



Office of the Attorney General
Elizabeth Barrett-Anderson
Attorney General of Guam
Prosecution Division
590 S. Marine Corps Drive, Ste. 801
Tamuning, Guam 96913 • USA
(671) 475-3406 • (671) 477-3390 (Fax)
www.guamag.org

Attorney for the People of Guam

FILED
SUPERIOR COURT
OF GUAM

2017 MAY 31 AM 10:48

CLERK OF COURT

By:

IN THE SUPERIOR COURT OF GUAM

THE PEOPLE OF GUAM,

Plaintiff,

vs.

BRIAN JOSH SAN NICOLAS PARKINSON,
DOB: 04/28/1989

Defendant.

S.C. Criminal Case No.: CF-0055-17
GPD Case No. 17-01926 / 17-01868 / 17-02188 / 17-03261 / 17-03270 / 16-24730

DEFERRED PLEA AGREEMENT

Pursuant to Title 8 Guam Code Annotated § 60.80, the defendant, **BRIAN JOSH SAN NICOLAS PARKINSON**, represented by **SAMUEL TEKER, ESQ.**, and the People of Guam represented by the Attorney General through **JAMES C. COLLINS, ESQ.**, enter into the following *deferred* plea agreement:

1. The defendant, having been advised, understands the following:
 - a. the nature of the charge and its elements to which the *deferred* plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law; the right to consult with and be represented by an attorney at every stage of these proceedings;

SCC

- 1 b. The right to consult with and be represented by an attorney at every stage of these
2 proceedings;
3 c. the right to plead not guilty, the right to confront and cross-examine witnesses, and
4 the right against self-incrimination;
5 d. that by pleading guilty to the charge the right to a jury trial is waived; and upon
6 acceptance of the guilty plea by the Court, defendant stands convicted just as though
7 convicted by a jury;
8 e. that if defendant pleads guilty, the Court may ask questions about the offense charged,
9 and if defendant answers these questions on the record, and in the presence of
10 Defendant's attorney, the answers later may be used against Defendant;
11 f. That Defendant has a right to prosecution by indictment or preliminary hearing and,
12 if this right is waived, Defendant may be prosecuted by an information filed by the
13 prosecutor; and.
14 g. that if the Defendant is an alien, Defendant's guilty plea may have immigration
15 consequences, including deportation, and that the defendant has been counseled as to
16 any impact upon Defendant's immigration status.

17 2. Defendant voluntarily, and without coercion or promises apart from this Plea
18 Agreement, agrees to enter a *deferred plea* to the charge of **HINDERING APPREHENSION (As**
19 **a 3rd Degree Felony)**, a violation of 9 GCA §§ 55.15 (a) (2) & (b). Pursuant to 9 G.C.A. §§ 80.30
20 (c) & 80.50 (b) and the case of *People v. Joshua*, 2015 Guam 32 ¶¶ 30-33, the maximum penalties
21 for this offense are up to five (5) years incarceration and a fine of up to five thousand dollars
22 (\$5,000).

23 The charge arises out of the incident described in Guam Police Department Reports and the
24 facts as follows

25
26 On or about the 20th day of January, 2017, in Guam, the defendant, BRIAN JOSH SAN
27 NICOLAS PARKINSON, did provide or aid in providing transportation or other means of
28 avoiding discovery or apprehension to Vince Mikel Benito, with the intent to hinder, prevent
or delay the discovery, apprehension, prosecution and punishment of Vince Mikel Benito, for

1 the commission of an offense, that is, Retail Theft, and he knew the charge liable to be made
2 against the other person is a felony of the first or second degree.

3 3. The Defendant understands that to establish a violation of **HINDERING**
4 **APPREHENSION (As a 3rd Degree Felony)**, as charged pursuant to 9 GCA §§ 55.15 (a) (2) & (b),
5 the People must prove each of the following elements beyond a reasonable doubt:
6

7 **First:** the incident occurred on or about the 20th day of January, 2017, in Guam;

8 **Second:** the defendant did provide or aid in providing transportation or other means of
9 avoiding discovery or apprehension to Vince Mikel Benito;

10 **Third:** the defendant did so with the intent to hinder, prevent or delay the discovery,
11 apprehension, prosecution and punishment of Vince Mikel Benito, for the
12 commission of an offense, that is, Retail Theft; and,

13 **Fourth:** the defendant knew the charge liable to be made against the other person is a
14 felony of the first or second degree.
15

16 4. Defendant understands and agrees Defendant may be called upon to testify under oath
17 about the factual details of these transactions at the taking of this guilty plea.

