

Superior Court of the District of Columbia

United States of America/  
~~District of Columbia~~

vs.

Case No.

2012 CFI 19939

CHAVEZ MYERS

**PLEA AGREEMENT AND WAIVER OF TRIAL**

PLEA AGREEMENT: Defendant and the Government enter into the following plea agreement:

Mr. Myers enters a plea of guilty to one count of First-Degree Murder While Armed (Felony Murder) in violation of D.C. Code §§ 22-2101, 4502. See Attached Agreement

**YOU ARE NOT REQUIRED TO PLEAD GUILTY. If you do plead guilty, you will give up important rights, some of which are stated below.**

First, you give up your right to trial by the court or by a jury, comprised of 12 members of the community. At a trial you would be presumed to be innocent, and the Government would be required to present evidence in open court, to prove its case beyond a reasonable doubt.

At the trial you have the right to have a lawyer represent you. The lawyer would be able to cross-examine witnesses, file motions to suppress evidence and statements, and make objections and arguments on your behalf. You would have the right to question any witness, and you could have witnesses come to court and testify for you. You would also have the right to testify if you wanted to; however, if you chose not present testimony that decision could not be held against you. You could not be convicted at trial unless the court found that the Government had proved your guilt beyond a reasonable doubt.

Second, you have the right to appeal your conviction to the Court of Appeals. This is a right you would have if you were convicted after trial. The right to appeal includes the right to have the Court of Appeals appoint a lawyer for you and pay for your lawyer's services if you could not afford a lawyer.

Third, if you are not a citizen of the United States, your plea of guilty could result in your deportation, exclusion from admission to the United States, or denial of naturalization.

**Your signature on this form means that you wish to plead guilty and give up your right to trial and your right to appeal. If the court accepts your guilty plea, you will be convicted and the only matter left in the case will be for the court to sentence you. No person can guarantee what your sentence will be.**

**I HAVE REVIEWED THIS FORM WITH MY LAWYER AND HAVE DECIDED TO PLEAD GUILTY IN THIS CASE. I HAVE DECIDED TO GIVE UP MY CONSTITUTIONAL RIGHT TO HAVE A TRIAL AND TO GIVE UP MY RIGHT TO APPEAL.**

\_\_\_\_\_  
Asst U.S. Attorney  
Asst. Corporation Counsel

\_\_\_\_\_  
Defendant

Approved this \_\_\_\_\_ day \_\_\_\_\_ 2013

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Judge



**U.S. Department of Justice**

Ronald C. Machen Jr.  
United States Attorney

*District of Columbia*

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*Judiciary Center  
555 Fourth St., N.W.  
Washington, D.C. 20530*

September 24, 2013

**VIA ELECTRONIC MAIL**

Ms. Janet Mitchell  
Public Defender Service  
633 Indiana Ave. NW  
Washington, DC 20001  
[jmitchell@pdsdc.org](mailto:jmitchell@pdsdc.org)

**Re: United States v. Chavez Myers, 2012 CF1 19939**

Dear Ms. Mitchell:

This letter is to confirm the plea offer for your client, Chavez Myers. This plea offer will remain open until September 26, 2013. However, the Government reserves the right to revoke this plea offer at any time before your client enters a guilty plea in this case. If your client accepts the terms and conditions set forth below, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the plea agreement between your client and the Office of the United States Attorney for the District of Columbia. The terms of the offer are as follows:

**DEFENDANT'S OBLIGATIONS**

1. Your client, Chavez Myers, agrees to admit guilt and enter a plea of guilty to the following offenses:
  - a. **First-Degree Murder While Armed (Felony Murder)**, in violation of D.C. Code §§ 22-2101, 4502 (Count 9 of the Second Superseding Indictment). Pursuant to D.C. Code §§ 22-2104, the maximum penalty for this offense, given that the government will dismiss the aggravating circumstances enhancement as part of this plea, is **60 years' incarceration. The mandatory minimum sentence for this charge is 30 years' incarceration.**
2. Your client and the Government agree that **30 years of incarceration is the appropriate sentence in this case.** Your client and the Government agree, pursuant to Rule 11(e)(1)(C) of the Superior Court Rules of Criminal Procedure, to present this plea

agreement to the Court for its approval. If the Court accepts the plea agreement and the specific sentence agreed upon by the parties, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(e)(3) of the Superior Court Rules of Criminal Procedure. The parties understand, however, that in light of other factors the Court may not agree that such a sentence is an appropriate one and may reject the plea agreement pursuant to Rule 11(e)(4) of the Superior Court Rules of Criminal Procedure. Upon such a rejection, pursuant to Rule 11(e)(4), neither party would then be bound by this plea agreement. Your client understands that if this happens, the Court, in accordance with the requirements of Rule 11(e)(4), will inform the parties of its rejection of the plea agreement, and will afford your client an opportunity to withdraw the plea, or if your client persists in the guilty plea will inform your client that a final disposition may be less favorable to your client than that contemplated by this agreement.

