

SECOND JUDICIAL DISTRICT COURT

COUNTY OF BERNALILLO

STATE OF NEW MEXICO

CR No. 2015-02502

DA File #: 2015-04864-1

STATE OF NEW MEXICO,

Plaintiff,

vs.

JAMES FINCH,  
DOB: XX-XX-1990

Defendant.

FILED IN MY OFFICE THIS

KR MAR 03 2017 1012  
am  
J. G. [Signature]  
CLERK DISTRICT COURT

**PLEA AND DISPOSITION AGREEMENT**

The State of New Mexico and the defendant agree to this disposition of this cause number:

**PLEA** *no contest RM SC DW*

CHARGES: The defendant agrees to plead GUILTY to these crimes:

1. SECOND DEGREE MURDER (0004), a 2<sup>nd</sup> degree felony offense, resulting in the death of a human being, committed on or about the 24<sup>th</sup> day of August, 2015, as charged as an included offense in Count 1 of Indictment CR 2015-02502, pursuant to §30-2-1(B) and a Serious Violent Offense, pursuant to §33-2-34, NMSA 1978.
2. ATTEMPT TO COMMIT A FELONY, TO WIT: FIRST DEGREE MURDER (0039), a 2<sup>nd</sup> degree felony offense, committed on or about the 24<sup>th</sup> day of August, 2015, as charged in Count 2 of Indictment CR 2015-02502, pursuant to §30-28-1 and §30-2-1(A)(1), NMSA 1978.
3. TAMPERING WITH EVIDENCE (HIGHEST CRIME CHARGED FIRST OR SECOND DEGREE), (4230), a 3<sup>rd</sup> degree felony offense, committed on or about the 24<sup>th</sup> day of August, 2015, as charged in Count 5 of Indictment CR 2015-02502, pursuant to §30-22-5, NMSA 1978.
4. AGGRAVATED BURGLARY (DEADLY WEAPON)(0186), a 2<sup>nd</sup> degree felony offense, committed on or about the 24<sup>th</sup> day of August, 2015, as charged in Count 3, pursuant to §30-16-4(A), NMSA 1978.

**TERMS**

This agreement is made according to the following conditions:

**SENTENCING AGREEMENT:** The Sentences for each Count shall be served consecutively to each other for a total exposure of thirty-six (36) years. The defendant will serve a period of twenty-seven (27) years in the Department of Corrections, with the remaining suspended on condition of five (5) years of supervised probation. Defendant shall not have any contact with Kathy Finch. There are no other agreements as to sentencing.

**PENALTIES:** The maximum penalties for these charges are:

1. SECOND DEGREE MURDER (0004), a 2<sup>nd</sup> degree felony offense, resulting in the death of a human being and a serious violent offense, with a basic sentence of 15 years and a \$12,500 fine, followed by 2 years of parole.

2. ATTEMPT TO COMMIT A FELONY, TO WIT: FIRST DEGREE MURDER (0039), a 2<sup>nd</sup> degree felony offense, with a basic sentence of 9 years and a \$10,000 fine, followed by 2 years of parole.

3. TAMPERING WITH EVIDENCE (4230), a 3<sup>rd</sup> degree felony offense, with a basic sentence of three (3) years and a \$5,000 fine, followed by 2 years of parole.

4. AGGRAVATED BURGLARY (DEADLY WEAPON)(0186), a 2<sup>nd</sup> degree felony offense, with a basic sentence of nine (9) years and a \$10,000 fine, followed by 2 years of parole.

Any basic sentence for a felony may be altered up to one third for aggravating or mitigating circumstances.

**If the defendant is incarcerated on a "Serious Violent Offense" pursuant to §33-2-34, NMSA 1978, as amended, then the provisions of the statute as to earned meritorious deductions will apply.**

**POTENTIAL INCARCERATION:** If the court accepts this agreement, the defendant will be ordered to serve a period of incarceration of twenty-seven (27) years. The defendant will also be ordered to serve a period of probation. If the defendant later violates that probation, he may be incarcerated for the balance of the sentence.

