

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

5 FILED
O'Clock P.M.
JUL 25 2022
DONNA McQUALITY, Clerk
By: Stacie McCracken

THE STATE OF ARIZONA,

Plaintiff,

vs.

Henry
DENNIS FISCUS,
DOB: ~~XXXXXXXXXX~~

CR V1300CR202180591

Defendant.

PLEA AGREEMENT

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

Plea: The Defendant agrees to plead GUILTY to:

COUNT 2: AS AMENDED, SOLICITATION OF VIOLATION OF DUTIES OF A CUSTODIAN OF PUBLIC MONIES, A CLASS 6 UNDESIGNATED FELONY, in violation of A.R.S. §§ 35-301, 13-1002, 13-604, 13-701, 13-702, 13-901, 13-801 and 13-811 committed on or between December 19, 2013 and November 20, 2015.

This is a non-dangerous non-repetitive offense

THIS OFFER EXPIRES AND IS REVOKED IF NOT ENTERED INTO COURT BY

Terms: On the following understandings, terms and conditions:



The crime carries a presumptive sentence of 1 year; a minimum sentence of .5 years (.33 years if trial court makes exceptional circumstances finding); and a maximum sentence of years 1.5 (2 years if trial court makes exceptional circumstances finding). If the matter is designated Probation is available. If a fine, penalty or forfeiture is imposed, Defendant must pay a \$20.00 probation surcharge.

Pursuant to A.R.S. §13-604(A), except as listed below, this offense shall be treated as a misdemeanor until the Court enters an order designating the offense a felony or a misdemeanor. Until and unless the offense is designated a misdemeanor, it shall be treated as a felony for the following purposes: (1) placing the defendant on felony probation, (2) DNA collection pursuant to A.R.S. §13-610, (3) determining the defendant's right to possess a firearm under Chapter 31, (4) being used as a historical prior felony conviction, (5) being admissible for impeachment purposes, and (6) being used to enhance a sentence. If this offense were designated a misdemeanor, the defendant could receive a maximum of 6 months in jail and a maximum fine of \$2,500 plus the statutory surcharge.

Restitution of economic loss to the victim and waiver of extradition for probation revocation procedures are required. The maximum fine that can be imposed is \$150,000.00 plus an 8 1/2% surcharge, plus \$20.00 pursuant to A.R.S. § 12-269 plus a \$13.00 assessment pursuant to A.R.S. § 12-116.04 plus a \$9.00 penalty assessment pursuant to A.R.S. § 12-116.08 and a \$2.00 assessment pursuant A.R.S. §12-116.09. If the Defendant is sentenced to prison, the 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 the Defendant fails to abide by the conditions of community supervision, the Defendant can be required to serve the remaining term of community supervision in prison. Within 30 days of being sentenced, pursuant to A.R.S. § 13-610, the Defendant shall provide a sufficient sample of blood or other bodily substance for deoxyribonucleic acid (DNA) testing and extraction to be used for law enforcement identification purposes

AG(e)
KwLaw(e)

and/or for use in a criminal prosecution and/or for use in a proceeding under title 36, chapter 37. Special conditions regarding the sentence imposed by statute (if any) are: None

DF 2. The parties stipulate to the following additional terms, subject to court approval at the time of sentencing as set forth in paragraph 7:

1. Defendant shall be placed on a period of unsupervised probation.
2. Pursuant to A.R.S. §13-804(f) Defendant shall pay restitution in the amount of \$7,500 jointly and severally with co-defendant Lois Lamer (002).
3. Defendant shall pay a fine of \$2,000 to the Attorney General Anti-Racketeering Revolving Fund.
4. Defendant shall perform 100 hours of community service

DF 3. The following charges are dismissed, or if not yet filed, shall not be brought against the Defendant by the Arizona Attorney General's Office: Counts 1, 3, 4, 5, and 6.

DF 4. This agreement serves to amend the complaint, indictment, or information, to charge the offense to which the Defendant pleads, without the filing of any additional pleading. However, if the plea is rejected by the court or withdrawn by either party, or if the conviction is subsequently reversed, the original charges and any charges that are dismissed by reason of this plea agreement are automatically reinstated.

DF 5. If the Defendant is charged with a felony, he hereby waives and gives up his rights to a preliminary hearing or other probable cause determination on the charges to which he pleads. The Defendant agrees that this agreement shall not be binding on the State should the Defendant be charged with or commit a crime between the time of this agreement and the time for sentencing in this cause; nor shall this agreement be binding on the State until the State confirms all representations made by the Defendant and his attorney, to-wit: The defendant avows to having no prior felony convictions and that he was not on probation, parole, community supervision or release at the time of the offense.

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 the plea, the Defendant hereby waives and gives up his right to a preliminary hearing or other probable cause determination on the original charges.

DF 6. Unless this plea is rejected by the court or withdrawn by either party, the Defendant hereby waives and gives up any and all motions, defenses, objections, or requests which he has made or raised, or could assert hereafter, to the court's entry of judgment against him and imposition of a sentence upon him consistent with this agreement. By entering this agreement, the Defendant further waives and gives up the right to appeal.

DF 7. The parties hereto fully and completely understand and agree that by entering into a plea agreement, the 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 paragraph two 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 the Defendant an opportunity to withdraw from the plea agreement. In case this plea agreement is withdrawn, all original charges will automatically be reinstated. The Defendant in such case waives and gives up his right to a probable cause determination on the original charges. By entering this Agreement, Defendant acknowledges that any dismissed allegation(s) as set forth in paragraph 3 herein may be considered in aggravation of any sentence permissible under this Plea Agreement.



DF 8. If the court decides to reject the plea agreement provisions regarding sentencing and neither the State nor the Defendant elects to withdraw the plea agreement, then any sentence either stipulated to or recommended herein in paragraph 2 is not binding upon the court, and the court is bound only by the sentencing limits set forth in paragraph 1 and the applicable statutes.

DF 9. 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.

DF 10. 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.

DF 11. I have read and understand all of the provisions, on all of the pages, of this agreement. I have discussed the case and my constitutional rights with my lawyer. 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 right to a determination of probable cause, to a trial by jury to determine guilt and to determine any fact used to impose a sentence within the range stated above in paragraph one, to confront, cross-examine, compel the attendance of witnesses, to present evidence in my behalf, my right to remain silent, my privilege against self-incrimination, 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 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 paragraph one, without limitation.

I have personally and voluntarily placed my initials in each of the above boxes and signed the signature line below to indicate I read and approved all of the previous paragraphs in this agreement, both individually and as a total binding agreement.

Date: 7/25/22 Defendant *Dennis Fiscus*
Dennis Fiscus
Date of Birth: 
Last 4 of SSN: 

I have discussed this case with my client in detail and advised him 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. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

Date: 7/25/22 Defense Counsel *Andrea Tazioli*
Andrea Tazioli 020021

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: 7/25/22 Prosecutor *Mary Harriss*
Mary Harriss
Assistant Attorney General

PHX-#9840507