

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

v.

SCOTT J. BLOCH,

Defendant.

Criminal No. 1:10-mj-00215-DAR-1

DEFENDANT'S UNOPPOSED MOTION TO WITHDRAW GUILTY PLEA

Defendant Scott J. Bloch, by his attorneys, moves to withdraw his April 24, 2010 misdemeanor plea of guilty to 2 U.S.C. § 192, the criminal contempt of Congress statute, on the grounds that the Court's colloquy under Federal Rule of Criminal Procedure 11 ("Rule 11") did not advise him that he was facing a charge that the Court subsequently ruled mandates a minimum sentence.¹ Because Rule 11(b)(1)(I) is itself mandatory, the Court should permit Mr. Bloch to withdraw his plea under Rule 11(d)(2)(B) (permitting defendant to withdraw plea before sentencing where he can show "a fair and just reason."). See United States v. Hairston, 522 F.3d 336, 340 (4th Cir. 2008) ("Rule 11 . . . require[s] district courts to inform defendants of all potentially applicable statutory minimum and maximum sentences." (Emphasis in original)).

¹ Mr. Bloch does not concede that 2 U.S.C. § 192 is in fact a statute that imposes a mandatory minimum sentence. But given that sentencing is imminent and that this Court has stated in a Memorandum Opinion, issued after the plea proceeding, its holding that § 192 leaves no discretion not to impose a minimum term of imprisonment of at least one month, Mr. Bloch seeks to withdraw his plea on the grounds that he was not advised of the purported mandatory sentence prescribed by § 192, as required by Rule 11, prior to entering his plea. See Docket Entry 32, Mem. Op., Feb. 2, 2011. Mr. Bloch expressly disclaims that any statements herein should be deemed a waiver to his challenge to the Court's finding that § 192 carries a mandatory term of imprisonment.

I. PROCEDURAL HISTORY

1. On April 22, 2010, an information was filed alleging that Mr. Bloch committed the offense of 2 U.S.C. § 192, contempt of Congress. See Information, Docket Entry 1, Apr. 22, 2010.

2. On April 27, 2010, the Court conducted a plea hearing of Mr. Bloch. Tr. of Plea Hearing, Apr. 27, 2010 (attached as Exhibit 1). During that hearing, Mr. Bloch indicated his desire to plead guilty to the sole count of the information. Id. at 3:6. The Court told Mr. Bloch that “[b]efore [his] plea can be accepted, there are a number of questions that [it was] required to ask [him.]” Id. at 3:7-9. The Court then engaged in the Rule 11 colloquy with Mr. Bloch, asking him about, among other things, his waiver of rights to proceed before a jury and in front of a district court judge and his understanding of the charge levied against him and its maximum statutory penalty. See id. at 3-4, 7-8. The Court never asked him about his knowledge or understanding of any potential mandatory minimum sentence that may apply. See id. The Court accepted Mr. Bloch’s plea of guilty and ordered a pre-sentence investigation (“PSI”). Id. at 34: 1-9; 38: 16-19.

3. Contrary to the parties’ expectations under the plea agreement, the PSI, submitted months after the plea proceeding and ostensibly relying on the sentencing guidelines, reversed Probation’s prior position, and maintained, for the very first time, that 2 U.S.C. § 192 mandated a minimum one-month term of imprisonment. See PSI, Docket Entry 9, July 13, 2010, at ¶ 68. Both parties extensively briefed this Court that 2 U.S.C. § 192 did not require imprisonment. See Docket Entries 10, 11, 15, 23, and 24. But on February 2, 2011, the Court issued a

Memorandum Opinion that section 192 bound it to impose a one-month minimum sentence. Mem. Op., Docket Entry 32, Feb. 2, 2011, at 13.

4. Subsequent to the issuance of the Court's opinion, the Government filed a Motion to Reconsider on February 7, 2011. Mot. to Recons., Docket Entry 33, Feb. 7, 2011. It later withdrew that motion, partly because "the defendant intends to file a motion to withdraw his guilty plea in this case, on the ground that [the] plea colloquy did not satisfy the requirement of Federal Rule of Criminal Procedure 11(b)(1)(I). . . . The government believes that the defendant's position is well-founded, and will not oppose his motion to withdraw his plea." Government's Mot. to Withdraw Its Mot. to Recons. the Court's Feb. 2, 2011 Mem. Op., Docket Entry 36, Feb. 11, 2011. Mr. Bloch is now currently scheduled to be sentenced by the Court on March 10, 2011. Minute Entry, Feb. 7, 2011.

II. ARGUMENT

5. Under Rule 11(b)(1)(I), the Court "*must* inform the defendant of, and determine that the defendant understands . . . any mandatory minimum penalty." Fed. R. Crim. P. 11(b)(1)(I) (emphasis added). The Fourth, Fifth, and Eleventh Circuits have all held that a failure to advise a defendant of the imminent mandatory minimum requires reversal. See, e.g., Hairston, 522 F.3d at 338-43 (vacating a guilty plea because the defendant was not properly advised of the applicable mandatory minimum sentence); United States v. Goins, 51 F.3d 400, 405 (4th Cir. 1995); United States v. Pierce, 893 F.2d 669, 679 (5th Cir. 1990) (noting that Fifth Circuit had "previously held that a complete failure to address one or more of the core requirements of Rule 11 ordinarily requires reversal"); United States v. Hourihan, 936 F.2d 508, 510-11 (11th Cir. 1991) (abrogated on other grounds). See also 9 Fed. Proc., L. Ed. § 22:936

(“A district court's failure to address the defendant and inform the defendant of the mandatory minimum . . . is not harmless error, and the defendant is entitled to relief.”). And even though Rule 11(h) imposes a harmless error standard, courts have generally only found harmless error when the defendant had actual knowledge of the mandatory minimum imprisonment. See, e.g., United States v. Padilla, 23 F.3d 1220, 1222 (7th Cir. 1994) (“The relevant inquiry must center upon what the defendant actually knows when he pleads guilty.”); United States v. Johnson, 1 F.3d 296, 303-04 (5th Cir. 1993) (en banc) (finding harmless error where defendant pled guilty knowing he would receive 21 years in prison but did not know about one-year mandatory minimum); United States v. Young, 927 F.2d 1060, 1063 (8th Cir. 1991) (holding Rule 11 error harmless where judge ensured that defendant had read and understood indictment that contained minimum and maximum sentences). Mr. Bloch had no knowledge whatsoever of the mandatory nature of the sentence. Nor did counsel, or the Court, at the time of his plea, as the Court’s own decision determining § 192 to carry a mandatory term came months after the plea proceeding.

