

COPY
SOUTHERN DISTRICT COURT
TERRE HAUTE DIVISION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

09 APR 29 AM 9:47

SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 DAVID W. DECKER,)
)
 Defendant.)

CAUSE NO. 2:09-cr-

2:09-cr-0006 WTL-CMM

PLEA AGREEMENT

The United States of America, by counsel, A. Courtney Cox, United States Attorney for the Southern District of Illinois, and Bradley A. Blackington, Assistant United States Attorney, and the Defendant, David W. Decker (hereinafter identified as Decker), in person and by counsel, William G. Smock, hereby inform the Court that a Plea Agreement has been reached in this cause pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) and the following are its terms and conditions:

1. Decker will plead guilty to the Information, which charges Decker with the following offense: Distribution of a mixture or substance containing a detectable amount of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), a felony offense. This offense may be punished by a prison term of not more than 20 years imprisonment, a period of supervised release of not less than 3 years, and a fine of up to \$1,000,000. The elements of distribution of a mixture or substance containing a detectable amount of methamphetamine are (1) the defendant distributed methamphetamine; (2) the defendant acted knowingly and intentionally; and (3) the defendant knew that the methamphetamine was a controlled substance.

GENERAL PROVISIONS

2. Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), the parties agree that a sentence of 10 months' imprisonment, with the Court to have discretion to substitute a term of supervised release with a condition of community confinement or home detention, provided that at least 5 months of the term is satisfied by imprisonment, is the appropriate disposition of the case. Furthermore, the Court will have discretion to impose a term of supervised release and fine within the applicable statutory range .

3. The defendant understands that the plea agreement terms and conditions as set forth above are binding and that the applicability of a fine as to the offense to which the defendant is pleading is within the discretion of the Court.

4. The parties to this agreement acknowledge and understand that while the Court is not a party to this agreement, in the event the Court determines the sentence should not be as set forth herein and therefore rejects the plea agreement, the Court will so advise the defendant, who may then withdraw his plea of guilty, pursuant to Fed. R. Crim. P. 11(c)(4).

SPECIFIC PROVISIONS

5. Decker agrees to resign his position as Vigo County Commissioner forthwith.

6. Decker agrees to provide all requested financial information to the Financial Litigation Unit of the United States Attorney's Office for the Southern District of Indiana for use in the collection of any fines or restitution imposed by the Court.

7. Decker will pay a total of \$100 on the date of sentencing or as ordered by the Court to the Clerk, United States District Court, which amount represents the mandatory special assessment fee imposed pursuant to 18 U.S.C. § 3013.

8. At the time of sentencing, the government will make known to the Court the nature, extent and timing of the acceptance of responsibility demonstrated by Decker.

9. At the time of sentencing, the parties reserve the right to present evidence and arguments on all sentencing issues not specifically addressed in this Plea Agreement.

APPELLATE WAIVER

10. Decker understands that he has a statutory right to appeal the conviction and sentence imposed and the manner in which the sentence was determined. Acknowledging this right and in exchange for the government's, Decker expressly waives his right to appeal the conviction and any sentence imposed on any ground, including the right to appeal conferred by 18 U.S.C. § 3742. Additionally, Decker expressly agrees not to contest, or seek to modify, his conviction or his sentence or the manner in which it was determined in any proceeding, including, but not limited to, an action brought under 28 U.S.C. § 2255.

SENTENCING GUIDELINES STIPULATIONS

11. Pursuant to Section 6B1.4 of the Sentencing Guidelines, the parties agree to the Stipulations below. The parties understand and agree that these Stipulations are binding on the parties but are only a recommendation to the Court and that the Court will determine the advisory sentencing guidelines applicable in this case. The parties agree that no stipulation regarding any factors in Chapter 4, Criminal History Category, of the Sentencing Guidelines has been made, and that such determination will be made by the Court.

a. The base offense level for the offense charged in the Information is 14, pursuant to U.S.S.G. § 2D1.1(c)(13).

b. To date, Decker has demonstrated a recognition and affirmative acceptance of

personal responsibility for his criminal conduct and timely provided complete information to the government concerning his own involvement in the offense. In the event he continues to accept responsibility, he is entitled to a two level reduction, pursuant to U.S.S.G. § 3E1.1(a).

FINAL PROVISIONS

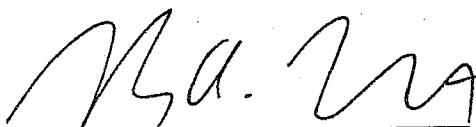
12. The terms of this agreement shall not be binding on the Office of the United States Attorney for the Southern District of Indiana nor upon Decker until signed by him and defense counsel and by counsel for the government.

13. Decker acknowledges that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this document, to induce Decker to plead guilty. This document is the complete and only plea agreement between the defendant and the United States Attorney for the Southern District of Indiana and is binding only on the parties to this agreement, supersedes all prior understandings, if any, whether written or oral, and cannot be modified except in writing, signed by all parties and filed with the Court, or on the record in open court.

Respectfully submitted,

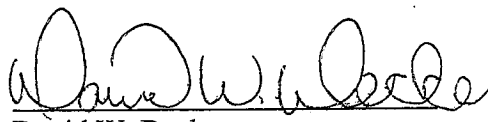
A. COURTNEY COX
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF ILLINOIS

4/28/09
DATE



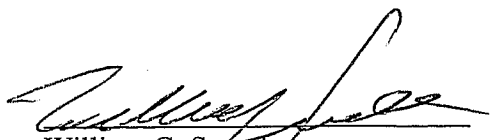
Bradley A. Blackington
Assistant United States Attorney

4-28-09
DATE



David W. Decker
Defendant

4-28-09
DATE


William G. Snock
Attorney for Defendant

STATEMENT OF THE DEFENDANT

I have read the entire Plea Agreement and discussed it with my attorney.

I understand all the terms of the Plea Agreement and those terms correctly reflect the results of plea negotiations.

I am fully satisfied with my attorney's representation during all phases of this case.

I am freely and voluntarily pleading guilty in this case.

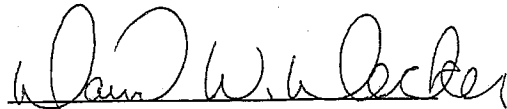
I am pleading guilty as set forth in this Plea Agreement because I am guilty of the crime(s) to which I am entering my plea(s).

My attorney has informed me, and I understand, that I have the right to appeal any conviction and sentence that I receive, unless I have waived my right to appeal as part of this Plea Agreement. If I have not waived my right to appeal, I understand that I must file a Notice of Appeal within 10 days of the entry of the judgment in this case; I further understand that the Clerk of the Court will prepare and file a Notice of Appeal on my behalf if I ask that to be done. I also understand that the United States has the right to appeal any sentence that I receive under this Plea Agreement.

Finally, my attorney has informed me, and I understand, that if I provide or cause to be provided materially false information to a judge, magistrate-judge, or probation officer, then Section 3C1.1 of the Sentencing Guidelines allows the Court to impose a two level increase in the offense level.

4-28-09

DATE



David W. Decker

Defendant