

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

3	UNITED STATES OF AMERICA,	)	
4	Plaintiff,	)	
5	vs.	)	CRIMINAL CASE NO. CCB-17-106
6	WAYNE JENKINS,	)	CRIMINAL CASE NO. CCB-17-638
7	Defendant.	)	

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Friday, January 5, 2018  
Courtroom 7D  
Baltimore, Maryland

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE

REARRAIGNMENT

For the Plaintiff:

Leo J. Wise, Esquire  
Derek E. Hines, Esquire  
Assistant United States Attorneys

For the Defendant:

Steven Levin, Esquire

Also Present:

Melissa McGuinness, U.S. Probation Officer

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Reported by:

Douglas J. Zweizig, RDR, CRR  
Federal Official Court Reporter  
101 W. Lombard Street, 4th Floor  
Baltimore, Maryland 21201

P R O C E E D I N G S

(10:33 a.m.)

**THE COURT:** Good morning, everyone. You can be seated, please.

Call the case, Mr. Wise.

**MR. WISE:** Good morning, Your Honor.

Leo Wise and Derek Hines for the United States. The cases are United States of America versus Wayne Jenkins, Criminal No. CCB-17-106 and United States of America versus Wayne Jenkins, Criminal No. CCB-17-638.

**THE COURT:** All right.

**MR. LEVIN:** Good morning, Your Honor.

**THE COURT:** Good morning.

**MR. LEVIN:** Steven Levin on behalf of Wayne Jenkins, who is seated to my right.

**THE COURT:** All right. And if Mr. Jenkins is ready to proceed, we'll go ahead with taking the pleas.

**THE CLERK:** Please stand. And please raise your right hand.

WAYNE JENKINS, SWORN.

**THE CLERK:** Thank you.

Please state and spell your full name for the record.

**THE DEFENDANT:** Wayne Earl Jenkins, W-A-Y-N-E, E-A-R-L, J-E-N-K-I-N-S.

**THE CLERK:** What is your age?

1           **THE DEFENDANT:** 37, ma'am.

2           **THE CLERK:** What year were you born?

3           **THE DEFENDANT:** 1980.

4           **THE CLERK:** Mr. Jenkins, as to Criminal Docket  
5 No. CCB-17-0106, how do you wish to plead to Counts 1 through 6  
6 of the superseding indictment?

7           **THE DEFENDANT:** Guilty, ma'am.

8           **THE CLERK:** As to which counts, sir?

9           **THE DEFENDANT:** 1, 2, 3, and 5.

10          **THE CLERK:** In Criminal Docket No. CCB-17-0106, the  
11 plea is guilty as to Counts 1, 2, 3, 5 and not guilty as to  
12 Counts 4 and 6; is that correct?

13          **THE DEFENDANT:** Yes, ma'am.

14          **THE CLERK:** Mr. Jenkins, as to Criminal Docket  
15 CCB-17-0638, how do you wish to plead to Counts 1 through 5 of  
16 the indictment?

17          **THE DEFENDANT:** Guilty, 1 through 5.

18          **THE CLERK:** Guilty as to 1 through 5?

19          **THE DEFENDANT:** Yes, ma'am.

20          **THE CLERK:** In Criminal Docket No. CCB-17-0638, the  
21 plea is guilty as to Counts 1 through 5; is that correct, sir?

22          **THE DEFENDANT:** Yes, ma'am.

23          **THE CLERK:** Thank you.

24          **THE COURT:** All right. Thank you. You can be seated.

25                   And, actually, I think, Mr. Levin -- well, first of

1 all, that projector/monitor might push forward. I think it  
2 pushes forward the other way, like towards me.

3 **MR. LEVIN:** Ah.

4 **THE COURT:** Thank you. I should have done that  
5 before. Okay. Thank you.

6 And, Mr. Jenkins, as I'm sure you know, what I need to  
7 do is just to ask you a series of questions to make sure that  
8 you know what you're doing.

9 At any point if you don't understand any of my  
10 questions or you need a chance to talk to Mr. Levin for any  
11 reason, just let me know; all right?

12 **THE DEFENDANT:** Yes, ma'am.

13 **THE COURT:** All right, sir. If you can pull the mic  
14 just a little bit closer to you.

15 Do you understand you are under oath, so if you  
16 knowingly give a false answer to any of my questions, you could  
17 be prosecuted for false declaration or perjury?

18 **THE DEFENDANT:** Yes, ma'am.

19 **THE COURT:** All right, sir. How far did you go in  
20 school?

21 **THE DEFENDANT:** I graduated.

22 **THE COURT:** I take it you were able to read and  
23 understand the charges against you and the plea letter in this  
24 case?

25 **THE DEFENDANT:** Yes, ma'am.

1           **THE COURT:** In the past 24 hours, have you taken any  
2 drugs or alcohol or medication of any kind?

3           **THE DEFENDANT:** No, ma'am.

4           **THE COURT:** Any recent treatment for substance abuse  
5 or mental health problems?

6           **THE DEFENDANT:** No, ma'am.

7           **THE COURT:** Any difficulty understanding what's going  
8 on here today?

9           **THE DEFENDANT:** No, ma'am.

