

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

UNITED STATES OF AMERICA

vs.

CHARLES RAYMOND DIX

No. 3:06cr00003 / *mcr*

~~**SEALED**~~

*unsealed
4-13-06
per Order #22*

PLEA AGREEMENT

1. PARTIES TO AGREEMENT

This agreement is entered into by and between CHARLES RAYMOND DIX (hereinafter Dix or "the defendant"), NEIL LAWRENCE HANLEY, attorney for Dix, and the Assistant Attorney General for the Department of Justice Civil Rights Division (hereinafter the Civil Rights Division). This agreement is also binding upon the Office of the United States Attorney for the Northern District of Florida. This agreement specifically excludes and does not bind any other state or federal agency, including other United States Attorneys and the Internal Revenue Service, from asserting any civil, criminal, or administrative claim against Dix.

2. TERMS

a. The Plea

The parties agree to the following terms:

1. Dix will plead guilty to Count One of the Indictment, Deprivation of Rights Under Color of Law, in violation of Title 18 United States Code, Section 242, for which he faces a maximum penalty of ten years imprisonment, a fine of \$ 250,000, a three-year term of supervised release, and a \$100 special monetary assessment.

FILED IN OPEN COURT THIS
2-16-2006
**CLERK, U. S. DISTRICT
COURT, NORTH. DIST. FLA.**

2. The defendant agrees that he will:

- A. Plead guilty as set forth in this agreement.
- B. Abide by all sentencing stipulations contained in this agreement.
- C. Appear as ordered for all court appearances.
- D. Surrender as ordered for service of sentence.
- E. Obey all conditions of any bond.
- F. Obey any other ongoing court order in this matter.
- G. Not commit any crime; however, offenses which would be excluded for sentencing purposes under U.S.S.G. § 4A1.2(c) are not within the scope of this agreement.
- H. Be truthful at all times with Pretrial Services, the United States Probation Office, and the district court.
- I. Pay the applicable special assessment at or before the time of sentencing, unless he lacks the ability to pay.

3. Upon the district court's adjudication of guilt on Count One of the Indictment, the government agrees to move to dismiss Count Two and will not file any further criminal charges against Dix arising out of the same transactions or occurrences to which Dix has pled guilty.

4. Nothing in this agreement shall protect the defendant in any way from prosecution for any offense committed after the date of this agreement, including prosecutions for knowingly providing false information or making material omissions to the government in relation to the Baxter incident. Should Dix be charged with any offense alleged to have occurred after entry into this agreement, any statements, information, or other evidence disclosed to the government during the defendant's cooperation may be used against Dix.

5. The defendant agrees to cooperate fully and truthfully with the Civil Rights Division and its designated representatives and with agencies identified by the Civil Rights Division. Such

cooperation shall include, but is not limited to, providing complete and truthful debriefings and testimony at grand jury, trial, and as otherwise requested, involving any matter under investigation. Dix shall provide truthful information if called at trial or other court proceedings regardless of whether he is called as a witness by the government, a criminal defendant, or on the court's own motion.

6. The defendant specifically waives any Fifth Amendment privilege and any other privilege inconsistent with the cooperation required by this agreement.

7. As part of his cooperation under this agreement, the defendant and his attorney agree to allow the defendant to be interviewed by the government or its state and/or local designees, to include testimony in all necessary proceedings related to the information provided as part of the defendant's cooperation. The defendant further acknowledges the Civil Right's Division's right to require the defendant to submit to a polygraph examination conducted by the government to assist in determining the defendant's truthfulness and the completeness of the information provided by the defendant as it pertains to his criminal conduct or the criminal conduct of others.

8. The Civil Rights Division agrees to make known its opinion as to the nature and extent of the defendant's cooperation.

9. If all terms and conditions of this agreement are satisfied and there exists no cause for revocation as outlined in Section 3, any statements made by the defendant pursuant to this agreement will be treated by the United States as given under Rule 11(f), Federal Rules of Criminal Procedure, Rule 410, Federal Rules of Evidence and Sentencing Guideline § 1B1.8.

b. The Offense Conduct

1. Defendant Dix is pleading guilty because Dix is, in fact, guilty of the charge contained in Count One of the Indictment. In pleading guilty to this offense, the defendant acknowledges that,

were this case to go to trial, the government would present evidence to support this charge beyond a reasonable doubt. The defendant agrees that the evidence in the case establishes the following beyond a reasonable doubt:

- A. At the time of the offense, the defendant was acting under color of law.
- B. By repeatedly deploying his taser on Martha Bledsoe, the defendant deprived Martha Bledsoe of the right, secured and protected by the Fourth Amendment to the United States Constitution, to be free from unreasonable seizure, which includes the right to be free from the use of unreasonable force by one acting under color of law.
- C. The defendant acted willfully, that is, with a specific intent to violate Martha Bledsoe's constitutional right.
- D. The offense resulted in bodily injury to Martha Bledsoe.

