

USDC SDNY
DOCUMENT
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DATE FILED: 5/25/2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

Michael Thomas,

Defendant.

Deferred Prosecution Agreement

19 Cr. 830 (AT)

TO: MICHAEL THOMAS

On November 19, 2019, a grand jury sitting in this District returned a six-count indictment (the "Indictment"), which charged Michael Thomas ("you") with committing offenses against the United States, to wit, conspiring to knowingly defraud the United States and to knowingly make and use a false writing or document, in violation of 18 U.S.C. § 371, and three counts of knowingly making and using a false writing or document, in violation of 18 U.S.C. § 1001. However, after a thorough investigation, and based on the facts of this case and your personal circumstances, the U.S. Attorney's Office for the Southern District of New York ("USAO-SDNY") has determined that the interests of justice will best be served by deferring prosecution in this District. Upon your acceptance of responsibility for your behavior and by your signature on this deferred prosecution agreement (the "Agreement"), prosecution will be deferred during the term of your behavior and satisfactory compliance with the terms of this Agreement for the period of six months from the date of this Agreement.

The terms and conditions constituting your good behavior and satisfactory compliance are as follows:

- (1) You shall refrain from violating any federal, state, or local law. You shall immediately contact your U.S. Pretrial Services Officer if arrested or questioned by a law-enforcement officer.
- (2) You shall associate only with law-abiding persons.
- (3) You shall work regularly at a lawful occupation, regularly attend school, and/or support or care for your legal dependents, if any, to the best of your ability, as approved by your U.S. Pretrial Services Officer. You shall notify your supervising U.S. Pretrial Services Officer prior to any work or school changes.
- (4) You shall not leave the contiguous United States without permission of your supervising U.S. Pretrial Services Officer. In accordance with this condition, the U.S. Pretrial Services Office shall return your passport upon the Court's entering this Agreement, and shall do so indefinitely unless this Agreement is violated.

- (5) You shall notify your supervising U.S. Pretrial Services Officer immediately of any change in your place of residence.
- (6) You shall follow your supervising U.S. Pretrial Services Officer's instructions and advice.
- (7) You shall report to your supervising U.S. Pretrial Services Officer as directed.

As a further condition you hereby consent to disclosure, by any federal, state, or local government agency, or by any medical or substance abuse treatment provider, to the U.S. Pretrial Services Officer supervising your case, of such medical and treatment records as may be requested by the Pretrial Services Officer to evaluate deferral of prosecution in this case. You further agree that you will execute any additional consent forms that any such agency or provider may require to release such information.

Special conditions are as follows:

You shall truthfully and completely disclose all information with respect to the activities of yourself and others related to your employment by the Bureau of Prisons ("BOP"), which information can be used for any purpose. You shall agree to meet with and be interviewed by the USAO-SDNY, the Federal Bureau of Investigation, the Department of Justice, Office of the Inspector General ("DOJ-OIG"), and any other law enforcement agency designated by this Office.

You shall complete 100 documented hours of community service, preferably related to the criminal justice system, including working with recently released inmates. The specific type of community service to be performed must be approved by your Pretrial Services Officer.

The USAO-SDNY may at any time revoke or modify any condition of this provisional release or change the period of such supervision, which shall in no case exceed six months. The USAO-SDNY may discharge you from supervision at any time. The USAO-SDNY may at any time proceed with the prosecution for this offense should the USAO-SDNY, in its sole discretion, deem such action advisable.

If upon completion of your supervision a written report from your supervising U.S. Pretrial Services Officer is received to the effect that you have complied with all the rules, regulations and conditions and special conditions applicable to your deferred prosecution, no further prosecution will be instituted in this District for the above offenses.

Nothing in this Agreement shall be interpreted to preclude the BOP or the DOJ-OIG from taking any administrative action against you, including suspension or termination of employment, based on the facts alleged in the Indictment, the facts identified in the course of the investigation that led to the Indictment, or your own statements to the DOJ-OIG or any other law enforcement entity. Nothing in this Agreement shall be interpreted to require the BOP or the DOJ-OIG to delay

any administrative action until after the expiration of the period of deferment contemplated by this Agreement. You agree that a copy of this Agreement, including your admission and acceptance of responsibility, shall be provided to the BOP.

* * *

If you successfully complete the term of supervision and fulfills all the terms and conditions of this Agreement, the Government will move the Court to dismiss the Indictment as to the defendant.

It is further understood that this Agreement and the terms and conditions set forth herein are limited to the facts and circumstances of this case and lack precedential value.

Dated: New York, New York
May 20, 2021

[REDACTED]
United States Attorney for the
Southern District of New York

By: *Janice L. Morgan*
[REDACTED]
Assistant United States Attorneys
Tel.: [REDACTED]

The undersigned hereby consents to the foregoing. The undersigned hereby further admits that he willfully and knowingly completed materially false count and round slips regarding required counts and rounds in the Special Housing Unit of the Metropolitan Correctional Center ("MCC") on August 9, 2019 and August 10, 2019. The undersigned expressly waives any and all rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, the Speedy Trial Act, §§ 3161 *et seq.*, and any other pertinent provisions, and consents to the adjournment of all pending proceedings in this case. The undersigned further waives the applicable statute of limitations with respect to any prosecution that is not time-barred on the date that this agreement is signed. It is the intent of this provision to toll the applicable statute of limitations during the pendency of the deferred prosecution.

The undersigned understands that pursuant to Title 18, United States Code, Section 3161(h)(2), this Agreement is subject to approval by the Court. Should the Court refuse to approve, and thereby reject, this Agreement, neither party shall be bound to any term of this Agreement, and no admissions in this Agreement may be used against the undersigned.

Finally, the undersigned acknowledges that he has read this Agreement and has carefully reviewed each provision with his attorney. The undersigned and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement. The undersigned further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

Dated: New York, New York
May ²⁰, 2021

Montell Figgins

Montell Figgins (May 20, 2021 15:49 EDT)

Montell Figgins, Esq.
Attorney for Defendant

Michael Thomas

Michael Thomas (May 20, 2021 16:04 EDT)

Michael Thomas
Defendant

Pursuant to 18 U.S.C. §3161(h)(2), exclusion under the Speedy Trial Act of the period of time during which the prosecution of the defendant is deferred pursuant to this Agreement is hereby approved.


Dated: New York, New York
May 25, 2021

Honorable Analisa Torres
United States District Judge

The undersigned hereby consents to the foregoing and will accept supervision of the above-named defendant on the conditions set forth herein.

Dated: New York, New York
May ___, 2021

Francesca
Piperato



Digitally signed by
Francesca Piperato
Date: 2021.05.24 10:32:36
-04'00'

United States Pretrial Services Officer