6. Though the D.C. Circuit has not broadly opined on the failure to advise of a mandatory minimum sentence, it has reversed a district court’s denial of a defendant’s motion to withdraw his plea after he had been erroneously informed he would fall within the then-mandatory Sentencing Guidelines range of five to ten years, rather than what was later determined to be a mandatory ten-year sentence. United States v. Watley, 987 F.2d 841, 848 (D.C. Cir. 1993). There, the Circuit reasoned that the defendant “should not have been held to a bargain struck between the prosecutor and defense counsel that relied in significant measure on sentencing discretion the district judge did not have.” Id.

7. Yet, that is exactly what will happen here under the Court’s recent ruling if Mr. Bloch cannot withdraw his plea. During Mr. Bloch’s Rule 11 colloquy, the Court asked him for

his understanding of the statutory maximum penalty for the charge of contempt of Congress and inquired as to his knowledge of a mandatory special assessment. See Exhibit 1 at 8:7-17. Mr. Bloch was never asked, however, whether he knew that contempt of Congress carried a mandatory minimum one-month term of imprisonment. See Exhibit 1. Nor, again, does any evidence in the record suggest that he had actual knowledge before his plea; in fact, the contrary is true, as both the Government and Mr. Bloch believed that 2 U.S.C. § 192 did not require imprisonment, and in fact a review of all prior sentencings imposed under § 192 disclosed no mandatory terms. See Docket Entries, 10, 11, 15, 23, 24 (contending that § 192 carries no mandatory imprisonment). The Court should find that because Mr. Bloch was unaware of the mandatory sentence the Court expects to impose, a “fair and just reason” exists under Rule 11(d)(2)(B) (formerly Fed. R. Crim. P. 32(e)) for permitting him to withdraw his plea.

8. Indeed, Hourihan, a case from the Eleventh Circuit, is quite instructive as the facts are indistinguishable from these in the instant matter. In Hourihan, the defendant pled guilty to the manufacture of marijuana, a crime that provided for a mandatory minimum sentence of five years. See Hourihan, 936 F.2d at 509. The plea agreement, however, contemplated a sentencing range of 33 to 41 months. Id. After Hourihan had pled guilty, his PSI noted the five-year mandatory minimum sentence. Id. The Eleventh Circuit held that the judge’s failure to advise the defendant of the minimum sentence was grounds for withdrawing the plea. Id. at 509-10. The Court credited three factors in its decision: (1) the defendant had not been pointed to the relevant part of the indictment, (2) the plea agreement contemplated a guideline sentence well below the five-year minimum, and (3) nothing in the record indicated that the defendant knew of the mandatory minimum until she received the PSI. See id. at 510 n.3.

9. Here, those same three factors are present. Like the defendant in Houriham, Mr. Bloch entered into a plea agreement that had no reason to contemplate a mandatory minimum sentence. Indeed, at the time of the plea negotiations and plea agreement, Mr. Bloch, his counsel, and the Government all understood that 2 U.S.C. § 192 was a probation-eligible offense. Like the defendant in Houriham, Mr. Bloch only became aware that he had potentially exposed himself to a mandatory minimum sentence after he received his PSI, which, again, was submitted well after the plea proceeding. And like the defendant in Houriham, nothing in the record indicates that Mr. Bloch had actual knowledge that the Court would later find 2 U.S.C. § 192 to carry a minimum sentence, especially when no prior sentencings under the statute applied a mandatory term.

CONCLUSION

In light of the foregoing, Mr. Bloch requests that this Court permit him to withdraw his guilty plea to 2 U.S.C. § 192 pursuant to Rule 11(d)(2)(B).

Dated: February 17, 2011

Respectfully Submitted,

/s/

William M. Sullivan, Jr.
Winston & Strawn, LLP
1700 K Street, NW
Washington, DC 20006
Email: wsullivan@winston.com
Tel: (202) 282-5744

Counsel for Scott J. Bloch

CERTIFICATE OF SERVICE

I certify that on February 17, 2011, I have electronically filed the foregoing *Unopposed Motion to Withdraw Guilty Plea* through the CM/ECF system, which will serve the document on all parties.

/s/

William M. Sullivan, Jr.

Exhibit 1

April 27, 2010 Plea Hearing
Transcript in *United States v.*
Scott J. Bloch

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	.	Case No. 1:10-MJ-00215
	.	(DAR)
Plaintiff,	.	
	.	Washington, D.C.
v.	.	April 27, 2010
	.	
SCOTT J. BLOCH,	.	
	.	
Defendant.	.	
.	

PLEA HEARING
BEFORE THE HONORABLE JAMES ROBERTSON
SENIOR UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Plaintiff: U.S. Attorney's Office
By: GLENN LEON, AUSA
555 Fourth Street, N.W.
Washington, DC 20530

For the Defendant: Winston & Strawn, LLP
By: WILLIAM M. SULLIVAN, JR.,
ESQ.
RYAN SPARACINO, ESQ.
1700 K Street, NW
Washington, DC 20006

1 (Proceedings commenced at 1:43 p.m.)

2 THE CLERK: Magistrate Case Number 2010-215-
3 M, United States of America v. Scott J. Bloch.

4 Glenn Leon for the Government.

5 William Sullivan, Jr., for Mr. Bloch.

6 Mr. Bloch is present in the courtroom and,
7 Mr. Sullivan, you may want to announce to the Court,
8 who else is present at the table.

9 THE COURT: Mr. Sullivan?

10 MR. SULLIVAN: Thank you very much. Thank
11 you.

12 Good afternoon, Your Honor.

13 THE COURT: Good afternoon.

14 MR. SULLIVAN: Sitting to Mr. Bloch's left is
15 my associate, Ryan Sparacino.

16 THE COURT: Would you please spell that for
17 the record?

18 MR. SULLIVAN: Certainly. S-P-A-R-A-C-I-N-O.

19 THE COURT: Very well. Thank you.

20 Are all of you ready to proceed?

21 MR. SULLIVAN: Yes, Your Honor.

22 THE COURT: Very well.

23 Mr. Sullivan, Mr. Sparacino and Mr. Bloch,
24 let me ask you to come to the podium, please.

25 THE COURT: Now, Mr. Bloch, good afternoon.

1 THE DEFENDANT: Good afternoon, Your Honor.

2 THE COURT: Sir, the Court has been informed
3 that you wish to plead guilty to the Information filed
4 by the United States Attorney.

5 Is that correct, sir?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Before your plea can be accepted,
8 there are a number of questions that I'm required to
9 ask you. Your answers to questions will be given under
10 oath.

11 I will ask you, please, to face the deputy
12 clerk to be sworn.

13 (The Defendant is Sworn.)

