

FILED IN COURT

11/14/21

DARYL L. HARRISON

K. Ronquillo

Deputy

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

THE STATE OF ARIZONA,

Plaintiff,

vs.

DIEGO BERNAL-ROBLES (001)

DOB: [REDACTED]

Defendant.

CR2020-3595-001

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 3: POSSESSION OF A DANGEROUS DRUG (METHAMPHETAMINE) FOR SALE (13-3407(A)(2), A CLASS 2 NON-DANGEROUS FELONY, in violation of A.R.S. §§ 13-3401, 13-3407(A)(2), 12-116.04, 12-116.09, 12-269, 13-2314.01, 13-105, 13-301, 13-302, 13-303, 13-304, 13-610, 13-701, 13-702, and 13-801, committed on September 22, 2020.

COUNT 4: MANUFACTURE OF A DANGEROUS DRUG (METHAMPHETAMINE) (13-3407(A)(4), A CLASS 2 NON-DANGEROUS FELONY, in violation of A.R.S. §§ 13-3407(A)(4), 12-116.04, 12-116.09, 12-269, 13-2314.01, 13-105, 13-301, 13-302, 13-303, 13-304, 13-702.01, 13-709.03, 13-801, committed on September 22, 2020.

These are **non-dangerous, non-repetitive** offenses under the criminal code.

Terms: On the following understandings, terms and conditions:

- 1. As to Both Counts 3 and 4:** The crime carries a presumptive sentence of **10** calendar years; a minimum sentence of **5** calendar years; a maximum sentence of **15** calendar years. Probation **IS NOT** available. Restitution of economic loss to the victim and waiver of extradition for probation revocation procedures are required. Pursuant to A.R.S. §13-805 at the time restitution is ordered the court may enter a criminal restitution order including interest and collection fees. **The maximum fine that can**

be imposed is \$150,000.00 plus a 78% surcharge plus a \$20.00 probation fee pursuant to A.R.S. § 12-269, plus a \$13.00 assessment pursuant to A.R.S. § 12-116.04, plus a \$9.00 assessment pursuant to A.R.S. § 12-116.08, plus a \$2.00 assessment pursuant to 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 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: Defendant's sentence shall be served in calendar years, which A.R.S. 13-105.4 defines as three-hundred sixty-five days' actual time served without release, suspension or commutation of sentence, probation, pardon or parole, work furlough or release from confinement on any other basis. Pursuant to A.R.S. §13-3407, Defendant shall pay a minimum fine of \$1,000 or three times the value of the drug, whichever is greater, plus surcharge.

- _____ 2. The parties stipulate to the following additional terms, subject to court approval at the time of sentencing as set forth in paragraph 7:
As to Both Counts:
- Defendant shall be sentenced to the Arizona Department of Corrections capped at the presumptive term of 10 CALENDAR years and the sentences shall run concurrently to each other.
 - Defendant shall pay a drug fine of \$10,000 plus a 78% surcharge for a total fine of \$17,800 and pursuant to A.R.S. §13-811(C), all fines shall be paid to the drug and gang enforcement fund established by A.R.S. §13-2314.01.
- _____ 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, 2, 5, 6, and 7 of the Indictment as to this Defendant only.
- _____ 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.

- _____ 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: **Defendant avows that he HAS NO prior felony convictions in any jurisdiction under any name. Defendant avows that he WAS NOT on felony release, probation, parole or community supervision at the time of this offense. Defendant avows that he HAS NO other pending felony matters in any jurisdiction under any name.** Although the State may have agreed to dismiss or not file sentencing enhancement allegations under Paragraph 3, Defendant is advised that any dismissed allegation may be considered in aggravation of any sentence permissible under the plea agreement. 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.
- _____ 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.
- _____ 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. The State's participation in this plea agreement is conditional upon the Court's acceptance of its terms, conditions, or provisions. If after accepting this plea the court concludes that any of the plea agreement's terms, conditions, or provisions regarding the sentence or any other aspect of this plea agreement are inappropriate, it can reject the plea. If the court decides to reject any of the plea agreement's terms, conditions, or provisions, it must give both the State and the Defendant an

opportunity to withdraw from the plea agreement. Should the Court reject this plea agreement, or the State withdraws from the agreement, the Defendant hereby waives all claims of double jeopardy and 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.

- _____ 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.
- _____ 9. This plea agreement in no way affects any forfeiture proceedings pursuant to A.R.S. § 13-4301 et seq., § 13-2314, or § 32-1993, if applicable, nor does the plea agreement in any way compromise or abrogate any civil actions, including actions pursuant to A.R.S. § 13-2301 et seq. or § 13-4301 et seq., or the provisions of A.R.S. § 13-2314 or A.R.S. § 13-4310.
- _____ 10. I understand that if I am not a citizen of the United States, or was not a citizen at the time of the commission of the offense to which I am pleading, 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.
- _____ 11. I have read and understand the provisions of this entire 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, and 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 beside each of the above paragraphs and signed the signature line below to indicate that I read, or had read to me, understood and approved all of the previous paragraphs in this agreement, both individually and as a total binding agreement. My plea is voluntary and not the result of force, or threat, or promises other than those contained in the plea agreement.

DO NOT SIGN THIS FORM UNLESS YOU HAVE READ IT COMPLETELY, OR HAD IT READ TO YOU AND UNDERSTAND IT FULLY.

11-15-2021 Defendant Diego Bernal R.
Date DIEGO BERNAL-ROBLES

I have discussed this case with my client in detail and advised my client of his constitutional rights and all possible defenses. I believe that the defendant's plea is knowing, intelligent, and voluntary and that the plea and disposition are consistent with law.

11/15/21 Defense Counsel [Signature]
Date Christopher L. Scilleppi

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

11/16/21 Prosecutor [Signature]
Date Nichole J Galusha-Troicke, #031543
Assistant Attorney General