2. The defendant acknowledges the truthfulness of the following factual basis for his guilty plea. The undersigned parties acknowledge that not all of the facts known from this investigation are contained in this brief summary:

- A. On February 3, 2004, the defendant, who was then on duty and acting as a deputy with the Escambia County Sheriff's Office (ECSO), volunteered to go to a Wal-Mart at 4600 Mobile Highway in Pensacola to take a complaint about an alleged child abuse incident.
- B. When the defendant arrived at the Wal-Mart, he made contact with Ms. Bledsoe, who informed him that she was the witness who wished to report the child abuse. The defendant ordered Ms. Bledsoe and her companion, Mark Rosenfeld, to provide their license and registrations, which he ran through his computer system. Ms. Bledsoe, angered by what she perceived to be the defendant's rude behavior, called dispatch to complain.
- C. The defendant, after confirming that Ms. Bledsoe was on the phone with dispatch, approached Ms. Bledsoe and ordered her to get off the phone. Ms. Bledsoe failed to comply, informing the defendant that a Sergeant was being sent to the scene. The defendant thereupon grabbed her wrist in an attempt to place her under arrest. Ms. Bledsoe screamed and pulled away; whereupon, the defendant deployed his taser upon her at close range, resulting in taser barbs entering her back. The defendant pulled the taser trigger multiple times. The final time the defendant pulled the trigger, Ms. Bledsoe was lying on the ground.

D. The defendant knew, at the time of the incident that, Ms. Bledsoe posed no threat to the defendant or any other person and that the multiple tasings were not necessary to effectuate Bledsoe's arrest or achieve any other legitimate law enforcement purpose.

E. The taser deployment resulted in bodily injury to Ms. Bledsoe, which included the pain of the multiple tasings, puncture wounds resulting from the taser barbs in her back, and paraspinal muscle spasms.

F. Dix filed charges against Ms. Bledsoe for disorderly conduct and resisting arrest, which were subsequently dismissed at the request of the ECSO.

c. Acknowledgment and Waiver of the Defendant's Rights:

1. The defendant acknowledges and fully understands the following rights: the right to plead not guilty to the charges; the right to be tried by a jury in a public and speedy trial; the right to file pre-trial motions, including motions to suppress evidence; the right at such trial to a presumption of innocence; the right to require the government to prove the entire case against the defendant beyond a reasonable doubt; the right not to testify; the right not to present any evidence; the right to be protected from compelled self-incrimination; the right at trial to confront and cross-examine adverse witnesses; the right to testify and present evidence; and the right to compel the attendance of witnesses. The defendant further understands that by this guilty plea, the defendant expressly waives all the rights set forth in this paragraph.

2. The defendant fully understands that the defendant has the right to be represented by counsel, and if necessary, to have the district court appoint counsel at trial and at every other stage of the proceeding. The defendant's counsel has explained these rights and the consequences of the waiver of these rights. The defendant fully understands that, as a result of the guilty plea, no trial

will, in fact, occur and that the only action remaining to be taken in this case is the imposition of the sentence.

3. The defendant is fully satisfied with the representation received from defense counsel. The defendant has reviewed the government's evidence and discussed the government's case and all possible defenses and defense witnesses with defense counsel. Defense counsel has completely and satisfactorily explored all areas that the defendant has requested relative to the government's case and any defenses.

d. The Sentence

1. The parties agree that the United States Sentencing Guidelines, while no longer mandatory, will be considered by the district court in determining an appropriate sentence in this case. The parties further agree that, subject to the limitations listed below, both parties may argue to the district court the applicability of any guideline and may also request a sentence above or below the applicable guideline range pursuant to any chapter of the Guidelines, Title 18, United States Code, Section 3553(a), or any other provision or rule of law. The parties agree that the sentence to be imposed is left solely to the discretion of the district court. The parties further understand and agree that the district court's discretion in imposing sentence is limited only by the statutory maximum sentence and any mandatory minimum sentence prescribed by statute for the offense. The parties understand that the district court is neither a party to nor bound by any guideline arguments made by either party.

2. Following defendant's guilty plea, a Presentence Report will be prepared. At the time of sentencing, the parties reserve the right to allocution regarding the appropriate sentence to be

imposed. Each party also reserves the right to bring any misstatements of fact made either by the other party or on that party's behalf to the attention of the district court at the time of sentencing.