14 THE COURT: Now, sir, are you now under the
15 influence of any alcohol, drugs or medication?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Do either counsel -- Do any
18 counsel know of any reason Mr. Bloch might be unable to
19 fully participate in this proceeding? Mr. Sullivan or
20 Mr. Sparacino?

21 MR. SULLIVAN: Counsel for Defendant Bloch,
22 and I'll speak for counsel, Your Honor, thank you, know
23 of absolutely no impediment to going forward.

24 THE COURT: Thank you, Mr. Sullivan.

25 Mr. Leon?

1 MR. LEON: No, Your Honor.

2 THE COURT: Mr. Bloch, have you had enough
3 time to discuss this case with your lawyers?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Are you satisfied with their
6 services?

7 THE DEFENDANT: Yes, I am.

8 THE COURT: Sir, I will ask you first,
9 whether you have been advised that you have a right to
10 trial, judgment and sentencing before a United States
11 District Judge?

12 THE DEFENDANT: Yes, I have, Your Honor.

13 THE COURT: Do you know that I am not a
14 United States District Judge, I am a United States
15 Magistrate Judge?

16 THE DEFENDANT: I'm informed of that, Your
17 Honor.

18 THE COURT: Is it your wish to give up your
19 right to proceed before a U.S. District Judge, and
20 consent to proceed before me?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: I'm going to ask the Deputy Clerk
23 to hand you the consent form which I was given, and I
24 would like for you to look at the signature line -- the
25 first signature line on the form, please, and tell me

1 whether that is your signature.

2 THE DEFENDANT: Yes, Your Honor, it is my
3 signature.

4 THE COURT: Did you review that form with Mr.
5 Sullivan and Mr. Sparacino before you signed it?

6 THE DEFENDANT: Yes, I did, Your Honor.

7 THE COURT: And do you know that by signing
8 it, you have indicated that you consent for this
9 hearing to be before me?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Very well. Thank you.

12 You may return the form to the deputy clerk.

13 Sir, do you understand that under the
14 Constitution and laws of the United States, that you
15 have a right to a trial by jury on the charge pending
16 against you?

17 THE DEFENDANT: Yes, I do, Your Honor.

18 THE COURT: Do you know that if there were a
19 trial, that you would be presumed innocent and in order
20 for you to be convicted, it would be the burden of the
21 Government to prove you guilty beyond a reasonable
22 doubt?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you know that in its effort to
25 prove you guilty, the Government would be required to

1 bring witnesses to court to testify in your presence?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you know that your lawyers
4 would be permitted to cross-examine the government
5 witnesses?

6 THE DEFENDANT: Yes, I would, Your Honor.

7 THE COURT: Do you know that evidence could
8 be offered on your behalf at a trial?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Do you know that you would have
11 the right to testify at your trial?

12 THE DEFENDANT: I do know that, Your Honor.

13 THE COURT: And you understand, sir, that you
14 would also have the right not to testify?

15 THE DEFENDANT: I do, Your Honor.

16 THE COURT: Do you know that if you chose not
17 to testify, that the jury would be instructed that no
18 inference of guilt could be drawn against you for that
19 reason?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Do you understand that if you
22 plead guilty to the Information, you will give up the
23 rights that we just discussed?

24 THE DEFENDANT: I do, Your Honor.

25 THE COURT: Do you understand that there will

1 be no trial if you plead guilty?

2 THE DEFENDANT: I do, Your Honor.

3 THE COURT: Do you know that by pleading
4 guilty you will give up your right to appeal your
5 conviction to a higher court?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Now, having discussed these
8 rights with you, sir, do you still wish to plead
9 guilty?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you need more time to discuss
12 the rights that you waive by pleading guilty with your
13 lawyers before we continue?

14 THE DEFENDANT: No, I do not, Your Honor.

15 THE COURT: Now, sir, have you seen the
16 Information, the charging document filed by the United
17 States Attorney?

18 THE DEFENDANT: Yes, I have, Your Honor.
19 I've read it.

20 THE COURT: Do you have a copy of it with you
21 now at the podium?

22 THE DEFENDANT: Yes, I do, Your Honor.

23 THE COURT: Have you had a chance to review
24 the Information with Mr. Sullivan and Mr. Sparacino?

25 THE DEFENDANT: Yes, I have, Your Honor.

1 THE COURT: Do you need more time to review
2 it with them before we continue?

3 THE DEFENDANT: I do not, Your Honor.

4 THE COURT: Do you understand the charge that
5 is alleged in the Information?

6 THE DEFENDANT: I do, Your Honor.

7 THE COURT: Do you know what the maximum
8 penalty is for that charge?

9 THE DEFENDANT: I do, yes.

10 THE COURT: What is your understanding of the
11 maximum penalty that the Court could impose?

12 THE DEFENDANT: I believe it is six months in
13 jail and -- I'm sorry, one year -- up to one year in
14 jail, I believe, and a fine of up to \$100,000.

15 THE COURT: Do you also know that the Court
16 is required to impose a special assessment of \$25 at
17 the time of sentencing?

18 THE DEFENDANT: Yes, I do, Your Honor.

19 THE COURT: Has anyone promised you what
20 sentence will actually be imposed?

21 THE DEFENDANT: No one has promised me that,
22 Your Honor.

23 THE COURT: Have you discussed with your
24 lawyers, how the Federal Sentencing Guidelines might
25 apply to your case?

1 THE DEFENDANT: Yes, we have, Your Honor.

2 THE COURT: Do you know that what you
3 discussed with them represents their best professional
4 judgment about what the Court might find, and that it
5 is not a promise that that is what the Court will
6 conclude at the time of sentencing hearing?

7 THE DEFENDANT: That is my understanding,
8 Your Honor.

9 THE COURT: Do you know that if the sentence
10 is more severe than you now expect it will be, that
11 you are still bound by your plea, and that you will not
12 be permitted to withdraw your plea for that reason?

13 THE DEFENDANT: I understand that, Your
14 Honor.

15 THE COURT: Do you understand, sir, that
16 parole in the federal system has been abolished, so
17 that if you are sentenced to a period of incarceration,
18 you will not be released early on parole?

19 THE DEFENDANT: I believe I do understand
20 that, Your Honor. Yes.

21 THE COURT: Do you need more time to discuss
22 any of the questions I just asked, or any of your own
23 questions about sentencing, with your lawyers before we
24 continue?

25 THE DEFENDANT: No, I do not, Your Honor.

1 THE COURT: Sir, I was also provided a letter
2 with the date, April 17, 2010. The letter is addressed
3 to Mr. Sullivan and signed by Mr. Leon on his behalf
4 and on behalf of the U.S. Attorney.

