

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**FILED**  
JAN  
OCT 23 2003  
*Amro*

MAGISTRATE JUDGE  
GERALDINE SOAT BROWN  
UNITED STATES DISTRICT COURT

UNITED STATES OF AMERICA )  
)  
vs. )  
)  
ELVIRA ARELLANO )  
AKA DONNA MIRANDA BARRETO )

No. 02 CR 1172  
Magistrate Judge  
Geraldine Soat Brown

**DOCKETED**  
JAN 24 2003

PLEA AGREEMENT

This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and the defendant, ELVIRA ARELLANO, and her attorney, ALISON M. SIEGLER, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 02 CR 1172.

This Plea Agreement concerns criminal liability only, and nothing herein shall limit or in any way waive or release any administrative or judicial civil claim, demand or cause of action, whatsoever, of the United States or its agencies. Moreover, this Plea Agreement is limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state or local prosecuting, administrative or regulatory authorities except as expressly set forth in this Plea Agreement.

By this Plea Agreement, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, and the defendant

ELVIRA ARELLANO, and her attorney, ALISON M. SIEGLER, have agreed upon the following:

1. Defendant acknowledges that she has been charged in the information in this case with one count of possession of false identification documents in violation of Title 18, United States Code, Sections 1028(a)(6) and (b)(6).

2. Defendant has read the charges against her contained in the information, and those charges have been fully explained to her by her attorney.

3. Defendant fully understands the nature and elements of the crimes with which she has been charged.

4. Defendant will enter a voluntary plea of guilty to the information in this case.

5. Defendant will plead guilty because she is in fact guilty of the charges contained in the information. In pleading guilty, defendant admits the following facts and that those facts establish her guilt beyond a reasonable doubt: The defendant acknowledges that on February 19, 2001, and both before and after that date, in Chicago and other areas in the Northern District of Illinois, Eastern Division, she knowingly possessed an identification document that was and appeared to be an identification document of the United States, namely, a social security card, which was produced without lawful authority. At all times while the defendant possessed the social security card, she knew that the social security card was produced without lawful authority.

Moreover, although this social security card bore the defendant's name of Elvira Arellano and the social security card number of 392-12-6796, the defendant knew at all times that she possessed the social security card that it was counterfeit and that the social security number of 392-12-6796 had not been assigned to her by the Social Security Administration.

6. For purposes of applying the Guidelines promulgated by the United States Sentencing Commission pursuant to Title 28, United States Code, Section 994, the parties agree that the Guidelines effective on November 2, 2002 apply to this case. The parties further agree on the following points:

(a) The base offense level for these offenses is level 6 pursuant to U.S.S.G. § 2B1.1(a). No further enhancements apply.

(b) The defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for her criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if the defendant continues to accept responsibility for her actions, within the meaning of Guideline 3E1.1(a), a two-level reduction in the offense level is appropriate.

(c) Based on the facts known to the government, the defendant's criminal history points equal 0 and the defendant's criminal history category is I.

(d) The defendant and her attorney and the government acknowledge that the above calculations are preliminary in nature

and based on facts known to the government as of the time of this Plea Agreement. The defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Sentencing Guidelines calculation. Accordingly, the validity of this Plea Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations.

7. Errors in calculations or interpretation of any of the Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors or misinterpretations either by stipulation or by a statement to the Probation Office and/or Court setting forth the disagreement as to the correct Guidelines and their application. The validity of this Plea Agreement will not be affected by such corrections, and the defendant shall not have a right to withdraw her plea on the basis of such corrections.

8. Defendant understands the count to which she will plead guilty carries the following penalties: a maximum penalty of 1 year imprisonment; a maximum fine of \$100,000; a term of supervised release of not more than one year; and any restitution ordered by the Court.

9. The defendant understands that in accord with federal law, Title 18, United States Code, Section 3013, upon entry of judgment of conviction, the defendant will be assessed \$25 on the count to which she has pled guilty, in addition to any other

penalty imposed. The defendant agrees to pay the special assessment of \$25 at the time of sentencing with a check or money order made payable to the Clerk of the U. S. District Court.

