

In the Supreme Court of the United States

No. 24 _____

MUNSON P. HUNTER, III, APPLICANT

v.

UNITED STATES OF AMERICA

**APPLICATION FOR AN EXTENSION OF TIME
TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

To the Honorable Samuel A. Alito, Jr.
Associate Justice of the Supreme Court of the United States
and Circuit Justice for the Fifth Circuit

Pursuant to Rules 13.5, 30.1, and 30.2 of this Court, counsel for Munson P. Hunter, III respectfully requests a 30-day extension of time, to and including Monday, April 7, 2025, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case. Unless extended, the time for filing a petition for a writ of certiorari will expire on Thursday, March 6, 2025. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

1. This case presents two important, often-litigated questions implicating criminal defendants' rights: (1) whether a defendant who agreed to waive his right to appeal may nonetheless challenge his sentence on constitutional grounds other than ineffective assistance of counsel or that the sentence exceeds the statutory maximum; and (2) whether the

sentencing judge’s statement that the defendant has the right to appeal overrides an otherwise valid appeal waiver.

These questions implicate two entrenched, acknowledged circuit splits over appeal waivers. On the first circuit split, the Fifth Circuit “recognize[s] only two exceptions” to appeal waivers: “ineffective assistance of counsel” and “sentences exceeding the statutory maximum.” *United States v. Barnes*, 953 F.3d 383, 388-89 (5th Cir. 2020). The Sixth, Seventh, and Eleventh Circuits carve out just one additional exception: for sentences or waivers based on constitutionally impermissible factors like race. See *Portis v. United States*, 33 F.4th 331, 335 (6th Cir. 2022); *Oliver v. United States*, 951 F.3d 841, 844 (7th Cir. 2020); *King v. United States*, 41 F.4th 1363, 1367 (11th Cir. 2022). On the other hand, the Ninth Circuit holds that appeal waivers are unenforceable when “the defendant raises a challenge that the sentence violates the Constitution,” as long as the appeal “directly challenges the sentence itself” and is “not based on any underlying constitutional right that was expressly and specifically waived by the appeal waiver.” *United States v. Wells*, 29 F.4th 580, 587 (9th Cir. 2022). The Fourth Circuit permits challenges to the constitutionality of a sentence where “alleg[ing] the violation of a fundamental constitutional right that was firmly established at the time of his sentencing.” *United States v. Carter*, 87 F.4th 217, 226 (4th Cir. 2023). And the First, Second, Third, Eighth, Tenth, and D.C. Circuits at times consider whether dismissing the appeal would work “a miscarriage of justice” or contravene important public interests.¹

¹ *United States v. Boudreau*, 58 F.4th 26, 33 (1st Cir. 2023), *cert. denied*, 144 S. Ct. 229 (2023); *United States v. Elliott*, No. 20-3824-CR, 2022 WL 4371864, at *1 (2d Cir. Sept. 22, 2022) (citing *United States v. Riggi*, 649 F.3d 143, 148 (2d Cir. 2011)); *United States v.*

On the second circuit split, the Ninth Circuit has long deemed appeal waivers unenforceable when the “sentencing judge ... t[ells] [the defendant] that he could appeal his sentence and the government fail[s] to object.” *United States v. Felix*, 561 F.3d 1036, 1041 (9th Cir. 2009) (citing *United States v. Buchanan*, 59 F.3d 914, 917-18 (9th Cir. 1995)). The First, Second, Fifth, Sixth, Seventh, Eighth, and Tenth Circuits have expressly disagreed with the Ninth Circuit.²

2. Per a plea agreement, applicant Munson P. Hunter, III pleaded guilty to one count of wire fraud on February 14, 2024. The plea agreement provided that Mr. Hunter “waives the right to appeal or collaterally attack [his] conviction and sentence, except ... to raise a claim of ineffective assistance of counsel.”

Grimes, 739 F.3d 125, 128-30 (3d Cir. 2014) (citation omitted); *United States v. Andis*, 333 F.3d 886, 891 (8th Cir. 2003) (en banc); *United States v. Holzer*, 32 F.4th 875, 881, 886-87 (10th Cir. 2022); *United States v. Adams*, 780 F.3d 1182, 1184 (D.C. Cir. 2015).

² See *United States v. Teeter*, 257 F.3d 14, 25 (1st Cir. 2001) (“Other courts have disagreed [with the Ninth Circuit], and so do we.”) (citations omitted); *United States v. Fisher*, 232 F.3d 301, 304 (2d Cir. 2000) (“We join the Fifth, Seventh, Eighth, and Tenth Circuits in holding that an otherwise enforceable waiver of appellate rights is not rendered ineffective by a district judge’s post-sentencing advice suggesting, or even stating, that the defendant may appeal.”); *United States v. Gonzalez*, 259 F.3d 355, 358 (5th Cir. 2001) (“[A]t sentencing, the district court erroneously advised Gonzalez that he had the right to appeal his sentence. Nevertheless, any confusion at that time has no effect on the validity of the waiver.”); *United States v. Fleming*, 239 F.3d 761, 765 (6th Cir. 2001) (“[W]e expressly decline to adopt the Ninth Circuit’s rule.”); *United States v. Ogden*, 102 F.3d 887, 888 (7th Cir. 1996) (“[W]ill a routine comment by the court at the conclusion of the sentencing hearing to the effect that the defendant has the right to appeal override an otherwise valid waiver, or will the defendant be bound to his bargain? ... We think that [the defendant] has read too much into the court’s statement.”); *United States v. Michelsen*, 141 F.3d 867, 872 (8th Cir. 1998) (“[W]e decline to adopt the reasoning of [the Ninth Circuit].”); *United States v. Atterberry*, 144 F.3d 1299, 1301 (10th Cir. 1998) (“We are more persuaded by the circuits that have held statements made by a judge during sentencing concerning the right to appeal do not act to negate written waivers of that right.”).

Mr. Hunter's sentencing hearing was held a few months later. There, Mr. Hunter objected to one proposed special condition of supervised release: that he "must take all mental-health medications that are prescribed by your treating physician." The sentencing judge noted Mr. Hunter's objection but still imposed the condition when rendering Mr. Hunter's sentence. The sentencing judge then told Mr. Hunter: "You have the right to appeal." The government did not object.

Mr. Hunter appealed, arguing the mandatory medication condition infringes on his due process liberty interest in being free of involuntary medication. The government's sole argument in opposition was that Mr. Hunter waived his right to appeal.

3. On December 6, 2024, the U.S. Court of Appeals for the Fifth Circuit dismissed Mr. Hunter's claim, holding that "the appeal waiver bars Hunter's appeal[s]." *United States v. Hunter*, 2024 WL 5003582, at *1 (5th Cir. Dec. 6, 2024) (per curiam). The court "rejected Hunter's suggestion" that his due process challenge was exempted from the appeal waiver. *Id.* (citing *United States v. Barnes*, 953 F.3d at 389). The court also held that "the district court's statement at the sentencing hearing that Hunter had a right to appeal did not impact the validity of the appeal waiver." *Id.* (citing *United States v. Gonzalez*, 259 F.3d 355, 358 (5th Cir. 2001)).

4. Counsel for applicant respectfully requests a 30-day extension of time to and including Monday, April 7, 2025, within which to file a petition for a writ of certiorari. Under-signed counsel did not represent the applicant below and was retained after the Fifth Circuit's decision. An extension would allow counsel time to analyze the issues presented, review the record, and prepare the petition for filing.