CAP: Any "cap" or other limitation on incarceration shall be a limitation on imprisonment only at initial sentencing. If the defendant violates any condition of parole or probation, the court may sentence him to imprisonment without considering the limitation.

CHARGES TO BE DISMISSED: Alternative to Count 1, First Alternative to Count 2, Second Alternative to Count 2, First Alternative to Count 3, Second Alternative to Count 3, Count 4, Alternative to Count 4, Count 6, Count 7 and Count 8 of Indictment CR 2015-02502.

RESTITUTION: Restitution will be ordered in accordance with Section 31-17-1. The defendant, in cooperation with the probation office, will prepare a restitution plan to be incorporated into the court's sentence. The defendant agrees to make restitution on all charges arising out of these DA files even if those charges are dismissed or not filed because of this agreement. The defendant agrees not to discharge the restitution obligation in bankruptcy.

UNDISCLOSED PRIOR CONVICTIONS: The state may bring habitual offender proceedings, as provided by law, based on any convictions not admitted in this plea. The state may also choose to withdraw this plea agreement if it discovers any such convictions.

#### STIPULATIONS

TIME LIMITS: By entering this agreement with the State, the defendant waives his rights under the rules governing time of commencement of trial until the agreement is either accepted or rejected by the court.

WAIVER OF DEFENSES AND APPEAL: Unless this plea is rejected or withdrawn, the defendant gives up all motions, defenses, objections, or requests which he has made or could make concerning the Court's entry of judgment against him if that judgment is consistent with this agreement. The defendant specifically waives his right to appeal as long as the court's sentence is imposed according to the terms of this agreement.

REJECTION OF PLEA: If the Court finds the provisions of this agreement unacceptable, after reviewing it and any pre-sentence report, the Court will allow the withdrawal of the plea, and this agreement will be void. If the plea is withdrawn, neither the plea nor any statements arising out of the plea proceeding shall be admissible against the defendant in any criminal proceedings.

I have read and I understand this agreement. My lawyer has informed me of the specific immigration consequences I face as a result of this plea agreement, and I understand that if I am not a U.S. citizen, this plea agreement will affect my immigration naturalization status. I have discussed the case and my constitutional rights with my lawyer. I understand that when I plead guilty I give up the following rights: my right to a trial by jury, my right to confront, cross-examine, and compel the attendance of witnesses, and my privilege against self-incrimination.

I agree that the State may void any sentencing agreement, including any cap on incarceration, OR the State may withdraw this plea agreement if I:

- 1) Violate any laws while pending sentencing; OR
- 2) Violate any condition of release; OR
- 3) Fail to appear for the pre-sentence report interview as scheduled; OR
- 4) Fail to appear for a scheduled court hearing, including but not limited to a sentencing hearing; OR
- 5) Fail to turn myself in to being serving any period of incarceration as court ordered.

I agree to enter my plea according to the terms and conditions set forth in this agreement. I understand that if the court grants me probation, a suspended sentence, a deferred sentence or a conditional discharge, the terms and conditions of the sentence are subject to modification if I violate any of the terms or conditions imposed.

3/2/17  
DATE

J. Finch  
JAMES FINCH  
DEFENDANT

I have discussed this case with my client in detail and have advised him of his constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I agree with the plea outlined in this agreement and its terms and conditions.

3/2/17  
DATE

RM Maestas  
RAYMOND MAESTAS  
DEFENSE COUNSEL

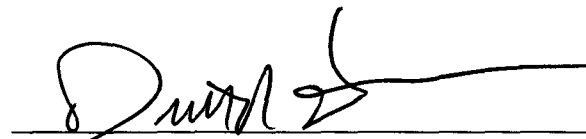
I have reviewed this matter and agree that the plea and disposition are appropriate and are in the interest of justice.

3-2-17

DATE

  
SPIRIT GAINES  
PROSECUTOR

APPROVED:

  
BRETT R. LOVELESS  
DISTRICT JUDGE

at