5 And I see that on the last page there is a
6 signature on the line above your name.

7 Are you familiar with the letter that I just
8 described?

9 THE DEFENDANT: Yes. I believe that's the
10 plea letter.

11 THE COURT: Do you have a copy of it with you
12 now?

13 THE DEFENDANT: I do, in front of me, Your
14 Honor.

15 THE COURT: I'm going to hand you or ask the
16 deputy clerk to please hand you the letter which I was
17 given, and I would like for you to look at the
18 signature line, please, on the last page, and tell me
19 whether that is your signature.

20 THE DEFENDANT: Yes, Your Honor, that is my
21 signature.

22 THE COURT: Did you review that letter with
23 Mr. Sullivan and Mr. Sparacino before you signed it?

24 THE DEFENDANT: Yes, I did, Your Honor.

25 THE COURT: Does the letter accurately state

1 your understanding of the agreement between you and the
2 Government?

3 THE DEFENDANT: Yes, it does, Your Honor. I
4 believe it's dated April 19th.

5 THE COURT: If I said something else, sir, I
6 apologize.

7 THE DEFENDANT: Okay.

8 THE COURT: Why don't you look at it, please,
9 so that you will be certain that the letter that you
10 signed is same as the letter that you have with you at
11 the podium, and if you'd like to have a seat with Mr.
12 Sullivan and Mr. Sparacino while you do that, you're
13 welcome to.

14 (Pause.)

15 THE DEFENDANT: Yes, Your Honor, this is the
16 original document I signed.

17 THE COURT: I believe I asked you but I will
18 ask you again now that you've with had chance to
19 compare the signed version with your copy.

20 Does the letter accurately state your
21 understanding of the agreement between you and the
22 Government?

23 THE DEFENDANT: Yes, it does, Your Honor.

24 THE COURT: Has anyone promised you anything,
25 sir, other than the promises stated in the letter, in

1 return for your plea?

2 THE DEFENDANT: No, they have not, Your
3 Honor.

4 THE COURT: Has anyone threatened you or
5 forced you, to lead you to the decision to plead
6 guilty?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Very well. Thank you, Mr. Bloch.
9 You, and Mr. Sullivan, and Mr. Sparacino may
10 have a seat.

11 THE DEFENDANT: Thank you, Your Honor.

12 MR. SULLIVAN: Thank you, Your Honor.

13 MR. SPARACINO: Thank you, Your Honor.

14 THE COURT: Thank you.

15 Mr. Leon, I will hear the proffer of what the
16 Government's evidence would have shown had this matter
17 gone to trial.

18 MR. LEON: Good afternoon, Your Honor.

19 THE COURT: Good afternoon.

20 MR. LEON: Your Honor, the parties, the
21 Government, Mr. Scott, excuse me, Mr. Bloch and his
22 counsel have all agreed to a Statement of Offense in
23 this case. I'm going to, with the Court's instruction,
24 read that.

25 "The United States Office of the Special

1 Counsel, also known as the 'OSC', is an
2 independent federal agency charged with
3 safeguarding the merit-based employment
4 system by protecting federal employees and
5 applicants from prohibited personal
6 practices, also known as 'PPPs.' As such,
7 OSC receives, investigates and prosecutes
8 allegations of PPPs, with an emphasis on
9 protecting Federal Government whistle
10 blowers. The OSC has its principal office at
11 1730 M Street, Northwest, Suite 300, in the
12 District of Columbia, Washington D.C.
13 OSC is headed by a presidential appointee
14 whose title is 'Special Counsel.' Pursuant
15 to federal statute 5 U.S.C., Section 1211(b),
16 the Special Counsel is appointed by the
17 President, with advice and consent of the
18 Senate, for a term of five years.
19 On June 26th of 2003, President George W.
20 Bush nominated Mr. Bloch for the position of
21 Special Counsel to the United States Office
22 of Special Counsel.
23 On January 5th, 2004, Mr. Bloch began working
24 as Special Counsel. At all times relevant to
25 the Information in this proffer of facts, Mr.

1 Bloch served in the position of Special
2 Counsel to the United States Office of
3 Special Counsel.

4 Prior to November 6th of 2006, Mr. Bloch and
5 an individual discussed, among other things,
6 certain computer problems that each of them
7 had experienced. In these discussions, the
8 individual informed Mr. Bloch that the
9 individual previously used an entity named
10 'Geeks on Call' to successfully fix his own
11 computer using, among other things, a term
12 known as a "seven-level wipe."

13 On or about November 6th of 2006, Mr. Bloch
14 discussed with colleagues at the Office of
15 Special Counsel, OSC, a computer procedure
16 known as 'seven pass' or a 'seven-level wipe'
17 in relation to the OSC being able to obtain
18 archived documents or e-mails. During these
19 discussions," Bloch -- "Mr. Bloch said he was
20 aware that a search of an individual's
21 computer should be able to recover deleted e-
22 mails and other deleted files, unless a
23 'seven pass' or 'seven-level wipe' was
24 performed on that individual's computer.
25 Therefore, by and before November 6th of

1 2006, Mr. Bloch had an understanding that if
2 the seven pass or seven-level wipe was
3 performed on a computer, then it would be
4 virtually impossible for anyone to recover
5 deleted files or e-mails ever again from that
6 computer.

7 On or about December 11th of 2006, Mr. Bloch
8 directed a member of the senior staff to
9 contact Geeks on Call to perform a seven-
10 level wipe on his two OSC computers.

11 On the morning of December 18th, 2006, a
12 Geeks on Call technician arrived at OSC's
13 office in the District of Columbia. Mr.
14 Bloch was not present, and a senior staff
15 member called Mr. Bloch to inquire what Mr.
16 Bloch wanted the technician to do while he
17 waited for Bloch to arrive to have his
18 computer serviced. Mr. Bloch instructed his
19 senior staff member to direct the technician
20 to perform a 'seven-level wipe' on the C
21 drives, or local hard drives, of the OSC
22 computers assigned to two former career
23 appointees in the immediate office of the
24 Special Counsel. The technician performed
25 these wipes as instructed.

1 The Geeks on Call technician then returned to
2 the OSC office later during the afternoon of
3 December 18th, 2006. Upon his return that
4 afternoon, the technician was instructed by
5 Mr. Bloch to perform a 'seven-level wipe' on
6 two additional OSC-issued laptop computers,
7 each of which was assigned to Mr. Bloch.
8 Prior to performing these two additional
9 seven-level wipes, the technician was
10 directed by Mr. Bloch to first make an
11 archival copy of various documents and files
12 that were contained on the C drive of one of
13 Mr. Bloch's OSC laptop computers. The
14 technician copied these files to a thumb
15 drive and then handed the thumb drive to Mr.
16 Bloch. The technician then performed the
17 wipes, as instructed.