10           **THE COURT:** All right. You're pleading guilty to a  
11 number of charges. I need to go through with you what the  
12 Government would have to prove if the case went to trial on  
13 those charges.

14           First of all, in 17-106, that is Count 1. It is a  
15 racketeering conspiracy; Count 2 is racketeering; and Counts 3  
16 and 5 are both Hobbs Act robberies.

17           So in terms of those charges regarding Count 1, the  
18 racketeering conspiracy, the Government would have to prove  
19 that there was an enterprise that existed at the Baltimore  
20 Police Department, as alleged in the indictment, and that  
21 during the -- it existed, and during the times alleged in the  
22 indictment, it affected interstate or foreign commerce.

23           Then they'd have to prove that you were associated  
24 with or employed by that enterprise. And most important that  
25 you personally, knowingly, willfully, you became a member of

1 the conspiracy, the racketeering conspiracy itself, the  
2 agreement, unlawful agreement.

3 Count 2 is the racketeering count. They would again  
4 have to prove beyond a reasonable doubt, the Government would,  
5 that there was an enterprise that existed as charged in the  
6 indictment; that it affected interstate or foreign commerce;  
7 that you were associated with or employed by it; and that you  
8 engaged in a pattern of racketeering activity, you did that  
9 knowingly, voluntarily, again, intentionally, and you conducted  
10 or participated in the conduct of that enterprise, the police  
11 department, through that pattern of racketeering activity.

12 And then as far as Counts 3 and 5, those are both  
13 Hobbs Act robbery charges, so they'd have to show that on or  
14 pretty close to the dates charged in the indictment here in  
15 Maryland that you, first of all, knowingly obtained or took the  
16 personal property of someone else or from their presence; that  
17 you did that against the victims' will by actual or threatened  
18 force, violence, or fear of injury, whether immediately or in  
19 the future; and that as a result of those actions, interstate  
20 commerce or some item moving in interstate commerce was  
21 delayed, obstructed, or affected in some degree.

22 So as far as those four charges in 17-106, sir, do you  
23 understand that's what the Government would have to prove if  
24 the case went to trial?

25 **THE DEFENDANT:** Yes, ma'am, I do.

1           **THE COURT:** Okay. For Case 17-638, Count 1 charges  
2 destruction, alteration, or falsification of records in a  
3 federal investigation and Counts 2 through 5 charge you with  
4 deprivation of rights under color of law.

5           So for Count 1, in that case the Government would have  
6 to prove beyond a reasonable doubt, first of all, that you did  
7 alter or falsify or destroy or cover up or make a false entry  
8 in some record or document or object that could be used to  
9 record or preserve information as charged in the indictment,  
10 again, on or about the date charged.

11           They'd have to prove you acted knowingly and that you  
12 acted with the intent to impede, obstruct, or influence an  
13 investigation or some matter within the jurisdiction of or in  
14 relation to a department or agency of the United States  
15 Government.

16           Do you understand that's what they'd have to prove for  
17 Count 1?

18           **THE DEFENDANT:** Yes, ma'am, I do.

19           **THE COURT:** All right. Counts 2 through 5, they would  
20 have to prove that on or about the dates -- they're somewhat  
21 different dates charged in the indictment -- that you were  
22 acting under color of law; that in doing that, you deprived or  
23 caused to be deprived two individuals identified as U.B. and  
24 B.M. of their rights, which are secured and protected by the  
25 Constitution and laws of the United States; and specifically

1 those were the rights to be free from the deprivation of  
2 liberty without due process of law; that includes the right to  
3 be free from incarceration due to the fabrication of evidence  
4 by a law enforcement officer; and also the right to be free  
5 from incarceration due to a law enforcement officer's willful  
6 failure to disclose exculpatory evidence to a prosecutor.

7 So they'd have to prove all that, and, again, that you  
8 acted willfully with intent and knowledge and not by accident  
9 or mistake.

10 Do you understand that's what the Government would  
11 have to prove as far as Counts 2 through 5?

12 **THE DEFENDANT:** Yes, ma'am.

13 **THE COURT:** All right, sir. In terms of the possible  
14 penalties, do you understand that the maximum sentence under  
15 the law for Counts 1 and 2, the racketeering conspiracy and the  
16 racketeering, the maximum sentence is 20 years in prison, three  
17 years of supervised release, and a fine of not more than twice  
18 whatever gross proceeds were derived from that offense?

19 And for Counts 3 and 5, the Hobbs Act robbery, there's  
20 also a maximum sentence of 20 years in prison, three years of  
21 supervised release, and a fine of not more than \$250,000.

22 Do you understand those maximum penalties?

23 **THE DEFENDANT:** Yes, ma'am, I do.

24 **THE COURT:** All right. Regarding the charges in  
25 Case 17-638, for Count 1, the destruction, alteration, or



1 falsification of records in a federal investigation, do you  
2 understand, again, the maximum is 20 years in prison, three  
3 years of supervised release, and a fine of as much as \$250,000?

4 **THE DEFENDANT:** Yes, ma'am.

