

1 (Begin proceedings in open court at 1:48 p.m. with counsel
2 and the defendant appearing via videoconference.)

3 DEPUTY CLERK: 3:19-CR-86, United States of America
4 versus Willis.

5 THE COURT: Let me ask counsel, beginning with you,
6 Mr. Bonar, if you would state your appearances.

7 MR. BONAR: Good afternoon, Your Honor. Rob Bonar for
8 the United States.

9 MS. BEYL: Good afternoon, Your Honor. Chastity Beyl
10 for Mr. Willis. He is present in custody and appearing via
11 Zoom. For the record, Mr. Willis has submitted written notice
12 that he is agreeing to proceed with the change of plea today via
13 video.

14 THE COURT: And I will also state for the record we
15 are, with the consent of both sides, pursuant to the authority
16 given in the CARES Act, as well as the court's general order, we
17 are proceeding with this change of plea hearing via
18 videoconference because doing so certainly mitigates risk to
19 everyone involved in the proceeding, including the defendant,
20 Mr. Willis.

21 Mr. Willis, can you see and hear me?

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

23 THE COURT: And is it your intention to plead guilty
24 to the charges in the indictment?

25 THE DEFENDANT: Yes, sir, it is.

1 THE COURT: And, Ms. Beyl, you've had an opportunity
2 to explain Mr. Willis's rights to him; is that right?

3 MS. BEYL: Yes, Your Honor.

4 THE COURT: Now, Mr. Willis, before accepting your
5 guilty plea, there are a number of questions that I will need to
6 ask you to ensure that your guilty plea is valid. Some of these
7 questions will be of a personal nature. Some of the questions
8 will be about the rights that you must waive or give up in order
9 to plead guilty. We will talk about the charge in the
10 indictment, and we will talk about your plea agreement.

11 Do you understand how this will work?

12 THE DEFENDANT: Yes, I do, sir.

13 THE COURT: Now, if at any point you don't understand
14 a question that I ask you, or if something should happen with
15 the technology and you should stop seeing and hearing everything
16 that's being said here, I would like you to just raise your
17 hand. We will stop what we're doing and correct the problem.

18 If it's a matter of you not understanding a question, I will
19 be happy to rephrase or repeat my question or give you an
20 opportunity to confer with Ms. Beyl. Do you understand?

21 THE DEFENDANT: Yes, sir. Thank you. I appreciate
22 that.

23 THE COURT: Now, the first right that you must waive
24 is the right to remain silent. Do you wish to waive that right
25 in order to answer my questions?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Very well. I'm going to have the clerk
3 now administer an oath or affirmation to you.

4 DEPUTY CLERK: Mr. Willis, could you raise your right
5 hand.

6 THE DEFENDANT: Yes, ma'am.

7 (Defendant sworn.)

8 DEPUTY CLERK: Thank you.

9 THE COURT: Now, Mr. Willis, you've sworn to answer my
10 questions honestly. I want to make sure you understand now that
11 your answers to my questions will be subject to the penalties of
12 perjury or of making a false statement if you fail to answer
13 truthfully.

14 THE DEFENDANT: Yes, sir, I'm aware of that.

15 THE COURT: Now, if would you give me your full name
16 please.

17 THE DEFENDANT: My name is Kenneth Dewayne Willis.

18 THE COURT: Tell me how old you are.

19 THE DEFENDANT: I am 56 years old.

20 THE COURT: Did you say 56?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And in what city and state did you reside
23 at the time of your arrest?

24 THE DEFENDANT: Louisville, Kentucky.

25 THE COURT: And tell me how far you went in school.

1 THE DEFENDANT: GED is the last that I completed in my
2 education.

3 THE COURT: When did you obtain your GED?

4 THE DEFENDANT: I think it was in 1984.

5 THE COURT: Now, in addition to your GED, do you have
6 any additional education or training, such as vocational school,
7 or on-the-job training, or online courses, anything like that?

