



U.S. Department of Justice

United States Attorney
District of New Jersey

970 Broad Street, Suite 700
Newark, New Jersey 07102

(973) 645-2700

May 17, 2019

Vincent LaPaglia, Esq.
51 Newark St., Suite 308
Hoboken, NJ 07030

Re: Plea Agreement with Dio Braxton

Dear Mr. LaPaglia,

This letter sets forth the plea agreement between your client, Dio Braxton ("BRAXTON"), and the United States Attorney for the District of New Jersey ("this Office"). This plea offer will expire if an executed copy is not received by this Office by Tuesday, May 21, 2019.

Charge

Conditioned on the understandings specified below, this Office will accept a guilty plea from BRAXTON, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, to Count 1 of the Indictment in *United States v. Dio Braxton*, Crim. No. 18-657-02 (WJM), which charges him with conspiring to use the mails to promote a voter bribery scheme, contrary to 18 U.S.C. § 1952(a)(3) based on state law unlawful activity, N.J.S.A. §§ 2C:27-2(a) and 19:34-25(a), and in violation of 18 U.S.C. § 371.

If BRAXTON enters a guilty plea and is sentenced to a term of six to twelve months' imprisonment, and otherwise fully complies with all of the terms of this agreement, this Office will not initiate any further criminal charges against BRAXTON for his involvement in a voter bribery scheme involving the 2013 municipal election in Hoboken, New Jersey.

In the event that a guilty plea in this matter is not entered for any reason or the judgment of conviction entered as a result of this guilty plea does not remain in full force and effect, BRAXTON agrees that any dismissed charges and any other charges that are not time-barred by the applicable statute of limitations on the date this agreement is signed by BRAXTON may be

commenced against him, notwithstanding the expiration of the limitations period after BRAXTON signs the agreement.

Should the Court at any time reject the plea under Federal Rule of Criminal Procedure 11(c)(1)(C) or act contrary to its terms, either party may elect to be relieved of the terms of this plea and the parties will be returned to the status prior to the entry of the plea. This Office will advise the Court and the Probation Department of information related to sentencing, and such information may be used by the Court in determining BRAXTON'S sentence. In the event that the Court defers a decision to accept the plea until the court has reviewed the presentence report, neither party will move to withdraw from this agreement unless or until the Court ultimately determines to reject the proposed plea.

Sentencing

The violation of 18 U.S.C. § 371 to which BRAXTON agrees to plead guilty carries a statutory maximum prison sentence of 5 years, and a maximum fine of the greater of: (1) \$250,000; (2) twice the gross pecuniary gain to BRAXTON; or (3) twice the gross pecuniary loss to any victims. Fines imposed by the sentencing judge may be subject to the payment of interest.

In addition to imposing any other penalty on BRAXTON, the sentencing judge: (1) will order BRAXTON to pay an assessment of \$100 pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; and (2) pursuant to 18 U.S.C. § 3583, may require BRAXTON to serve a term of supervised release of not more than three years, which will begin at the expiration of any term of imprisonment imposed. Should BRAXTON be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, BRAXTON may be sentenced to not more than two years' imprisonment in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, this Office and BRAXTON agree that a sentence within the range of 6 to 12 months' imprisonment is the appropriate disposition of this case. Accordingly, if the Court accepts this plea agreement, BRAXTON will be sentenced to a term of 6 to 12 months' imprisonment.

Rights of This Office Regarding Sentencing

Except as otherwise provided in this agreement, this Office reserves its right to take any position with respect to the appropriate sentence to be imposed

on BRAXTON by the sentencing judge, to correct any misstatements relating to the sentencing proceedings, and to provide the sentencing judge and the United States Probation Office all law and information relevant to sentencing, favorable or otherwise. In addition, this Office may inform the sentencing judge and the United States Probation Office of: (1) this agreement; and (2) the full nature and extent of BRAXTON'S activities and relevant conduct with respect to this case.

Stipulations

This Office and BRAXTON agree to stipulate at sentencing to the statements set forth in the attached Schedule A, which hereby is made a part of this plea agreement. These stipulations are offered as recommendations to the Court pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. To the extent that the parties do not stipulate to a particular fact or legal conclusion, each reserves the right to argue the existence of and the effect of any such fact or conclusion upon the sentence. Moreover, this agreement to stipulate on the part of this Office is based on the information and evidence that this Office possesses as of the date of this agreement. Thus, if this Office obtains or receives additional evidence or information prior to sentencing that it determines to be credible and to be materially in conflict with any stipulation in the attached Schedule A, this Office shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either this Office or BRAXTON from any other portion of this agreement, including any other stipulation. If the sentencing court rejects a stipulation, both parties reserve the right to argue on appeal or at post-sentencing proceedings that the sentencing court was within its discretion and authority to do so. These stipulations do not restrict this Office's right to respond to questions from the Court and to correct misinformation that has been provided to the Court.