The undersigned counsel also has several proximate deadlines between now and the current filing deadline, including: a February 10, 2025 reply brief deadline in *Philip Morris USA Inc. v. U.S. Food & Drug Administration*, No. 2:24-cv-00143 (S.D. Ga.); a February 24, 2025 opening brief deadline in *Siren Retail Corp. v. NLRB*, Nos. 24-6926, 24-7342 (9th Cir.); a February 24, 2025 opening brief deadline in *Starbucks Corp. v. NLRB*, No. 24-60500 (5th Cir.); a February 28, 2025 opening brief deadline in *Starbucks Corp v. NLRB*, No. 24-60516 (5th Cir.); and oral argument in *Cantero v. Bank of America, NA* and *Hymes v. Bank of America, NA*, Nos. 21-400, 21-403 (2d Cir.), which is to occur on March 3, 2025.

Additionally, other trial and appellate co-counsel, who have their own prior commitments, will also require time to review the draft petition.

Respectfully submitted,

/s/ Lisa S. Blatt

LISA S. BLATT

Counsel of Record

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FEBRUARY 7, 2025

In the Supreme Court of the United States

No. 24 _____

MUNSON P. HUNTER, III, APPLICANT

v.

UNITED STATES OF AMERICA

CERTIFICATE OF SERVICE

I, Lisa S. Blatt, counsel for applicant Munson P. Hunter, III and a member of the Bar of this Court, certify that, on February 7, 2025, one copy of the Application for an Extension of Time Within Which to File a Petition for a Writ of Certiorari in the above-captioned case was sent, by third-party commercial carrier for delivery overnight and via electronic mail, to the following counsel:

Solicitor General of the United States
Department of Justice
950 Pennsylvania Ave., N.W.
Room 5616
Washington, DC 20530-0001

I further certify that all parties required to be served have been served.

/s/ Lisa S. Blatt _____

LISA S. BLATT

APPENDIX

INDEX TO THE APPENDIX

Opinion of the United States Court of Appeals for the Fifth Circuit,
Dec. 6, 2024..... 1a

Plea Agreement,
February 14, 2024..... 4a

Transcript of Sentencing Proceedings,
May 10, 2024..... 15a

Judgment in a Criminal Case,
May 13, 2024..... 37a

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

December 6, 2024

Lyle W. Cayce
Clerk

No. 24-20211
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MUNSON P. HUNTER, III,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:23-CR-85-1

Before DAVIS, SMITH, and HIGGINSON, *Circuit Judges.*

PER CURIAM:*

Munson P. Hunter, III pleaded guilty to wire fraud affecting a financial institution. The district court sentenced him to 51 months in prison and three years of supervised release.

On appeal, Hunter argues that the condition of supervised release requiring him to take mental health medication prescribed by his physician is

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 24-20211

not supported by the record and infringes on his fundamental due process liberty interest. Hunter also claims that the written condition is more burdensome than and conflicts with the oral pronouncement in that it fails to specify that the court may intervene to resolve any dispute between Hunter and the probation officer regarding the medication. The Government invokes the appeal waiver in the plea agreement, asserting that these claims are barred by the waiver.

We apply de novo review when considering whether an appeal waiver bars an appeal. *United States v. Keele*, 755 F.3d 752, 754 (5th Cir. 2014). In this case, the appeal waiver bars Hunter's appeal of the medication condition and the purported conflict between the oral pronouncement and the written judgment as to that condition. *See United States v. Higgins*, 739 F.3d 733, 738-39 (5th Cir. 2014); *see also id.* at 739 (observing that oral and written sentences "may differ in content if they do not conflict but one merely addresses ambiguities in the other").

Contrary to Hunter's assertions, the district court's statement at the sentencing hearing that Hunter had a right to appeal did not impact the validity of the appeal waiver. *See United States v. Gonzalez*, 259 F.3d 355, 358 (5th Cir. 2001). We have also rejected Hunter's suggestion that the right to challenge an unconstitutional sentence cannot be waived. *See United States v. Barnes*, 953 F.3d 383, 389 (5th Cir. 2020).

Hunter further contends that the district court erred by including the reference to aiding and abetting in the written judgment's description of the offense of conviction. As the Government notes, this court has remanded for correction of a clerical error in a written judgment notwithstanding an enforceable appeal waiver. *See Higgins*, 739 F.3d at 739 n.16); *United States v. Rosales*, 448 Fed. App'x 466, 466-67 (5th Cir. 2011). Here, Hunter pleaded guilty to Count 5 of the superseding indictment, which charged him with

No. 24-20211

committing wire fraud affecting a financial institution in violation of 18 U.S.C. § 1343 and the aiding and abetting statute at 18 U.S.C. § 2. Because the judgment therefore accurately reflects the offense that Hunter was indicted for and in fact pleaded guilty to, there is no clerical error and the judgment does not need to be corrected. *See United States v. Cooper*, 979 F.3d 1084, 1089 (5th Cir. 2020).

As to Hunter's arguments pertaining to the medication condition, the appeal is DISMISSED. As to Hunter's argument pertaining to the judgment's reference to aiding and abetting, the judgment is AFFIRMED.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

February 14, 2024

Nathan Ochsner, Clerk of Court

UNITED STATES OF AMERICA

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CRIM. NO. H-23-85-S

v.

MUNSON P. HUNTER III,
a/k/a Paul Hunter,
Defendant.

PLEA AGREEMENT

The United States of America, by and through Alamdar S. Hamdani, United States Attorney for the Southern District of Texas, and John R. Lewis, Assistant United States Attorney, and the defendant, Munson P. Hunter III a/k/a Paul Hunter (“Defendant”), and Defendant’s counsel, pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure, state that they have entered into an agreement, the terms and conditions of which are as follows:

Defendant’s Agreement

1. Defendant agrees to plead guilty to Count Five of the Superseding Indictment. Count Five charges Defendant with Wire Fraud affecting a financial institution in violation of Title 18, United States Code, section 1343. Defendant, by entering this plea, agrees that he is waiving any right to have the facts that the law makes essential to the punishment either charged in the Superseding Criminal Information or proved to a jury or proven beyond a reasonable doubt.

Punishment Range

2. The statutory penalty for each violation of Title 18, United States Code, section 1343 is imprisonment of not more than thirty years and a fine of not more than \$1,000,000.00 or twice the gross gain or gross loss resulting from the offense, whichever is greater. Additionally, Defendant may receive a term of supervised release after imprisonment of up to five years. See Title 18, United States Code, §§ 3559(a)(2) and 3583(b)(1). Defendant acknowledges and understands that if he should violate the conditions of any period of supervised release which may

be imposed as part of his sentence, then Defendant may be imprisoned for up to three years, without credit for time already served on the term of supervised release prior to such violation. *See* Title 18, United States Code, §§ 3559(a)(2) and 3583(e)(3). Defendant understands that he cannot have the imposition or execution of the sentence suspended, nor is he eligible for parole.

Mandatory Special Assessment

3. Pursuant to Title 18, United States Code, section 3013(a)(2)(A), immediately after sentencing, Defendant will pay to the Clerk of the United States District Court a special assessment in the amount of one hundred dollars (\$100.00) per count of conviction. The payment will be by cashier's check or money order, payable to the Clerk of the United States District Court, c/o District Clerk's Office, P.O. Box 61010, Houston, Texas 77208, Attention: Finance.