18 On November 28th of 2007, The Wall Street
19 Journal published an article which was
20 entitled, 'Head of Rove Inquiry in Hot Seat
21 Himself. Bloch Used Private Company, Geeks
22 on Call, to Delete Files On His Office
23 Computer.'

24 This article, among other things, reported
25 that in December of 2006, Mr. Bloch directed

1 the deletion of certain files contained on
2 his OSC-issued computer, as well as the
3 computers of two of his top political aides,
4 by enlisting Geeks on Call to perform a
5 seven-level wipe on these computers.
6 By letter, dated December 6th of 2007, the
7 Chairman and Ranking Minority Member of the
8 United States House of Representatives
9 Committee on" Oversight and Reform and,
10 excuse me, "Oversight and Government Reform,"
11 which I will refer to for the rest of this
12 proffer as the "House Oversight Committee,"
13 wrote to Mr. -- "wrote to the Defendant, Mr.
14 Bloch, regarding media reports that Mr. Bloch
15 had authorized 'seven-level wipes' of OSC
16 computers issued to Bloch and certain of his
17 senior staff."

18 The letter from -- to Mr. Block read, in
19 part, and with the Court's permission I'll just read
20 from the second of the two paragraphs listed.

21 THE COURT: You may.

22 MR. LEON: Thank you.

23 Second of the two paragraphs reads as
24 follows:

25 "We are interested in gaining understanding

1 of several issues raised by these reports,
2 including the rationale for using non-
3 government IT personnel to perform this
4 service, and the rationale for using a
5 'seven-level wipe.'
6 The letter to Mr. Bloch concluded by asking
7 that Mr. Bloch agree to participate in a
8 transcribed interview regarding his purported
9 use of Geeks on Call in December of 2006.
10 Congress had the constitutional power to make
11 inquiry" and conduct, excuse me, "and conduct
12 oversight of, among other things, the use of
13 Federal Government property and resources, as
14 well as the proper operation of the OSC.
15 Accordingly, the House Oversight Committee
16 was duly empowered to conduct the
17 investigation and the inquiry concerning Mr.
18 Bloch's use" of the Geeks on -- "of Geeks on
19 Call to conduct seven-level wipes on OSC
20 computers.
21 As a result of these inquiries made by the
22 House Oversight Committee, Mr. Bloch made
23 himself available to be interviewed by
24 members of the committee staff, in March of
25 2008.

1 Specifically, on March 4th of 2008, Mr. Bloch
2 submitted to an interview with the staff of
3 the House Oversight Committee. As part of
4 this March 4, 2008 interview, Mr. Bloch was
5 asked about, among other things, the
6 following: Whether and why he:
7 One, directed the deletion of e-mails or
8 files on any of Mr. Bloch's OSC-issued
9 computers in December of 2006 by using the
10 computer repair service, Geeks on Call;
11 secondly, whether and why he directed that
12 Geeks on Call delete e-mails or files
13 contained on the computers of two of his OSC
14 aides; and
15 thirdly, whether and why Mr. Bloch directed
16 that any such deletion of computer files be
17 done by use of a seven-level wipe process.
18 Moreover, Mr. Bloch was asked whether he was
19 familiar with the term, 'seven-level wipe'
20 before December 2006."

21 Your Honor, the proffer of facts, the next two
22 pages, identifies five separate excerpts from this
23 transcribed interview and, in doing so, it underscores
24 and underlines some of Mr. Bloch's responses, his
25 answers in each of these five excerpted portions of the

1 transcript.

2 Then turning to the final page of the
3 Statement of Offense, Your Honor, paragraph 18 reads as
4 follows:

5 On or about March 4th of 2008, in the
6 District of Columbia and elsewhere, Mr.
7 Bloch, having been requested by the House
8 Oversight Committee, to provide information
9 upon a matter of pertinent inquiry before the
10 Committee, unlawfully and willfully did make
11 default, by refusing and failing to state
12 fully and completely, the nature and extent
13 of his instructions that Geeks on Call
14 perform 'seven-level wipes' on his OSC-issued
15 computers, as well as the OSC-issued
16 computers of two non-career OSC appointees in
17 December of 2006, as set forth in the
18 underscored statements," which were part of
19 the five excerpts I just referenced.
20 Finally, in making the underscored statements
21 and representations noted in a statement of
22 offense, the Defendant, Mr. Bloch, unlawfully
23 and willfully withheld pertinent information
24 from the Committee."

25 THE COURT: Thank you, Mr. Leon.

1 MR. LEON: Thank you, Your Honor.

2 THE COURT: Mr. Bloch, Mr. Sullivan, and Mr.
3 Sparacino, let me ask you to return, please.

4 (Pause.)

5 THE COURT: Now, Mr. Bloch, did you hear all
6 of Mr. Leon's statement on the record regarding the
7 Government's proffer of what the evidence would have
8 shown had this matter gone to trial?

9 THE DEFENDANT: Yes, Your Honor, I did.

10 THE COURT: Was Mr. Leon's statement a
11 statement which was entirely accurate?

12 MR. SULLIVAN: Your Honor, if I might? I
13 believe that in paragraph 10 Mr. Leon referred to the
14 appointees, referenced in the second last line, as
15 "career appointees" when they were, in fact, non-career
16 appointees.

17 THE COURT: Now, I see that the language in
18 the written proffer does include the word -- the term,
19 the modifier "non-career."

20 Are you suggesting that Mr. Leon said
21 "career" rather than "non-career"?

22 MR. SULLIVAN: I think I heard "career." If
23 I'm mistaken, I'm happy to be corrected, but I was just
24 offering my perception to make sure the record is
25 accurate, Your Honor.

1 THE COURT: Very well. That's fine, Mr.
2 Sullivan.

3 Can we agree that if Mr. Leon said "career"
4 it was in error, since the Government's written proffer
5 has the term "non-career"?

6 MR. SULLIVAN: Absolutely, and that's -- I'm
7 not suggesting anything else.

8 MR. LEON: Yes, Your Honor.

9 THE COURT: Very well. Thank you. Mr.
10 Bloch, is there anything else about what Mr. Leon said
11 that you believe should be corrected?

12 THE DEFENDANT: No. I believe he accurately
13 portrayed the statement of the facts.

14 THE COURT: Very well. I'm going to ask the
15 deputy clerk to please hand you the written Statement
16 of Offense and I'd like you to look at the last page,
17 please, where there is a signature above your name, and
18 I will again ask you, sir, whether that is your
19 signature?

