

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CR No. 22-15
	)	Washington, D.C.
vs.	)	April 29, 2022
	)	12:30 p.m.
BRIAN ULRICH (9),	)	
	)	
Defendant.	)	
_____	)	

TRANSCRIPT OF PLEA AGREEMENT HEARING PROCEEDINGS
BEFORE THE HONORABLE AMIT P. MEHTA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Proceedings recorded by mechanical stenography; transcript
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1 P R O C E E D I N G S

2 COURTROOM DEPUTY: Your Honor, we're in Criminal
3 Action 22-15-9, United States of America versus
4 Brian Ulrich.

5 If I can have the parties identify themselves for
6 the record, beginning with the United States.

7 MR. EDWARDS: Yes, Your Honor.

8 This is Troy Edwards from the United States.

9 Along with me is Justin Sher from the
10 Counterterrorism Section and other AUSAs from the case.

11 THE COURT: Good morning, Mr. Edwards;
12 good morning, Mr. Sher.

13 MR. SHER: Good morning.

14 COURTROOM DEPUTY: Mr. Balbo.

15 MR. BALBO: Good afternoon, Your Honor. This is
16 A.J. Balbo with Mr. Brian Ulrich.

17 THE COURT: Mr. Balbo and Mr. Ulrich,
18 good morning.

19 Hang on for a second, everybody.

20 I was trying to hide the non-video participants.

21 So I understand Mr. Ulrich is prepared to enter a
22 plea; is that correct?

23 MR. BALBO: That's correct, Your Honor.

24 THE COURT: All right.

25 Before we proceed, a couple of points of

1 clarification.

2 I wanted to just make sure that -- and suspect
3 this is true -- but the plea agreement doesn't expressly
4 state that the government will be dismissing any additional
5 charges against Mr. Ulrich at the time of sentencing.
6 Mr. Edwards, is that -- and Mr. Balbo, I assume that is the
7 understanding?

8 MR. EDWARDS: Yes, Your Honor. From the
9 government's perspective, we would anticipate dismissing
10 those charges at sentencing.

11 THE COURT: Okay.

12 MR. BALBO: That is correct, Your Honor.

13 THE COURT: Okay.

14 And just, Mr. Edwards, I've read the plea
15 agreement, but I want to make sure. Are there any sort of
16 material changes from Mr. James' plea agreement that I ought
17 to be aware of?

18 MR. EDWARDS: No, Your Honor, other than the
19 specifics of -- particular specific offense characteristics
20 or Guidelines, there's no substantive changes from the
21 previous agreement.

22 THE COURT: Right. Okay. Terrific.

23 All right. With that, is there anything else we
24 ought to take up before we get started?

25 MR. EDWARDS: Not from the government.

1 MR. BALBO: Not from the defense, Your Honor.

2 THE COURT: All right.

3 Mr. Balbo, let me first begin by asking whether
4 you have consulted and advised Mr. Ulrich about his rights
5 to an in-person plea hearing?

6 MR. BALBO: I have, Your Honor.

7 THE COURT: Okay.

8 If I can just inquire of Mr. Ulrich.

9 Mr. Ulrich, I want to make sure you understand you
10 have a right to an in-person plea hearing. What that means
11 is you have a right to be here in Washington, D.C. at the
12 courthouse in order to enter your plea. Do you understand
13 that, sir?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: But we are proceeding remotely this
16 morning -- or this afternoon, I should say.

17 So do I understand that you are waiving your right
18 to an in-person plea hearing, sir?

19 MR. BALBO: Yes, Your Honor.

20 THE COURT: Okay.

21 I do find that Mr. Ulrich is knowingly and
22 voluntarily waiving his right to an in-person plea hearing.
23 I find that it is in the interests of justice to proceed
24 with this plea today, as the parties have reached an
25 agreement.

1 I also find that the authority remains for us to
2 accept remote pleas under the CARES Act by virtue of the
3 Chief Judge's most recent standing order.

4 All right. So let's get started.

5 Mr. Ulrich, I'm going to first ask you to
6 please -- well, first of all, Mr. Ulrich, do I understand
7 that you wish to enter a plea of guilty; is that right, sir?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: All right.

10 Before I can accept your plea, Mr. Ulrich, I need
11 to make sure that you understand the terms of this
12 plea agreement, as well as the rights that you're giving up
13 as part of this plea, okay?

14 If at any point in time, Mr. Ulrich, I ask you a
15 question you don't understand, feel free to ask me to repeat
16 the question. Is that understood?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And if at any point you'd like to
19 consult with Mr. Balbo before you answer a question, feel
20 free to do that as well. Is that understood?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Okay.

23 Now, before we get -- before I can start asking
24 you these questions, Mr. Ulrich, I'm going to ask you to
25 please raise your right hand and we'll place you under oath,

1 okay, sir?

2 COURTROOM DEPUTY: Raise your right hand.

3 (Witness is placed under oath.)