Immigration Consequences

4. Defendant recognizes that pleading guilty may have consequences with respect to his immigration status. Defendant understands that if he is not a citizen of the United States, by pleading guilty he may be removed from the United States, denied citizenship, and denied admission to the United States in the future. Defendant understands that if he is a naturalized United States citizen, pleading guilty may result in immigration consequences, such as denaturalization and potential deportation or removal from the United States. Defendant's attorney has advised Defendant of the potential immigration consequences resulting from Defendant's plea of guilty, and Defendant affirms that he wants to plead guilty regardless of any immigration consequences that may result from the guilty plea and conviction.

Waiver of Appeal, Collateral Review, Venue and Statute of Limitations

5. Defendant is aware that Title 28, United States Code, section 1291, and Title 18, United States Code, section 3742, afford a defendant the right to appeal the conviction and sentence

imposed. Defendant is also aware that Title 28, United States Code, section 2255, affords the right to contest or “collaterally attack” a conviction or sentence after the judgment of conviction and sentence has become final. Defendant knowingly and voluntarily waives the right to appeal or “collaterally attack” the conviction and sentence, except that Defendant does not waive the right to raise a claim of ineffective assistance of counsel on direct appeal, if otherwise permitted, or on collateral review in a motion under Title 28, United States Code, section 2255. In the event Defendant files a notice of appeal following the imposition of the sentence or later collaterally attacks his conviction or sentence, the United States will assert its rights under this agreement and seek specific performance of these waivers.

6. Defendant hereby waives any and all legal challenges to the prosecution of the offense charged in the Superseding Indictment in the Southern District of Texas based upon venue pursuant to Federal Rule of Criminal Procedure 18. Defendant agrees that the charge in the Superseding Criminal Information may be resolved through a plea of guilty in this district. Defendant also waives all defenses to the Superseding Criminal Information based on the statute of limitations.

7. Defendant also agrees that should the conviction following the defendant’s plea of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the United States has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive

all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

8. In agreeing to these waivers, Defendant is aware that a sentence has not yet been determined by the Court. Defendant is also aware that any estimate of the possible sentencing range under the sentencing guidelines that he may have received from his counsel, the United States or the Probation Office, is a prediction and not a promise, did not induce his guilty plea, and is not binding on the United States, the Probation Office or the Court. The United States does not make any promise or representation concerning what sentence the defendant will receive. Defendant further understands and agrees that the United States Sentencing Guidelines are “effectively advisory” to the Court. *See United States v. Booker*, 543 U.S. 220 (2005). Accordingly, Defendant understands that, although the Court must consult the Sentencing Guidelines and must take them into account when sentencing Defendant, the Court is not bound to follow the Sentencing Guidelines nor sentence Defendant within the calculated guideline range.

9. Defendant understands and agrees that each and all waivers contained in the Agreement are made in exchange for the concessions made by the United States in this plea agreement.

The United States’ Agreements

10. The United States agrees to the following:

If Defendant pleads guilty to Count Five of the Superseding Indictment and persists in that plea through sentencing, and if the Court accepts this plea agreement, the United States will move to dismiss the remaining counts of the Superseding Indictment at the time of sentencing. The defendant agrees that with respect to any and all dismissed charges he is not a ‘prevailing party within the meaning of the ‘Hyde Amendment,’ Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law.

Agreement Binding - Southern District of Texas Only

11. The United States Attorney’s Office for the Southern District of Texas agrees that it

will not further criminally prosecute Defendant in the Southern District of Texas for the specific conduct described in the Superseding Indictment. This plea agreement binds only the United States Attorney's Office for the Southern District of Texas and Defendant. It does not bind any other United States Attorney's Office. The United States Attorney's Office for the Southern District of Texas will bring this plea agreement and the full extent of Defendant's cooperation to the attention of other prosecuting offices, if requested.

United States' Non-Waiver of Appeal

12. The United States reserves the right to carry out its responsibilities under guidelines sentencing. Specifically, the United States reserves the right:

- (a) to bring the facts of this case, including evidence in the files of the United States Attorney's Office for the Southern District of Texas or the files of any investigative agency, to the attention of the Probation Office in connection with that office's preparation of a presentence report;
- (b) to set forth or dispute sentencing factors or facts material to sentencing;
- (c) to seek resolution of such factors or facts in conference with Defendant's counsel and the Probation Office;
- (d) to file a pleading relating to these issues, in accordance with section 6A1.2 of the United States Sentencing Guidelines and Title 18, United States Code, section 3553(a); and
- (e) to appeal the sentence imposed or the manner in which it was determined.

Sentence Determination

13. Defendant is aware that the sentence will be imposed after consideration of the United States Sentencing Guidelines and Policy Statements, which are only advisory, as well as the provisions of Title 18, United States Code, section 3553(a). Defendant nonetheless acknowledges and agrees that the Court has authority to impose any sentence up to and including the statutory maximum set for the offense to which Defendant pleads guilty, and that the sentence to be imposed

is within the sole discretion of the sentencing judge after the Court has consulted the applicable Sentencing Guidelines. Defendant understands and agrees that the parties' positions regarding the application of the Sentencing Guidelines do not bind the Court and that the sentence imposed is within the discretion of the sentencing judge. If the Court should impose any sentence up to the maximum established by statute, or should the Court order any or all of the sentences imposed to run consecutively, Defendant cannot, for that reason alone, withdraw a guilty plea, and will remain bound to fulfill all of the obligations under this plea agreement.

Rights at Trial

14. Defendant understands that by entering into this agreement, he surrenders certain rights as provided in this plea agreement. Defendant understands that the rights of a defendant include the following:

(a) If Defendant persisted in a plea of not guilty to the charges, Defendant would have the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if Defendant, the United States, and the court all agree.

(b) At a trial, the United States would be required to present witnesses and other evidence against Defendant. Defendant would have the opportunity to confront those witnesses and his attorney would be allowed to cross-examine them. In turn, Defendant could, but would not be required to, present witnesses and other evidence on his own behalf. If the witnesses for Defendant would not appear voluntarily, he could require their attendance through the subpoena power of the court; and

(c) At a trial, Defendant could rely on a privilege against self-incrimination and decline to testify, and no inference of guilt could be drawn from such refusal to testify. However, if Defendant desired to do so, he could testify on his own behalf.

Factual Basis for Guilty Plea

15. Defendant is pleading guilty because he is in fact guilty of the charges contained in Count Five of the Superseding Indictment. If this case were to proceed to trial, the United States

could prove each element of the offense beyond a reasonable doubt. The following facts, among others would be offered to establish Defendant's guilt:

Capital One, N.A. (Capital One) and JP Morgan Chase Bank N.A. (Chase) were financial institutions the deposits of which were insured by the Federal Deposit Insurance Corporation.

On January 11, 2015, Hunter opened credit card account # 4147202199770221 at Chase, New York, in the name "Keisha N. Jones". "Keisha N. Jones" was a fictitious person. Hunter gave Chase a social security number for "Keisha N. Jones" that was not actually assigned to anyone.