10. Defendant understands that by pleading guilty she surrenders certain rights, including the following:

(a) If defendant persisted in a plea of not guilty to the charges against her, she would have the right to a public and speedy trial. The trial could be either a jury trial or a trial by the judge sitting without a jury. The defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, the defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

(b) If the trial is a jury trial, the jury would be composed of twelve laypersons selected at random. Defendant and her attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising so-called peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that defendant is presumed innocent, and that it could not convict her unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt and that it was to consider each count of the information separately.

(c) If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not the judge was persuaded of defendant's guilt beyond a reasonable doubt.

(d) At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and her attorney would be able to cross-examine them. In turn, defendant could present witnesses and other evidence in her own behalf. If the witnesses for defendant would not appear voluntarily, she could require their attendance through the subpoena power of the Court.

(e) At a trial, defendant would have a privilege against self-incrimination so that she could decline to testify, and no inference of guilt could be drawn from her refusal to testify. If defendant desired to do so, she could testify in her own behalf.

11. Defendant understands that by pleading guilty she is waiving all the rights set forth in the prior paragraph. Defendant's attorney has explained those rights to her, and the consequences of her waiver of those rights. Defendant further understands she is waiving all appellate issues that might have been available if she had exercised her right to trial, and only may appeal the validity of this plea of guilty or the sentence.

The defendant also waives her right to challenge her sentence or the manner in which it was determined in any collateral attack,

including but not limited to a motion brought under Title 28, United States Code, Section 2255. The waiver in this paragraph does not apply to a claim of involuntariness, or ineffective assistance of counsel, which relates directly to this waiver or to its negotiation.

12. Defendant understands that the information and this Plea Agreement are matters of public record and may be disclosed to any party.

13. Defendant understands that the United States Attorney's Office will fully apprise the Court and the Probation Office of the nature, scope and extent of defendant's conduct regarding the charges against her, and related matters, including all matters in aggravation and mitigation relevant to the issue of sentencing.

14. At the time of sentencing, the government shall recommend that the Court impose a sentence within the applicable Guideline range.

15. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Plea Agreement and, subject to the limitations of the Sentencing Guidelines, may impose the maximum penalties as set forth in paragraph 8 above. The defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, the defendant will have no right to withdraw her guilty plea.

16. Defendant understands that her compliance with each part of this Plea Agreement extends throughout and beyond the period of

his sentence, and failure to abide by any term of the Plea Agreement is a violation of the Plea Agreement. She further understands that in the event he violates this Plea Agreement, the government, at its option, may move to vacate the Plea Agreement, rendering it null and void, and thereafter prosecute the defendant not subject to any of the limits set forth in this Plea Agreement, or to resentence the defendant. The defendant understands and agrees that in the event that this Plea Agreement is breached by the defendant, and the Government elects to void the Plea Agreement and prosecute the defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Plea Agreement may be commenced against the defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Plea Agreement and the commencement of such prosecutions.


17. Defendant and her attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Plea Agreement, to cause defendant to plead guilty.

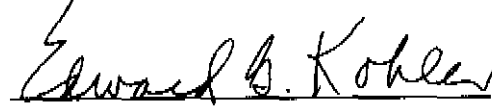
18. Defendant agrees this Plea Agreement shall be filed and become a part of the record in this case.

19. Defendant acknowledges that she has read this Plea Agreement and carefully reviewed each provision with her attorney. Defendant further acknowledges that she understands and voluntarily

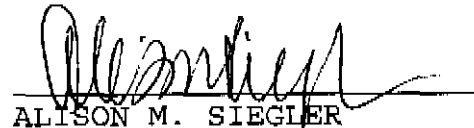
accepts each and every term and condition of this Plea Agreement.

AGREED THIS DATE: 1-23-03

  
PATRICK S. FITZGERALD  
United States Attorney

  
EDWARD G. KOHLER  
Assistant United States Attorney

  
ELVIRA ARELLANO  
Defendant

  
ALISON M. SIEGLER  
Attorney for Defendant