4 COURTROOM DEPUTY: Thank you, sir.

5 THE COURT: Okay.

6 Mr. Ulrich, now that you are placed under oath,
7 what that means, sir, is that if you testify falsely, you
8 could be prosecuted for perjury or making a false statement.
9 Do you understand that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: What is your date of birth,
12 Mr. Ulrich?

13 THE DEFENDANT: 11/26/1977.

14 THE COURT: And how far did you go in school, sir?

15 THE DEFENDANT: I finished some vocational courses
16 after high school.

17 THE COURT: Okay. So you have your high school
18 degree, sir?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right.

21 Have you taken any drugs or medications or
22 anything else, Mr. Ulrich, in the last two days that might
23 make it difficult for you to follow these court proceedings?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Are you aware of any other reasons,

1 sir, that might make it difficult for you to follow these
2 proceedings?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: All right. Does counsel for either
5 side have a reason to question Mr. Ulrich's competence to
6 enter a plea at this time?

7 MR. EDWARDS: Not from the government, Your Honor.

8 MR. BALBO: No, Your Honor.

9 THE COURT: All right.

10 Based then upon my inquiries of Mr. Ulrich, as
11 well as the representations of counsel, I find that he is
12 fully competent and capable of entering an informed plea.

13 Were you born in the United States, Mr. Ulrich?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: All right.

16 Now, have you had enough time to talk with your
17 lawyer, Mr. Balbo, about the plea agreement and the plea
18 that you wish to enter into today, sir?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And have you -- are you satisfied with
21 the services that Mr. Balbo has provided you?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right.

24 I understand, Mr. Ulrich, that instead of going to
25 trial, you wish to plead guilty to Count 1 of the

1 indictment, which charges you with seditious conspiracy, in
2 violation of 18 United States Code 2384, as well as Count 3
3 of the indictment, which charges you with obstruction of an
4 official proceeding, in violation of 18 United States Code
5 1512(c)(2). Do you understand that, sir?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Okay.

8 Now, I'm going to ask the Courtroom Deputy to
9 bring up a copy of the Plea Agreement on the screen. I'm
10 going to ask you to just scroll through that plea agreement.

11 You're on mute.

12 COURTROOM DEPUTY: I just checked this out earlier
13 to make sure it worked.

14 Here it is.

15 Can everyone see it?

16 THE DEFENDANT: Yes.

17 THE COURT: So I'm going to ask the Courtroom
18 Deputy to scroll through this agreement. And then at the
19 last page, Mr. Ulrich, I'm going to confirm that's your
20 signature on the last page, okay?

21 THE DEFENDANT: Okay, Your Honor.

22 THE COURT: Mr. Ulrich, this 13-page document
23 which we've been -- I'm sorry, 14-page document which we've
24 just reviewed, is this the plea agreement that you have
25 entered into, sir?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: I'm looking at page 14 of the
3 agreement. Is that your signature there, sir?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Okay.

6 Now, Mr. Ulrich -- you can take that down.

7 Mr. Ulrich, have you read this document or have
8 you had it read to you, sir?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And do you have any questions,
11 Mr. Ulrich, about what this document contains that have not
12 been answered?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: All right.

15 Now, Mr. Ulrich, I'm going to go over some of this
16 document with you, I'm not going to go over every single
17 paragraph and every single line, I'm going to go over the
18 portions of it that I'm required to by rule.

19 Now, the fact that I don't go over a particular
20 aspect of this document, Mr. Ulrich, you still remain bound
21 by every promise that is contained in this plea agreement.
22 Is that understood?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right.

25 Now, the first thing I'm going to go over,

1 Mr. Ulrich, is what you are agreeing to plead guilty to and
2 what the government is agreeing to do in exchange and then
3 we will talk about the sentencing terms of the agreement,
4 okay?

5 You have agreed to plead guilty to Count 1 of the
6 indictment, which charges you with seditious conspiracy, in
7 violation of 18 United States Code 2384, as well as Count 3,
8 which is obstruction of an official proceeding, in violation
9 of 18 United States Code 1512(c)(2).

10 You also have agreed that the separate document
11 which is titled Statement of Offense, which we will talk
12 about momentarily, fairly and accurately describes your
13 actions. Do you understand those terms, sir?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Now, in exchange for your promises,
16 Mr. Ulrich, the government has agreed it will not bring any
17 other charges against you for the conduct that is described
18 in the Statement of Offense; it will dismiss the remaining
19 charges against you at the time of sentencing; and it will
20 not bring any other charges against you for any non-violent
21 criminal offense in violation of federal or D.C. law that
22 was committed within the District of Columbia before you
23 executed the agreement and about which the
24 U.S. Attorney's Office was made aware by your -- before you
25 executed the agreement; however, they are reserving the

