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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
THE UNITED STATES OF AMERICA,)
Plaintiff,) No. CR 11-57 RSM
vs.)
DAVID MYRLAND,)
Defendant.)

VERBATIM TRANSCRIPT OF PROCEEDINGS
OF
A CHANGE OF PLEA HEARING
BEFORE THE HONORABLE JAMES P. DONOHUE, MAGISTRATE JUDGE
7/27/2011
APPEARANCES
For Plaintiff: Vince Lombardi
For Defendant: Stefan Illa

Transcribed from electronic sound recording
Transcript produced by transcription service

Transcribed by Brian Killgore

1 (Proceedings of 7/27/2011)

2 THE CLERK: All rise. The United States District
3 Court is again in session, the Honorable James P. Donohue
4 presiding.

5 Your Honor, this is a change of plea hearing in the
6 case of the United States of America v. David Russell
7 Maryland, case number CR 11-57 RSM.

8 Will counsel please make your appearances?

9 MR. LOMBARDI: Good morning, Your Honor, Vince
10 Lombardi for the United States.

11 THE COURT: Good morning, Mr. Lombardi.

12 MR. ILLA: Good morning, Your Honor, Stephan Illa
13 appearing on behalf of the defendant, Mr. David Myrland.
14 Mr. Myrland is here today.

15 THE COURT: Good morning, Mr. Illa, and good
16 morning, Mr. Myrland.

17 THE DEFENDANT: Good morning, sir.

18 THE COURT: Mr. Illa, is it your understanding
19 that Mr. Myrland is prepared to enter a plea?

20 MR. ILLA: Yes, Your Honor.

21 THE COURT: Thank you, then Mr. Myrland, at this
22 point I will ask you to stand and to raise your right hand
23 so that you can be sworn in.

24 DEFENDANT DAIVD MYRLAND SWORN

25 THE COURT: Thank you, please be seated.

1 Mr. Myrland, I want to remind you that you are now
2 under oath. I am going to ask you a series of questions and
3 it is important that you understand the question and that
4 you answer the question truthfully.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: If you don't understand my question,
7 let me know and I will try to rephrase it in a way so that
8 you do understand it.

9 If you answer any of my questions falsely, then the
10 answers that you provide today could be used against you in
11 a later prosecution for perjury or for making a false
12 statement.

13 Do you understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Would you state your full true name,
16 please?

17 THE DEFENDANT: David Russell Myrland.

18 THE COURT: And Mr. Myrland, how old are you?

19 THE DEFENDANT: Fifty-three.

20 THE COURT: And how much education have you
21 received?

22 THE DEFENDANT: Two years of community college
23 after graduation from high school.

24 THE COURT: Mr. Myrland, have you been treated
25 recently for any mental illness or addiction to narcotic

1 drugs?

2 THE DEFENDANT: No, sir.

3 THE COURT: Are you currently under the influence
4 of any alcoholic beverage or narcotic drug or medicine that
5 could make it difficult to understand me?

6 THE DEFENDANT: No, sir.

7 THE COURT: Mr. Illa, to the best of your
8 knowledge, is Mr. Myrland fully competent to enter a plea
9 today?

10 MR. ILLA: Yes, Your Honor, he is.

11 THE COURT: Thank you.

12 Mr. Myrland, have you had a chance to review the
13 indictment? The indictment is the written document that
14 contains the charge that has been returned against you by
15 the grand jury.

16 THE DEFENDANT: It was one paragraph. Yes.

17 THE COURT: And have you had a chance to speak
18 with Mr. Illa about that indictment and that document?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay.

21 Then at this point I am going to ask the assistant
22 United States Attorney to review the charge to which you are
23 expected to plead guilty, and also to advise you of the
24 possible penalties that you could face if you do plead
25 guilty.

1 MR. LOMBARDI: Your Honor, we anticipate that Mr.
2 Myrland will be pleading guilty to the sole count in the
3 indictment, transmission of threatening interstate
4 communication, as charged in count 1, in violation of Title
5 18, United States Code, Section 875(c).

6 The penalties for this offense are as follows: A term
7 of imprisonment of up to five years; a fine of up to
8 \$250,000; a period of supervision following release from
9 prison of between two and three years, and a mandatory
10 assessment of \$100.

