

FILED IN COURT

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

5/18/22

MARY L. HARRISON

K. Kozlowski

Deputy

THE STATE OF ARIZONA,

Plaintiff,

vs.

AMY LYN O'NEILL,

DOB: 

Defendant.

NO. CR-2021-4401-001

PLEA AGREEMENT

The State of Arizona and the Defendant hereby agree to the following disposition of the case:

Plea: The Defendant agrees to plead GUILTY to the following offense(s):

AMENDED COUNT ONE: SOLICITATION TO COMMIT THEFT, A Class Four Felony, in violation of A.R.S. §§ 13-1002 and 13-1802 committed from on or about October 29, 2019 and continuing through on or about May 20, 2021.

In addition to the factual basis and *mens rea* provided by or on behalf of the Defendant, the Defendant agrees that the Grand Jury Transcript is expressly incorporated within the factual basis required by this Agreement.

This offense is a non-dangerous, non-repetitive offense under the criminal code.

Terms: On the following understandings, terms and conditions:

ALD

1. AMENDED COUNT ONE: carries a presumptive sentence of 2.5 years; a minimum sentence of 1.5 years; a mitigated sentence of 1 year (with two or more mitigating factors); and a maximum sentence of 3 years; and an aggravated sentence of 3.75 years (with two or more aggravating factors). Probation IS available. If the Defendant is sentenced to probation by the Court, as conditions of probation, the Defendant could be ordered to serve up to one year in jail and could be ordered to pay probation fees. The following statutory probation range applies: up to 4 years. The maximum fine that can be imposed is \$150,000 plus a 78% surcharge and any mandatory fees and assessments.

If sentenced to probation, Defendant agrees to waive extradition for probation revocation proceedings and Defendant agrees to pay all costs associated with extradition.

If the Defendant is sentenced to prison, Defendant shall also be sentenced to serve a term of community supervision equal to one-seventh of the prison term to be served consecutively to the actual period of imprisonment. If Defendant fails to abide by the conditions of community supervision, Defendant can be required to serve the remaining term of community supervision in prison. Special conditions regarding sentence imposed by statute (if any) are: Pursuant to A.R.S. § 13-610, Defendant shall submit to Deoxyribonucleic Acid (DNA) testing for law enforcement identification purposes.

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2. The parties stipulate to the following additional terms, subject to court approval at the time of sentencing as set forth in term 8:

A. **The plea is contingent on the Defendant having no historical prior felony convictions.**

B. **Fines and Fees**

1. **State Anti-Racketeering Revolving Fund Fine (A.R.S. §§ 13-811(B), 13-2314.01): \$750, plus surcharges, payable to the State Anti-Racketeering Revolving Fund.**

C. **If defendant is sentenced to probation, defendant shall be sentenced to a jail term of somewhere between 30 days and 365 days, to be determined by the sentencing judge.**

D. **Payment of restitution:** The Defendant agrees the court may order restitution no less than \$84,444.45 based on restitution claims submitted by victim(s) and further waives his/her right to have a restitution hearing. If the Defendant is sentenced to probation by the Court and fails to make full restitution for any economic loss within the ordered period of probation, Defendant's probation shall be extended for five years pursuant to 13-902(C)(1).

1. **Defendant agrees to make a \$65,000 restitution payment before the sentencing date in this matter.**

E. **White Collar Terms:** (1) The Defendant shall not incur any additional business or personal financial obligations and/or encumbrances without the prior written approval of his probation officer; (2) The Defendant shall submit all accounting records, tax records, and/or any financial documents as directed by his probation officer; (3) The Defendant shall sign release of information forms for all banking, savings, and investment accounts, tax returns, and any other financial information as requested by probation; (4) The Defendant shall not open any checking, savings, investment, or retirement accounts without the prior written approval of probation; (5) The Defendant shall notify any employers and/or any client of his plea agreement and/or convictions and the nature of the plea agreement and/or convictions; (6) The Defendant shall not work, supervise, consult, and/or otherwise involve himself in any fiduciary capacity for any business association either public or private; (7) The Defendant shall not gamble.

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3. All remaining charges are dismissed.