3. Your client understands that, in exchange for his plea of guilty to the offenses described in paragraph 1, supra, the government will:
  - a) **dismiss**, at the time of sentencing, all greater and remaining counts in the Second Superseding Indictment; and
  - b) **waive** the filing of any applicable sentencing enhancement papers.
4. The parties agree that your client will remain incarcerated pending sentencing.
5. The parties further agree that your client, after taking an oath to tell the truth, shall agree to a proposed factual proffer in open court on the date of the plea. The language of the proffer is attached to this letter.
6. Your client understands that this plea offer is contingent upon an agreement between the Government and your client that neither party will seek an upward or downward departure outside of your client's applicable guideline range and that each party agrees that 30 years' of incarceration is the appropriate sentence in this case.
7. Your client agrees that this letter is binding on the Government, but not binding on the Court, and that your client cannot withdraw this plea at a later date because of the harshness of any sentence imposed by the Court. The Government understands that your client is not bound by the Government's allocution, and may request a lesser sentence, subject to the terms set forth in paragraph 6, above.
8. Your client acknowledges and has been made aware that pursuant to the Innocence Protection Act, there may be physical evidence which was seized from the victim, crime scene or from your client or from some other source that can be tied to your client that could contain probative biological material. Your client understands and agrees that in order to plead guilty in this case, your client must waive and give up DNA testing in this

case and must execute the attached written waiver of DNA testing. Your client further understands that should he waive and give up DNA testing now, it is unlikely that he will have another opportunity to have the DNA tested in this case.

9. Your client also agrees that if any illegal firearms or illegal contraband were seized by any law enforcement agency from the possession of or the direct or indirect control of your client, then your client consents to the administrative forfeiture, official use and/or destruction of said firearms or contraband by any law enforcement agency involved in the seizure of these items.
10. In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute. In particular, your client knowingly and voluntarily waives or gives up his right against self-incrimination with respect to the offenses to which your client is pleading guilty before the Court which accepts your client's plea. Your client also understands that by pleading guilty your client is waiving or giving up your client's right to be tried by a jury or by a judge sitting without a jury, the right to be assisted by an attorney at trial and the right to confront and cross-examine witnesses.
11. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the United States Attorney's Office for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this Office and your client.
12. Enclosed for your review:
  - a. Defendant's Acceptance & Attorney's Acknowledgment
  - b. Proffer of Facts & Defendant's Acknowledgment
  - c. Defendant's Agreement to Waive DNA testing

Respectfully,

RONALD C. MACHEN JR.  
United States Attorney

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Kevin F. Flynn  
D.C. Bar No. 370622  
Justin Dillon  
D.C. Bar No. 502322  
Kathleen A. Connolly  
D.C. Bar No. 989085  
Assistant United States Attorneys  
Homicide Section

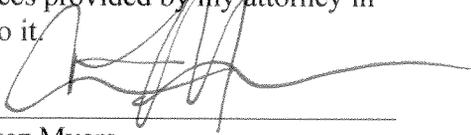
U.S. Attorney's Office for the District of  
Columbia  
555 4th Street NW, 9th Floor  
Washington, D.C. 20530  
Phone: (202) 252-7119  
Fax: (202) 353-9415

**DEFENDANT'S ACCEPTANCE**

I have read or had read to me each of the seven (7) pages of this plea agreement and have discussed this plea agreement with my attorney. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me, nor am I under the influence of anything that could impede my ability to understand this agreement fully. I am pleading guilty because I am in fact guilty of the offenses set forth herein.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

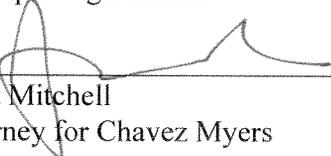
Date: 9.24.13

  
\_\_\_\_\_  
Chavez Myers

**ATTORNEY'S ACKNOWLEDGMENT**

I have read each of the seven (7) pages of this plea agreement, fully reviewed them with my client, Chavez Myers, and fully discussed the provisions of the agreement with my client. These pages accurately and completely set forth the entire plea agreement.

Date: 9.24.13

  
\_\_\_\_\_  
Janet Mitchell  
Attorney for Chavez Myers

**PROFFER OF FACTS**

On or about November 16 and 17, 2012, defendants Muquan "Squirrel" Cawthorne, Isaiah "Cockstrong" Gant, Deon "J.R." Jefferson, Gary "Gator" Maye, Tyrell "Huntwood" Smith, Immanuel "Man Man" Swann, and two juveniles with the initials D.T. and A.W. (collectively hereinafter "the defendants" or "codefendants") entered into an agreement to commit robberies. The agreement was to commit robberies in and around the Gallery

Place/Chinatown and Adams-Morgan neighborhoods of Washington, DC, and the goal of the agreement was to rob people of their iPhones and other personal items. Defendants Greg "Scrape" Whittaker and Chavez "Vez" Myers were present when this agreement was reached, went out with the other defendants that night knowing exactly what their codefendants were planning to do, and knew that Cawthorne was carrying a gun when all of the defendants went into the District that night.