18 5. Defendant understands that Defendant has a right to move for a reduction of sentence
19 within one hundred twenty (120) days of sentencing pursuant to 8 GCA § 120.46 and 9 GCA §
20 80.22, and agrees to waive that right for the purpose of this plea.
21

22 6. Defendant understands that Defendant has a right to appeal Defendant's convictions
23 in this case pursuant to 8 GCA §§ 130.10 and 130.15, and agrees to waive that right for the purpose
24 of this plea.

25 7. Defendant understands that such felony conviction could cause Defendant to lose
26 valuable civil rights, such as the right to vote, to sit on a jury, to hold public office, to possess
27 firearms, or to obtain certain types of employment.
28

1 8. The Attorney General and Defendant agree to the following:

- 2 a. Defendant agrees to fully and truthfully cooperate with the Government of Guam
3 Attorney General's Office and any other government entity lawfully authorized to
4 conduct any inquiry, investigation or proceeding related to the offenses to which
5 Defendant is pleading guilty and CF-0055-17;
6 b. Defendant agrees to testify truthfully at any court proceeding, including grand jury,
7 trial or any other hearing to which he is called to testify, specifically concerning his
8 own case or those involving CF-0055-17;
9 c. Defendant agrees that this cooperation with the Attorney General will begin
10 immediately following his plea of guilty;
11 d. Defendant understands and agrees that if he does not cooperate fully with the Attorney
12 General as detailed herein, that the Attorney General may later charge and prosecute
13 her for any crimes she may have committed, or seek to have this plea agreement
14 revoked on the basis of such non-cooperation.

15 9. Defendant understands that such felony conviction could cause Defendant to lose
16 valuable civil rights, such as the right to vote, to sit on a jury, to hold public office, to possess
17 firearms, or to obtain certain types of employment.

18 10. Defendant understands and agrees that this agreement shall not be binding on the
19 People should the Defendant be charged with or commit a crime between the time of Defendant's
20 agreement and the time for sentencing in this case.

21 11. Defendant understands that the Court may enter a judgment for a lesser included
22 offense, if one exists, pursuant to 9 GCA § 80.22, and agrees to waive the right to such a reduction
23 for purposes of this plea.

24
25 12. The Attorney General and Defendant agree, in consideration for Defendant's *deferred*
26 plea to the following:

27 That as to the charge of **HINDERING APPREHENSION (As a 3rd Degree Felony)**,
28 the Court's acceptance and entry of the Defendant's guilty plea shall be *deferred* for

1 a period of two (2) years. During that period Defendant must complete the terms
2 and conditions below. If Defendant does not, the Court may accept and enter the
3 Defendant's plea. The following additional penalties shall be imposed:

- 4
- 5 a. Defendant shall perform forty (40) hours of community service work under the
6 direction of the Alternative Sentencing Office;
- 7 b. Defendant shall pay a fine in the amount of five hundred dollars (\$500), plus court
8 costs;
- 9 c. That during the course of Defendant's supervision, sanctions up to and including days
10 of incarceration at the Department of Corrections may be imposed as sanctions. Days
11 of incarceration imposed as sanctions for violation of supervision requirements will
12 not be credited as time served pursuant to 9 GCA § 80.46;
- 13 d. That during defendant's TWO-year deferred period the following conditions of
14 probation shall be imposed:
- 15 i. Defendant shall report to the Probation Office as ordered by the Court, and at
16 those times will take a drug test if requested. Failure to take the drug tests, if
17 requested, will be considered a violation. Defendant will report for initial
18 intake within two working days of Defendant's release from the Department
19 of Corrections or Defendant's guilty plea, whichever is the latter;
- 20 ii. Defendant shall not associate with any felons known to Defendant as felons;
- 21 iii. Defendant shall not come within five hundred feet (500 feet) of the Outrigger
22 Hotel Guam, shall not contact and shall stay away from any employees or
23 patrons of that establishment, and shall not harass, assault or threaten any of
24 these named persons;
- 25 iv. Defendant shall not contact any witness or co-defendants in his case;
- 26 v. Defendant shall stay away from all firearms and other deadly weapons, and
27 under no circumstances is Defendant to possess, carry, transfer, or use any
28 firearms;

