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DISTRICT COURT CLERK

THIRTEENTH JUDICIAL DISTRICT COURT
COUNTY OF SANDOVAL
STATE OF NEW MEXICO

2018 MAR 29 AM 9:43

CHRISTAL T. [REDACTED]

D-1329-CR-2017-00171
DA File #: SV 17 0637(B)2

BY _____ DEPUTY

STATE OF NEW MEXICO,
Plaintiff,
vs.

LIAM JOHNSON,
[REDACTED]
[REDACTED]
Defendant,

PLEA AND DISPOSITION AGREEMENT

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

PLEA

CHARGES: The defendant agrees to plead guilty to the following offenses:

1. MURDER IN THE SECOND DEGREE (0004), a second degree felony offense resulting in the death of a human being, a serious violent offense, occurring on or about the 21st day of April, 2017, a lesser included offense of Count 1 of Indictment CR-2017-00171, contrary to NMSA 1978 §30-2-1(B).
2. CONSPIRACY TO COMMIT FIRST DEGREE MURDER (WILLFUL AND DELIBERATE) (0040), a second degree felony offense, occurring on or about the 21st day of April, 2017, as charged in Count 2 of Indictment CR-2017-00171, contrary to NMSA 1978 §30-28-2 and NMSA 1978 §30-2-1(A)(1).

ADMISSION OF CONSPIRACY: The Defendant admits that he and Jacob Johnson by words or acts agreed together to commit Murder in the First Degree (Willful and Deliberate) and that the defendant and Jacob Johnson did intend to commit Murder in the First Degree (Willful and Deliberate) and in fact did so on or about April 21st, 2017, and that happened in Sandoval County, New Mexico.

AGREEMENT TO COOPERATE: The Defendant agrees to fully cooperate with the State of New Mexico in the prosecution of co-defendant Jacob Johnson, in D-1329-CR-2017-00170, by providing honest and accurate testimony.

TERMS

This agreement is made according to the following conditions:

SENTENCING AGREEMENT: The parties agree that the Court shall find aggravating factors when sentencing Count One, Murder in the Second Degree, and the sentence for that count shall be increased by five (5) years pursuant to NMSA 31-18-15.1. The parties agree that the Court shall not find any mitigating factors when imposing the sentence for either count. The parties further agree that the sentences for each count shall be run consecutive to one another. This means that the total sentence for this case shall be twenty nine (29) years. At initial sentencing, the parties agree that Defendant shall be sentenced to serve no less than fifteen (15) years and no more than twenty (20) years in the Department of Corrections. The balance of the twenty nine (29) year sentence shall be suspended, and Defendant shall be placed on supervised probation for five (5) years after his release from the Department of Corrections.

This plea agreement and sentencing agreement are specifically conditioned upon Defendant's cooperation in the prosecution of co-defendant Jacob Johnson in D-1329-CR-2017-00170 by providing honest and accurate testimony. Sentencing in this case shall not be held until after the trial is completed in D-1329-CR-2017-00170. If Defendant refuses to testify in D-1329-CR-2017-00170, or if Defendant does not testify fully and honestly, the State will have the choice to either withdraw completely from this plea agreement or to continue to enforce all parts of this plea agreement except for the cap on initial sentencing. This means that if Defendant refuses to testify or does not testify fully and honestly, and the State chooses not to withdraw from this plea agreement, the Court will still be required to impose a total sentence of twenty nine (29) years and the Court will still be required to sentence Defendant to no less than fifteen (15) years in the Department of Corrections, but the State may ask the Court to sentence Defendant to serve the entire twenty nine (29) year sentence in the custody of the Department of Corrections.

PENALTIES: The maximum penalties for these crimes are:

1. MURDER IN THE SECOND DEGREE (0004), a second degree felony offense resulting in the death of a human being, a serious violent offense, with a basic sentence of fifteen (15) years imprisonment and a fine of up to \$12,500.
2. CONSPIRACY TO COMMIT FIRST DEGREE MURDER (WILLFUL AND DELIBERATE) (0040), a second degree felony offense, with a basic sentence of nine (9) years imprisonment and a fine of up to \$10,000.