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4. All victim(s) listed in the original indictment, complaint, or information retain all of their victim rights even if their names do not appear within the specific count(s) in term 1. Defendant agrees that uncharged victim(s) may address the court at sentencing. Defendant further agrees to have no contact with any victim(s), including uncharged victim(s) receiving restitution, without the prior knowledge and consent of either this Court or the probation department.

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5. This agreement serves to amend the indictment, complaint, or information to charge the offense(s) to which Defendant pleads, without the filing of any additional pleading. If Defendant is charged with a felony, he/she hereby waives and gives up his/her right to a preliminary hearing or other probable cause determination on the charges to which he/she pleads. However, if the plea is rejected by the court, either party withdraws, or if the conviction is subsequently reversed, the original charges and any charges that are dismissed by reason of this plea are automatically reinstated.

KLO
6. Defendant agrees that this agreement shall not be binding on the State should Defendant be charged with or commit a crime between the time of this agreement and the time of sentencing in this cause, nor shall this agreement be binding on the State until the State confirms all representations made by Defendant and his/her attorney, to wit:

- Defendant avows that she HAS NO historical prior felony convictions.
- Defendant avows that she WAS NOT on felony probation, parole, community supervision, felony release, or pretrial release at the time of this offense.

- Defendant avows that she has NO OTHER pending felony cases in any jurisdiction.

If the Defendant fails to appear for sentencing, the court may disregard the stipulated sentence and impose any lawful sentence which is the same as or exceeds the stipulated sentence in the plea agreement. In the event the court rejects the plea, or either the State or the Defendant withdraws from the plea, the Defendant hereby waives and gives up his/her right to a preliminary hearing or other probable cause determination on the original charges.

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7. The Defendant agrees pursuant to A.R.S. § 13-4033 that he/she may not appeal from the judgment entered or sentence imposed as a result of this plea agreement. Unless this agreement is rejected or withdrawn, the Defendant gives up any motions, objections or defenses which he/she has asserted or could assert in this case. If the Defendant obtains a new trial, the original charges and/or any pending charges in any implicated case(s) dismissed as a result of this Plea Agreement are automatically reinstated. If the Defendant obtains a new trial, the State shall have the right to file uncharged acts identified in term 3, and Defendant agrees to waive any timeliness or statute of limitations defenses to those uncharged acts.

The Defendant hereby waives any right to raise and/or to appeal any and all motions, defenses, probable cause determinations, restitution orders, and objections, which he/she has asserted or could assert to this prosecution, and to the Court's entry of judgment against and imposition of sentence consistent with this negotiated Plea Agreement. The Defendant further expressly waives any objections, motions, or defenses based upon the statute of limitations, Rule 8 Speedy Trial, Arizona Rules of Criminal Procedure, the Double Jeopardy Clause of the United States and Arizona Constitutions, *Brady v. Maryland*, 373 U.S. 83 (1963) and *Ciglio v. United States*, 405 U.S. 150 (1972), or any other constitutional restrictions on bringing of charges.

ND
8. The parties hereto fully and completely understand and agree that by entering into a plea agreement, Defendant consents to judicial fact-finding by preponderance of the evidence as to any aspect or enhancement of sentence, and that any sentence either stipulated to or recommended herein in term 2 is not binding on the court. In making the sentencing determination, the court is not bound by the rules of evidence. If after accepting this plea the court concludes that any of the plea agreement's provisions regarding the sentence or the term and conditions of probation are inappropriate, it can reject the plea. If the court decides to reject the plea agreement provisions regarding sentencing, it must give both the state and Defendant an opportunity to withdraw from the plea agreement. If, in this situation, either party elects to withdraw, the plea agreement is voided and the charges against the Defendant as they existed before any amendment, reduction, or dismissal on any implicated case(s) made as part of a plea agreement shall automatically be reinstated. If the plea agreement is voided, the State shall have the right to file uncharged acts identified in term 3, and Defendant agrees to waive any timeliness or statute of limitations defenses to those uncharged acts.

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9. If the court decides to reject the plea agreement provisions regarding sentencing and neither the state nor Defendant elects to withdraw from the plea agreement, then any sentence either stipulated to or recommended herein is not binding upon the court, and the court is bound only by the sentencing limits set forth in term 1 and the applicable statutes which may be less favorable than the sentence contemplated by the agreement.