- 1 vi. Defendant shall forfeit any Guam Firearm Identification Card if Defendant
2 possesses one and shall not reapply for one in the event Defendant does not
3 possess one;
4 vii. Defendant is to surrender Defendant's Passport, if any, to the Probation Office;
5 viii. Defendant shall not leave Guam without the approval of the Court or Probation
6 Office, with prior notice being given to the Office of the Attorney General,
7 Prosecution Division;
8 ix. Defendant shall not possess or consume any illegal controlled substances;
9 x. Defendant shall not consume any alcoholic beverages;
10 xi. Defendant shall not enter any establishments which sell primarily alcoholic
11 beverages;
12 xii. Defendant shall not consume any alcoholic beverages;
13 xiii. Defendant shall make good faith efforts to obtain and maintain legal
14 employment or continue in school
15 xiv. Defendant shall obey all the laws of Guam; and,
16 xv. Defendant shall abide by any other reasonable conditions imposed by the
17 Court or the Probation Office.

17 13. The court will not accept the defendant's *deferred* plea to the offense herein described
18 so long as the defendant faithfully complies with the conditions herein described. Failure to abide
19 by the above conditions shall be deemed as a violation of the court ordered supervision. If the court
20 finds the defendant in violation of the court's orders as set out in this plea agreement, the court shall
21 enter the defendant's *deferred* plea as set out in this agreement and may sentence the defendant to a
22 period of incarceration of up to the maximum sentence as provided above. If at the end of the
23 defendant's supervisory period, the court finds that the defendant has faithfully complied with the
24 terms and conditions of Defendant's supervision, the court may dismiss the case. At that time, the
25 Defendant may apply to have any records of the case expunged, at the discretion of the court.
26
27
28

1 14. Defendant understands that if Defendants violates any conditions of release or of
2 probation, that the Court may find Defendant in violation and sentence Defendant to serve the
3 maximum sentence in this case.

4 15. Defendant states Defendant has told Defendant's lawyer all the facts and
5 circumstances known about the charges. Defendant's lawyer has counseled and advised Defendant
6 on the nature of each charge as well as on any and all lesser included charges.
7

8 16. Defendant and the People each intend this Plea Agreement and the sentence imposed
9 be a final sentence and a total and conclusive resolution of the charges described within this Plea
10 Agreement.
11

12 17. The parties hereto fully and completely understand and agree that it is in court's duty
13 to impose sentence upon the Defendant, and that any sentence either stipulated to or recommended
14 herein is not binding on the court. If after accepting this plea the court concludes that any of the plea
15 agreement's provisions regarding sentence or the term and conditions of probation are inappropriate,
16 it can reject the plea. If the court decides to reject the plea agreement provisions regarding
17 sentencing, it must give both the People and the Defendant an opportunity to withdraw from the plea
18 agreement. In case this plea agreement is withdrawn, all original charges will automatically be
19 reinstated.
20

21 18. If the Court decides to reject the plea agreement provisions regarding sentencing and
22 neither the People nor the Defendant elects to withdraw the plea agreement, then any sentence either
23 stipulated to or recommended herein is not binding upon the court, and the court is bound only by
24 the sentencing limits set forth in the applicable statutes.
25

26 19. By signature, Defendant attests Defendant has read this agreement and its provisions
27 have been fully explained by Defendant's attorney. Defendant believes Defendant's lawyer has
28

1 done all that anyone could do to counsel and assist Defendant and is satisfied with the advice and
2 help received.

3
4 
5 BRIAN JOSH SAN NICOLAS PARKINSON
6 Defendant

7 Dated: 5-1-17

8 
9 SAMUEL TEKER, ESQ.
10 Counsel for Defendant

11 Dated: 5-1-17

12 After a hearing held on MAY 23 2017, 20__, and a finding the Defendant's plea of
13 guilty to **HINDERING APPREHENSION (As a 3rd Degree Felony)** is knowingly and voluntarily
14 made, this Court now defers acceptance of the guilty plea for TWO (2) YEARS. Sentencing is set
15 for —, 20__.

16
17
18 
19 HONORABLE VERNON P. PEREZ
20 Judge, Superior Court of Guam

21
22
23 SERVICE VIA COURT BOX

24 I acknowledge that a copy of the
25 original hereto was placed in the
26 court box of:

27 AG, Tekler, GPD

28 Date: 5/1/17 Time: 10:50

316

Deputy Clerk, Superior Court of Guam