1 right to prosecute you for any crimes of violence. Do you
2 understand those terms, sir?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Let's talk about another important
5 term. You have agreed, as part of this plea, sir, to
6 provide substantial assistance to the United States;
7 is that right, Mr. Ulrich?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: You understand that what that will
10 require of you, among other things, Mr. Ulrich, is if the
11 United States requests it, that you will be required to
12 testify before a grand jury and at trial. Is that
13 understood?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: You also will be required to sit for
16 interviews with the government if they make that request?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And for such interviews, you have
19 waived your right to counsel, although you are reserving the
20 right to have your counsel present, if you wish, for those
21 interviews. Is that understood?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Do you understand that any statements
24 you make as part of your cooperation with the government can
25 be used against you at sentencing?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: You also will be required to turn over
3 any evidence of crimes, contraband, and proceeds of any
4 crime and any assets that are traceable to such crimes. Is
5 that understood?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And you also will be required to
8 provide a full and complete accounting of your financial
9 assets if requested?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. Let's talk then about the
12 sentencing terms, Mr. Ulrich. The maximum -- we'll first go
13 over the maximum penalties associated with each charge and
14 then we'll talk about how the Sentencing Guidelines work,
15 okay?

16 THE DEFENDANT: Okay, Your Honor.

17 THE COURT: All right.

18 On the count of seditious conspiracy, Mr. Ulrich,
19 do you understand that the maximum penalty is 20 years in
20 prison?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And a fine of \$250,000?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: A term of supervised release of not
25 more than three years?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: You will be obligated to pay an order
3 of restitution?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: As well as any interest or penalties
6 on any fine or restitution that is not timely paid?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And you will be required to pay a \$100
9 special assessment to the Court with respect to that count.
10 Is that understood?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right.

13 Mr. Ulrich, as to the other count, this is
14 Count 3, obstruction of an official proceeding, in violation
15 of 18 U.S. Code 1512(c)(2), Mr. Ulrich, do you need a
16 moment? Are you okay, sir?

17 THE DEFENDANT: I'm all right.

18 THE COURT: Are you sure?

19 THE DEFENDANT: It's not going to get any easier.

20 THE COURT: All right. Well, look, if you need a
21 pause in the proceedings, just let me know or let Mr. Balbo
22 know, okay?

23 So the maximum penalty for the charge of
24 obstruction of an official proceeding is 20 years in prison.
25 Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Maximum fine of \$250,000?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: A term of supervised release of not
5 more than three years?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: You would be obligated to pay an order
8 of restitution?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: As well as interest and penalties on
11 any fine or restitution that's not timely paid?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And then finally, Mr. Ulrich, you
14 would be required to pay a second \$100 Special Assessment,
15 for a total of \$200 to the Court. Is that understood?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right.

18 Now, Mr. Ulrich, those are the maximum penalties
19 that are associated with these two offenses. What I'm now
20 going to go over are the Sentencing Guidelines, Mr. Ulrich.
21 Have you had a chance to talk to or have you discussed with
22 your lawyer Sentencing Guidelines and how they might apply
23 in this case?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: All right.

1 Now, I'm required to consider the Sentencing
2 Guidelines as part of your sentencing, so I'm going to go
3 over how they are expected to operate in this case.

4 The Sentencing Guidelines, Mr. Ulrich, are based
5 upon three factors: Your criminal history, the offense, or
6 in this case, the offenses to which you are pleading, as
7 well as the facts and circumstances of those offenses, and
8 so I'm going to go over that now.

9 With respect to your criminal history, you have --
10 the parties have estimated that you have zero criminal
11 history points based upon about no prior criminal offenses.
12 Is that your understanding, sir?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Mr. Ulrich, that is, at this point,
15 just an estimation. What it means is that the
16 Probation Office, before you are sentenced, will prepare a
17 report for me. That report, among other things, will do a
18 complete history of you, and that will include any prior
19 criminal convictions that you may have. If for whatever
20 reason, it turns out that you have more criminal history
21 points than zero, that would not then be a basis for you to
22 withdraw your plea. Is that understood?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right. Let's talk then about how
25 the offense level will work in this case. The offense level

1 is essentially a number that will then correspond to your
2 criminal history for a Guidelines Range.

3 For the seditious conspiracy charge, you have
4 agreed that the Base Offense Level for that offense is a 14;
5 that 8 levels will apply for causing or threatening injury
6 or damage; an additional three levels will apply for
7 substantial interference with justice; an additional two
8 levels will apply for extensive scope, planning, or
9 preparation; and then an additional two levels for
10 obstruction of documents -- or obstruction -- and I guess in
11 this case it was electronic records, correct, Mr. Edwards?