5 **THE COURT:** And finally, Counts 2 through 5, the  
6 deprivation of rights under color of law, do you understand  
7 that each of those carry a sentence, a maximum sentence of  
8 one-year incarceration, three years of supervised release, and  
9 a fine of as much as \$250,000?

10 **THE DEFENDANT:** Yes, ma'am.

11 **THE COURT:** All right, sir. In addition, each of  
12 these nine counts carries a special assessment of \$100, so  
13 that's a total of \$900. And you may be ordered to pay  
14 restitution.

15 Do you understand that also?

16 **THE DEFENDANT:** Yes, ma'am.

17 **THE COURT:** All right. I mentioned supervised  
18 release. Supervised release is a term of years that's imposed  
19 to follow whatever prison term you might get.

20 While you're on supervised release, you have to obey  
21 the rules and regulations of supervised release, not commit any  
22 new offense.

23 If you violate any condition of supervised release,  
24 you can get put back in prison for the full term of the  
25 supervised release without getting any credit for the time you

1 were out. Even if that somehow meant you spent more time in  
2 prison than would otherwise be the maximum, that's how  
3 supervised release works. If you violate it, you could go back  
4 to jail for the full term.

5 Do you understand that?

6 **THE DEFENDANT:** Yes, ma'am.

7 **THE COURT:** All right. Do you understand that you're  
8 subject to what are called the sentencing guidelines that have  
9 been issued by the United States Sentencing Commission? They  
10 are advisory, but I have to calculate them and take them into  
11 account, deciding on a reasonable sentence in your case.

12 And the advisory guideline range depends on a variety  
13 of things: The type of the offense, your role in the offense,  
14 the amount of loss involved, those kinds of things go into  
15 deciding what the advisory guideline range is going to be.

16 Do you understand that?

17 **THE DEFENDANT:** Yes, ma'am.

18 **THE COURT:** Do you understand that under the law --  
19 and this may be changed by your plea agreement -- but under the  
20 law, if you think I make some mistake deciding on your  
21 sentence, ordinarily you have the right to appeal the sentence?

22 The same is true for the Government, ordinarily under  
23 the law if the Government thinks I make a mistake deciding on  
24 the sentence, then the Government has the right to appeal.

25 Do you understand that?

1           **THE DEFENDANT:** Yes, ma'am.

2           **THE COURT:** All right. When you plead guilty, you are  
3 giving up some very important rights. I'm sure you're aware of  
4 that and I'm sure you've discussed it with counsel, but I need  
5 to go through some of those with you to make sure you're giving  
6 them up voluntarily.

7           So you understand you have a right to continue to  
8 plead not guilty to these charges?

9           **THE DEFENDANT:** Yes, ma'am, I do.

10          **THE COURT:** Do you understand you have a right to a  
11 trial by a jury?

12          **THE DEFENDANT:** Yes, ma'am, I do.

13          **THE COURT:** Do you understand if you were willing to  
14 give up your right to a trial by a jury, and if the Government  
15 also was willing to give up its right to a trial by a jury, you  
16 could be tried just by a United States District Judge, you  
17 could have a judge trial?

18          Do you understand that?

19          **THE DEFENDANT:** Yes, ma'am.

20          **THE COURT:** Do you understand that if you did want to  
21 go to trial, you would continue to have the right to be  
22 represented by counsel, just as you are now? He would stick  
23 with you. And at any point or so long as if you cannot afford  
24 a lawyer, one is appointed to represent you at the Government's  
25 expense.

1           **THE DEFENDANT:** Yes, ma'am.

2           **THE COURT:** Do you understand if you went to trial,  
3 you would be presumed innocent, the burden would be on the  
4 Government to prove your guilt beyond a reasonable doubt?

5           **THE DEFENDANT:** Yes, ma'am.

6           **THE COURT:** And do you understand if you went to  
7 trial, you or your attorney would have the right to  
8 cross-examine, so he could ask questions of any witness who  
9 testified against you? And if you went to trial, you would  
10 have the right to make people come in and testify on your  
11 behalf. If someone had some helpful evidence to give for you,  
12 you could have a summons or a subpoena issued to make them come  
13 in and testify?

14           **THE DEFENDANT:** Yes, ma'am.

15           **THE COURT:** Do you understand if you went to trial,  
16 you personally would have the right to take the witness stand  
17 and testify if you wanted to; but if you did not want to  
18 testify, for whatever reason, no one could force you or make  
19 you testify?

20           **THE DEFENDANT:** Yes, ma'am.

21           **THE COURT:** Do you also understand if you decided not  
22 to testify, for whatever reason, no one, including the jury,  
23 could hold that against you in any way, they could not decide  
24 anything bad about your case or specifically that you were  
25 guilty just because you decided not to testify?

1           **THE DEFENDANT:** Yes, ma'am.

2           **THE COURT:** Do you also understand if you did choose  
3 to be tried by a jury, in order for you to be convicted, the  
4 jury's verdict would have to be unanimous? There would be 12  
5 jurors, they'd all have to agree that you'd been proved guilty  
6 beyond a reasonable doubt.

7           **THE DEFENDANT:** Yes, ma'am.