8 THE DEFENDANT: Yes, sir. I did some study in
9 scholastics in braille transcribing for the blind and actually
10 certified by the Library of Congress for braille transcription.
11 I also had education in Wall Street trading, barbering, cutting
12 hair. I had acquired a license in that and that's probably
13 about it.

14 THE COURT: Now, were you employed at the time of your
15 arrest?

16 THE DEFENDANT: Not -- not at the time of my arrest,
17 no, I wasn't.

18 THE COURT: What type of work did you most recently
19 do?

20 THE DEFENDANT: Cutting hair, sir.

21 THE COURT: And was that here in Louisville?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Now, we're going to shift topics. Do you
24 understand what's happening here today?

25 THE DEFENDANT: Yes, I do.

1 THE COURT: And are you today, Mr. Willis, under the
2 influence of either alcohol or drugs?

3 THE DEFENDANT: Not at all, sir.

4 THE COURT: What about prescription medications?

5 THE DEFENDANT: I'm under prescription medication, but
6 they're nonnarcotic.

7 THE COURT: Very well. And so whatever it is that
8 you're prescribed does not cause you any difficulty in -- for
9 instance, in understanding my questions or when you spoke with
10 Ms. Beyl, your lawyer, understanding her instructions? You
11 didn't have any problems?

12 THE DEFENDANT: Absolutely not.

13 THE COURT: Now, have you ever been treated for
14 addiction to drugs or alcohol?

15 THE DEFENDANT: Yes, I have. I've attended NA classes
16 and also treatment at what used to be JADAC, which is now
17 Centerstone a few years back.

18 THE COURT: And did you complete that program?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And what was the substance that -- or
21 substances that you were having difficulty with at that time?

22 THE DEFENDANT: Marijuana, cocaine, heroin, and
23 cigarettes. I was also trying to give up my smoking habits
24 also.

25 THE COURT: And were the programs helpful to you?

1 THE DEFENDANT: Yes, they were.

2 THE COURT: Now, have you ever been diagnosed with a
3 mental illness or disorder?

4 THE DEFENDANT: No, I haven't, sir.

5 THE COURT: And you mentioned that you have some
6 prescriptions. And so do you see a doctor or other healthcare
7 professional for other health problems?

8 THE DEFENDANT: Well, currently I'm scheduled to go
9 out to a specialist for a colonoscopy. We're having concerns
10 that I'm showing signs of colon cancer. It's hereditary in my
11 family.

12 THE COURT: Dena, did you understand all of that? He
13 broke up a little bit on the connection there.

14 THE REPORTER: I think so, Judge. I can read it back.

15 THE COURT: If you wouldn't mind, just the last
16 sentence.

17 (Record read by reporter.)

18 THE COURT: I see. So you're going to be tested?

19 THE DEFENDANT: Yes, sir, very soon they're going to
20 take me outside to a specialist. And I'm also dealing with high
21 blood pressure, which I'm currently taking medication for also.

22 THE COURT: And, Ms. Beyl, other than the difficulties
23 caused by the pandemic, have you had any problems communicating
24 with Mr. Willis?

25 MS. BEYL: No, Your Honor.

1 THE COURT: And you have met and counseled with him
2 prior to today's hearing; is that correct?

3 MS. BEYL: Yes, sir.

4 THE COURT: And has he understood your legal advice?

5 MS. BEYL: Yes, Your Honor.

6 THE COURT: He's been able to assist you in the
7 preparation of a defense in this case?

8 MS. BEYL: Very much so, yes.

9 THE COURT: Any reason to believe that he doesn't
10 understand the nature of the charge in the indictment?

11 MS. BEYL: No, Your Honor.

12 THE COURT: Any concern that he may be impaired in any
13 way today?

14 MS. BEYL: No, Your Honor.

15 THE COURT: Any concern about his competence to plead
16 guilty today?

17 MS. BEYL: No, sir.

18 THE COURT: Based upon my observations of Mr. Willis,
19 his answers to my questions, and the representations of counsel,
20 I find that Mr. Willis is competent to plead guilty to the
21 charge against him in the indictment.

