

U.S. Department of Justice



*United States Attorney
Western District of Pennsylvania*

*Federal Courthouse
Room A330
17 South Park Row
Erie, Pennsylvania 16501-1158*

814/452-2906

July 28, 2006

Thomas W. Patton, Assistant
Federal Public Defender
1001 State Street
1111 Renaissance Centre
Erie, Pennsylvania 16501



Re: United States of America v.
SCOTT R. McCAUSLAND
Criminal No. 06-40 Erie

Dear Mr. Patton:

This letter sets forth the agreement by which your client, SCOTT R. McCAUSLAND, will enter a plea of guilty in the above-captioned case. The letter represents the full and complete agreement between SCOTT R. McCAUSLAND and the United States Attorney for the Western District of Pennsylvania. The agreement does not apply to or bind any other federal, state, or local prosecuting authority.

Upon entering a plea of guilty, SCOTT R. McCAUSLAND will be sentenced under the Sentencing Reform Act, 18 U.S.C. §3551, et seq. and 28 U.S.C. §991, et seq. The Sentencing Guidelines promulgated by the United States Sentencing Commission will be considered by the Court in imposing sentence. The facts relevant to sentencing shall be determined initially by the United States Probation Office and finally by the United States District Court by a preponderance of the evidence.

A. The defendant, SCOTT R. McCAUSLAND, agrees to the following:

1. He will waive indictment and enter a plea of guilty to Counts One and Two of the Information at Criminal No. 06-40 Erie, charging him with violating Title 18, United States Code, Sections 371 and 2319(d)(2) and Title 17, United States

**LIMITED OFFICIAL
USE**

Code, Section 506(a)(1)(C), pursuant to Rule 11 of the Federal Rules of Criminal Procedure. A copy of the draft Information is attached to this letter as Exhibit 1.

2. He will pay mandatory restitution under the Victim-Witness Protection Act, 18 U.S.C. §§3663, 3663A and 3664, to the victims and/or other persons or parties authorized by law in such amounts, at such times, and according to such terms as the Court shall direct.
3. He will immediately notify the Court and the United States Attorney of any improvement in his economic circumstances that might increase his ability to pay restitution and that occurs from the date of this agreement until the completion of his sentence, including any term of supervised release.
4. If the Court imposes a fine or restitution as part of a sentence of incarceration, SCOTT R. McCAUSLAND agrees to participate in the United States Bureau of Prisons' Inmate Financial Responsibility Program, through which 50% of his prison salary will be applied to pay the fine or restitution.
5. At the time SCOTT R. McCAUSLAND enters his plea of guilty, he will deposit a special assessment of \$200 in the form of cash, or check or money order payable to "Clerk, U.S. District Court". In the event that sentence is not ultimately imposed, the special assessment deposit will be returned.
6. SCOTT R. McCAUSLAND waives the right to take a direct appeal from his conviction or sentence under 28 U.S.C. §1291 or 18 U.S.C. §3742, subject to the following exceptions:
 - (a) If the United States appeals from the sentence, SCOTT R. McCAUSLAND may take a direct appeal from the sentence.
 - (b) If (1) the sentence exceeds the applicable statutory limits set forth in the United States Code, or (2) the sentence unreasonably exceeds the guideline range determined by the Court under the Sentencing Guidelines, SCOTT R. McCAUSLAND may take a direct appeal from the sentence.

The foregoing reservations of the right to appeal on the basis of specified issues do not include the right to raise issues other than those specified.

SCOTT R. McCAUSLAND further waives the right to file a motion to vacate sentence, under 28 U.S.C. §2255, attacking his conviction or sentence, and the right to file any other collateral proceeding attacking his conviction or sentence.

B. In consideration of and entirely contingent upon the provisions of Parts A and C of this agreement, the United States Attorney for the Western District of Pennsylvania agrees to the following:

1. The United States Attorney retains the right of allocution at the time of sentencing to advise the sentencing Court of the full nature and extent of the involvement of SCOTT R. McCAUSLAND in the offenses charged in the Information and of any other matters relevant to the imposition of a fair and just sentence.
2. Prior to sentencing, the United States Attorney will, orally or in writing, recommend that, pursuant to §3E1.1 of the Sentencing Guidelines, the Court reduce the offense level by 2 levels for acceptance of responsibility on the grounds that SCOTT R. McCAUSLAND:
 - (a) Voluntarily and truthfully admitted to authorities his involvement in the offense and related conduct;
 - (b) Timely manifested acceptance of responsibility.
3. The United States Attorney will take any position she deems appropriate in the course of any appeals from the sentence or in response to any post-sentence motions.

C. SCOTT R. McCAUSLAND and the United States Attorney further understand and agree to the following:

1. The penalty that may be imposed upon SCOTT R. McCAUSLAND is:
 - (a) A term of imprisonment of not more than ten (10) years;
 - (b) A fine of \$500,000;

- (c) A term of supervised release of not more than six (6) years;
 - (d) A special assessment under 18 U.S.C. §3013 of \$200;
 - (e) Mandatory restitution under the Victim-Witness Protection Act, 18 U.S.C. §§3663, 3663A and 3664.
- 2. The Court shall determine the victims and/or other persons or parties who will receive restitution as authorized by law.
 - 3. The parties stipulate that pursuant to U.S.S.G. §2B5.3(a), the base offense level applicable in this case is 8. The parties further stipulate that the infringement amount in this case is at least \$10,000 but less than \$30,000. This results in an additional 4 offense levels pursuant to U.S.S.G. §§2B5.3(b)(1) and 2B1.1(b)(1)(C). The offense level should be raised an additional 2 levels under U.S.S.G. §2B5.3(b)(2). This stipulation represents the parties' best understanding on the basis of the information available as of the date of this agreement. The stipulation is not binding on the Court and does not preclude the parties from bringing to the attention of the United States Probation Office or the Court any information not within their knowledge at the time this agreement is executed.
 - 4. The parties also agree that the adjusted base offense level should be lowered by a total of 2 levels under the following section of the Guidelines:
 - (a) 3E1.1 (Acceptance of Responsibility).
 - 5. Thus, the parties agree that SCOTT R. McCAUSLAND's overall offense level under the Sentencing Guidelines is 12.
 - 6. This agreement does not preclude the government from pursuing any civil or administrative remedies against SCOTT R. McCAUSLAND or his property.

This letter sets forth the full and complete terms and conditions of the agreement between SCOTT R. McCAUSLAND and the United States Attorney for the Western District of Pennsylvania, and there are no other agreements, promises, terms or conditions, express or implied.

Very truly yours,



MARY BETH BUCHANAN
United States Attorney

I have received this letter from my attorney, Thomas W. Patton, Assistant Federal Public Defender, have read it and discussed it with him, and I hereby accept it and acknowledge that it fully sets forth my agreement with the Office of the United States Attorney for the Western District of Pennsylvania. I affirm that there have been no additional promises or representations made to me by any agents or officials of the United States in connection with this matter.


SCOTT R. McCAUSLAND

9.12.06
Date

Witnessed by:



THOMAS W. PATTON, ASSISTANT
FEDERAL PUBLIC DEFENDER
Counsel for SCOTT R. McCAUSLAND