20 THE DEFENDANT: Yes, Your Honor, that is my
21 signature and that is the original, dated today.

22 THE COURT: Did you review the written
23 statement with Mr. Sullivan and Mr. Sparacino before
24 you signed it?

25 THE DEFENDANT: Yes, I did.

1 THE COURT: Does the written -- Is the
2 written statement entirely accurate?

3 THE DEFENDANT: It is an accurate reflection
4 of the agreed-upon Statement of Offense that has been
5 presented to the Court, and I agree.

6 THE COURT: Is there a anything in the
7 written statement that you believe should be corrected?

8 THE DEFENDANT: That Mr. Leon read
9 incorrectly or -- Your Honor?

10 THE COURT: Anything in the written statement
11 that is not accurate?

12 THE DEFENDANT: Well, there are -- Yes. I
13 would be less than truthful if I said that everything
14 in there was factually accurate.

15 THE COURT: What is it in there that you
16 believe is not factually accurate?

17 MR. SULLIVAN: Excuse me, Your Honor. May I
18 inquire of my client, at this stage, to get an
19 understanding of what he believes might be appropriate,
20 for purposes of making sure that he's answering your
21 questions truthfully?

22 THE COURT: You may have a moment and confer,
23 if you wish.

24 MR. SULLIVAN: Thank you.

25 THE COURT: Would you like to have a seat to

1 do that, the three of you?

2 MR. SULLIVAN: Yes, Judge.

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Very well. Thank you.

5 MR. SULLIVAN: You want me to leave the
6 original up here?

7 THE COURT: That would be fine, thank you, as
8 long as you have a copy.

9 MR. SULLIVAN: Thank you, Your Honor.

10 (Pause.)

11 THE COURT: Do counsel wish a brief recess?

12 MR. SULLIVAN: I don't think this will take
13 more than a minute.

14 THE COURT: Very well.

15 MR. SULLIVAN: If so, I will request one.
16 Thank you, Judge.

17 (Pause.)

18 MR. SULLIVAN: We're ready to re-approach,
19 Your Honor.

20 THE COURT: Very well. Thank you.

21 THE COURT: Now, Mr. Bloch, do you still have
22 a copy of the written Statement of Offense?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Did you have a chance to re-
25 review the written Statement of Offense?

1 THE DEFENDANT: Yes, I did, Your Honor.

2 THE COURT: Is there anything in the written
3 Statement of Offense that does not accurately
4 characterize the conduct giving rise to the offense
5 alleged in the Information?

6 THE DEFENDANT: Your Honor, there is a
7 portion that refers to a second computer of mine that
8 had a seven-level wipe done by Geeks, and while I have
9 no recollection of it, I have consented to this
10 stipulation with the understanding that the Government
11 could prove that at trial. I don't deny that it may
12 have occurred, but I have no recollection of that
13 occurring.

14 THE COURT: Very well. Thank you, Mr. Bloch.
15 Mr. Leon, may I ask you to return, please?

16 Does the United States Attorney wish to be
17 heard? More specifically, are you satisfied that there
18 remains a factual basis in support of the plea, given
19 the single qualification that has been noted?

20 MR. LEON: The short answer to the Court's
21 last question is, "Yes, we are satisfied that there is
22 a sufficient factual basis," but to also amplify that,
23 the Government does have, as Mr. Bloch concedes and
24 states, evidence on that point.

25 He's reviewed -- My understanding is, through

1 counsel, he's reviewed that evidence, and we're happy
2 to make that evidence available as part of the
3 sentencing memo, if there's any question this Court
4 has, but just for the record --

5 THE COURT: May I ask you to summarize now,
6 what the evidence is, --

7 MR. LEON: Certainly.

8 THE COURT: -- so that the matter can be
9 resolved now --

10 MR. LEON: Certainly.

11 THE COURT: -- and the Court can make its own
12 determination regarding whether there is a factual
13 basis in support of the plea?

14 MR. LEON: Certainly.

15 If I understood Mr. Bloch correctly, he was
16 referring to reference to two additional computers that
17 were wiped.

18 May I inquire of counsel, just so I
19 understand? Can I ask the Court -- Can I ask --
20 inquire through the Court, exactly what language Mr.
21 Bloch is referring to, so I can give the Court the
22 accurate (phonetic) proffer I can.

23 THE COURT: I believe Mr. Sullivan is
24 prepared to point it out to you, and all of you may
25 confer for a moment for that limited purpose.

1 MR. SULLIVAN: Thank you, Your Honor.

2 Why don't you simply state it for the record,
3 Mr. Sullivan?

4 MR. SULLIVAN: I believe that Mr. Bloch is
5 referring to his home computer.

6 Nevertheless, Your Honor, I think that what
7 Mr. Bloch was attempting to --

8 THE COURT: I want Mr. Leon to know which
9 paragraph it is to which his attention should be
10 directed.

11 MR. SULLIVAN: Very good, Judge.

12 THE COURT: It is my understanding that the
13 reference was to paragraph 11.

14 MR. SULLIVAN: That's correct, Your Honor,
15 and just by way of clarification, all Mr. Bloch was
16 attempting to do was to represent, as truthfully and
17 honestly as he could, knowing that he was under oath
18 here today before you, that even though his
19 recollection does not comport with the representations
20 made in the statement of evidence through the proffer,
21 that he has been advised by counsel as to the state and
22 nature of the Government's evidence, and he hereby
23 concedes that the Government will be able to
24 demonstrate its evidence on that point, beyond a
25 reasonable doubt, regardless of whether he maintains an

1 accurate recollection of that or not, and to this --

2 THE COURT: Very well.

3 Nonetheless, the Court must make a
4 determination regarding whether Mr. Bloch is entering a
5 -- is making a factual admission of guilt or whether he
6 is conceding, with respect to that third line of
7 paragraph 11, that that is what the Government's
8 evidence is.

9 Now, Mr. Leon?

10 MR. LEON: Thank you, Your Honor.

11 Were this case to go to trial, the Government
12 would have the following proof on that point, on the
13 language the Court's identified.

14 THE COURT: You're speaking now, of paragraph
15 11, the third line, --

16 MR. LEON: Yes.

17 THE COURT: -- and the reference to, "Two
18 additional OSC-issued laptop computers"?

19 MR. LEON: Yes.

20 The Government would have the sworn testimony
21 of two separate individuals, neither of whom have a
22 relationship, or a friendship, or an association with
23 each other, each of whom would corroborate that
24 statement.

25 In addition, the Government has an invoice

1 which would be introduced at trial as a business record
2 from the computer service repair company, Geeks on
3 Call, which would also corroborate the fact that there
4 were indeed a total of four wipes performed on four
5 separate computers on December 18th of 2006, and based
6 on those two independent sworn accounts, based on the
7 corroborating invoice, the Government is confident that
8 it would be able to prove that point beyond a
9 reasonable doubt, were this case to go to trial.

