Unit of the U.S. Attorney's Office all documents and financial information provided by the defendant to the U.S. Probation Office and any information obtained by the U.S. Probation Office about the defendant through its investigation. The defendant further agrees to fully complete a financial statement in the form prescribed by the U.S. Attorney's Office, provide financial documents as requested, and submit to a debtor's exam if deemed appropriate by the U.S. Attorney's Office, in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court. The defendant consents to being immediately placed on the Treasury Offset Program to help meet the defendant's obligation to pay restitution and/or a fine.

12. Breach: If the defendant breaches the terms of this agreement, or commits any new criminal offenses between signing this agreement and sentencing, the U.S. Attorney's Office is relieved of its obligations under this agreement.

13. Entire Agreement: Any statements or representations made by the United States, the defendant, or his counsel prior to the full execution of this plea agreement are superseded by this plea agreement. No promises or representations have been made by the United States except as set forth in writing in this plea agreement. **This plea agreement constitutes the entire agreement between the parties. Any term or condition which is not expressly stated as part of this plea agreement is not to be considered part of the agreement.**

KURT G. ALME
United States Attorney


(FIR) ZENO B. BAUCUS
Assistant U. S. Attorney
Date: 7-2-19


SCOT DONALD PETRIE
Defendant
Date: 7/2/2019


STEVEN BABCOCK
Defense Counsel
Date: 7/2/2019