8           **THE COURT:** Do you understand that when you plead  
9 guilty, you are giving up each and every one of those rights,  
10 there will be no further trial of any kind, and you will be  
11 sentenced based on your guilty pleas?

12           **THE DEFENDANT:** Yes, ma'am, I do.

13           **THE COURT:** All right, sir. And, finally, do you  
14 understand that by pleading guilty, you're giving up your right  
15 to try to suppress any statements you might have made, keep  
16 something out of evidence that might have been taken from you,  
17 pretrial motions; in other words, any defense that you might  
18 have to these charges, you give it up when you plead guilty?

19           Do you understand that?

20           **THE DEFENDANT:** Yes, ma'am, I do.

21           **THE COURT:** All right, sir. I do have a plea  
22 agreement letter here dated January 2nd of 2018, which appears  
23 to have your signature at the end.

24           Did you read and sign this agreement, Mr. Jenkins?

25           **THE DEFENDANT:** Yes, ma'am, I did.

1           **THE COURT:** All right. Directly above your signature  
2 it says, "I have read this agreement, including the sealed  
3 supplement, and carefully reviewed every part of it with my  
4 attorney. I understand it and I voluntarily agree to it.  
5 Specifically, I have reviewed the factual and advisory  
6 guideline stipulation with my attorney, and I do not wish to  
7 change any part of it. I am completely satisfied with the  
8 representation of my attorney."

9           Is that all correct, Mr. Jenkins?

10          **THE DEFENDANT:** Yes, ma'am, it is.

11          **THE COURT:** All right. And specifically regarding the  
12 representation that Mr. Levin has been providing to you, is  
13 there anything you think he should have done that he hasn't  
14 done or anything else you need to ask him about right now?

15          (The defendant conferred with counsel.)

16          **THE DEFENDANT:** I'm fine. Thank you, ma'am.

17          **THE COURT:** All right. Well, let me know if you think  
18 of anything.

19          Let's go back to the beginning of the plea agreement.  
20 I want to summarize it with you.

21          First, let me also ask whether anyone has used any  
22 force or made any threats against you or against anyone else to  
23 get you to enter into this plea?

24          **THE DEFENDANT:** No, ma'am.

25          **THE COURT:** Okay. So the charge -- excuse me, the

1 letter says you're pleading guilty to the charges we've  
2 discussed, Counts 1, 2, 3, and 5 in 17-106; and Counts 1  
3 through 5 in 17-638.

4 Paragraph 2 tells you the elements of those offenses,  
5 what the Government would have to prove if the case went to  
6 trial.

7 Paragraph 3 tells you about the possible penalties,  
8 which we've talked about. That's Paragraph 3 and 4.

9 Paragraph 5 tells you about the rights you're giving  
10 up by pleading guilty, which may include certain valuable civil  
11 rights.

12 And if you were not a U.S. citizen, you might be  
13 subject to deportation or other loss of immigration status.

14 Paragraph 6 says that you and the Government have an  
15 agreement about the disposition in this case. You have an  
16 agreement that a sentence between 240 and 360 months -- that's  
17 20 to 30 years of incarceration -- is the appropriate  
18 disposition of this case.

19 I don't have to accept that; but if I don't for some  
20 reason, either side could set aside this agreement and  
21 specifically you would have the chance to withdraw your plea.

22 Paragraph 7 says that you understand I still have to  
23 determine an advisory guideline range and take that into  
24 account in making a decision about sentencing.

25 Paragraph 8 says you agree to the statement of facts.

1 There is a lengthy Attachment A which I will try to summarize  
2 briefly with you. That is a statement of facts.

3 Let me just be clear: Did you read that statement of  
4 facts as well --

5 **THE DEFENDANT:** Yes, ma'am.

6 **THE COURT:** -- Mr. Jenkins?

7 All right. It says you agree that if the Government  
8 did go to trial in this case, it could prove beyond a  
9 reasonable doubt all the charges against you.

10 You agree to certain facts that at least the  
11 Government could have proved going to trial, including that you  
12 joined the Baltimore Police Department in February of 2003, and  
13 that police department does constitute an enterprise under the  
14 law, and its activities affected interstate commerce.

15 It says that sworn members of the Baltimore Police  
16 Department have to follow the Law Enforcement Officers' Code of  
17 Ethics.

18 It says that there was a Special Enforcement Section  
19 of the Baltimore Police Department, as well as a  
20 Gun Trace Task Force, and it outlines their mission and your  
21 position as sergeant starting in November of 2012, then officer  
22 in charge of an SES unit, and then officer in charge of the  
23 Gun Trace Task Force starting June of 2016.

24 Identifies co-defendants you worked with, last names  
25 Gondo, Hendrix, Hersl, Taylor, and Ward.



1           It reflects the purpose of the Baltimore Police  
2 Department being to protect and preserve life and property and  
3 purposes of you and co-defendants, by contrast, being violating  
4 legitimate purposes of the police department to enrich  
5 yourselves.

6           There are a number of means and methods by which you  
7 and others accomplished these illegal purposes in general,  
8 including stealing drugs from people who had been temporarily  
9 detained and in some cases arrested, lying initially to  
10 co-defendants, and also by preparing false incident reports  
11 about taking these drugs.