11 THE COURT: Mr. Illa, would you agree with the
12 summary of the charge and the possible penalties that could
13 be imposed?

14 MR. ILLA: Yes, Your Honor, they are accurate.

15 THE COURT: Thank you.

16 Mr. Myrland, do you understand the charge and the
17 possible penalties that could be imposed if you decide to
18 plead guilty?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Mr. Myrland, the assistant United
21 States Attorney made reference to a period of supervised
22 release of between two and three years, and during any
23 period of supervised release, you would be required to
24 comply with certain conditions that would be established by
25 your sentencing judge at the time of sentencing, and that

1 would be explained to you in greater detail by a probation
2 officer.

3 Now while you are on supervision, if it turns out that
4 you violate any of the terms of your supervised release,
5 then it is possible that you could be returned to prison for
6 the entire period -- a portion or all of the term of your
7 supervised release.

8 Do you understand how supervision works in this regard?

9 THE DEFENDANT: Yes.

10 THE COURT: You have the right, Mr. Myrland, if
11 you wish, to enter your guilty plea before Judge Martinez.
12 Judge Martinez is the district judge to whom your case has
13 been assigned.

14 If you wish, however, you may also enter your guilty
15 plea before me today; I am a magistrate judge.

16 If you enter your guilty plea before me today, you will
17 still appear before Judge Martinez for sentencing, but it
18 will be at a later date than today.

19 Do you understand how this process works?

20 THE DEFENDANT: Yes, sir, and I have signed the
21 consent for you to accept my plea.

22 THE COURT: Very well, then Mr. Illa, did you
23 discuss the consent with your client, and do you believe
24 that he understands it?

25 MR. ILLA: I did discuss it; he does understand

1 it.

2 THE COURT: Thank you.

3 Mr. Myrland, are you satisfied with the representation
4 and the advice that you have received from Ms. Illa, your
5 attorney in this matter?

6 THE DEFENDANT: To the best of my knowledge, yes.

7 THE COURT: And have you discussed with him all of
8 the facts surrounding the charge against you?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Now I have been provided with a
11 written plea agreement. Did you carefully review the
12 written plea agreement?

13 THE DEFENDANT: Yes, sir, I did.

14 THE COURT: Did you discuss it thoroughly with Mr.
15 Illa?

16 THE DEFENDANT: I believe so, yes.

17 THE COURT: Do you need any additional time to
18 consider the written plea agreement?

19 THE DEFENDANT: No, I do not.

20 THE COURT: Is this your signature on the last
21 page of the written plea agreement?

22 THE DEFENDANT: Yes, sir, it is.

23 THE COURT: I would like to ask you some questions
24 about your plea agreement, Mr. Myrland, and the reason that
25 I go through this process is that I want to make sure that

1 the written plea agreement accurately sets forth all of the
2 agreements that you have made with the United States.

3 It indicates in Section 1 that you intend to plead
4 guilty to a charge of transmission of threatening interstate
5 communication.

6 Is that your understanding, as well?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And now with respect to any sentence
9 that may be imposed, do you understand that the Court will
10 make reference to the United States Sentencing Guidelines?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And have you had a chance to speak
13 with Mr. Illa about how the sentencing guidelines might
14 impact your case?

15 THE DEFENDANT: At length, yes.

16 THE COURT: Do you understand that when it comes
17 time for sentencing, the Court will -- at the very -- at the
18 very -- or at the start, will start out by determining a
19 sentencing guideline range?

20 Let me -- that wasn't a very good state.

21 THE DEFENDANT: Thank you.

22 THE COURT: Do you understand that when the
23 sentencing process takes place, the Court will begin by
24 determining a sentencing guideline range?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And then after determining -- after
2 looking at all of the guidelines and after considering all
3 of the factors that are set forth in Section 5 of your plea
4 agreement, the Court can impose any sentence up to the
5 maximum term that we have already talked about?

6 Do you understand this, as well?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: That means that the sentence that the
9 Court imposes can be above or below the sentencing guideline
10 range that the Court determines at the outset.

11 Do you understand this?

12 THE DEFENDANT: Inside or outside of the
13 guidelines?

14 THE COURT: It can be above or below -- excuse me;
15 that means the actual sentence that the Court imposes can be
16 above or below the sentencing guideline range that the Court
17 determines at the outset?

