

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

STEPHANIE M. AYALA
FILED IN MY OFFICE
SECOND JUDICIAL DISTRICT COURT
BERNALILLO COUNTY, NM
JAMES A. NOEL
4/7/2017 10:26 AM

CR No. 2014-05881
DA File No.: 2014-06473-3
FBI No.: 100 56 WD8

STATE OF NEW MEXICO,

Plaintiff,

vs.

SAMANTHA MONIQUE GARCIA,


Defendant.

PLEA AND DISPOSITION AGREEMENT

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

PLEA *No Contested* *DR* *MRS*

CHARGES: The Defendant agrees to plead ~~GUILTY~~ to these crimes:

1. SECOND DEGREE MURDER (FIREARM ENHANCEMENT) [0004], contrary to §30-2-1(B) and 31-18-16, NMSA 1978, a second degree felony offense and serious violent offense pursuant to §33-2-34, NMSA 1978, occurring on or about October 10, 2014, as charged as a lesser included offense of Count 1 of Indictment CR 2014-05881;

2. CRIMINAL SOLICITATION TO COMMIT SECOND DEGREE MURDER [0044], contrary to §30-2-1(B) and 30-28-3, NMSA 1978, a third degree felony offense occurring on or about October 10, 2014, as charged as a lesser included offense of Count 3 of Indictment CR 2014-05881;

3. CONSPIRACY TO COMMIT SECOND DEGREE MURDER [0043], contrary to §30-2-1(B) and 30-28-2, NMSA 1978, a third degree felony offense occurring on or about October 10, 2014, as charged as a lesser included offense of Count 4 of Indictment CR 2014-05881.

TERMS

This agreement is made according to the following conditions:

SENTENCING AGREEMENT: All counts will run consecutively to one another for a total jurisdiction of twenty-two (22) years. The State agrees to an exposure of five (5) to twenty-two (22) years on the period of incarceration at initial sentencing only. There are no other agreements to sentence.

Any sentencing agreement is specifically conditioned on the Defendant appearing for sentencing; on the Defendant not violating any conditions of release while pending sentencing; not violating any Federal, State, or Local laws while pending sentencing; on the Defendant complying with any court orders; and on the Defendant appearing for the Pre-Sentence Report interview (if applicable) and/or 60-day diagnostic evaluation interview (if applicable).

PENALTIES: The maximum penalties for these crimes are:

1. SECOND DEGREE MURDER (FIREARM ENHANCEMENT), a Second Degree Felony: Basic Sentence of fifteen (15) years imprisonment, a mandatory one (1) year on the firearm enhancement, a fine of up to \$10,000, to be followed by a two (2) year parole term.

2. CRIMINAL SOLICITATION TO COMMIT SECOND DEGREE MURDER
(~~REDACTED~~), a Third Degree Felony: Basic Sentence of three (3) years imprisonment, a fine of up to \$5,000, to be followed by a two (2) year parole term.

3. CONSPIRACY TO COMMIT SECOND DEGREE MURDER (~~REDACTED~~)
(~~REDACTED~~), a Third Degree Felony: Basic Sentence of three (3) years imprisonment, a fine of up to \$5,000, to be followed by a two (2) year parole term.

POTENTIAL INCARCERATION: If the court accepts this agreement, the Defendant may be ordered to serve a period of incarceration between five (5) and twenty-two (22) years at initial sentencing. The Defendant may be ordered to serve a period of probation at initial sentencing. If the Defendant later violates that probation, the Defendant may be incarcerated for the balance of the sentence.

If the Defendant is incarcerated on a “serious violent offense” pursuant to §33-4-34, NMSA 1978, as amended, then the provisions of the statute as to earned meritorious deductions will apply.

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 the Defendant to imprisonment without considering the limitation.**

CHARGES TO BE DISMISSED: The following charges will be dismissed or will not be filed: **Count 2 of CR 2014-05881.**

RESTITUTION: Restitution will be ordered in accordance with §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 payments 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 Defendant’s 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 Defendant has made or could make concerning the Court’s entry of judgment against the Defendant if that judgment is consistent with this agreement. The Defendant specifically waives Defendant’s 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. I understand that being convicted may affect my immigration or 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 to enter my plea, and I admit that I am the person previously convicted of felonies as indicated above and 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.

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 begin 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. I further agree that the photograph above my

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signature is in-fact an accurate photograph of me.



4/7/17
DATE

Samantha Garcia
SAMANTHA MONIQUE GARCIA
DEFENDANT

I have discussed this case with my client in detail and have advised the Defendant of Defendant's 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.

4/7/17
DATE

[Signature]
EDWARD BUSTAMANTE
COUNSEL FOR DEFENDANT

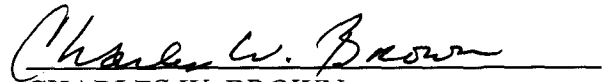
I have reviewed this matter and agree that the plea and disposition are appropriate and are in the interest of justice.

4/7/17
DATE

[Signature]
NATALIE R. STRUB
ASSISTANT DISTRICT ATTORNEY

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APPROVED:


CHARLES W. BROWN
DISTRICT COURT JUDGE