22 Now, Mr. Willis, do you have there with you a copy of the
23 indictment?

24 THE DEFENDANT: No, I don't, Your Honor.

25 THE COURT: Do you have there with you a copy of your

1 plea agreement?

2 THE DEFENDANT: Yes, I do, sir.

3 THE COURT: Well, Ms. Beyl, have you had occasion to
4 go over the indictment with Mr. Willis?

5 MS. BEYL: Yes, Your Honor. We, in fact, spoke -- I
6 believe it was on Tuesday. He has been in receipt of the
7 indictment since the inception of the case. We have reviewed
8 the charges in the indictment and gone over the indictment. I
9 think it was by mistake he didn't get a chance to --

10 THE REPORTER: Ms. Beyl -- Ms. Beyl, you broke up.
11 I'm sorry. Can you please --

12 MS. BEYL: Yes. I was stating that Mr. Willis and I
13 have reviewed the indictment and the charges in the indictment.
14 He had a copy of the indictment since the inception of the case.
15 He does have a copy with him at the facility, but I guess
16 because of a mistake he didn't have a chance to bring it into
17 the video room with him.

18 THE COURT: Do you also recall, Mr. Willis, receiving
19 a copy of the indictment and reviewing it with your lawyer at
20 the time of your arraignment a few months ago before a U.S.
21 Magistrate Judge?

22 THE DEFENDANT: Yes.

23 THE COURT: Now, have you had enough time to go
24 through the charge in the indictment with Ms. Beyl?

25 THE DEFENDANT: Yes, I have.

1 THE COURT: And are you fully satisfied with the
2 advice, counsel, and representation that your lawyer has given
3 you?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: So we're going to set the indictment
6 aside. I do have a few more questions about it, but for now
7 we're going to cover those essential rights I spoke of at the
8 outset that one must waive in order to plead guilty.

9 I'm going to ask you a series of questions now about those
10 rights. First, do you understand that you have a right to
11 assistance of counsel at every stage of the proceedings against
12 you? And as has already been done, an attorney will be
13 appointed without charge to represent you if you cannot afford
14 one.

15 THE DEFENDANT: Yes, I understand, sir.

16 THE COURT: Now, do you also understand that you have
17 a right to plead not guilty and the right to persist in that
18 plea?

19 THE DEFENDANT: Yes, I do understand that.

20 THE COURT: I want to make sure you understand that
21 you have no obligation to plead guilty here today if you do not
22 wish to do so.

23 THE DEFENDANT: Okay. Yes, I do understand that.

24 THE COURT: Now, do you also understand that you have
25 a right to a trial by jury and that a plea of guilty constitutes

1 a waiver of that right? And if I accept your guilty plea, there
2 will be no further trial of any kind.

3 THE DEFENDANT: Yes, sir, I understand that also.

4 THE COURT: Now, I want to make sure also that you
5 understand that if there was a trial, you would be presumed
6 innocent and Mr. Bonar and the Government would bear the burden
7 of proving you guilty beyond a reasonable doubt before you could
8 be convicted.

9 THE DEFENDANT: Yes, sir, I understand that.

10 THE COURT: Now, do you understand that if you plead
11 guilty, you will no longer be presumed innocent?

12 THE DEFENDANT: Yes, sir, I understand that.

13 THE COURT: Now, also, I want to make sure you
14 understand you have a right to a speedy and public trial by
15 jury.

16 THE DEFENDANT: Yes, sir, I understand that.

17 THE COURT: Now, if there was a trial, any verdict
18 would have to be a unanimous decision of a jury composed of 12
19 people. Do you understand that if you plead guilty, you'll be
20 giving up your right to a trial by jury?

21 THE DEFENDANT: Yes, sir, I understand that.

22 THE COURT: Now, also, if there was a trial, Ms. Beyl
23 could vigorously represent you in that trial. She could object
24 to any evidence the United States offers. She could cross-
25 examine their witnesses. She could utilize court process to

1 compel witnesses to appear and testify in your behalf. She
2 could make arguments to the court and ultimately to the jury in
3 your behalf. In short, she could tell your side of the case to
4 the court and the jury. But by pleading guilty, there will be
5 no opportunity for Ms. Beyl to take these actions in your
6 behalf. Do you understand that?