10 THE COURT: Mr. Leon, did -- may I assume
11 that prior to today you advised Mr. Sullivan and Mr.
12 Sparacino of the two witness accounts?

13 MR. LEON: Absolutely. We provided a
14 detailed account of that. We provided copies of the
15 invoice as well as other corroborating e-mails
16 surrounding that invoice.

17 We have absolutely fully informed counsel of
18 all the evidence we have on that point, as well as
19 other points.

20 MR. SULLIVAN: And I confirm that Mr. Leon is
21 correct, we do have that information.

22 THE COURT: Let me ask you to come back to
23 the microphone, please. I can hear you but if you are
24 not standing --

25 MR. SULLIVAN: Sure.

1 THE COURT: -- directly in front of it, you
2 will not be recorded.

3 MR. SULLIVAN: Mr. Leon did precisely what he
4 represented to the Court that he did, and we shared it
5 with our client.

6 THE COURT: Now, Counsel for the Government
7 has indicated that notwithstanding Mr. Bloch's
8 qualification of his admission of guilt with respect
9 to that item in line -- or the two additional computers
10 referenced in the third line of paragraph 11, the
11 Government believes there is a factual basis in support
12 of the plea. Because the Court imagines that at the
13 time of sentencing, in the Court's consideration of the
14 anticipated two point adjustment for acceptance of
15 responsibility, there may be some reference to this
16 qualification, is there anything else that either side
17 believes is necessary with respect to our record at
18 this time? Mr. Leon?

19 MR. LEON: The short answer is "No."

20 If I could just add one other quick thing
21 onto the Court's point?

22 THE COURT: Yes.

23 MR. LEON: The answer to the Court's question
24 is "No."

25 In addition, and the -- part of the reason

1 for that "No" answer to the Court is that in just re-
2 reviewing the underscored excerpts and responses by Mr.
3 Bloch, which are identified in the Statement of
4 Offense, I don't see that qualification that Mr. Bloch
5 has just flagged, touching on any of the excerpted
6 portions. So all of those excerpted portions, as far
7 as the Government believes, and I would respectfully
8 submit with respect to what the Court's inquiry is
9 right now, all of those excerpted portions still do
10 identify instances -- several different instances where
11 Mr. Bloch unlawfully and willfully withheld pertinent
12 information from the Committee.

13 So, for that additional reason, we think that
14 there is certainly a sufficient basis for the Court to
15 accept the plea.

16 THE COURT: And put another way, does that
17 mean that none of the five excerpted exchanges refer to
18 the other two computers addressed in line 3 of
19 paragraph 11?

20 MR. LEON: That is my reading of -- That is
21 -- That's my response to the Court. That is -- Yes.

22 THE COURT: So does that mean then, that the
23 Court should anticipate that at the time of sentencing
24 the Government would not -- the Government does not
25 intend to maintain that Mr. Bloch has not accepted

1 responsibility --

2 MR. LEON: We do not --

3 THE COURT: -- based on this qualification of
4 line 3 of paragraph 11?

5 MR. LEON: Based on this limited
6 qualification which, again, Mr. Bloch concedes that the
7 Government has the proof beyond a reasonable doubt,
8 based on that limited qualification, no, the Government
9 does not anticipate fighting on the two points of
10 responsibility. We would agree with that.

11 THE COURT: Very well. Thank you very much,
12 Mr. Leon.

13 Mr. Sullivan?

14 MR. SULLIVAN: Thank you, Judge. I would
15 just amplify what Mr. Leon said. The points he made
16 were those precisely that I was going to direct the
17 Court to, with regard to the excerpts noted in the
18 Statement of Offense and the proffer.

19 In addition, again, I emphasize that not only
20 will Mr. Bloch accept responsibility at sentencing, as
21 he has here today but, in fact, it was his effort to be
22 scrupulously honest with the Court in accordance with
23 his obligations under oath, to advise you that despite
24 his lack of recollection, he does not contest the
25 evidence that the Government has, nor does he contest

1 the representations in the proffer alluding to the
2 excerpts upon which Mr. Leon relies.

3 THE COURT: Very well. Thank you, very much,
4 Mr. Sullivan.

5 Now, before Ms. Miller address you, Mr.
6 Bloch, there is one -- actually two other signatures I
7 neglected to show you.

8 On the first form I showed you, there is also
9 a signature following the language, "I hereby waive my
10 right to trial by jury," and another signature after
11 the language, "I hereby give up my right to at least 30
12 days to prepare for trial."

13 I'd like for you to look at those two
14 signatures, please, and tell me whether those are
15 yours.

16 THE DEFENDANT: Yes, Your Honor, these are
17 also mine. The document bears three of my signatures.

18 THE COURT: Very well. Thank you very much.
19 You may return the form to the deputy clerk.

20 Now, Ms. Miller?

21 THE CLERK. Your Honor, in criminal case -- in
22 Magistrate Case Number 2010-215, Mr. Scott J. Bloch,
23 how do you plead to one count of the misdemeanor
24 Information, to criminal contempt of Congress, how you
25 plead?

1 THE DEFENDANT: Guilty.

2 THE COURT: It is a finding of the Court that
3 Mr. Bloch's plea of guilty is a knowing and voluntary
4 waiver of his rights, supported by an independent basis
5 in fact, which contains each of the essential elements
6 of the offense. The plea will therefore be accepted.

7 You may have a seat, Mr. Bloch, along with
8 Mr. Sullivan and Mr. Sparacino.

9 THE DEFENDANT: Thank you, Your Honor.

10 MR. SULLIVAN: Thank you.

11 THE COURT: Thank you.

12 Now, Mr. Leon, does the United States wish to
13 be heard with regard to Mr. Bloch's conditions of
14 release pending sentencing?

15 MR. LEON: Your Honor, as part of the plea
16 agreement, the Government has agreed to take the
17 position that it does not think Mr. Bloch needs to be
18 detained at this time. That's the Government's
19 position.