18 Let me go back a little bit.

19 When the Court starts its sentencing process, it will
20 determine a sentencing guideline range. Then it can
21 consider the plea agreement and it will then consider the
22 sentencing guidelines, and it will also consider all of the
23 factors that are set forth in the sentencing guidelines, and
24 after it considers all of that, the Court can go above or
25 below the sentencing guideline range.

1 Do you understand this?

2 THE DEFENDANT: So the consideration is for
3 enhancements as well as departures?

4 THE COURT: It can go above or below, yes, sir.

5 THE DEFENDANT: Yes, sir, I understand.

6 THE COURT: Okay.

7 THE COURT: And at time of sentencing, the Court
8 will listen to certain guideline calculation
9 recommendations -- excuse me, let me start back.

10 At time of sentencing the Court will listen to certain
11 recommendations from your attorney and the attorney
12 representing the United States, regarding sentencing
13 guideline calculation recommendations.

14 The Court will also listen to specific sentencing
15 recommendations from your attorney, the attorney
16 representing the United States, and from you, if you wish.

17 Do you understand, however, that none of these
18 recommendations is binding on the Court?

19 THE DEFENDANT: Yes, sir, I understand.

20 THE COURT: And do you also understand that you
21 may not withdraw from the guilty plea, based solely on the
22 sentence the Court imposes?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Has anybody promised you what sentence
25 the Court will impose?

1 THE DEFENDANT: No, sir.

2 THE COURT: You have reached agreements on certain
3 issues that could have an impact on the ultimate
4 sentence that is given in this case, and those -- some of
5 those agreements are set forth in your plea agreement. For
6 example, in Section 7, you have agreed that you would make
7 restitution to the city of Kirkland, and to O.R. and J.M. in
8 an amount to be determined by the Court at the time of
9 sentencing.

10 Is that your understanding?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: In Section 8 of your plea agreement,
13 you have also agreed that if any firearms or illegal
14 contraband were seized by law-enforcement, they would be
15 forfeited to the United States.

16 Is that your understanding?

17 (Brief pause in proceedings)

18 THE DEFENDANT: Yes, sir, I understand.

19 THE COURT: And this would include, but may not be
20 limited to a Springfield semiautomatic handgun, and
21 magazines and ammunition.

22 Is that your understanding?

23 THE DEFENDANT: That is correct, sir.

24 THE COURT: In Section 10 of your plea agreement,
25 the United States has agreed that it will recommend that the

1 Court impose a prison sentence of no more than 48 months,
2 but the United States, with that provision, is also free to
3 make other recommendations as it thinks is appropriate,
4 including, but not limited to the terms and conditions
5 regarding supervised release and restitution.

6 Is that your understanding?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you are free to make any
9 sentencing recommendation that you think is appropriate and
10 you would like to me before the Court.

11 Is that your understanding?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And do you also understand that the
14 Court isn't obligated or forced to accept either of these
15 recommendations, and that the Court can again impose, as we
16 discussed before, any sentence, up to the maximum term that
17 is authorized by law that we have already discussed.

18 Is that your understanding?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: In Section 11 of your plea agreement,
21 the United States Attorney's Office for the Western District
22 of Washington, as part of the plea agreement, has agreed
23 that it will not prosecute you for any additional offenses
24 that it knows about at this time that are based on evidence
25 in its possession at this time or that arose out of the

1 conduct that led to this investigation.

2 Is that your understanding?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And do you understand that the United
5 States is doing this solely in return for the promises you
6 have made in the written plea agreement?

7 THE DEFENDANT: Yes, I do.

8 THE COURT: In Section 12 of the plea agreement,
9 the United States has acknowledged that you have accepted
10 responsibility, and if at time of sentencing it remains
11 satisfied that you have accepted responsibility by your --
12 as a result of your timely notification of your intention to
13 plead guilty, then it will recommend to the Court that your
14 offense be decreased by three levels, assuming that your
15 offense level is 16 or greater.

16 Is that your understanding?

17 THE DEFENDANT: Yes, sir, it is.

18 THE COURT: And do you understand that the Court
19 is free to accept or reject any such recommendation by the
20 United States?