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10. This plea agreement contemplates and is entered solely to resolve this criminal case. It is separate from, independent of, and is entered free of any consideration with respect to any past, present or future civil, administrative, or regulatory action or proceeding brought by or on behalf of the State of Arizona or any department, agency or entity thereof arising from or related to the facts and events giving rise to this criminal

case. It does not in any way compromise or provide protections or defenses with respect to any such other proceeding, including but not limited to an action or proceeding pursuant to A.R.S. §§ 13-2301 through 13-2323 or A.R.S. §§ 13-4301 through 13-4315. It does not abrogate or limit the provisions of A.R.S. § 13-2314(H), A.R.S. § 13-2314.04(E), or A.R.S. § 13-4310(C) or in any other way compromise, limit or adversely affect the State in any such past, present or future civil action brought pursuant to A.R.S. §§ 13-2301 through 13-2323, A.R.S. §§ 13-4301 through 13-4315, or A.R.S. § 32-1993, if applicable. Any relief from this plea agreement or other relief from this criminal case shall not give rise to relief from or serve to affect any resolution or disposition entered by court ruling or by agreement in any such other proceeding brought by or on behalf of the State.

NO
11. I understand that if I am not a citizen of the United States that my decision to go to trial or enter into a plea agreement may have immigration consequences. Specifically, I understand that pleading guilty or no contest to a crime may affect my immigration status. Admitting guilt may result in deportation even if the charge is later dismissed. My plea or admission of guilt could result in my deportation or removal, could prevent me from ever being able to get legal status in the United States, or could prevent me from becoming a United States citizen. I understand that I am not required to disclose my legal status in the United States to the court.

NO
12. I have read all the provisions of all pages of this agreement with the assistance of counsel or my counsel's translator and understand all the provisions of all pages of this agreement. I have discussed the case and my constitutional rights with my lawyer and have considered the risks associated with going to trial. My lawyer has explained the nature of the charge(s) and the elements of the crime(s) to which I am pleading. I understand that by pleading guilty I will be waiving and giving up my rights to: a trial by jury; to be represented at trial by appointed counsel if I cannot afford to hire my own; to confront, cross-examine, and compel the attendance of witnesses; to present evidence in my behalf; my right to remain silent; my privilege against self-incrimination; my presumption of innocence and right to appeal. I agree to enter my plea as indicated above on the terms and conditions set forth herein. I have decided on my own free will to enter into a plea agreement and am not on or under the influence of any drug, medication, liquor, or other intoxicant. My plea is not the result of force, threats, assurances, or promises other than those which are contained in writing in this agreement. I fully understand that if, as part of this plea agreement, I am granted probation by the court, the terms and conditions thereof are subject to modification at any time during the period of probation. I understand that if I violate any of the written conditions of my probation, my probation may be terminated and I can be sentenced to any term or terms stated above in term 1, without limitation.

I have personally and voluntarily placed my initials beside each of the above terms and signed the signature line below to indicate I read and approved all of the previous terms in this agreement, both individually and as a total binding agreement. I am satisfied with my counsel's work representing me in this matter.

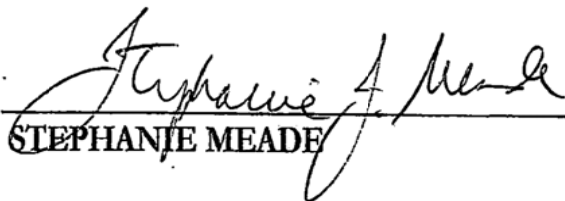
Date May 6, 2020

Defendant 
AMY LYN O'NEILL

I have discussed this case with my client in detail and advised him/her of his constitutional rights and all possible defenses. I have also explained the nature of the charge(s) and the elements of the crime(s). I believe that the plea and disposition set forth herein are appropriate under the facts of this case and in the best interest of my client. I believe my client understands this plea agreement and I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

Date 5-18-22

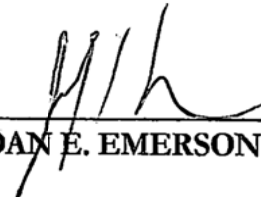
Defense Counsel


STEPHANIE MEADE

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

Date 5 18 22

Prosecutor


JORDAN E. EMERSON