12 MR. EDWARDS: Yes, Your Honor, that's correct.

13 THE COURT: Okay.

14 And that gets us to an adjusted offense level for
15 the charge of seditious conspiracy of 29. Do you understand
16 that, sir?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. On the charge of
19 obstruction of an official proceeding, it's the same
20 calculation, sir: A base offense level of 14; an
21 enhancement of 8 for causing or threatening injury or
22 damage; an enhancement of three levels for substantial
23 interference with justice; a two-level enhancement for
24 extensive scope, planning, or preparation; an additional two
25 levels for obstruction of electronic evidence or material,

1 for a total adjusted offense level of 29. Do you understand
2 that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: All right.

5 Now, the way the Guidelines work, sir, is that
6 because those adjusted offense levels are the same, that
7 will be the total -- that'll be the offense level that we
8 use, the combined offense level in this case. That will be
9 reduced by three levels because you're accepting
10 responsibility, for a total offense level of 26. Is that
11 understood, sir?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right.

14 Now, Mr. Ulrich, I want to make sure that you
15 understand that that 26 number at this point is just an
16 estimate, because, as part of the Probation Office's work in
17 the Presentence Report, they will make a recommendation to
18 me as to what the offense level should be in this case.
19 Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And if it turns out that they make a
22 higher recommendation than 26 and if I conclude that the
23 Base Offense Level is -- total offense level is greater than
24 26, that would not be basis to withdraw your plea. Is that
25 understood?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right.

3 Now, based then upon a criminal history points of
4 zero, Criminal History Category I and a total offense level
5 26, do you understand that your estimated Guidelines Range
6 is 63 months to 78 months of incarceration, sir?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: As well as a fine in the range of
9 25,000 to \$250,000?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Now, Mr. Ulrich, just to be clear,
12 just in the same way that your criminal history and the
13 offense level are estimates at this point, so, too, is the
14 Guidelines Range, and the Probation Office's report will
15 help me determine what the Guidelines Range is; and if turns
16 out that I believe the Guidelines Range is greater than 63
17 to 78 months, that would not be a basis to withdraw your
18 plea. Is that understood?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Now, as part of this plea, Mr. Ulrich,
21 you have agreed not to ask for a different offense level;
22 that is, the offense level that you've agreed to is 26, and
23 you've agreed not to ask for a lesser offense level than
24 that. Is that understood?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And, at the same time, you have,
2 however, reserved the right, as has the government, to ask
3 for a different Criminal History score. Is that understood?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: All right.

6 Now, also, both parties in this case have reserved
7 the right to ask for both an upward and a downward departure
8 of the estimated Guidelines. What that means, Mr. Ulrich,
9 is that say, for example, the Guidelines turn out to be 63
10 to 78 months. You have reserved the right, as has the
11 government, to ask for a lower Guidelines, that is, a lesser
12 Guidelines than 63 to 78 months. Do you understand that?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And the government has also reserved
15 the right to ask for an upward departure, which would mean a
16 Guidelines Range of greater than 63 to 78 months?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right.

19 Now, one of the important potential departures
20 that is the subject of this plea agreement is a departure
21 that I'm just going to call a 5K1.1 departure; that is, for
22 substantial cooperation, Mr. Ulrich.

23 You understand that if you do not fully cooperate
24 with the government, the government would be relieved of its
25 obligation to make a motion for a reduction in the

1 Guidelines Range under 5K1.1. Do you understand that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And this decision about whether to ask
4 for a reduction of the Guidelines based upon substantial
5 cooperation, that decision is left entirely to the
6 government. Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And, for example, Mr. Ulrich, if you
9 think you've provided substantial cooperation but the
10 government says he hasn't, you're not going to be able to
11 come to me and try to convince me that the government is
12 wrong. Do you understand that?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And if the government declines to move
15 for a reduction under 5K1.1, that would not be a basis to
16 withdraw your plea. Is that understood, sir?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Now, ultimately, though, the decision
19 about whether to grant the 5K1.1 motion, that is, to reduce
20 the Guidelines Range based on substantial cooperation, the
21 decision as to whether the grant that motion, that actually
22 is my decision, okay? And if for whatever reason,
23 Mr. Ulrich, I don't grant the motion, do you understand that
24 that would not be a basis to withdraw your plea?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Okay.

2 All right. Now, you understand, Mr. Ulrich, that
3 at this point, the government has not made any promise to
4 you about what sentence it will seek? Do you understand
5 that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And so do you understand, Mr. Ulrich,
8 that the government here in this case can ask for a sentence
9 that's below the Guidelines, within the Guidelines, or even
10 above the Guidelines, up to the statutory maximum penalty?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay.

13 Do you need a moment, Mr. Ulrich?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: So, Mr. Ulrich, the Guidelines are
16 just one consideration at the time of sentencing. In
17 addition to the Guidelines, I'm required under the law to
18 consider a whole host of other factors in considering your
19 sentencing.