Hunter used credit card account # 4147202199770221 in the name "Keisha N. Jones" to make payments to bank accounts he controlled in New York. For example, on May 29, 2015, Hunter used this credit card to make payments of \$4,980.00 to Fisher Designz, \$4,950.00 to Hunter Design Studio and \$4,500.00 to Max Management LLC.

On June 23, 2015, Hunter caused \$38,648.77 to be transferred electronically from M.A.'s account at Capital One, in the Southern District of Texas, without M.A.'s knowledge or permission, as payment to credit card account # 4147202199770221 at Chase in the name "Keisha N. Jones". Hunter knew the money was stolen from Capital One.

Breach of Plea Agreement

16. If Defendant should fail in any way to fulfill completely all of the obligations under this plea agreement, the United States will be released from its obligations under the plea agreement, and Defendant's plea and sentence will stand. If at any time Defendant retains, conceals, or disposes of assets in violation of this plea agreement, including required financial information, or if Defendant knowingly withholds evidence or is otherwise not completely truthful with the United States, then the United States may move the Court to set aside the guilty plea and reinstate prosecution. Any information and documents that have been disclosed by Defendant, whether prior to or subsequent to this plea agreement, and all leads derived therefrom, will be used against defendant in any prosecution.

Monetary Penalties, Assets and Financial Disclosures

17. Defendant understands and agrees that monetary penalties will be subject to immediate enforcement as provided in 18 U.S.C. § 3613 and that monetary penalties will be submitted to the Treasury Offset Program so that payments to the Defendant may be applied to federal debts.

18. Defendant understands that restitution and fines are separate components of sentencing and are separate obligations. Defendant agrees to take all steps necessary to assist fully in the collection of restitution and fines. Subject to the provisions of paragraph 5 above, Defendant waives the right to challenge in any manner, including by direct appeal or in a collateral proceeding, any restitution order and any fines.

Restitution

19. Defendant agrees to pay full restitution to the victim regardless of the count of conviction. Defendant agrees to pay full restitution as determined by the Court, regardless of the resulting loss amount, to all victims harmed by Defendant's "relevant conduct," as defined by U.S.S.G. §1B1.3, including conduct pertaining to any dismissed counts or uncharged conduct, and regardless of whether such conduct constitutes an "offense" under 18 U.S.C. §§ 2259, 3663 or 3663A. Defendant agrees that restitution imposed by the Court will be due and payable immediately and that should the Court impose a payment schedule, the payment schedule sets forth minimum payments and does not foreclose additional collection of restitution.

Financial Statement

20. Defendant agrees to truthfully complete under penalty of perjury, within thirty days of the execution of this Plea Agreement, a financial statement on a form provided by the United States Attorney's Office and to update the statement within seven days of any material change. Defendant also agrees to make full disclosure to the United States Probation Office of all current

and anticipated assets in which Defendant has an interest both before sentencing and again before termination of supervised release or probation, with such disclosures to be shared with the United States Attorney's Office.

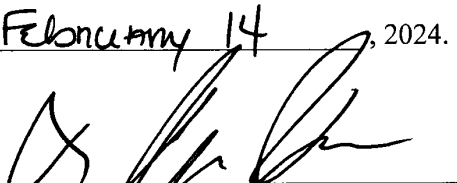
21. Defendant further agrees not to dispose or transfer any assets without the prior written permission of the United States and to authorize the release of all financial information requested by the United States, including, but not limited to, credit histories and tax returns. Defendant agrees to discuss and answer any questions by the United States relating to Defendant's financial disclosure, including in a deposition or informal debtor exam, whether before or after sentencing.

Complete Agreement

22. This written plea agreement, consisting of 11 pages, including the attached addendum of Defendant and his attorney, constitutes the complete plea agreement between the United States, Defendant, and Defendant's counsel. Other than any written proffer agreement(s) that may have been entered into between the United States and Defendant, this agreement supersedes any prior understandings, promises, agreements, or conditions between the United States and Defendant. No additional understandings, promises, agreements, or conditions have been entered into other than those set forth in this agreement, and none will be entered into unless in writing and signed by all parties. Defendant acknowledges that no threats have been made against him and that he is pleading guilty freely and voluntarily because he is guilty.

23. Any modification of this plea agreement must be in writing and signed by all parties.

Filed at Houston, Texas, on February 14, 2024.



Defendant

Subscribed and sworn to before me on February 14, 2024.

NATHAN OCHSNER, Clerk
UNITED STATES DISTRICT CLERK

By: *Anderson*
Deputy United States District Clerk



APPROVED:

Alamdar S. Hamdani
United States Attorney

By: *John R. Lewis*
John R. Lewis
Assistant United States Attorney
Southern District of Texas

Brandon G. Leonard
Brandon G. Leonard
Attorney for Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

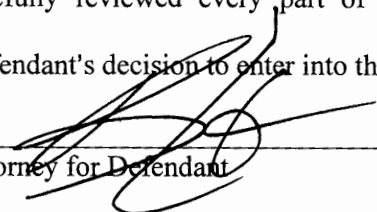
MUNSON P. HUNTER III,
a/k/a Paul Hunter,
Defendant.

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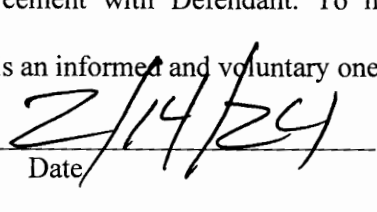
CRIM. NO. H-23-85-S

PLEA AGREEMENT -- ADDENDUM

I have fully explained to Defendant his rights with respect to the pending Superseding Criminal Information. I have reviewed the provisions of the United States Sentencing Commission's Guidelines Manual and Policy Statements and I have fully and carefully explained to Defendant the provisions of those Guidelines which may apply in this case. I have also explained to Defendant that the Sentencing Guidelines are only advisory and the court may sentence Defendant up to the maximum allowed by statute per count of conviction. Further, I have carefully reviewed every part of this plea agreement with Defendant. To my knowledge, Defendant's decision to enter into this agreement is an informed and voluntary one.

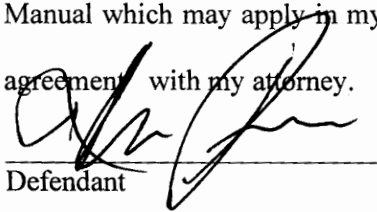


Attorney for Defendant

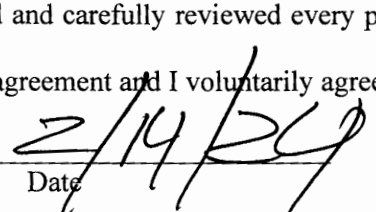


Date

I have consulted with my attorney and fully understand all my rights with respect to the indictment/information pending against me. My attorney has fully explained, and I understand, all my rights with respect to the provisions of the United States Sentencing Commission's Guidelines Manual which may apply in my case. I have read and carefully reviewed every part of this plea agreement with my attorney. I understand this agreement and I voluntarily agree to its terms.



Defendant



Date

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA .
VERSUS . Criminal Action
MUNSON P. HUNTER, III, . No. H-23-CR-85
 . Houston, Texas
 . May 10, 2024
 . 1:58 p.m.
Defendant. .
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TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE SIM LAKE
SENTENCING

APPEARANCES:

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9 GENERAL ORDER 94-15, UNITED STATES DISTRICT COURT, SOUTHERN
10 DISTRICT OF TEXAS.