20 THE COURT: May I assume that the Government
21 requests, as a condition of Mr. Bloch's release pending
22 sentencing, compliance with the booking order --

23 MR. LEON: Yes, Your Honor.

24 THE COURT: -- which has been provided to the
25 Deputy Clerk?

1 MR. LEON: Yes, Your Honor. Thank you for
2 pointing that out.

3 THE COURT: Very well. Thank you very much.
4 Mr. Sullivan?

5 MR. SULLIVAN: Yes, Your Honor.

6 THE COURT: Do you wish to be heard?

7 MR. SULLIVAN: One what point? I was
8 conferring with my client.

9 THE COURT: Release pending sentencing.

10 MR. SULLIVAN: I would enthusiastically
11 support the recommendation of the Government.

12 THE COURT: Did you see the proposed booking
13 order which was provided by Mr. Leon? If not, I --

14 MR. SULLIVAN: No.

15 THE COURT: -- will ask the Deputy Clerk to
16 share with you, please.

17 MR. SULLIVAN: Sure. No, I didn't see it.
18 We did discuss it though. If I could just take a
19 minute.

20 THE COURT: Very well. Certainly.

21 (Pause.)

22 MR. SULLIVAN: Judge, thank you for giving me
23 the opportunity to review the booking order.

24 THE COURT: Certainly.

25 MR. SULLIVAN: The booking order references a

1 number of agencies, NPT, the marshal's office, and it
2 does not appear to reference the FBI itself. We had
3 discussed with Mr. Leon, having Mr. Bloch booked with
4 the U.S. Marshal Service. That was accomplished today
5 before this plea hearing, and through the FBI, which
6 we're planning to walk to after this proceeding.

7 We did not think it was necessary for MPD
8 because this is not offense such that MPD would have an
9 interest.

10 Mr. Leon agreed. So for purposes of
11 clarification, this references MPD, and I wish -- think
12 we just might want to modify it, if that's acceptable
13 to the Court, to substitute "FBI" for "MPD" in
14 paragraph 3.

15 THE COURT: Mr. Leon?

16 MR. LEON: Mr. Sullivan is correct that MPD
17 had no involvement in this and the Government's
18 investigation. This was an investigation that involved
19 federal offenses, congressional issues, and the FBI.
20 So for that reason, after consulting with our office,
21 we are fine with Mr. Bloch been processed by the
22 marshals, who he has already been processed by, and by
23 the FBI, with no need, in this particular instance, to
24 also have him processed and booked by MPD.

25 THE COURT: I will ask you to -- the two of

1 you to modify the form, please, and put your initials
2 there. If we are -- If you are mistaken, however, and
3 you are subsequently advised that booking through the
4 Metropolitan Police Department is required, then it is
5 understood that that is a further condition of Mr.
6 Bloch's release.

7 MR. SULLIVAN: Very well.

8 MR. LEON: Thank you, Your Honor.

9 THE COURT: Very well. Thank you.

10 And after that I will ask -- After you make
11 that modification, I will ask you to please agree upon
12 a date in July for sentencing.

13 (Pause.)

14 THE COURT: I will suggest a day during the
15 week of July 19th, any Monday, Wednesday or Friday
16 morning, or any afternoon at 1:30.

17 MR. SULLIVAN: That entire week is open,
18 Judge.

19 THE COURT: Thank you.

20 Do you have a preference, Mr. Leon?

21 MR. LEON: The week of the nineteenth, no,
22 Your Honor. That week is fine.

23 THE COURT: Very well. Tuesday, July 20th at
24 1:30.

25 Now, Mr. Bloch, sir, the Court will release

1 you on your personal promise to return to court for
2 your sentencing, with the following additional
3 conditions:

4 First, you must continue to reside at your
5 current address.

6 You must report any plans to travel outside
7 the District of Columbia area to the U.S. Probation
8 Office. When you leave Court today you must report to
9 the Probation Office with the probation referral form
10 the you will be given before you leave the courtroom.

11 The Court will order, as a further condition
12 of your release, that you comply with the booking order
13 which I am signing, the booking order we discussed on
14 the record, which requires that you accompany an agent
15 of the FBI for what is known as "routine processing."

16 I directed you to report to the Probation
17 Office. You are further ordered that as a condition of
18 your release you must cooperate with the probation
19 office in its effort to complete a presentence report.

20 Your final condition, sir, is that you return
21 to court for your sentencing, which has been scheduled
22 for Tuesday, July 20th at 1:30 in this courtroom. Your
23 willful failure to return for your sentencing would be
24 a separate offense for which you could face an
25 additional period of incarceration, or a fine, or both.

1 Do you understand, sir?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Very well. Thank you.

4 You may have a seat until you receive and
5 sign the release order.

6 Mr. Leon?

7 MR. LEON: If I could just make one other
8 inquiry.

9 THE COURT: Yes.

10 MR. LEON: I don't know the Court's practice
11 but in this matter would the -- the Government would
12 respectfully request or suggest a booking, booking, a
13 briefing schedule. I don't know what the Court's
14 practice is, if the Court wants sentencing memos. I do
15 anticipate sentencing memos in this case.

16 If the Court has a preference, would like
17 them a certain number of days in advance?

18 THE COURT: I'm happy for counsel to submit a
19 proposed order. If you have dates now, if you have
20 dates in mind now, I can hear them now and I will
21 include them at this time. Otherwise, if you wish to
22 confer about the dates, I see no reason why you cannot
23 submit a proposed order in the next day or so.

24 MR. LEON: We could do either, Your Honor. I
25 think both counsel would be comfortable just having the

1 deadline of a week in advance, a week in advance of the
2 sentencing.

3 THE COURT: Is that sufficient, Mr. Sullivan?

4 MR. SULLIVAN: Yes, Your Honor.

5 THE COURT: Very well. Then I will order
6 that written memoranda be filed by no later than July
7 13th.

8 MR. SULLIVAN: Thank you, Your Honor.

9 MR. LEON: Thank you.

10 THE COURT: Thank you.

11 (Pause.)

12 THE CLERK: Mr. Bloch, would you please
13 (inaudible)? The Court is releasing you on your
14 personal recognizance to return to court for your
15 sentencing on July the 20th, 2010 at 1:30 in this
16 courtroom, 4.

17 Do you promise that you will report on that
18 date and comply with all the conditions (inaudible)?

19 THE CLERK: I do.

20 THE CLERK: Thank you.

21 THE COURT: Now, Counsel, is there anything
22 further with respect to this matter this afternoon?
23 Mr. Leon?

24 MR. LEON: No, Your Honor. Thank you.

25 THE COURT: Mr. Sullivan? Mr. Sparacino?

1 MR. SULLIVAN: No, Your Honor.

2 THE COURT: Very well. Thank you very much.
3 You may all be excused.

4 COUNSEL: Thank you.

5 THE COURT: Thank you.

6 THE CLERK: Remain there and I'll give you a
7 copy of (inaudible).

8 (Proceedings concluded at 2:28 p.m.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

I certify that the foregoing is a correct transcript
from the electronic sound recording of the proceedings
in the above-entitled matter.

/s/ _____

February 12, 2011

STEPHEN C. BOWLES