21 THE DEFENDANT: Free to reject -- a departure for
22 a guilty plea?

23 THE DEFENDANT: Yes, what I want to make sure you
24 are aware of is ultimately these are issues are issues for
25 the Court; it is not a decision of the United States. The

1 United States can make that recommendation, but it is
2 ultimately up to the Court to make those decisions in that
3 regard. On

4 THE DEFENDANT: May I have a moment, Your Honor?

5 THE COURT: You may.

6 (Brief pause in proceedings)

7 THE DEFENDANT: Yes, sir, I understand.

8 THE COURT: In Section 14 of your plea agreement,
9 you have agreed that if the Court imposes a prison sentence
10 that is within or below the sentencing guideline range, that
11 the Court determines at time of sentencing, then you will
12 give up your appeal rights to the full extent of the law.

13 Is that your understanding?

14 THE DEFENDANT: Yes, it is, sir.

15 THE COURT: And specifically, if that condition is
16 met, then you would give up the right to appeal the actual
17 sentence that is imposed, including any restitution order,
18 and you would give up the right to bring a collateral attack
19 against your conviction and sentence, except as it may
20 relate to effectiveness of legal representation.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Is that your understanding?

23 THE DEFENDANT: Yes.

24 THE COURT: Mr. Myrland, are all of the agreements
25 that you have made with the United States contained in your

1 written plea agreement?

2 THE DEFENDANT: I defer to counsel.

3 MR. ILLA: Your Honor, there were two other
4 agreements that are not expressly reflected in the written
5 plea agreement, but that are evidenced in two letters; one
6 from the King County Prosecutor, the other from the Kirkland
7 City Attorney's Office. Those are promises not to prosecute
8 Mr. Myrland for offenses related to this, and also with
9 respect to the City of Kirkland, in addition, they agree
10 that they will dismiss and quash a warrant.

11 These are reflected in the letters that I hold here. I
12 have marked them as Exhibit 1 and Exhibit 2.

13 With the Court's permission, I would hand them forward
14 and ask that they be attached to the plea agreement.

15 THE COURT: Any objection?

16 MR. LOMBARDI: Your Honor, I actually do object.
17 The facts that Mr. Illa has relayed are certainly correct.
18 Those letters have been submitted to Mr. Myrland. They are
19 not part of this plea agreement.

20 Mr. Myrland, through his counsel, asked the United
21 States to speak to those prosecutors and see if they would
22 agree not to prosecute Mr. Myrland for state charges -- as
23 an aside, that was never going to happen -- double jeopardy
24 actually applies back to the State, and the charges that
25 were pending against him at the State are identical to these

1 charges.

2 But they sent a letter confirming that, "Yeah, we are
3 not going to proceed on that."

4 We similarly agreed that we would call Kirkland. I
5 made very clear, however, to Mr. Illa that I wasn't going to
6 pressure the city of Kirkland. Their decision was their
7 decision.

8 Those promises have been made to him, but they are not
9 part of this plea agreement; they are outside this plea
10 agreement. If they breached their promises, that would be
11 between Mr. Myrland and them, and from the government's
12 perspective would not invalidate this plea agreement.

13 Now, he can certainly move to withdraw; the District
14 Court judge could -- the standard for whether you can
15 withdraw from a plea agreement is, I think, a good and fair
16 reason; whether this would rise to that or not would, of
17 course, be up to Judge Martinez, but they are not part of
18 this plea agreement.

19 I don't mind noting for the record that those promises
20 were made to him, but --

21 THE COURT: I will direct that they be made not
22 part of the plea agreement, but that they be documented in
23 the court file, then, in this matter, if that is an
24 acceptable compromise for you Mr. Illa in this case so that
25 -- and you have said on the record your understanding that

1 these are, from your client's perspective, part of parcel of
2 the plea agreement in this, notwithstanding language that is
3 otherwise contained and that is one of the bases upon which
4 your client is entering a plea of guilty.

5 MR. ILLA: Yes, Your Honor, and I can hand them
6 forward --

7 THE COURT: And I will direct that they be
8 docketed in this case.

9 MR. ILLA: Thank you, Your Honor.

10 MR. LOMBARDI: I think that is a sensible
11 approach, Your Honor. Thank you.

12 MR. ILLA: And for the record, Your Honor, Mr.
13 Lombardi has copies of those documents.

14 THE COURT: Thank you.

15 So I will direct that both letters be docketed, and I
16 think there is an appropriate statement on the record as it
17 relates to the impact of this -- on this plea agreement from
18 both parties' perspectives.