7 THE DEFENDANT: Yes, sir. I'm --

8 THE REPORTER: Mr. Willis, I'm sorry. Please repeat
9 that last sentence.

10 THE DEFENDANT: Yes, I was telling the judge that I
11 understood and I was aware of his letting me know about --

12 THE REPORTER: I'm sorry? About? After about?

13 THE DEFENDANT: About the waiver of my rights, yes, I
14 understand that.

15 THE REPORTER: Thank you.

16 THE COURT: Now, do you also understand that if there
17 was a trial, you would have a right to testify, if you chose to
18 do so?

19 THE DEFENDANT: Yes, sir, I understand that.

20 THE COURT: Now, do you also understand that you would
21 have a right not to testify, if you didn't want to, and no one
22 could force you to testify in your own trial?

23 THE DEFENDANT: Yes, I understand that.

24 THE COURT: And, finally, do you understand that if
25 you plead guilty, you will have to waive your right not to

1 incriminate yourself, since I will ask you questions about what
2 you did in order to ensure that there is a proper factual basis
3 for your guilty plea?

4 THE DEFENDANT: Yes, I do understand that.

5 THE COURT: So we're going to return now to talking
6 about the indictment. Mr. Bonar, I'm going to ask you to
7 briefly describe the charges in the indictment and give a
8 description of the penalties which may apply, and we'll also
9 need to discuss restitution and forfeiture.

10 MR. BONAR: Yes, Your Honor. This is a single-count
11 indictment. It charges Mr. Willis with possession of a firearm
12 by a convicted felon for an event that occurred on July 12th,
13 2016. It also contains a notice of forfeiture which includes
14 the firearm at issue in this case.

15 The penalty for Count 1 is a maximum sentence of 10 years, a
16 maximum fine of \$250,000, or both, and no more than three years
17 of supervised release following incarceration.

18 Your Honor, forfeiture, I do not believe, is an issue. A
19 term of the agreement is for the United States to demand
20 forfeiture of the firearm, but I believe that that is not an
21 issue at this time, and I do not -- there is no issue of
22 restitution.

23 THE COURT: Ms. Beyl, do you agree with the
24 description of the charges and penalties?

25 MS. BEYL: Yes, Your Honor.

1 THE COURT: Now, Mr. Willis, do you understand the
2 charge in this single-count indictment of being a felon in
3 possession of a firearm?

4 THE DEFENDANT: Yes, sir, I understand the charges.

5 THE COURT: And do you understand the potential
6 penalties which apply to those charges?

7 THE DEFENDANT: Yes, I understand the penalties that
8 apply to the charges.

9 THE COURT: Now, one of those penalties is a potential
10 term of not more than three years of supervised release. I want
11 to make sure you understand that supervised release means that a
12 U.S. probation officer will oversee you for a term set by the
13 court, in this case not to exceed three years. And during that
14 time that you're under their supervision, you'll be subject to
15 certain rules and conditions. And I want to make sure you
16 understand that if you violate those rules and conditions, you
17 could be subject to additional penalties, including possibly a
18 return to prison.

19 THE DEFENDANT: Yes, sir, I fully understand that.

20 THE COURT: Now, we've determined restitution and
21 forfeiture are not at issue here. I want to make sure,
22 Mr. Willis, you understand that I am required to order a special
23 penalty assessment of \$100 for the single count of conviction.

24 THE DEFENDANT: Yes, I understand that, Your Honor.

25 THE COURT: Now, are you presently on probation or

1 parole from a conviction in any other court?

2 THE DEFENDANT: Not at all, sir.

3 THE COURT: Now, do you understand, if you plead
4 guilty, once judgment is entered, you'll stand convicted of a
5 federal felony crime?

6 THE DEFENDANT: Yes, sir, I understand that.

7 THE COURT: Now, I ask the following questions of each
8 person who chooses to plead guilty, Mr. Willis. These questions
9 may or may not be applicable to you, but I currently ask these
10 questions equally of everyone.