20 What will happen prior to sentencing is that
21 I will --

22 MR. BALBO: Your Honor, we lost audio.

23 THE COURT: I'm sorry, Mr. Balbo, what was that?

24 MR. BALBO: I can't hear you. I cannot hear you,
25 Your Honor.

1 THE COURT: Did you lose me for some reason?

2 Mr. Edwards, can you hear me?

3 MR. BALBO: I can hear you. I think it was on my
4 end.

5 THE COURT: All right.

6 So I was saying, Mr. Ulrich, that in addition to
7 the Guidelines, I've got to consider a whole host of other
8 statutory factors. Those factors include things like your
9 family history, your education, your professional history,
10 any good deeds, your community service, that sort of thing,
11 anything that you think would be relevant for me to consider
12 at the time of sentencing. Do you understand that, sir?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And what will happen, Mr. Ulrich, is
15 that the Probation Office will come in and interview you
16 prior to sentencing and they will ask you a whole host of
17 factors -- or a whole host of things about your background
18 that I will be able to consider. Is that understood?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: At the same time, Mr. Ulrich, the
21 government has reserved the right to let me know whatever
22 they think might be relevant to sentencing, and that could
23 include things such as your conduct in this case, as well as
24 the level and degree of cooperation that you've provided?

25 THE DEFENDANT: I understand, Your Honor.

1 THE COURT: All right.

2 Now, Mr. Ulrich, has anybody promised you what my
3 sentence will be in this case, sir?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: That's good, because nobody can,
6 Mr. Ulrich, because ultimately the sentence in this case
7 is -- the decision about the sentence in this case is mine
8 and mine alone. And what that means then, Mr. Ulrich, is
9 that I can sentence you anywhere under the Guidelines Range,
10 within the Guidelines Range, or above the Guidelines Range,
11 up to the statutory maximum penalties. Do you understand
12 that, sir?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Now, Mr. Ulrich, if for whatever
15 reason at the end of the day you're not happy with whatever
16 sentence I impose, that would not be a ground on which you
17 could withdraw your plea?

18 THE DEFENDANT: I understand, Your Honor.

19 THE COURT: Let's turn to another aspect of this
20 agreement, Mr. Ulrich, and that is restitution.

21 Restitution is an amount of money that you will be
22 required to pay, that is, to make the victim whole in this
23 case. The victim in this case is essentially the
24 U.S. Government. As part of this plea agreement, you have
25 acknowledged that the events of January 6th caused nearly

1 \$1.5 million in damages to the U.S. Capitol Building.

2 Do you understand that, sir?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: As part of this agreement, you have
5 agreed to pay \$2,000 in restitution. Is that understood?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: All right.

8 Now, let's talk about the offense conduct; that
9 is, the conduct that you have agreed to, Mr. Ulrich, that is
10 the basis for your plea.

11 I'm going to ask the Courtroom Deputy, if he is
12 still with us -- I'm sure he is --

13 COURTROOM DEPUTY: I'm still here.

14 THE COURT: -- he is just off screen.

15 Can I ask you to bring up the Statement of Offense
16 document, please.

17 COURTROOM DEPUTY: Absolutely, Your Honor.

18 THE COURT: Okay.

19 Mr. Ulrich, I'm going to ask the Courtroom Deputy
20 to simply scroll through this document called Statement of
21 Offense. And it's captioned with this case. Just ask you
22 to take a look at that, please.

23 Okay. Mr. Ulrich, this is a 14-page document
24 titled Statement of Offense. Is this the Statement of
25 Offense document that is associated with your plea

1 agreement, sir?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And on page 14, is that your
4 signature, Mr. Ulrich?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And have you read this document or
7 have you had it read to you, sir?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you have any questions about what
10 this document states, sir?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Okay.

13 Before we proceed with the rest of the Statement
14 of Offense document, I'm going to ask you to listen to
15 Mr. Edwards, the prosecutor.

16 And, Mr. Edwards, I'm going ask you to state the
17 elements of each of the offense.

18 Mr. Ulrich, after Mr. Edwards states the elements,
19 I'm going ask you whether you understand the elements of
20 each of the offenses to which you're pleading guilty.

21 THE DEFENDANT: Okay, Your Honor.

22 MR. EDWARDS: Thank you, Your Honor.

23 Under Count 1 for 18 United States Code Section
24 2384, the government would need to prove first that the
25 defendant and one or more persons conspired or agreed with

1 one another with a goal of, by force, preventing, hindering,
2 or delaying the execution of any law of the United States.

3 Second, that the defendant and one or more persons
4 in the conspiracy, formed the conspiracy in the United
5 States.

6 Third, that the defendant joined in that agreement
7 with awareness of its unlawful goals.

8 I'm happy to move to Count 3.

9 THE COURT: Hang on one second.

10 Mr. Ulrich, so those are the elements of Count 1,
11 the seditious conspiracy count. Do you understand those
12 elements, sir?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: All right.