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COURT REPORTER:

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713.250.5582

1 PROCEEDINGS

2 May 10, 2024

3 THE COURT: We're here this afternoon for sentencing
4 in United States versus Munson P. Hunter, III; Criminal Action
01:58:27 5 H-23-85.

6 Will counsel and Mr. Hunter please identify
7 themselves.

8 MR. LEONARD: Good afternoon, your Honor. Brandon
9 Leonard for Paul Hunter.

01:58:39 10 MR. LEWIS: John R. Lewis for the United States.

11 THE DEFENDANT: Good afternoon, your Honor.

12 THE COURT: Are you Mr. Hunter?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Have you read the presentence
01:58:52 15 investigation report before today?

16 THE DEFENDANT: Yes, I have.

17 THE COURT: Have you discussed it with your lawyer?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And your lawyer has filed objections to
01:59:01 20 the report. I've carefully read the presentence report, the
21 addendum, the objections, the government's sentencing
22 memorandum, and the defendant's response.

23 First, the defendant objects to paragraphs 36 and
24 46. Paragraph 46 recommends a calculation of a loss amount that
01:59:38 25 exceeded \$550,000.

1 It is certainly suspicious that Mr. Hunter
2 created a false bank account in the name of Elliot Bowman; but
3 there's nothing more than suspicion; and in particular, there's
4 no reliable evidence the \$200,000 check deposited in the account
02:00:09 5 was part of a jointly undertaken criminal activity to steal
6 \$200,000 from Capital One Bank or its depositor. So, the
7 objection to paragraphs 36 and 47 is sustained. Paragraph 46
8 should be plus 12, not plus 14.

9 The defendant also objects to the two-level
02:00:34 10 increase in paragraph 47. Defendant argues that the offense did
11 not involve ten or more victims.

12 The sentencing guidelines define "victim" -- I'm
13 quoting now from Section 2B1.1, the definitions in the
14 application notes. "Victim" means any person who sustained any
02:01:09 15 part of the actual loss determined under Subsection B1 or any
16 individual who sustained bodily injury as a result of the
17 offense. There is simply not more than three victims in this
18 case. So, the objection is sustained.

19 Mr. Hunter, do you have anymore objections of
02:01:28 20 your own to the presentence report?

21 (Discussion off the record between Mr. Leonard and the
22 defendant.)

23 MR. LEONARD: One second, your Honor.

24 (Discussion off the record between Mr. Leonard and the
02:02:39 25 defendant.)

1 MR. LEONARD: So, Judge --

2 THE COURT: Excuse me. I have to address him.

3 MR. LEONARD: Okay.

4 THE COURT: The rule is very specific. I have to
02:02:48 5 address the defendant personally.

6 Mr. Hunter, you said you read the presentence
7 report. You said you discussed it with your lawyer. I've ruled
8 on your lawyer's objections. Do you have any additional
9 objections of your own to the presentence report?

02:03:01 10 THE DEFENDANT: Yes, sir.

11 THE COURT: What are they?

12 THE DEFENDANT: The objection as far as sophisticated
13 means.

14 THE COURT: What's your argument there?

02:03:14 15 THE DEFENDANT: I don't understand what makes what I
16 did sophisticated.

17 THE COURT: Well, let's look in the presentence
18 report.

19 Well, the presentence report in paragraph 36 says
02:04:09 20 that the offense involved ten or more victims -- although I've
21 ruled there were only three -- and possession of five or more
22 means of identification unlawfully produced from or obtained
23 using another means of identification, that you obtained
24 numerous bank accounts and credit cards using stolen social
02:04:37 25 security numbers of others. These accounts were used to acquire

1 and disburse fraudulently obtained funds to execute and conceal
2 the offense.

3 That sounds like sophisticated means to me.

4 Does the government have any other comment about
02:05:00 5 sophisticated means?

6 MR. LEWIS: Well, I mean, yes. I believe the Court is
7 correct that this scheme which lasted ten years involved highly
8 sophisticated means of acquiring the personal identifying
9 information of dozens of other people, managing to trick banks
02:05:23 10 into opening up bank accounts and issue credit cards based on
11 that information.

12 And then, for example, the counter-conviction,
13 getting through electronic means Capital One to transfer money
14 from a customer account to one of those credit cards. You know,
02:05:48 15 when agents searched his home at the time of his arrest, they
16 found some sophisticated equipment there; and the government
17 exhibits have pictures of, you know, many computers which were
18 needed to pull this off and device-making equipment, laminating
19 equipment, equipment to code the financial institution's
02:06:14 20 necessary information onto the back of these cards.

21 So, it was -- it was highly sophisticated.

22 THE COURT: All right, I agree.

23 Do you have any other objections?

24 THE DEFENDANT: I would like to add, if you look at my
02:06:25 25 plea agreement, it says the number was unassigned. It wasn't a

1 social security number.

2 THE COURT: Okay. That's one minor --

3 THE DEFENDANT: That goes with every single one of
4 these --

02:06:38 5 THE COURT: Well, there's still sufficient evidence to
6 afford the increase for sophisticated means.

7 THE DEFENDANT: Okay.

8 (To Mr. Leonard) Where was the one for
9 identification?

02:06:57 10 49?

11 49 of the PSI.

12 THE COURT: All right. Have you read the appendix to
13 the presentence report which sets out proposed conditions of
14 supervision?

02:07:35 15 THE DEFENDANT: I read it, yes, sir.

16 THE COURT: Do you object to any of them?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Which ones do you object to?

19 THE DEFENDANT: Your Honor, I have no intention of --
02:07:48 20 well, I don't want to word it like that. I want to take mental
21 health programs, but I don't want to take any medication. I
22 don't drink. I don't use drugs. I don't even curse. I don't
23 want to have to be forced to medicate.

24 THE COURT: Well, if you're going to participate in
02:08:15 25 mental health treatment and the treatment provider prescribes

1 drugs, you should take them. If there's a dispute, you can
2 address it to the probation officer. If the probation officer
3 can't resolve the dispute, you can address it to me.

4 THE DEFENDANT: Yes, sir.

02:08:31 5 THE COURT: Any other objections?

6 THE DEFENDANT: Where I got a two-point enhancement
7 for two misdemeanors in 2003, I don't understand that either.

8 THE COURT: I thought you discussed this with your
9 lawyer before you --

02:08:48 10 THE DEFENDANT: I did, and I didn't agree with him.
11 He said it was the law. It's not over ten years.

12 THE COURT: Which paragraph are you talking about?

13 MR. LEONARD: Your Honor, he's talking about paragraph
14 62.

02:09:54 15 THE COURT: Well, the presentence report states that
16 those two points are appropriate under Guideline Section
17 4A1.1(b) which says, "Add two points for each prior sentence of
18 imprisonment of at least 60 days not counted in (a)." Paragraph
19 62 says you were sentenced to 60 days custody. That's at least
02:10:20 20 60 days. So, the enhancement applies, the two-level -- the two
21 points applies.

22 THE DEFENDANT: Okay.

23 THE COURT: Do you have any other objections?

24 THE DEFENDANT: No, your Honor.

02:10:35 25 THE COURT: All right. I adopt the presentence report

1 except as to paragraphs -- as to the paragraphs to which I've
2 sustained objections. I find that your total offense level is
3 21, your criminal history category is II, and your advisory
4 guideline range is 41 to 51 months in custody.