11 First, if you are not a citizen of the United States, do you
12 understand that a conviction here in this court may cause you to
13 be deported from the United States and to be detained until such
14 deportation?

15 THE DEFENDANT: Yes, sir, I understand that.

16 THE COURT: And if you are a naturalized citizen of
17 the United States, do you understand that a plea of guilty here
18 may result in the commencement of denaturalization proceedings
19 against you?

20 THE DEFENDANT: Yes, sir, I understand that also.

21 THE COURT: And, Ms. Beyl, I presume that if either of
22 these scenarios is applicable to Mr. Willis, you've had a chance
23 to go over that with him.

24 MS. BEYL: Yes, sir, he -- they do not apply to him
25 though. He is a natural-born U.S. citizen.

1 THE COURT: Very well. Then we can move on.

2 Has anyone threatened you, Mr. Willis, or threatened anyone
3 close to you, or forced you in any way to plead guilty?

4 THE DEFENDANT: Not at all, sir.

5 THE COURT: Is it your choice to plead guilty?

6 THE DEFENDANT: Absolutely, sir.

7 THE COURT: And you're doing so pursuant to a written
8 plea agreement; is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you have a copy of the plea agreement
11 with you there?

12 THE DEFENDANT: Yes, I do, sir.

13 THE COURT: If you would, turn on the sixth page of
14 the -- which is the final page, and I see your signature here.
15 Is that correct?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now, did you sign this after reviewing it
18 with Ms. Beyl?

19 THE DEFENDANT: Yes, I did, sir.

20 THE COURT: And did she answer all your questions
21 about your plea agreement?

22 THE DEFENDANT: Yes, she did, sir.

23 THE COURT: Mr. Bonar, let me ask you, if you would,
24 to outline the essential terms of the parties' plea agreement.

25 MR. BONAR: Certainly, Your Honor. This is a written

1 plea agreement, as the court acknowledged, that calls upon the
2 provisions of Rule 11(c)(1)(C) of the Federal Rules of Criminal
3 Procedure. It calls for Mr. Willis to plead guilty to the
4 single count in the indictment, and at the time of sentencing,
5 the United States will agree with the defendant that the
6 appropriate sentence in this case is 46 to 57 months'
7 incarceration, followed by three years' supervised release.

8 We've agreed to not object to the defendant receiving credit
9 under the provisions of U.S. Sentencing Guideline Sections 5G1.3
10 and 5K2.23 based on relevant conduct, agreed to recommend a fine
11 at the lowest end of the applicable guideline range, and agreed
12 to make a recommendation for three levels for acceptance of
13 responsibility. As I stated, we demand forfeiture of the
14 firearm, which I do not believe is an issue at this point.

15 This plea agreement, Your Honor, also contains a standard
16 waiver of appeal and collateral attack with the defendant
17 expressly retaining his right to attack the sentence and
18 conviction based on the grounds of ineffective assistance of
19 counsel or prosecutorial misconduct. And, Your Honor, I believe
20 those are the essential terms of this written plea agreement.

21 THE COURT: Ms. Beyl, do you agree with that outline
22 of the essential terms?

23 MS. BEYL: Yes, Your Honor.

24 THE COURT: So, Mr. Willis, let's talk for a minute
25 now about your plea agreement. Let me ask you to turn to page

1 two of the plea agreement. At the top of page two in paragraph
2 three, there is a paragraph there that sets out the factual
3 basis for your plea of guilty. Do you see that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Now, let's see. Mr. Bonar, help me out
6 here. The facts as set out in paragraph three, I'm just now
7 seeing there's a -- there's a discrepancy here between the date
8 in the plea agreement and the date in the indictment. The plea
9 agreement says March 3, 2017. The indictment says July 12,
10 2016.

11 MR. BONAR: That's correct, Your Honor. I just
12 noticed that myself. The date listed in the plea agreement is
13 obviously a typo, is incorrect. The correct date is July 12th,
14 2016, as set forth in the indictment.