15 And, Mr. Edwards, if you would recite the elements
16 of Count 3.

17 MR. EDWARDS: Yes, Your Honor.

18 Under Count 3, obstructing an official proceeding,
19 in violation of 18 United States Code Section 1512(c)(2),
20 the government would need to prove beyond a reasonable doubt
21 that the defendant obstructed, influenced, or impeded any
22 official proceeding, and that the defendant acted corruptly
23 in doing so.

24 THE COURT: Okay. Mr. Ulrich, those are the
25 elements for the charge of obstruction of an official

1 proceeding. Do you understand those elements, sir?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: All right.

4 Then let's turn to the Statement of Offense
5 document.

6 Do you have that in front of you, Mr. Ulrich?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: All right.

9 Let me just ask, first and foremost as a general
10 matter, does this document fairly and accurately describe
11 the conduct that is the basis for your plea agreement, sir?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right.

14 So let me just ask Mr. Ulrich about some of the
15 aspects of this that you've agreed to. I'm not going to go
16 over everything in its entirety but some of the paragraphs.

17 If you'd turn first to paragraph 3, and it states
18 that, "After the Presidential election, Brian Ulrich, Elmer
19 Stewart Rhodes III, and others conspired to oppose by force
20 the lawful transfer of Presidential power."

21 Do you agree with that statement, that you agreed
22 with Mr. Rhodes and others to oppose by force the lawful
23 transfer of Presidential power?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Then paragraph 4 says that you "Agreed

1 to take part in a plan developed by Mr. Rhodes to stop the
2 lawful transfer of Presidential power by January 20th of
3 2021 by deploying force to prevent, hinder, and delay the
4 execution of the laws of the United States governing the
5 transfer of Presidential power."

6 Did you do that, sir; that is, agree with
7 Mr. Rhodes and develop a plan to stop the lawful transfer of
8 Presidential power by force by January 20th, 2021?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And then paragraph 5, it states that
11 you conspired to use force, and did, in fact, use force, in
12 order to prevent, hinder, and delay the execution of the
13 laws governing the transfer of power.

14 Is that a statement with which you agree,
15 Mr. Ulrich?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And then if you would just turn to
18 page 10, paragraph 42 states, "In taking such actions," and
19 it's describing the actions that you took on January the
20 6th, it says, "In taking such actions, Mr. Ulrich intended
21 to influence or affect the conduct of the United States
22 Government and to retaliate against the United States
23 Government."

24 Is that an accurate statement, sir, that you
25 intended to influence or affect the conduct of the

1 United States Government and to retaliate against the
2 United States Government?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And that you accomplished this by
5 intimidating and coercing government personnel who were
6 participating in or supporting the congressional proceeding,
7 including members of Congress, congressional staff, and law
8 enforcement officers with the Capitol Police and the
9 Metropolitan Police Department? Is that accurate, sir?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right.

12 So let's move on then, Mr. Ulrich. Let's talk
13 next about the rights that you are giving up by entering
14 this plea, Mr. Ulrich.

15 First and foremost, Mr. Ulrich, I want to make
16 sure you understand that you are not required to plead
17 guilty, sir, and that you have the right to go to trial on
18 the charges if you wish. Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Now, Mr. Ulrich, if you went trial,
21 do you understand that you would be presumed innocent, and
22 it would be the government's burden to prove your guilt
23 beyond a reasonable doubt and to convince 12 jurors
24 unanimously to convict you?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: By entering a plea, however,
2 Mr. Ulrich, you're giving up your right to be presumed
3 innocent, as well as giving up your right to have the
4 government bear the burden of proving your guilt beyond a
5 reasonable doubt and convincing 12 jurors to convict you
6 unanimously. Is that understood?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: You would have the right to have a
9 lawyer with you throughout trial, Mr. Ulrich; that would be
10 Mr. Balbo. Mr. Balbo, among other things, would make
11 objections, he would cross-examine government witnesses, he
12 would make motions. Do you understand that, sir?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: By entering this plea, however,
15 Mr. Ulrich, you are giving up your right to have a lawyer
16 represent you at trial?

17 THE DEFENDANT: I understand, Your Honor.

18 THE COURT: You also would have the right to
19 present a defense, Mr. Ulrich; that is, you, with the
20 assistance of your lawyer, could call witnesses on your own
21 behalf or present any other evidence that you think the
22 government -- excuse me, that the jury would find to be
23 useful in determining whether you were guilty of these
24 offenses. Do you understand that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: By entering a plea, however, sir,
2 you're giving up your right to present a defense at trial.
3 Is that understood?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Now, you also, at trial, Mr. Ulrich,
6 would have the right to testify. That means you could get
7 up on the witness stand and explain to the ladies and
8 gentlemen of the jury why you should be found not guilty of
9 these offenses. Do you understand that, sir?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: You also, however, would have the
12 right to remain silent, because nobody could compel you to
13 testify, Mr. Ulrich. And if you decided to remain silent,
14 I would instruct the jury that decision could not be used
15 against you. Is that understood, sir?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: But because you are pleading guilty,
18 Mr. Ulrich, there will be no trial, and, therefore, you're
19 giving up your right to testify at trial, as well as giving
20 up your right to remain silent at trial and have the jury
21 instructed that that decision could not be held against you?