12           It says that beginning in 2015, continuing through  
13 2016, you also stole money from detainees and arrestees, taking  
14 custody of money and keeping it for yourself or on some  
15 occasions sharing it with some of your co-defendants.

16           It relates various ways in which you concealed your  
17 criminal conduct, you and others, including false incident and  
18 arrest reports and charging documents.

19           It relates that you learned at some time in 2016 about  
20 the existence of this federal investigation and shared that  
21 information with others.

22           It relates that you defrauded the Baltimore Police  
23 Department with false and fraudulent time and attendance  
24 records and also directed other defendants, while in the  
25 Howard County Detention Center, to essentially obstruct

1 justice.

2 So you're agreeing that you were associated with the  
3 enterprise described in the indictment, charges to which you  
4 pled guilty; that you did knowingly become a member of the  
5 conspiracy; and you did engage in a pattern of racketeering  
6 activity and conduct or participate in the conduct of the  
7 enterprise through that pattern.

8 It then indicates that there are a number of robberies  
9 that you're agreeing to participating in. The specific ones  
10 listed below include the May 11th, 2011, robbery of W.B. and  
11 the theft of approximately \$1,800 on a false incident report.

12 July 11th, 2014, robbery of J.C., resulting in theft  
13 between 12,000 and 14,000, which was not reported. It was  
14 shared with a co-defendant.

15 Spring of 2015, there was a robbery at  
16 Belvedere Towers in which you took 30 pounds of marijuana and  
17 \$15,000, shared some of it, sold marijuana through an  
18 individual identified as D.S., didn't report that.

19 February 4th of 2016, a robbery of M.S., operating a  
20 taxicab at the time, stole 1,500 to 2,000 from him. Shared the  
21 money but obviously didn't report it.

22 March 22nd, 2016, a robbery of O.S. and K.H. involving  
23 approximately \$200,000 and some property and 2 kilos of cocaine  
24 which D.S. then sold for you. Money that was shared but not  
25 reported.

1 July 8th of 2016, robbery of R.H. and N.H. This  
2 involved your falsely representing yourself to be a federal  
3 officer. Eventually a theft of approximately \$20,000 and a  
4 wristwatch, shared, false incident report prepared.

5 August 8th of 2016, a robbery of D.A. that involved a  
6 storage unit. And you had the individual D.S. break into that  
7 unit and steal a quantity of cocaine which was sold. You got  
8 proceeds, shared some of that, didn't report it.

9 In general, it indicates there were a number of  
10 occasions when you would enter a residence without a  
11 search warrant to look for firearms. If they were found, then  
12 you and co-defendants would create an affidavit that was not  
13 truthful to obtain the search warrant for the premises.

14 It indicates there were a couple of -- there were  
15 additional -- I should say there were additional instances when  
16 you had taken drugs from detainees or arrestees and gave them  
17 to this D.S. individual to sell, cocaine and marijuana.

18 There was also a quantity of heroin accumulated which  
19 subsequently you gave to Co-Defendant Rayam to sell. And you  
20 received profits from the sale of these drugs, including some  
21 prescription medications that were stolen in April of 2015  
22 during the riots in the city.

23 There are some instances indicated when you broke into  
24 unoccupied houses to steal money, property, and drugs,  
25 including some watches and stole from a drug dealer's car.

1 That was a quantity of money, and you actually sent D.S. to  
2 break into the car. It says you also stole dirt bikes.

3 And then it indicates the occasion in June, and later  
4 October of 2016, when you obtained information about this  
5 federal investigation and shared it.

6 Going on, the next paragraphs relate to submitting  
7 false and fraudulent individual overtime reports, together with  
8 other members of your units, and doing that with the intent to  
9 defraud the Baltimore Police Department.

10 And then there are paragraphs relating to planting  
11 evidence on U.B. and B.M., that being April 28th of 2010, a car  
12 chase which, unfortunately, resulted in a death after the  
13 crash.

14 It essentially says that you were responsible for  
15 having heroin planted in that vehicle, authoring a false  
16 statement of probable cause.

17 You knew that those two individuals were then charged  
18 with and imprisoned for -- on federal drug charges, the heroin  
19 that had been planted in U.B.'s car.

20 There are also discussions about carrying BB gun  
21 pistols to plant on suspects if firearms could not be found.

22 Specifically, you admitted that between -- you are  
23 admitting that between April 28th of 2010 and November 30th of  
24 2017 making false statements and false entries in a statement  
25 of probable cause in relation to that seizure of heroin. That

1 was within the jurisdiction of the DEA.

2 And also between approximately those same dates, by  
3 virtue of the fact that U.B. and B.M. both wound up  
4 incarcerated, that you committed the violations of civil  
5 rights, the violations under color of law in Counts 2 through  
6 5.

7 Okay. That was a summary, but you said you have read  
8 the entire thing.

9 Do you agree, sir, that the statement of facts is  
10 correct and you did what it says in there you did?

11 **MR. LEVIN:** Your Honor, there was one correction with  
12 respect to Case No. 17-638.

13 **THE COURT:** All right.