Waiver of Appeal and Post-Sentencing Rights

This Office and BRAXTON agree that, provided the District Court imposes a sentence in accordance with this Rule 11(c)(1)(C) plea agreement, neither party will appeal that sentence. BRAXTON further agrees that, in exchange for the concessions the United States made in entering into this Rule 11(c)(1)(C) plea agreement, he will not challenge his conviction for any reason by any means, other than ineffective assistance of counsel, and he will not challenge or seek to modify any component of his sentence for any reason by any means, other than ineffective assistance of counsel. The term "any means" includes, but is not limited to, a direct appeal under 18 U.S.C. § 3742 or 28 U.S.C. § 1291, a motion to vacate the sentence under 28 U.S.C. § 2255, a motion to reduce the sentence under 18 U.S.C. § 3582(c)(2), a motion for early termination of supervised release under 18 U.S.C. § 3583(e)(1), or any other motion, however captioned, that seeks to attack or modify any component of the judgement of conviction or sentence.

Both parties reserve the right to oppose or move to dismiss any appeal, collateral attack, writ, or motion not barred by the preceding paragraph.

Immigration Consequences

BRAXTON understands that, if he is not a citizen of the United States, his guilty plea to the charged offense will likely result in his being subject to immigration proceedings and removed from the United States by making him deportable, excludable, or inadmissible, or ending his naturalization. BRAXTON understands that the immigration consequences of this plea will be imposed in a separate proceeding before the immigration authorities. BRAXTON wants and agrees to plead guilty to the charged offense regardless of any immigration consequences of this plea, even if this plea will cause his removal from the United States. BRAXTON understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, BRAXTON waives any and all challenges to his guilty plea and to his sentence based on any immigration consequences, and agrees not to seek to withdraw his guilty plea, or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any immigration consequences of his guilty plea.

Other Provisions

This agreement is limited to the United States Attorney's Office for the District of New Jersey and cannot bind other federal, state, or local authorities. However, this Office will bring this agreement to the attention of other prosecuting offices, if requested to do so.

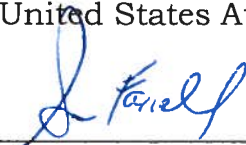
This agreement was reached without regard to any civil or administrative matters that may be pending or commenced in the future against BRAXTON. This agreement does not prohibit the United States, any agency thereof (including the Internal Revenue Service and Immigration and Customs Enforcement) or any third party from initiating or prosecuting any civil or administrative proceeding against BRAXTON.

No Other Promises

This agreement constitutes the plea agreement between BRAXTON and this Office and supersedes any previous agreements between them. No additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties.

Very truly yours,

CRAIG CARPENITO
United States Attorney

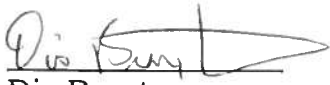

By: RAHUL AGARWAL
SEAN FARRELL
Assistant U.S. Attorneys

APPROVED:


LEE M. CORTES, JR.
Deputy Chief, Special Prosecutions Division
United States Attorney's Office

I have received this letter from my attorney, Vincent LaPaglia, Esq. I have read it. My attorney and I have discussed it and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, and immigration consequences, as well as the impact that Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure has upon this agreement. I understand this letter fully. I hereby accept its terms and conditions and acknowledge that it constitutes the plea agreement between the parties. I understand that no additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties. I want to plead guilty pursuant to this plea agreement.

AGREED AND ACCEPTED:


Dio Braxton

Date: 5/21/19

I have discussed with my client this plea agreement and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, and immigration consequences, as well as the impact that Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure has upon this agreement. My client understands this plea agreement fully and wants to plead guilty pursuant to it.


Vincent LaPaglia, Esq.

Date: 5/21/19

Plea Agreement With Dio Braxton

Schedule A

1. This Office and Dio Braxton ("BRAXTON") recognize that the United States Sentencing Guidelines are not binding upon the Court. This Office and BRAXTON nevertheless agree to the stipulations set forth herein.

2. The version of the United States Sentencing Guidelines effective November 1, 2018 applies in this case.

3. The applicable guideline for conspiracy is U.S.S.G. § 2X1.1(a), which provides that the base offense level for any conspiracy is the base offense level from the guideline for the substantive offense. The guideline for the substantive offense is U.S.S.G. § 2E1.2. Pursuant to U.S.S.G. § 2E1.2(a) n.2, because the underlying offense is a violation of state law, the offense level from the most analogous federal offense applies. The most analogous federal offense is 52 U.S.C. § 10307(c). Accordingly, the applicable guideline is U.S.S.G. § 2H2.1 (Obstructing an Election). Pursuant to U.S.S.G. § 2H2.1(a)(2), the base offense level is 12.

4. As of the date of this letter, BRAXTON has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for the offense charged. Thus, a downward adjustment of 2 levels for acceptance of responsibility is appropriate if BRAXTON'S acceptance of responsibility continues through the date of sentencing. U.S.S.G. § 3E1.1(a).

5. In accordance with the above, the parties agree that the total Guidelines offense level applicable to BRAXTON is 10.

6. In accordance with the above, and pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the parties agree that a sentence within the range of 6 to 12 months' imprisonment for the charge contained in the Indictment is reasonable under 18 U.S.C. § 3553(a), and neither party will argue for a sentence below or above the range of 6 to 12 months' imprisonment. Furthermore, should the Court reject this agreement, either party may elect to be relieved of the terms of this plea and the parties will be returned to the status prior to the entry of the plea.