22 THE DEFENDANT: I understand.

23 THE COURT: Okay.

24 Now, if you are found guilty following a trial,
25 Mr. Ulrich, you would have the right to an appeal. There is

1 a higher court called the D.C. Circuit. The D.C. Circuit
2 would review the entire record of the proceedings and they
3 would make a determination of whether I made some kind of
4 mistake that would entitle you to a new trial or some other
5 relief. Do you understand that, stir?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And if for purposes of such an appeal
8 you could not afford a lawyer, do you understand that the
9 Court of Appeals would appoint a lawyer for you?

10 THE DEFENDANT: I understand.

11 THE COURT: By entering this plea,
12 do you understand you're giving up your right to a trial,
13 Mr. Ulrich, as well as the right to have a lawyer appointed
14 for such an appeal. Following a trial, you'd be giving up
15 your right to an appointment of a lawyer if you could not
16 afford one?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right.

19 Now, as part of this plea, you are giving up your
20 right to appeal a couple of other things. One, you're
21 agreeing --

22 MR. BALBO: One moment. I'm having difficulty
23 with the sound once again.

24 THE COURT: Okay.

25 MR. BALBO: I'm not sure if it's the connection,

1 Judge.

2 THE COURT: How about now?

3 MR. BALBO: All right. Your Honor, I think we've
4 got it fixed.

5 THE COURT: Okay. Can you hear me?

6 MR. BALBO: Yes, sir.

7 THE COURT: I just want make sure, Mr. Ulrich:
8 Any difficulty hearing any of the questions I've asked you
9 so far?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: All right.

12 As part of this plea, Mr. Ulrich, you're also
13 giving up your right to make a couple of arguments; one is
14 that the statutes to which you are pleading are
15 unconstitutional. Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: As well as that the conduct to which
18 you are admitting does not fall within the scope of the
19 statute. Is that understood?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Now, Mr. Ulrich, I just want make sure
22 you understand, sir, that there are some motions pending
23 before me that have been filed in which arguments have been
24 made about why certain counts against you and others should
25 be dismissed. Do you understand that those motions are

1 pending before me?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay.

4 And I just want to make sure you understand.

5 So the motions pending that are asking me to dismiss certain
6 counts of the indictment, and do you understand I haven't
7 yet ruled on those motions. Is that understood, Mr. Ulrich?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And so that means you're giving up
10 your right to have a decision made by me before you enter
11 this plea. Is that understood, sir?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Okay.

14 Now, Mr. Ulrich, you also would have the right --
15 you also have the right to appeal your sentence. Whatever
16 sentence I impose, you could appeal it ordinarily. What
17 that means is that at sentencing, I might make certain
18 decisions about legal issues, the way in which I conduct the
19 sentencing, and even the sentence itself. All of those
20 things could be the subject of an appeal. Do you understand
21 that, sir?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: By entering this plea, however, sir,
24 you are giving up your right to appeal your sentence, with a
25 couple of exceptions. You are reserving the right to appeal

1 above the -- excuse me, a sentence that's above the
2 statutory maximum penalty, as well as a sentence that's
3 above the Guidelines Range. You would be reserving the
4 right as to those two grounds. Do you understand that?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: In addition, Mr. Ulrich, you would
7 be -- you are reserving your right to raise on appeal that
8 you have not received effective assistance of counsel from
9 your lawyer either in connection with your plea or in
10 connection with sentencing. Is that understood, sir?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right.

13 Now, in addition, Mr. Ulrich -- we're almost
14 getting to the end -- you're giving up your right to file
15 what's called a collateral attack of your conviction and
16 your sentence. That is a motion that you could file after
17 you are sentenced in this case in which you argue that
18 either something was wrong that happened in these
19 proceedings or some other reason that you might think should
20 be the basis for withdrawing or having your conviction and
21 sentence vacated. Do you understand that, sir?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: By entering this plea, you're waiving
24 your right to file a collateral attack, with a couple of
25 exceptions. You still are reserving the right to file a

1 collateral attack based upon newly discovered evidence or
2 based on the ground that you've not received effective
3 assistance from your counsel either in connection with the
4 plea or sentencing. Is that understood, sir?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right.

7 Finally, Mr. Ulrich, if I accept your plea, do you
8 understand that you may be deprived of valuable civil
9 rights, such as the right to vote, the right to hold certain
10 jobs, the right to serve on a jury, and the right to possess
11 a firearm, sir?