14 **MR. LEVIN:** What the statement of facts actually  
15 reads -- and there was a lot of back-and-forth about this --  
16 Mr. Jenkins is acknowledging that he was aware that drugs had  
17 been planted.

18 He's not acknowledging that he planted the drugs,  
19 although he's acknowledging that he authored a false report  
20 with respect to another officer planting those drugs.

21 Also, Your Honor, I just want to put on the record, so  
22 it's not an issue later, Mr. Jenkins recognizes that there is a  
23 motion outstanding with respect to whether the  
24 Hobbs Act robbery charges are duplicitous.

25 There's also a motion outstanding with respect to

1 whether the statute of limitations would prohibit the filing of  
2 those charges relating to Mr. Burley.

3           Notwithstanding those pending motions, Mr. Jenkins  
4 wants to plead guilty, wants to accept responsibility. So he's  
5 pleading guilty knowing that those motions are pending.

6           **THE COURT:** And that he is giving up his right to  
7 prevail on those motions should -- I'm not saying that he  
8 would, in any event, but he's giving up those motions by  
9 pleading guilty and accepting responsibility today.

10           **MR. LEVIN:** Yes, Your Honor, Mr. Jenkins is aware of  
11 that and he wishes to proceed.

12           **THE COURT:** Okay. All right. With that context,  
13 which I think is consistent with what's in the statement of  
14 facts, but let me ask you again, Mr. Jenkins: Do you agree  
15 that the statement of facts, with the further acknowledgment by  
16 your counsel, but do you agree that that is correct and you did  
17 what it says in there you did?

18           (The defendant conferred with counsel.)

19           **THE DEFENDANT:** Yes, ma'am.

20           **THE COURT:** You do agree that you're guilty of all  
21 these offenses?

22           **THE DEFENDANT:** Yes, ma'am.

23           **THE COURT:** Okay. Going back to the plea agreement  
24 relating to the guidelines, I'm not going to go through all of  
25 this. There is a fairly extensive calculation of the

1 guidelines based on the specific robberies that you've admitted  
2 to and in general, aspects such as what the base offense level  
3 is, that there's a firearm possessed, physical restraint of a  
4 victim, your being a leader or organizer, there being an abuse  
5 of trust and obstruction of justice, the way these are grouped,  
6 as well as the destruction of records and the false overtime.

7           Essentially, to get to the bottom line, there's a  
8 total offense level of 42 for that first group of offenses.

9           Subsequent grouping for all the others, let me just go  
10 to Paragraph 14. The Government's not going to oppose a  
11 two-level downward adjustment in all the offense levels because  
12 of your timely acceptance of responsibility, and, in fact, will  
13 make a motion for the third level, so there would be three  
14 levels down from all of these offense levels, meaning the  
15 highest adjusted offense level you're expecting is 39 for  
16 Counts 1 and 2 of 17-106, and there are various offense levels  
17 then listed.

18           Now, the Government might oppose any adjustment of  
19 those three levels I just mentioned for acceptance of  
20 responsibility if there's some violation of the plea agreement  
21 between now and sentencing; for example, you failed to accept  
22 personal responsibility.

23           Paragraph 16 says there's no agreement about your  
24 criminal history.

25           Paragraph 17 says you have no disputes with the

1 Government about the guidelines.

2 Both you and the Government have the right to argue  
3 for a sentence outside the advisory guideline range, as long as  
4 it's within the 20 to 30 years that's agreed to.

5 And both you and the Government can give me any  
6 information that would be helpful for me to make the sentencing  
7 decision.

8 Paragraph 20 says you understand a restitution order  
9 will be entered for the full amount of the victims' losses.

10 Government, is that something that's been agreed upon  
11 yet or will be in connection with sentencing?

12 **MR. WISE:** Your Honor, we will have a restitution  
13 figure closer to sentencing, in part, because very recently, we  
14 have been able to recover some of the stolen property,  
15 including an FBI dive team recovering watches underwater, to  
16 return to victims. And so that will affect the amount of the  
17 total restitution to be paid.

18 **THE COURT:** Okay. All right. Well, sir, you're  
19 agreeing to pay restitution as ordered and to cooperate with  
20 the U.S. Attorney's Office on that.

21 Now, Paragraph 24 relates to your appeal rights. And,  
22 first of all, it says that you're giving up your right to  
23 appeal your conviction; in other words, your guilty pleas today  
24 are your convictions of all these charges, and you're giving up  
25 your right to appeal that.



1 Both you and the Government are also giving up the  
2 right that I previously mentioned to appeal the sentence.

3 Now, you could still use what's called Rule 35 to  
4 correct some technical error in the sentence, but otherwise,  
5 again, both you and the Government are giving up your right to  
6 appeal the sentence.

7 Then it says you're giving up your rights under the  
8 Freedom of Information Act. That just means you won't be  
9 asking for more documents about the case.

10 Paragraph 25 tells you that if you -- again, if you  
11 violate the plea agreement in some way between now and  
12 sentencing, if you engage in obstruction of justice, fail to  
13 accept personal responsibility, committed some new offense, if  
14 the Government proved that to me, then they would be free of  
15 their obligations to you under this plea agreement, they could  
16 make different recommendations, for example, and you would not  
17 necessarily be allowed to withdraw your guilty plea.