15 THE COURT: I see that the description of the firearm
16 in question is exactly the same in the indictment as in the plea
17 agreement.

18 Ms. Beyl, do you agree that the date in the indictment is
19 correct and the date in the plea agreement is incorrect?

20 MS. BEYL: Yes, Your Honor. Both myself and
21 Mr. Willis reviewed it and we didn't pick up on that discrepancy
22 either, but the correct date is July the 12th of 2016.

23 THE COURT: And you agree with that, Mr. Willis?

24 THE DEFENDANT: Yes, sir, absolutely. I appreciate
25 you catching that because we didn't.

1 THE COURT: I'm sure you can't see this on the camera,
2 but I have crossed out the date in the plea agreement, my copy
3 of it, which is the official copy. It will be this copy that
4 goes in the docket.

5 And, Mr. Bonar, Ms. Beyl, with your permission I will add
6 parenthetically next to this date the following words:

7 "Corrected by agreement, December 17, 2020."

8 MR. BONAR: I agree, Your Honor. No objection.

9 MS. BEYL: Yes, Your Honor. No objection.

10 THE COURT: Very well. My neat writing takes much
11 longer so that's the delay.

12 Very well. Now, that we've corrected the date, Mr. Willis,
13 let me ask you if everything that's written there in paragraph
14 three is correct.

15 THE DEFENDANT: Yes, sir, I've read it several times
16 and it is correct.

17 THE COURT: So it is true that back in 1995, you were
18 convicted in Jefferson Circuit Court of a crime punishable by
19 imprisonment for a term exceeding a year? That's another way of
20 saying a felony back in 1995; is that correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And so it's also correct that on July 12,
23 2016, you possessed this Hi-Point pistol that's referred to in
24 the indictment; is that correct?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Now, if you would, flip forward with me to
2 paragraph 13 -- no, I'm sorry -- 11 on page four. Now, I want
3 to make sure you understand that under some circumstances,
4 Mr. Willis, either you or the United States may have the right
5 to appeal any sentence that I impose in this case. But
6 according to the terms in paragraph 11, you have waived your
7 right to appeal your guilty plea, conviction, or the sentence
8 that I impose unless your appeal is based upon a claim of
9 ineffective assistance of counsel and/or prosecutorial
10 misconduct. Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, do you have any other questions for
13 Ms. Beyl or for me regarding your plea agreement?

14 THE DEFENDANT: No, I don't, sir.

15 THE COURT: And do you agree with all of the terms of
16 your plea agreement?

17 THE DEFENDANT: Yes, I do, sir.

18 THE COURT: The plea agreement will be entered in the
19 record.

20 Now, in accordance with the local rules of our court, all
21 plea agreements in this district contain a written plea
22 supplement which remains sealed in the court record.

23 We're going to go on the sealed transcript now to discuss
24 the plea supplement. I will state for the record that no one is
25 in the courtroom or on the videoconference that is not

1 associated with the case or with the court.

2 (Excerpt filed under seal.)

3 THE COURT: Other than what we have already talked
4 about, Mr. Willis, have there been any promises made to you to
5 cause you to change your plea to one of guilty?

6 THE DEFENDANT: Not at all, sir.

7 THE COURT: Now, have you and Ms. Beyl talked about
8 how the sentencing commission guidelines will be considered in
9 your case?

10 THE DEFENDANT: Yes, sir, we went over that.

11 THE COURT: Now, I'm going to just talk with you a
12 little bit more about it. I want you to -- I want to be certain
13 that you understand that the guidelines are not mandatory. But
14 in an effort to determine an appropriate sentence in your case,
15 we will identify the guideline that is applicable to the charge
16 to which you are pleading guilty, and we will calculate that
17 guideline, and your criminal history will also be calculated.
18 Once the guideline is applied to your criminal history score, it
19 will result in a recommended sentencing range, and I will take
20 that into consideration when I determine an appropriate
21 sentence. I will also consider potential motions for departure
22 or variance from the recommendations made by the guidelines. Do
23 you understand that?