3. While not binding on the district court or the United States Probation Office, the parties hereby agree to make the following joint recommendations as to sentencing:

A. **Manual to be Used:** The parties recommend that the 2005 version of the Guidelines Manual applies.

B. **Base Offense Level:** The parties agree to recommend that the appropriate base offense level is governed by § 2H1.1(a)(3), which has a base offense level of ten (10).

C. **Specific Offense Characteristics:** The parties recommend that the following Specific Offense Characteristics apply: six levels should be added pursuant to §2H1.1(b)(1)(B) because the offense was committed under color of law.

D. **Chapter 3 Adjustments:** The defendant reserves the right to argue for adjustments under Chapter 3 of the United States Sentencing Guidelines, and the government reserves the right to argue against application of any such adjustments.

E. **Acceptance of Responsibility:** The parties recommend that three levels be deducted pursuant to § 3E1.1(a) because the defendant has clearly demonstrated acceptance of responsibility.

F. **Departures and non-guideline sentences:** The government agrees that it will not seek an upward departure under the sentencing guidelines nor will it seek a non-guideline sentence above the applicable guideline range. The defendant reserves his right to argue for a downward departure or a non-guideline sentence below the applicable guideline range. The government reserves its right to argue against such a downward departure or non-guideline sentence.

G. Criminal History: The determination of the defendant's Criminal History Category shall be left to the district court after it reviews the Presentence Report. The Criminal History Category determination will be made only after the United States Probation Office obtains and evaluates the records it can find of the defendant's criminal history. Prior convictions can affect the sentence and usually result in a harsher sentence. Both parties retain their right to challenge the finding of the Presentence Report as to the defendant's criminal history and the applicable category. Both parties are aware that the results of a preliminary criminal record check are available for review in the Pretrial Services Report.

4. The defendant understands that any prediction of the sentence which may be imposed is not a guarantee or binding promise. Because of the variety and complexity of issues which may arise at sentencing, the sentence is not subject to accurate prediction. The parties recognize that they may not have addressed or foreseen all the Guidelines provisions applicable in this case. Guidelines applications not expressly addressed by the parties' recommendations, but which are addressed by the Presentence Report or the district court, may be presented to the district court for consideration. The parties agree and understand that the district court, in its discretion, may apply any Guidelines not addressed in this document. The district court is not limited to consideration of the facts and events provided by the parties. Adverse rulings or a sentence greater than anticipated shall not be grounds for withdrawal of defendant's plea.

5. The parties agree that, if the defendant does not abide by all of the agreements made within this document, the defendant's failure to comply is grounds for the loss of acceptance of responsibility pursuant to § 3E1.1. The parties further agree that the defendant's eligibility for a reduction pursuant to § 3E1.1 is based upon the information known at the present time and that any actions of the defendant which occur or which become known to the government subsequent to this

agreement and are inconsistent with the defendant's acceptance of responsibility including, but not limited to, criminal conduct, are grounds for the loss of the § 3E1.1 adjustment.

6. If, in the sole discretion of the Civil Rights Division, Dix is deemed to have provided substantial assistance in the investigation or prosecution of other persons who have committed offenses, if Dix has otherwise complied with all terms of this agreement, and if this assistance is prior to sentencing or within the time provided by Rule 35, Federal Rules of Criminal Procedure, then the Civil Rights Division will file a substantial assistance motion. Determination whether the defendant has provided substantial assistance will not depend upon charges being filed or convictions being obtained as a result of defendant's cooperation. Should a substantial assistance motion be filed, the granting of relief and the extent of relief is left solely to the discretion of the district court.

e. Supervised Release

The defendant understands that the district court may impose a term of "supervised release" to follow incarceration pursuant to Title 18, United States Code, Section 3583 (Sentencing Guidelines, Chap. 5, Part D). The defendant further understands that, pursuant to the supervised release term, the district court will impose standard conditions upon the defendant and may impose special conditions upon the defendant which relate to the crime the defendant committed. The defendant further understands that if he violates one or more of the conditions of the term of supervised release, supervised release may be revoked, resulting in his being returned to prison for all or part of the term of supervised release, but not greater than the term set forth in Title 18, United States Code, Section 3583(e)(3), without credit for the time served after release. The defendant understands that parole has been abolished.

f. Financial Disclosure:

The defendant agrees to complete and sign financial forms as required by the United States Probation Office prior to sentencing, including a Net Worth Statement (Probation Form 48); or a Net Worth Short Form Statement (Probation Form 48 EZ); a Cash Flow Statement (Probation Form 48B); a Declaration of Defendant or Offender Net Worth and Cash Flow Statements (Probation Form 48D); and a Customer Consent and Authorization for Access to Financial Records (Probation Form 48E). The defendant agrees to provide complete, truthful and accurate information on these forms and consents to the release of these forms and any supporting documentation by the United States Probation Office to the government. The defendant also agrees to complete and sign financial forms, including a Customer Consent Authorization for Access to Financial Records During Supervision (Probation Form 48I), as required by the United States Probation Office during the defendant's term of supervised release or probation. The defendant agrees to provide complete, truthful and accurate information on these forms and consents to the release of these forms and any supporting documentation by the United States Probation Office to the government.