18 Now, Paragraph 26, counsel, I think it needs a little  
19 bit of an adjustment. It tells you that the Court's not a  
20 party to the agreement, which is correct.

21 I'm not bound by the stipulation. I have an  
22 independent responsibility to decide what the facts are, what  
23 the guidelines range is, and ultimately a reasonable sentence  
24 within the range that you all have agreed to.

25 So I'm just asking, counsel, take a look at

1 Paragraph 26. It says I have the power to impose a sentence up  
2 to and including the statutory maximum. If that statutory  
3 maximum, by virtue of any consecutive sentencing, would be  
4 higher than 30 years -- and I haven't -- I'm not sure if I've  
5 looked that up, but the most that I can impose under this  
6 agreement is 30 years, as I read it.

7 **MR. WISE:** We agree, Your Honor.

8 **MR. LEVIN:** Yes, Your Honor, we agree.

9 **THE COURT:** Okay. And then it says that's the  
10 complete plea agreement in this case, together with the sealed  
11 supplement.

12 Now, we have a policy in this district of having a  
13 sealed supplement in every case discussing cooperation, so what  
14 I'm about to say will remain under seal if a transcript of the  
15 proceeding is ordered.

16 In this instance, do counsel wish to approach the  
17 bench?

18 **MR. LEVIN:** Yes, Your Honor.

19 **THE COURT:** Okay.

20 Conference at the bench.

21 (It is the policy of this court that every guilty plea and  
22 sentencing proceeding include a bench conference concerning  
23 whether the defendant is or is not cooperating.)

24 **THE COURT:** Okay. So that was a summary of the plea  
25 agreement.

1 Any additions, corrections, or modifications from the  
2 Government's point of view?

3 **MR. WISE:** No, Your Honor. Thank you.

4 **THE COURT:** Okay. Mr. Levin, anything?

5 **MR. LEVIN:** Nothing further, Your Honor. Thank you.

6 **THE COURT:** Okay. Mr. Jenkins, most important, I  
7 didn't read this word for word, but as far as you're concerned,  
8 was that a correct summary of what you think your agreement  
9 with the Government is?

10 **THE DEFENDANT:** Yes, ma'am, it is.

11 **THE COURT:** All right. Let me put it another way: Is  
12 there anything else that's been promised to you, any reward,  
13 any benefit, anything you expect to get in exchange for your  
14 guilty pleas besides what's in that letter?

15 **THE DEFENDANT:** No, ma'am, not at all.

16 **THE COURT:** Okay. Any questions at all, sir, for me  
17 or for your lawyer about your guilty pleas or the terms of your  
18 plea agreement?

19 **THE DEFENDANT:** No, ma'am.

20 I'm ashamed of myself.

21 **THE COURT:** Okay. Sure. It is unfortunate that you  
22 find yourself here.

23 But I will find that, based on your answers and  
24 reviewing the record and what counsel have told me, that you're  
25 competent to enter these guilty pleas. I believe you

1 understand the charges against you and the penalties you're  
2 subject to.

3 I find that you understand the rights you're giving up  
4 by pleading guilty, that you're doing this voluntarily, and  
5 there is a factual basis for your entry of these pleas, so I'm  
6 accepting your pleas of guilty to Counts 1 and 2 and 3 and 5 of  
7 the 17-106 and Counts 1 through 5 of 17-638.

8 I have an expedited sentencing order in front of me.  
9 I'm not sure how much I'm going to be in a position to expedite  
10 this. There is still a trial scheduled for other people.

11 Let's see. Would Wednesday, March 21st at 9:15 be  
12 available?

13 **MR. WISE:** Your Honor, I'm in trial in front of  
14 Judge Chasanow in one of the ECI prison cases starting on the  
15 19th, I believe.

16 **THE COURT:** All right. How long a trial is that?

17 **MR. WISE:** It's expected to last two weeks.

18 **THE COURT:** Supposing we backed up to the Thursday  
19 before that, March 15th at 9:15?

20 **MR. WISE:** I'm actually going to be in -- out of the  
21 state. I apologize. It's a school break that week.

22 **THE COURT:** All right. Wednesday, April 4th, 9:15?

23 **MR. LEVIN:** Mr. Wise has a different school, so I'm on  
24 school break that week, Your Honor.

25 **THE COURT:** Thursday, April 12th, 9:15?

1           **MR. WISE:** The United States is available, Your Honor.

2           **MR. LEVIN:** I'm available, Your Honor.

3           **THE COURT:** Okay. I've signed the sentencing order  
4 for April 12th at 9:15 a.m.

5           **MR. WISE:** Your Honor, I just -- I don't know what the  
6 sort of end time is on that, but I expect there may be a number  
7 of victims that wish to make victim impact statements to the  
8 Court, both in the racketeering case and in the  
9 evidence-planting case, and so I think it may be a lengthy  
10 proceeding, but we don't yet know which victims will want to  
11 speak.

12           **THE COURT:** All right. Thank you. I'll keep that in  
13 mind in putting it in the calendar.

14           Anything else?

15           **MR. LEVIN:** No. Thank you, Your Honor.