24 THE DEFENDANT: Yes, sir. Thank you. I appreciate
25 that.

1 THE COURT: Now, also, as required by law, I must take
2 into consideration any mandatory minimum or maximum sentence.
3 Now, we've determined there is no mandatory minimum sentence
4 applicable here, but there is a maximum sentence that I am
5 required by law to take into consideration. Do you have any
6 questions?

7 THE DEFENDANT: No, I don't, sir.

8 THE COURT: Now, do you also understand that I will
9 not be able to determine an appropriate sentence in your case
10 until after the U.S. Probation Office has prepared the
11 presentence investigation report?

12 THE DEFENDANT: Yes, I'm aware of that, sir.

13 THE COURT: Now, with the advice of counsel, you will
14 have an opportunity to participate in the preparation of that
15 report by giving an interview to U.S. probation. They will
16 prepare that report, which will provide me with comprehensive
17 information about you, your background, the offense conduct,
18 your criminal history, and it will also contain proposed
19 guideline calculations.

20 Once it is prepared, it will be provided to you and Ms. Beyl
21 and also to Mr. Bonar, and each side will have a chance to
22 review it, provide feedback to U.S. probation and also, if
23 necessary, to lodge objections with the court. Do you
24 understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: I will then hold a sentencing hearing, and
2 at that time I will resolve any objections to the PSR, and each
3 side will have equal opportunity to present arguments or
4 evidence by way of testimony or other means on issues which are
5 relevant to the sentencing questions before the court. Do you
6 understand that?

7 THE DEFENDANT: Yes, I do, sir.

8 THE COURT: Now, do you also understand that parole
9 has been abolished in the federal system, and if you are
10 sentenced to a term of incarceration, you will not be released
11 on parole?

12 THE DEFENDANT: Yes, I'm aware of that.

13 THE COURT: Now, a couple of final issues to go over
14 with respect to your plea agreement. We mentioned that your
15 plea agreement is pursuant to Rule 11(c)(1)(C) of the Federal
16 Rules of Criminal Procedure. That makes it what we call a "(C)
17 plea."

18 Now, I want to make sure you understand that with a (C)
19 plea, if I accept your guilty plea and I accept your plea
20 agreement, you will be bound by your guilty plea and you will
21 not be permitted to withdraw it. But if I do not accept your
22 plea agreement, you will be given an opportunity to withdraw
23 your guilty plea and once again enter a plea of not guilty.

24 THE DEFENDANT: Yes, sir, I'm aware of that.

25 THE COURT: Now, I want to make sure that you

1 understand that no one can make a promise that binds the court.

2 THE DEFENDANT: Yes, I am aware of that.

3 THE COURT: So I want to make sure you understand that
4 I may accept the plea agreement and impose a sentence that is
5 consistent with the agreement contained in the plea agreement or
6 I may reject the plea agreement altogether. Do you understand?

7 THE DEFENDANT: Yes, sir, I'm also aware of that.

8 THE COURT: And, Ms. Beyl, you've discussed with
9 Mr. Willis how a (C) plea works?

10 MS. BEYL: Yes, Your Honor.

11 THE COURT: Now, Mr. Bonar, let me return to you and,
12 as we go back to you, to ask you to summarize the evidence here.

13 I will say that -- to Mr. Willis that I have not yet
14 determined whether to accept your (C) plea. I will wait until I
15 review the presentence investigation report before I make that
16 determination.

17 Mr. Bonar, if you would summarize what evidence the United
18 States would produce at trial on the single count here if this
19 case were to go to trial.

20 MR. BONAR: Certainly, Your Honor. The United States
21 would prove at trial that, on July 12th of 2016, Mr. Willis was
22 in possession of a firearm. The firearm in particular is the
23 firearm that is listed in the indictment and also in the facts
24 in this plea agreement. It's a Hi-Point Model C-9 semiautomatic
25 pistol with serial number P1287961.