19 Then has anybody, aside from the colloquy that we have
20 just had, Mr. Myrland, has anybody made any promises to you,
21 other than what is contained in the written plea agreement?

22 THE DEFENDANT: No, sir.

23 THE COURT: Has anybody put pressure on you or
24 threatened you or tried to force you in any way to plead
25 guilty?

1 THE DEFENDANT: No, sir.

2 THE COURT: Is the decision to plead guilty in
3 this case your decision?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And is it solely your decision?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Mr. Myrland, are you a citizen of the
8 United States?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: If you plead guilty or if you are
11 convicted of the charge in this case, you could lose
12 valuable civil rights. They include the right to vote, the
13 right to serve on a jury, the right to hold public office,
14 and the right to possess any kind of a firearm.

15 Do you understand this?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Let me talk to you about some of the
18 rights that you have, Mr. Myrland, but rights that you will
19 be giving up if you decide to plead guilty.

20 You have the right to plead not guilty to any charge
21 brought against you, and to continue to plead not guilty.

22 Do you understand this?

23 THE DEFENDANT: Yes.

24 THE COURT: If you did plead not guilty, you would
25 then have the right to a trial by jury, and during your

1 trial, you would have the right to effective assistance of
2 an attorney for your defense.

3 You would be presumed to be innocent, and the
4 government would have to prove your guilt beyond a
5 reasonable doubt.

6 You would have the right to see and to hear all
7 witnesses, and to have those cases cross-examined in your
8 defense.

9 You could testify yourself or you could remain silent,
10 and if you decided to remain silent and not put on any
11 evidence, these facts could not be used against you.

12 Do you understand that you have all these rights?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You would have the right to have the
15 Court issue subpoenas to compel cases to appear at your
16 trial to testify in your defense.

17 At trial, as I mentioned, the United States would have
18 the burden of proving that you were guilty beyond a
19 reasonable doubt.

20 Before you could be convicted, all 12 jurors must be
21 convinced that the United States has met that burden.

22 If you are found guilty after a trial, you would have
23 the right to appeal your conviction to a higher court, and
24 if you could not afford to pay the costs of an appeal, those
25 costs would be paid for you.

1 Do you understand that you have all of these rights?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you also understand that if you
4 plead guilty, and if the plea is accepted by the Court, then
5 there will be no trial, and you will have given up your
6 right to a trial, and you will also have given up all of the
7 other rights associated with a trial that we have just
8 talked about?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Then at this point I am going to ask
11 the assistant United States Attorney to review the essential
12 elements of the offense.

13 Mr. Myrland, these are the legal requirements that the
14 United would have to prove if this case were to proceed to
15 trial.

16 MR. LOMBARDI: Yes, Your Honor, the elements of
17 the offense charged in count one, transmission of
18 threatening interstate communication in violation of Title
19 18, United States Code, Section 875(c) are as follows:

20 First, the defendant sent a message containing a threat
21 to kidnap or injure the person of another.

22 Second, the defendant sent the message in interstate or
23 foreign commerce. And third, defendant intended his words
24 to be taken as a true threat.

25 THE COURT: Mr. Illa, do you disagree in any

1 respect with this summary of the essential elements?

2 MR. ILLA: I do not.

3 THE COURT: Mr. Myrland, do you understand that if
4 this case were to proceed to trial, the United States would
5 be required to present evidence sufficient to prove each of
6 these elements beyond a reasonable doubt?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you also understand that by
9 pleading guilty, you will be giving up your right to require
10 the government to do this?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Then at this point I will ask the
13 assistant United States Attorney to review the facts that
14 the government believes that it could prove if this case
15 were to proceed to trial.

16 MR. LOMBARDI: As art of this plea, Mr. Myrland is
17 admitting that on or about August 30 of last year, he sent
18 an e-mail to JM, the mayor of the city of Kirkland,
19 Washington, containing a threatening to kidnap and injure
20 JM; specifically admits that he threatened to cause others
21 to enter her home, to, quote, unquote, "arrest her by law"
22 for offenses that Mr. Myrland felt had been committed
23 against him by police officers working for the city of
24 Kirkland.

25 Mr. Myrland further admits that he advised the mayor

1 not to resist as the people he was working with would be
2 heavily armed and authorized to use force by law.