16           **THE COURT:** Okay. All right.

17           (Matter concluded at 11:13 a.m.)

18           I, Douglas J. Zweizig, RDR, CRR, do hereby certify that  
19 the foregoing is a correct transcript from the stenographic  
20 record of proceedings in the above-entitled matter.

21

\_\_\_\_\_  
/s/

22

23           Douglas J. Zweizig, RDR, CRR  
24           Registered Diplomate Reporter  
25           Certified Realtime Reporter  
26           Federal Official Court Reporter  
27           DATE: July 24, 2018

28

<p>\$</p> <p>Case 1:17-cr-00638-CCB Document 19 Filed 07/27/18 Page 30 of 37</p> <p>\$1,800 [1] 18/11</p> <p>\$100 [1] 9/12</p> <p>\$15,000 [1] 18/17</p> <p>\$20,000 [1] 19/3</p> <p>\$200,000 [1] 18/23</p> <p>\$250,000 [3] 8/21 9/3 9/9</p> <p>\$900 [1] 9/13</p>	<p>4</p> <p>42 [1] 23/8</p> <p>4th [3] 1/24 18/19 28/22</p> <p>6</p> <p>638 [7] 1/5 2/10 7/1 8/25 15/3</p> <p>21/12 28/7</p> <p>7</p> <p>7D [1] 1/9</p> <p>8</p> <p>8th [2] 19/1 19/5</p> <p>9</p> <p>9:15 [4] 28/11 28/19 28/22</p> <p>28/25</p> <p>9:15 a.m [1] 29/4</p>	<p>age [1] 2/25</p> <p>agency [1] 7/14</p> <p>agree [11] 13/5 14/4 15/25 16/7</p> <p>16/10 21/9 22/14 22/16 22/20</p> <p>26/7 26/8</p> <p>agreed [3] 24/4 24/10 25/24</p> <p>agreeing [3] 18/2 18/9 24/19</p> <p>agreement [21] 6/2 6/2 10/19</p> <p>13/22 13/24 14/2 14/19 15/15</p> <p>15/16 15/20 22/23 23/20 23/23</p> <p>25/11 25/15 25/20 26/6 26/10</p> <p>26/25 27/8 27/18</p> <p>Ah [1] 4/3</p> <p>ahead [1] 2/17</p> <p>alcohol [1] 5/2</p> <p>all [46]</p> <p>alleged [2] 5/20 5/21</p> <p>allowed [1] 25/17</p> <p>also [18] 1/20 8/4 8/20 9/15</p> <p>11/15 12/21 13/2 14/21 17/10</p> <p>17/13 17/24 19/18 20/2 20/20</p> <p>21/2 21/21 21/25 25/1</p> <p>alter [1] 7/7</p> <p>alteration [2] 7/2 8/25</p> <p>although [1] 21/19</p> <p>am [1] 14/7</p> <p>AMERICA [3] 1/3 2/8 2/9</p> <p>amount [3] 10/14 24/9 24/16</p> <p>another [2] 21/20 27/11</p> <p>answer [1] 4/16</p> <p>answers [1] 27/23</p> <p>any [28] 4/9 4/9 4/10 4/16 5/1</p> <p>5/2 5/4 5/7 9/21 9/23 9/25</p> <p>11/23 12/8 12/23 13/10 13/15</p> <p>13/17 14/7 14/21 14/22 22/8</p> <p>23/18 24/5 26/3 27/1 27/12</p> <p>27/13 27/16</p> <p>anyone [2] 14/21 14/22</p> <p>anything [8] 12/24 14/13 14/14</p> <p>14/18 27/4 27/12 27/13 29/14</p> <p>apologize [1] 28/21</p> <p>appeal [7] 10/21 10/24 24/21</p> <p>24/23 24/25 25/2 25/6</p> <p>appears [1] 13/22</p> <p>appointed [1] 11/24</p> <p>approach [1] 26/16</p> <p>appropriate [1] 15/17</p> <p>approximately [4] 18/11 18/23</p> <p>19/3 21/2</p> <p>April [6] 19/21 20/11 20/23</p> <p>28/22 28/25 29/4</p> <p>April 12th [2] 28/25 29/4</p> <p>April 28th [2] 20/11 20/23</p> <p>April 4th [1] 28/22</p> <p>are [24] 2/8 4/15 5/16 6/12</p> <p>7/24 10/8 10/10 11/2 11/22 13/9</p> <p>17/6 18/8 19/23 20/10 20/20</p> <p>20/22 21/24 22/5 23/5 23/16</p> <p>24/24 25/1 25/5 25/22</p> <p>argue [1] 24/2</p> <p>arrest [1] 17/18</p> <p>arrested [1] 17/9</p> <p>arrestees [2] 17/13 19/16</p> <p>as [39]</p> <p>ashamed [1] 27/20</p> <p>aside [1] 15/20</p> <p>ask [5] 4/7 12/8 14/14 14/21</p> <p>22/14</p> <p>asking [2] 25/9 25/25</p> <p>aspects [1] 23/2</p> <p>assessment [1] 9/12</p> <p>Assistant [1] 1/17</p>
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