12 THE DEFENDANT: I understand, Your Honor.

13 THE COURT: All right.

14 Understanding then all the rights you are giving
15 up by pleading guilty, sir; that is, your trial rights, your
16 appeal rights, collateral-attack rights, and your civil
17 rights, do you still wish to plead guilty?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Any questions, Mr. Ulrich, about what
20 rights you're giving up or any other questions about this
21 plea of guilty, sir?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Are you pleading guilty because you
24 are, in fact, guilty, Mr. Ulrich?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And has anybody forced you, threatened
2 you, or coerced you in any way to get you to plead guilty,
3 sir?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: All right.

6 Then on Count 1, which charges you with seditious
7 conspiracy, in violation of 18 United States Code 2384, how
8 do you plead, sir?

9 THE DEFENDANT: Guilty, Your Honor.

10 THE COURT: And on Count 3, obstruction of an
11 official proceeding, in violation of 18 United States Code
12 1512(c)(2), how do you plead, Mr. Ulrich?

13 THE DEFENDANT: Guilty, Your Honor.

14 THE COURT: Are there any questions of Mr. Ulrich
15 that I should have asked that I did not ask, Mr. Edwards?

16 MR. EDWARDS: Not from the government, Your Honor.

17 THE COURT: Mr. Balbo.

18 MR. BALBO: No, Your Honor.

19 THE COURT: All right.

20 I'm then satisfied that Mr. Ulrich understands his
21 rights and what he's waiving and agreeing to plead guilty.
22 I find that he's entering this plea voluntarily. I find
23 that there's a factual basis for his plea, and, therefore, I
24 accept Mr. Ulrich's plea and find him guilty of Count 1,
25 which charges him with conspiracy, in violation of

1 18 United States Code 2384, that is, seditious conspiracy;
2 and Count 3, which charges him with obstruction of an
3 official proceeding, in violation of 18 United States Code
4 1512(c)(2).

5 All right. So I assume, Mr. Edwards, Mr. Balbo,
6 you want to hold off on sentencing in this case?

7 MR. EDWARDS: Yes, Your Honor.

8 Similar to previous cooperators in this case, we'd
9 request that we defer sentencing. And relatedly, we'd
10 request that we just defer Probation's process for
11 generating a PSR and interviews.

12 THE COURT: I'll hold off on ordering a
13 Presentence Report.

14 But at least while we're together, Mr. Ulrich, let
15 me just make sure you know and are aware. We talked earlier
16 about a Presentence Report that'll be prepared by the
17 Probation Office.

18 That Probation Office, at some point, will come
19 interview you. During that interview, you can have your
20 lawyer with you. Additionally, before the sentence is final
21 and presented to me, you'll have the opportunity to review
22 that report. Do you understand that, sir?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: You also will have the ability and the
25 right to present anything you'd like for me to consider at

1 sentencing, and you can submit those things to me through
2 your counsel. Is that understood?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: All right.

5 And, finally, Mr. Ulrich, at sentencing, you will
6 have the opportunity to address the Court if you wish.

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Okay.

9 All right. So with that, is there anything else
10 we need to take up before we adjourn?

11 MR. EDWARDS: Your Honor, two additional items,
12 hopefully, brief.

13 One, the parties submitted a signed waiver of jury
14 trial. I know that we discussed at length his waiving that
15 right. But just in case, I wanted to make sure the Court
16 received that document to docket.

17 THE COURT: Yes, we should have it. And my
18 practice is usually to sign those after we go through the
19 plea colloquy.

20 MR. EDWARDS: Okay.

21 And then second, Your Honor, we just ask -- we
22 know Your Honor mentioned the pretrial motions that are
23 still pending. We just request on the record whether
24 Mr. Ulrich is planning to withdraw the motions that he's
25 filed or joined now that the plea has been entered?

1 THE COURT: Okay.

2 Mr. Balbo.

3 MR. BALBO: We will withdraw, Your Honor.

4 THE COURT: Okay.

5 All right. So Mr. Ulrich is thus withdrawing his
6 joining or filing of the motions that are before the Court
7 with respect to the separate -- or with respect to the
8 indictment.

9 Okay. Anything else we need to take up,
10 gentlemen?

11 MR. EDWARDS: No, Your Honor.

12 MR. BALBO: No, Your Honor.

13 THE COURT: So Mr. Ulrich will remain in the
14 community on the same conditions as he is presently.

15 Is there any request for a change in conditions?

16 MR. EDWARDS: Not from the government, Your Honor.

17 MR. BALBO: Not at this time, Your Honor.

18 THE COURT: All right.

19 Thank you, everybody. We will see you all soon.

20 Mr. Ulrich, be well, okay?

21 THE DEFENDANT: Thank you, Your Honor.

22 (Proceedings concluded at 1:15 p.m.)

23

24

25

C E R T I F I C A T E

I, William P. Zaremba, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-titled matter.

Please note: This hearing occurred during the COVID-19 pandemic and is therefore subject to the technological limitations of court reporting remotely.

Date: October 10, 2022



William P. Zaremba, RMR, CRR

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