g. Waiver of Post-Conviction Rights:

1. The defendant has been fully apprised by defense counsel of the defendant's rights concerning appeal and fully understands the right to appeal the sentence under Title 18, United States Code, Section 3742. However, in the event the district court accepts the plea, as part of this agreement, both the defendant and the government hereby waive all rights to appeal all non-jurisdictional issues regarding the conviction including, but not limited to, any issues relating to pre-trial motions, hearings and discovery, and any issues relating to the negotiation, taking or

acceptance of the guilty plea or the factual basis for the plea. The defendant waives the right to appeal any sentence imposed, including the district court's factual findings in support of the sentence, except that the defendant specifically reserves the right to appeal a sentence that is the result of an upward departure or the imposition of a non-guideline sentence above the applicable guideline range. The government waives its right to appeal any sentence imposed, except that it reserves the right to appeal a sentence that is the result of a downward departure or the imposition of a non-guideline sentence below the applicable guideline range.

2. The defendant acknowledges being guilty of the crime(s) to which a plea is being entered and further states that neither defense counsel nor the government have made representations which are not included in this document as to the sentence to be imposed. The defendant further agrees to waive all rights to contest the conviction or sentence in any post-conviction proceeding, including one pursuant to Title 28, United States Code, Section 2255, except for claims of prosecutorial misconduct or ineffective assistance of counsel.

3. REVOCATION

a. Revocation by the Government

The parties agree that the Civil Rights Division may revoke this agreement upon showing, by a preponderance of the evidence, any of the following:

1. that defendant has refused to cooperate as required by this agreement;
2. that defendant's statements or testimony has been untruthful or incomplete;
3. that defendant has failed to comply with any of the terms of this agreement;
4. that defendant has any criminal liability for homicide; or
5. that defendant has engaged in further criminal conduct after entering into this agreement

b. Withdrawal by the Defendant

Pursuant to Rule 11(c) and (d), Federal Rules of Criminal Procedure, the defendant fully understands that there will be no right to withdraw the plea entered under this agreement, except where the district court rejects those portions of the plea agreement which deal with charges the government agrees to dismiss or not to bring.

c. Consequences of Revocation:

If this agreement is revoked,

1. The plea of guilty entered by the defendant pursuant to this agreement and any judgment entered thereon shall remain in full force and effect and will not be the subject of legal challenge by the defendant.

2. The United States may file charges without limitation by this agreement.

3. All statements, information and other evidence provided by the defendant pursuant to this agreement or under Rule 11, Federal Rules of Criminal Procedure, may be used against the defendant in any proceeding in this or any other action.

4. The defendant, regardless of cooperation, and at the sole discretion of the Civil Rights Division, may be deemed not to have provided substantial assistance.

4. OTHER PROVISIONS

a. Standard of Interpretation

In interpreting this document, any drafting errors or ambiguities shall not automatically be construed against any party, whether or not the party was involved in drafting this document

b. Voluntary Nature of the Plea and Plea Agreement

1. This document constitutes the entire agreement between the defendant and the government, and no other promises or inducements have been made, directly or indirectly, by any agent of the government, including any Civil Rights Division attorney, concerning any plea to be

entered in this case or the agreements, recommendations or stipulations contained herein. In addition, the defendant states that no person has, directly or indirectly, threatened or coerced the defendant to do or refrain from doing anything in connection with any aspect of this case, including entering a plea of guilty. The defendant's agreements, recommendations and stipulations as set forth above are made in exchange for the United States' agreements, recommendations and stipulations set forth in this document.


2. The defendant acknowledges that he has voluntarily entered into both this plea and all of the agreements, recommendations and stipulations contained herein. The defendant further acknowledges that this guilty plea is made of the defendant's own free will because the defendant is, in fact, guilty of the conduct specified in sections four and five above.

4. CONCLUSION

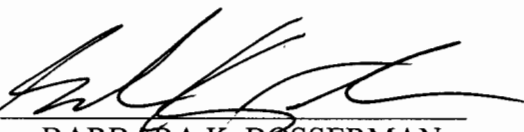
There are no other agreements between the Civil Rights Division and Defendant Dix, and the defendant enters this agreement knowingly, voluntarily, and upon advice of counsel.

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