02:11:02

5 You may now make a statement and present any
6 information in mitigation; and then, I will hear from the
7 government's lawyer and from your lawyer.

02:11:52

8 THE DEFENDANT: I would like to tell you a little bit
9 about who I am, what I've been through. I'm a good person. My
10 moral compass, sometimes it's a little screwed up; but I never
11 meant to steal anything from anybody personally. I was angry
12 with the government. I was angry with my parents. Disappointed
13 with myself.

02:12:36

14 When I was younger, I was -- I was poisoned by my
15 mom. My dad found out, and he -- he and her got into it. And
16 it wasn't -- it wasn't her -- she wasn't trying to poison me.
17 She was trying to poison him. I got sick. There was instances
18 where I saw my mom being choked by my dad. They had issues.

02:13:10

19 When my mother got -- when my mother and my dad
20 got divorced, on that day, my mom came home. That's -- that's
21 the last time I remember seeing her smiling with my aunt and my
22 grandmother. My dad came home a little while later. He wasn't
23 happy. He was visibly upset. That day, he pointed a shotgun in
24 my direction and pulled the trigger. He killed my mother. He
25 killed my grandmother. He wounded my aunt. She's crippled.

02:13:45

1 This was an afternoon. It was light outside.
2 When we was fighting over the shotgun, it went off. It blew my
3 grandmother's leg off. When I turned around, I heard a pop. It
4 was a cop, shot my dad, passed me. It was dark. It -- and
02:14:26 5 there was people everywhere just like that in my mind.

6 No one ever asked me if I needed help. They just
7 said, "Are you okay?" I shook my head. I was a child, but I
8 wasn't okay. I always wanted to get help. But as I got older,
9 it was like time passes. That day, I didn't lose my mom, my
02:15:08 10 aunt. I didn't just lose my aunt and my grandmother and my mom,
11 I lost my dad, too.

12 I was a difficult kid, not because I was bad.
13 I'm dyslexic, slightly autistic, developmentally delayed. My
14 mother, she was a stay-at-home mom. She would every day teach
02:15:40 15 me my ABCs, my 123s. She taught me how to play the piano. My
16 dad, he was gone a lot. He was at work. He would come home, go
17 to sleep. On the weekends, he took me to fish.

18 They spent time with me. They taught me. They
19 raised me. They did everything a parent should. And one
02:16:10 20 mistake changed my life, changed their lives, changed
21 everything. One mistake. There was no do-overs.

22 I still have visions of that shotgun pointing at
23 me. I don't know if he wanted to kill me, if at the last minute
24 he pulled up and shot passed me and killed my mother. But she
02:16:37 25 was standing behind me.

1 My uncle took custody of me and my siblings; and
2 we stayed in the house, the same house that everything happened
3 in. We lived in that house. That's the house that I inherited.
4 I peed the bed a lot. My uncle started beating me. He said I
02:17:19 5 was doing it on purpose.

6 When I turned 20 and he came home, I had saw
7 something on the news where a lady sewed her husband in sheets
8 and she beat him. And I told my uncle, "That's going to be you
9 if you touch me again." I was tired of getting beat for years.

02:17:55 10 I love my uncle. I loved my dad. I loved my
11 mom. But I was tired of getting mistreated. When I went to a
12 friend's house, a good friend, he stole his grandmother's social
13 security check, cashed it at the supermarket. I didn't say
14 nothing. I didn't -- I didn't oppose him. I didn't check him.
02:18:35 15 I felt bad, but I didn't say anything because he's my friend.

16 He took that money and bought video games and
17 candy, and he -- and he bought food. I was always hungry. I
18 was always waiting for my uncle to bring home food and take care
19 of me and take care of us. He was -- he was on drugs. He -- he
02:19:09 20 apologized years later for what he did to me. He didn't beat my
21 sisters. He didn't mistreat them. It was me.

22 I did make security obligations of the United
23 States of America, and I figured in my own way that I wasn't --
24 I wasn't stealing from anybody. I wasn't -- I wasn't hurting
02:19:43 25 anybody, and I was getting back at the government for what they

1 did to my dad. He was an Army vet. I felt like they did
2 something to him to cause him to lash out, something to me
3 through me being born through him.

4 I know I was wrong; but when I -- when I made it
02:20:08 5 and I succeeded, I was surprised. I was shocked it worked. I
6 put no effort; and I realized that, if I applied myself, I could
7 do more than what I've been doing instead of waiting around for
8 somebody to beat me. I could -- I could use my abilities to
9 take care of myself.

02:20:33 10 I never went hungry again to this day and not
11 because I am a criminal mastermind or adept to doing fraud. I
12 learned I could apply myself. I stopped. I stopped before I
13 got caught; and when I did get caught, I did my time. I
14 promised myself, your Honor, I would never make another social
02:21:14 15 security check. And to this day, I haven't.

16 The FBI, the DA, they looked through everything.
17 I can guarantee you they have not found any social security
18 checks. That was my promise -- that was one of my promises I
19 made to myself. I've struggled with identity theft; there, too,
02:21:33 20 my moral compass. I said, "I'm not going to steal from
21 anybody"; but I took from the banks.

22 I made fictitious entities, and I took that
23 money. I did that years ago. I learned that it wasn't against
24 the law to make an identification card. I opened a business. I
02:22:03 25 made identification cards. Orangenick (phonetic spelling)

1 Avenue in Queens for a few years. Cops came in one day,
2 arrested me. I was adamant I'm not doing anything wrong. I'm
3 just trying to work. I worked six days a week.

4 They took my equipment, the same equipment that
02:22:27 5 they took again twice. Both times I went to trial. I decided I
6 don't want to be targeted. I don't want to be in a gray area
7 where it's not against the law but it's frowned upon. So, I
8 took it upon myself to do other things with my talents.

9 I started doing identification cards for daycare
02:23:09 10 centers. I started a credit repair company. I started buying
11 and selling cars. I don't have friends. I'm a people person,
12 but I think because of the things that I've done -- and people
13 ask me "What do you do?" I can say, "Well, you know, I buy and
14 sell cars. I do this and do that." I don't get into what I've
02:23:37 15 done in the past. I don't glamorize it. I don't use social
16 media.

17 I'm remorseful for what I did. I'm -- I don't
18 look over my shoulder worrying about the FBI watching me or
19 getting -- you know, those kind of things. I'm not a saint.
02:23:53 20 You know, I've -- I did what I did; and I can't make a promise
21 to myself that I'm going to be perfect because I know I'm going
22 to make mistakes. I'm going to fall on my face.

23 But I'm not doing anything that's going to cause
24 me to return here. I messed up. I did. But I didn't think
02:24:22 25 that I was hurting anybody. I know I was wrong, but I didn't

1 steal anybody's identity. And if I did, it was unintentional.
2 And I take responsibility for it.

3 I've had a good life, your Honor. I'm not
4 complaining. I'm just processing, trying to move forward.

02:24:57 5 There are other things that happened in my life that I don't
6 even want to bring up. But I'm -- I'm blessed. I'm good. And
7 my plan was to do more. I did. My plan was to correct the
8 things that I did wrong.

9 I didn't know how. What I -- what I did -- what
02:25:26 10 I tried to do, your Honor, is I've been a Secret Santa. I've
11 helped people that needed their rent paid. I never put anything
12 on social media, never bragged about it. I never took record to
13 show, hey, look, this is what I did.