The sentence for any felony offense may be increased by up to one third of the basic sentence if the Court finds aggravating factors, or decreased by up to one third of the basic sentence if the Court finds mitigating factors.

POTENTIAL INCARCERATION: If the court accepts this agreement, at initial sentencing the Defendant shall be sentenced to serve no less than fifteen (15) years and no more than twenty (20) years in the Department of Corrections. Defendant shall be placed on a two (2) year period of parole upon his release from the Department of Corrections, and he shall be required to pay parole costs. Defendant shall be placed on a five (5) year period of supervised probation upon his release from the Department of Corrections, to run concurrent with the parole period. If Defendant violates his probation or parole at any time, he may be incarcerated for the balance of the sentence, up to twenty nine (29) years.

FINES AND FEES: Defendant shall be required to pay:

1. The \$100 DNA fee and provide a DNA sample, pursuant to NMSA 1978 §29-16-11;
2. The \$5 domestic violence offender treatment fee, pursuant to NMSA 1978 §31-12-11;
3. The \$75 crime victims reparation fee, pursuant to NMSA 1978 §31-12-13;
4. The \$75 controlled substances fee, NMSA 1978 §31-12-8;
5. Defendant may be required to pay a fine of up to \$22,500.

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.

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 defendant to imprisonment without considering the limitation.

CHARGES TO BE DISMISSED: All remaining Counts of Indictment D-1329-CR-2017-00171 shall be dismissed.

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.

IMMIGRATION OR NATURALIZATION STATUS: I understand that if I am not a United States Citizen, entry of this plea agreement may have an effect on my immigration or naturalization status. I acknowledge that my attorney has advised me of the specific immigration consequences I face as a result of this plea agreement.

I have read and I understand this agreement. 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, my privilege against self-incrimination, and my right to appeal.

I agree that the State may either withdraw this plea agreement OR leave the plea in place but void any sentencing agreement, including any cap on incarceration, 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 court ordered period of incarceration.


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.

3-7-18
Date


Liam Johnson
Defendant


I have discussed this case with my client in detail and have advised my client 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.

3/7/18
DATE


Stephen Taylor
Defense Counsel

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

3/26/18
DATE



Mathew Wadsworth
Assistant District Attorney

DISTRICT COURT APPROVAL

The defendant personally appeared before me, and I have concluded as follows:

1. That the defendant understands the charges set forth in the Indictment and/or Information;
2. That the defendant understands the range of possible sentences for the offenses charged, from probation to the maximum period of incarceration allowed under this agreement;
3. That the defendant understands the following constitutional rights which he gives up by pleading guilty:
 - a. The right to trial by jury,
 - b. The right to the assistance of an attorney at trial, and to an appointed attorney, to be furnished free of charge, if the defendant cannot afford one,
 - c. The right to confront the witnesses against him and to cross-examine them as to the truthfulness of their testimony,
 - d. The right to present evidence on his own behalf, and to have the state compel witnesses of the defendant's choosing to appear and testify,
 - e. The right to remain silent and to be presumed innocent until proven guilty beyond a reasonable doubt,
 - f. The right to appeal the judgment of this Court;
4. That the defendant wished to give up the constitutional rights of which he has been advised;

5. That there exists a basis in fact for believing the defendant is guilty of committing the offenses charged, and that an independent record for such factual basis has been made;
6. That the defendant and the prosecutor have entered into a plea agreement and that the defendant understands and consents to its terms;
7. That the plea is voluntary and not the result of force, threats, or promises other than what is contained in the plea agreement;
8. That under the circumstances, it is reasonable that the defendant plead guilty;
9. That the defendant understands that a conviction may have an effect upon his immigration or naturalization status, and that the defendant has been advised by counsel of the specific immigration consequences of the plea.

On the basis of these findings, I conclude that the defendant knowingly, voluntarily, and intelligently pleads guilty to the above charges and accepts such a plea. These findings shall be made a part of the record in the above-styled case.

Approved

03/26/2018
DATE


CINDY MERCER
DISTRICT COURT JUDGE