1 We would also prove that the -- at that time that Mr. Willis
2 possessed the firearm, he was prohibited under federal law from
3 possessing firearms based on a previous felony conviction. And
4 we'd also prove that that particular firearm had previously
5 traveled in interstate commerce because it was not manufactured
6 in the State of Kentucky. We would prove that all of these
7 events occurred in the Western District of Kentucky.

8 THE COURT: Mr. Willis, did you hear and understand
9 everything that Mr. Bonar just said?

10 THE DEFENDANT: Yes, sir, I did hear everything he
11 said.

12 THE COURT: And do you agree with his summary of the
13 facts against you?

14 THE DEFENDANT: Yes, sir, I do.

15 THE COURT: And is it true then that back in July of
16 2016, you possessed that Hi-Point pistol?

17 THE DEFENDANT: Yes, sir, it is true.

18 THE COURT: And it's true that in 1995, you were
19 convicted of possession of a controlled substance in the first
20 degree here in Jefferson County?

21 THE DEFENDANT: Yes, sir, that's true also.

22 THE COURT: I find that there is a factual basis for
23 Mr. Willis's plea of guilty.

24 Mr. Willis, having found you competent to enter a guilty
25 plea, having found that you understand the rights that you must

1 waive in order to plead guilty, having concluded that your
2 guilty plea is voluntary, having found that you understand the
3 potential consequences of your guilty plea and the terms of your
4 plea agreement, and having found a factual basis for your guilty
5 plea, I will now ask you to tell me how you plead with respect
6 to the single count against you.

7 In the case of Kenneth Dewayne Willis, Number 3:19-CR-86,
8 how do you plead to Count 1 of the indictment?

9 THE DEFENDANT: I plead guilty, Your Honor, guilty,
10 Your Honor.

11 THE COURT: I accept Mr. Willis's plea of guilty to
12 Count 1 of the indictment.

13 Now, while accepting his guilty plea, as I indicated, I have
14 not yet decided whether to accept the terms of the parties' plea
15 agreement. That will come at a later date. This plea of guilty
16 will be entered in Mr. Willis's behalf in the docket.

17 Now, before we address a date for the sentencing hearing,
18 are there any issues, Ms. Beyl, with respect to the change of
19 plea left for us to cover?

20 MS. BEYL: Not in regard to the change of plea.

21 Mr. Willis, however, would be moving the court to consider his
22 custody status pursuant to 3143.

23 THE COURT: Anything with respect to the change of
24 plea, Mr. Bonar, that we need to cover?

25 MR. BONAR: No, Your Honor.

1 THE COURT: Now, have you filed a written motion,
2 Ms. Beyl, with respect to his detention? This would be a motion
3 to revoke his detention order?

4 MS. BEYL: Judge, I have not filed a motion to revoke
5 his detention order. If the court would prefer that I -- to do
6 so, I could put that in writing. And then if the court would
7 indulge us, if we did have a hearing, to have a hearing at a
8 later date, we'd be happy to do that.

9 THE COURT: Has there been a detention hearing?

10 MS. BEYL: Yes, there was a previous detention hearing
11 held on August the 5th of 2019.

12 THE COURT: And so you're previewing what would be a
13 motion to revoke that detention order; is that correct?

14 MS. BEYL: Correct. We would be moving to -- I'm
15 sorry.

16 THE COURT: I was just going to say I think it would
17 be best for you to make that motion in writing. We can expedite
18 it to some degree, if you can have that filed by tomorrow.

19 And, Mr. Bonar, how much time would you need to respond?

20 MR. BONAR: Not long, Your Honor. We would oppose.
21 It would not be a long response.

22 THE COURT: Would you be able to respond by the week
23 in between Christmas and New Year's?

24 MR. BONAR: I would think so, Your Honor.

25 THE COURT: Then let me ask you to respond -- that

1 would be about roughly 10 days, and then we'll take it up in due
2 course at that point.

3 Anything further?

4 MR. BONAR: No, sir.

5 MS. BEYL: Not from the defense.

6 THE COURT: Thank you.

7 (Proceedings concluded at 2:29 p.m.)

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DRAFT