3 Mr. Myrland admits that said e-mail was sent using
4 Microsoft Corporation's Hotmail service, and the e-mail was
5 routed through the server in San Antonio, Texas.

6 He further admits that he intended the e-mail to be
7 interpreted as a true threat by the recipient, JM.

8 Finally, Mr. Myrland admits that he had participated in
9 conversations in meetings with other individuals about
10 carrying out such threat, and that the threat and similar
11 threats were repeated in subsequent written and oral
12 communications with individuals in the city of Kirkland.

13 THE COURT: Mr. Myrland, are all these facts true?

14 THE DEFENDANT: Excuse me?

15 Yes, sir.

16 THE COURT: Then at this point I will ask you to
17 stand.

18 Mr. Myrland, as to the charge contained in count 1 of
19 the indictment of transmission of threatening interstate
20 communication in violation of Title 18, United States Code,
21 Section 875(c), how do you plead, guilty or not guilty?

22 THE DEFENDANT: Guilty.

23 THE COURT: Thank you. You may be seated.

24 Mr. Illa, are you aware of any reason why the Court
25 should not accept the plea of guilty?

1 MR. ILLA: I know of no such reason, Your Honor.

2 THE COURT: It is the finding of this court in the
3 case of the United States of America v. David Russell
4 Myrland that the defendant, Mr. Myrland, is fully competent
5 and capable of entering plea an informed plea; that is aware
6 of the nature of the charge and of the consequences of the
7 plea; and that the plea of guilty is made knowingly,
8 intelligently and voluntarily, and that the plea is
9 supported by an independent basis in fact containing each of
10 the essential elements of the offense.

11 I have therefore signed the report and recommendation
12 concerning plea of guilty. Subject to the Court's
13 consideration of the plea agreement, and pursuant to Federal
14 Rule Of Criminal Procedure 11(e)((2), I recommend the Court
15 find the defendant guilty and impose sentence.

16 The clerk will provide copies of the report and
17 recommendation to both counsel. Objections to it are waived
18 unless filed and served within 14 days.

19 Now Mr. Myrland, at this point our probation office
20 will become involved. A probation officer will interview
21 you and will do some further background investigation about
22 you and about the facts of this case.

23 That background information will be summarized in the
24 form of what is called a "presentence report."

25 You and your attorney, and the attorney for the United

1 States, will have the opportunity to review the presentence
2 report and to file written objections to the report.

3 In addition, you and your attorney, and the attorney
4 for the United States will have the opportunity to speak
5 with the sentencing judge prior to the time that sentence is
6 imposed.

7 Do we have a sentencing date?

8 THE CLERK: We do, Your Honor, it has been
9 scheduled for October 21, and 10 o'clock, before Judge
10 Martinez.

11 THE COURT: Mr. Myrland, you will remain in
12 custody while you await sentencing. You will, however,
13 receive credit against the sentence that is imposed -- the
14 amount of time that you are in custody and awaiting
15 sentencing.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Lombardi, is there anything
18 further at this time for the United States?

19 MR. LOMBARDI: No, thank you, Your Honor.

20 THE COURT: Mr. Illa, is there anything further
21 for Mr. Myrland?

22 MR. ILLA: Nothing, thank you, Your Honor.

23 THE DEFENDANT: Yes, excuse me?

24 Reflecting back for you alluded to sentencing
25 procedures, subject to the Court's consideration of the plea

1 agreement, could you elaborate, please?

2 THE COURT: Yes, sir.

3 I make a recommendation -- it is a two-page report and
4 recommendation recommending that the plea be accepted in
5 this case, and what I am -- that is a statement saying that
6 it is subject to the terms of the plea agreement.

7 So the Court will review the plea agreement as part
8 of -- Judge Martinez will review part of the plea agreement
9 in the process of -- as well as the presentence report, in
10 determining what an appropriate sentence is.

11 So that is what my recommendation is, is based on --
12 based on what is in the plea agreement, I recommend that the
13 Court find that the defendant -- find that you are guilty in
14 this case.

15 THE DEFENDANT: Thanks very much.

16 THE COURT: You are welcome.

17 We will be in recess.

18 THE CLERK: All rise. The Court is in recess.

19 (End of proceedings for 7/27/2011)

20 CERTIFICATE

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

24 /Brian J. Killgore/

February 7, 2012

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