14 I have nine kids that I take care of; and because
02:25:52 15 of some of the things that happened in my life -- I was sexually
16 assaulted. I never told anybody. Never told anybody. I was
17 drugged. So, I'm overprotective of my kids; and I don't want
18 them to -- I don't even want them to know the things that I did.
19 My kids know me as nerd and boring. And that's the way I like
02:26:32 20 it. I don't want to lie to them; but at the same time, I don't
21 want to glamorize what I've done. I'm ashamed of it.

22 I've taught my kids to read by the age of two. I
23 taught them their colors. I have videos -- they have my videos
24 of me teaching my kids. Before the age of three, they're in
02:26:59 25 gifted-and-talented programs. All my kids, when they're with

1 me, they're honor students because that's one of my talents.

2 I may not be able to do -- I may not be that
3 smart, but I can teach, and I can give my kids a head start.

4 And that's what I have done. I tried. I've tried. I don't
02:27:26 5 teach them to hate. I don't talk bad about their mothers. I
6 don't talk bad about officers, the law. I just teach them love.
7 I teach them hard. I'm tough but fair.

8 Moving forward, your Honor, I would last like to
9 tell you that, believe it or not, I'm going to change the world.
02:27:59 10 I have visions. If you ever read anything from Tesla, he's the
11 visions. And I know this is far-fetched, you know, people
12 think.

13 But are you familiar with perpetual motion?

14 THE COURT: Really, this is not your opportunity to
02:28:13 15 question me. I've --

16 THE DEFENDANT: I'm sorry.

17 THE COURT: -- given you substantial latitude. If
18 there is anything else that you think is relevant, say it now.

19 THE DEFENDANT: I apologize, your Honor, for things
02:28:28 20 that I've done. Truly, I'm sorry. And regardless of what the
21 DA might bring forward, it would take a pandemic, it would take
22 a world-changing event for me to do anything that would cause me
23 to get in trouble. Then. Now, moving forward, I'm on the
24 straight and narrow. That's my promise. I'm going to do
02:29:03 25 better.

1 Thank you, your Honor.

2 THE COURT: Thank you.

3 What is the government's position, Mr. Lewis?

4 MR. LEWIS: Your Honor, Mr. Hunter's comment that he
02:29:14 5 didn't -- I don't have the exact words, but they were just
6 spoken -- you know, steal or use or obtain other people's
7 identifying information is just absolutely false; and it brings
8 me back -- I wasn't going to mention it, but I'm going to use
9 this opportunity.

02:29:31 10 I apologize that we did not explain our view of
11 the ten additional victims well enough. But in cases involving
12 means of identification, which this case surely does, the victim
13 also includes not just people who lost money but it includes any
14 individual whose means of identification was used unlawfully or
02:29:57 15 without authority. That's in the Comment Section E of the note.

16 THE COURT: Well, I didn't see that in the presentence
17 report as a basis for the plus ten; and I didn't see it in your
18 sentencing memorandum.

19 MR. LEWIS: Well, we cited that section of the
02:30:16 20 guidelines. It's that section. It's the more than ten -- or
21 the ten or more victims. We -- neither probation or us defined
22 what made a victim, and that's our failing. And the Court is
23 saying it's only people who have -- or entities, people that
24 have lost money. It's also people whose means of identification
02:30:37 25 were used.

1 And the presentence report does refer to -- to
2 more than enough people. And I would cite -- and also, we cited
3 some in the -- in the sentencing memorandum; plus, you have the
4 two institutions of the Small Business Administration and
02:30:59 5 Capital One.

6 THE COURT: Well, the government and the probation
7 officer relies on paragraphs 13, 14, and 15. I'm sorry, I just
8 didn't make that leap of faith.

9 MR. LEWIS: It's my fault for not being more explicit.
02:31:32 10 But these -- the probation officer cited the correct guideline
11 section. But you know, I also should have pointed the Court to
12 paragraph 29 of the presentence report which says that the
13 investigation revealed Hunter opened at least 18 credit cards
14 using fraudulent obtained social security numbers.

02:31:55 15 And then, it gives multiple different names. So,
16 it's obvious those are different social security numbers. The
17 preceding paragraph, 28, says that investigators discovered the
18 defendant opened several bank accounts using social security
19 numbers of others, many of which were children; and it actually
02:32:16 20 identifies those by initial.

21 So -- and paragraph 26 even identifies a
22 specific --

23 THE COURT: Yeah. But I'm -- this is a little too
24 much, too late. At Docket Entry 130, your -- your response to
02:32:40 25 that objection is about seven lines long. It doesn't cite that

1 particular guideline section. It makes a glancing reference to
2 exhibits that reveal additional victims whose social security
3 number was used. I'm just not going to -- that's just not
4 enough to satisfy me. I'm sorry, Mr. Lewis.

02:33:03

5 MR. LEWIS: No. I understand. And I said I wasn't
6 going to mention it until I heard the defendant say that he
7 didn't use other people's social security numbers.

8 THE COURT: I've read the report. Let's move along.

02:33:15

9 MR. LEWIS: Okay. We think that Mr. Hunter needs to
10 be sentenced at the high end of the guidelines. I said that
11 when I thought that they were 78 months. At 51 months, it's all
12 the more important.

02:33:35

13 Despite his statement, it's clear that this
14 gentleman has an extraordinarily long history of doing exactly
15 this kind of offense. I noted in my sentencing memorandum that
16 it was a 20-year history. I got the decades wrong. It's a
17 30-year history because he first went to prison in 1996 on a
18 Secret Service case that's referenced in the presentence report.
19 That offense was, obviously, before that.

02:33:53

20 So, we're talking 30 years of stealing other
21 people's identity, falsifying financial records; and the
22 handwritten letter that Mr. Hunter wrote is amazing in the sense
23 that he apologizes for taking \$38,000 from Capital One in 2015
24 and says that he regretted -- he did regret his actions years
25 ago before getting caught.

02:34:17

1 That doesn't have a lot of credibility given that
2 he defrauded the SBA in 2020, and we showed evidence that he
3 tried to deposit checks that were in other people's names in
4 2022. And he had all of this paraphernalia of fraud -- that
02:34:41 5 type of fraud in his house when he was seized and arrested.

6 So, we firmly believe the only reason he stopped
7 doing this is because he's been in custody since this arrest.

8 Thank you.

9 THE COURT: Mr. Leonard.

02:34:49 10 MR. LEONARD: Thank you, your Honor. Very briefly,
11 Judge --

12 THE COURT: Can you use the microphone please so the
13 court reporter can hear you.

14 MR. LEONARD: Understood. Thank you.

02:34:59 15 Very briefly, your Honor, obviously, Mr. Hunter
16 has had a very traumatic, you know, childhood and upbringing;
17 and while that certainly doesn't excuse his behavior, I think it
18 helps give context and explains why he's here.

19 Judge, I would just ask that, based on all the
02:35:25 20 facts and circumstances, based on the limited criminal history
21 of Mr. Hunter, the two points that he got for the misdemeanor
22 that happened over 15 years ago, I would ask that the Court take
23 that into consideration. I think a downward departure is
24 warranted under these circumstances. The conduct that he's here
02:35:53 25 for today is almost ten years old.

1 So, Judge, I would just ask that the Court take
2 that into consideration and sentence Mr. Hunter to a sentence of
3 no more -- no more than 36 months.

4 THE COURT: Well, I'm persuaded that the advisory
02:36:15 5 guidelines adequately address all of the sentencing objectives
6 in the statute and that no downward adjustment is warranted.

7 This defendant has a history of fraudulent
8 offenses going back many years. Some of his convictions were
9 not counted. I think the maximum advisory guideline range is
02:36:30 10 certainly called for.

11 I sentence you to 51 months in prison.

12 Upon release from prison, you will serve three
13 years of supervised release. While on supervised release, you
14 must not commit another federal, state, or local crime; shall
02:36:48 15 comply with the standard conditions that have been adopted by
16 the Court under General Order 2017-1; shall abide by any
17 mandatory conditions required by law; and shall comply with the
18 following additional conditions:

19 You must participate in a mental health treatment
02:37:05 20 program and follow the rules and regulations of the program.
21 The probation officer in consultation with the treatment
22 provider will supervise your participation, including the
23 provider, location, modality, duration, and intensity.

24 You must pay the costs, if financially able.

02:37:26 25 You must take all mental health medications that

1 are prescribed by your treating physician. You must pay the
2 costs of the medication, if financially able.

3 You must provide the probation officer with
4 access to any requested financial information and authorize the
02:37:44 5 release of any financial information. The probation officer may
6 share financial information with the US Attorney's Office.

7 You must not incur new credit charges or open
8 additional lines of credit without the approval of the probation
9 officer.

02:37:59 10 You shall pay restitution in the amount of
11 \$235,438.83 as follows: \$105,595.06 to Capitol One Bank,
12 \$57,343.77 to Chase Bank, and \$72,500 to the Small Business
13 Administration.

14 You will pay now the mandatory special assessment
02:38:36 15 of \$100.

16 Because you do not have an ability to pay a fine,
17 no fine will be imposed.

18 You do not have a current ability to pay the
19 restitution. So, the balance will be made in payments of the
02:38:52 20 greater of \$25 per quarter or 50 percent of any -- 50 percent of
21 any wages while in prison and after that, while on supervised
22 release, in monthly installments of \$200 beginning 60 days after
23 your release from prison.

24 Does the government have a motion to dismiss the
02:39:16 25 remaining counts?

1 MR. LEWIS: Yes. We'll file it in writing, but we
2 orally move to dismiss all remaining counts.

3 THE COURT: The remaining counts are dismissed.

4 Has the government complied with the plea
02:39:28 5 agreement?

6 MR. LEONARD: They have, your Honor.

7 THE COURT: All right.

8 You have a right to appeal. If you wish to
9 appeal, Mr. Leonard will continue to represent you.

02:39:36 10 Does either counsel wish to say anything else?

11 MR. LEWIS: Your Honor, I believe -- well, no. I --
12 no.

13 MR. LEONARD: Nothing from the defense.

14 THE COURT: Defendant is remanded to the custody of
02:39:48 15 the marshal.

16 Counsel are excused.

17 MR. LEWIS: Thank you.

18 MR. LEONARD: Thank you, your Honor.

19 (Proceedings concluded at 2:40 p.m.)

20 C E R T I F I C A T E

21 I certify that the foregoing is a correct transcript
22 from the record of proceedings in the above-entitled matter, to
23 the best of my ability.

24 By: /s/ Gayle L. Dye
Gayle L. Dye, CSR, RDR, CRR

05-30-2024
Date

25

ENTERED

May 13, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
Holding Session in Houston

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

MUNSON P. HUNTER, III

CASE NUMBER: 4:23CR00085-001

USM NUMBER: 48809-053

Brandon Gerrard Leonard

Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) 5S on February 14, 2024.

pleaded nolo contendere to count(s) which was accepted by the court.

was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 1343 and 2	Aiding and abetting wire fraud affecting a financial institution	06/23/2015	5S

See Additional Counts of Conviction.

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____

Count(s) remaining _____ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

May 10, 2024

Date of Imposition of Judgment

Signature of Judge

SIM LAKE

SENIOR UNITED STATES DISTRICT JUDGE

Name and Title of Judge

May 13, 2024

Date

DEFENDANT: **MUNSON P. HUNTER, III**
CASE NUMBER: **4:23CR00085-001**

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 51 months.

This term consists of FIFTY-ONE (51) MONTHS as to Count 5S.

- See Additional Imprisonment Terms.
- The court makes the following recommendations to the Bureau of Prisons:
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
 - at _____ on _____
 - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - before 2 p.m. on _____
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **MUNSON P. HUNTER, III**
CASE NUMBER: **4:23CR00085-001**

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: 3 years.

This term consists of THREE (3) YEARS as to Count 5S.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- See Special Conditions of Supervision.

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.
14. If restitution is ordered, the defendant must make restitution as ordered by the Judge and in accordance with the applicable provisions of 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663A and/or 3664. The defendant must also pay the assessment imposed in accordance with 18 U.S.C. § 3013.
15. The defendant must notify the U.S. Probation Office of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

DEFENDANT: **MUNSON P. HUNTER, III**
CASE NUMBER: **4:23CR00085-001**

SPECIAL CONDITIONS OF SUPERVISION

You must participate in a mental-health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program, including the provider, location, modality, duration, and intensity. You must pay the cost of the program, if financially able.

You must take all mental-health medications that are prescribed by your treating physician. You must pay the costs of the medication, if financially able.

You must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.

You must not incur new credit charges or open additional lines of credit without the approval of the probation officer.

DEFENDANT: **MUNSON P. HUNTER, III**
CASE NUMBER: **4:23CR00085-001**

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment¹</u>	<u>JVTA Assessment²</u>
TOTALS	\$100	\$235,438.83	\$	\$	\$

- See Additional Terms for Criminal Monetary Penalties.
- The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss³</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Capital One Bank		\$105,595.06	
Chase Bank		\$57,343.77	
Small Business Administration		\$72,500	
TOTALS	\$	\$235,438.83	

- See Additional Restitution Payees.
- Restitution amount ordered pursuant to plea agreement \$ _____
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine restitution.
 - the interest requirement for the fine restitution is modified as follows:
- Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

¹ Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
² Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
³ Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MUNSON P. HUNTER, III
CASE NUMBER: 4:23CR00085-001

SCHEDULE OF PAYMENTS

Having assessed the defendant’s ability to pay, payment of the total criminal monetary penalties is due as follows:

- A Lump sum payment of \$ _____ due immediately, balance due
 not later than _____, or
 in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ installments of \$ _____ over a period of _____, to commence _____ after the date of this judgment; or
- D Payment in equal _____ installments of \$ _____ over a period of _____, to commence _____ after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ after release from imprisonment. The court will set the payment plan based on an assessment of the defendant’s ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Payable to: Clerk, U.S. District Court, Attn: Finance, P.O. Box 61010, Houston, TX 77208

Balance due in payments of the greater of \$25 per quarter or 50% of any wages earned while in prison in accordance with the Bureau of Prisons' Inmate Financial Responsibility Program.

Any balance remaining after release from imprisonment shall be paid in monthly installments of \$200 to commence 60 days after the date of release to a term of supervision.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Case Number

Defendant and Co-Defendant Names
(including defendant number)

Total Amount

Joint and Several
Amount

Corresponding Payee,
if appropriate

- See Additional Defendants and Co-Defendants Held Joint and Several.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant’s interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTVA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.