Shortly after midnight on November 17, 2012, Olijawon Griffin approached Myers and his codefendants in front of the McDonald's located at 2481 18th St. NW in Washington, DC. Mr. Griffin was wearing a black Helly Hansen jacket with two horizontal, reflective white stripes. Mr. Griffin asked the defendants if they had any marijuana to sell him. When Maye responded yes, Mr. Griffin briefly went inside the McDonald's. While he was inside, the other defendants agreed to rob Mr. Griffin of his jacket. Myers knew about this agreement and knew that his codefendants were planning to rob Mr. Griffin.

When Mr. Griffin returned outside, the defendants walked to Lanier Place, a street that is adjacent to the Exxon gas station located at 1827 Adams Mill Road NW in Washington, DC. Myers remained near the entrance to Lanier Place and saw Cawthorne, Maye, and Jefferson go further down Lanier Place with Mr. Griffin. Shortly thereafter, he saw Mr. Griffin attempt to run out of the alley before being tripped by one of the other defendants and beaten by several of them. He saw A.W. take Mr. Griffin's shoes and saw Jefferson walk away wearing Mr. Griffin's Helly Hansen jacket.

After the robbery was complete, Mr. Griffin left, and all of the defendants walked to the Woodley Park Metro station, where they intended to go back to West Hyattsville. Shortly after they arrived at the Metro station, the defendants, including Myers, saw Mr. Griffin and his friend Isaac Chase approach them in an effort to get Mr. Griffin's property back. At that time, Myers saw that Jefferson was wearing the Helly Hansen jacket that he and the other defendants had stolen from Mr. Griffin, while D.T. was wearing a blue L.A. Kings baseball cap they had stolen from him. Myers saw that D.T. was also wearing a black Helly Hansen coat with a thick, dark grey stripe in the middle of it, and blue jeans with the cuffs rolled up. Myers saw that Cawthorne was wearing light grey jeans and a jacket with several distinctive yellow or green vertical zippers. Myers saw that Maye was wearing a black or dark grey jacket, dark jeans with the cuffs rolled up, and a rolled-up ski mask on top of his head. Myers himself was wearing a long grey coat, black or dark grey pants, a black or dark grey half-zip sweater, and a black polo ski cap with a rolled up ski mask underneath it. Myers saw that Swann was wearing blue jeans and a black nylon zip-up jacket with a bright red or orange hood, as well as a baseball cap with shiny decals on the front and the bill. Myers saw that Whittaker was wearing a long, puffy, black coat, dark pants, a white t-shirt, and tan Timberland boots.

Myers then saw Mr. Chase taken to the ground and saw Cawthorne, Maye, Smith, Swann, D.T., and A.W., repeatedly punch, kick, and stomp Mr. Chase, while Gant, Jefferson, Whittaker, and Myers himself moved toward Mr. Griffin in an effort to keep Mr. Griffin from helping Mr. Chase. While Mr. Chase was on the ground, Myers heard at least one of his

codefendants say, "Get his shoes!" Although there was no discussion of the fact that Mr. Chase would be robbed during this attack, Myers assumed that he would be and believes that all of his codefendants knew that as well. He learned shortly after the attack that Mr. Chase had been robbed of his shoes, his wallet, and his money, and he knew that Cawthorne was still in possession of the gun during the robbery.

Shortly after the attack on Mr. Chase ended, Myers went up to the mezzanine level of the Metro station, the level on which the kiosk and fare machines are located, in response to Mr. Griffin's repeatedly shouting at them to fight him one-on-one instead of jumping Mr. Chase as a group. Jefferson, Maye, Whittaker, D.T., and Swann also went up to the mezzanine level at that time. Myers and Whittaker then briefly engaged with Mr. Griffin beyond the fare gates, during which time Myers pulled out a knife and brandished it at Mr. Griffin, before subsequently retreating, with Swann and the other defendants, back towards the escalators to the platform level. Myers then saw Whittaker, along with Swann and D.T., once again approach Mr. Griffin. Myers saw Whittaker (who had doffed his coat and was now wearing only the white t-shirt) start to square up against Mr. Griffin in an unarmed fistfight. Myers was not, however, able to see them exchange any blows, as his view of both men was blocked by the elevator that runs between the platform and the mezzanine. While Whittaker and Mr. Griffin were still circling each other, Myers pulled a ski mask over his face, came around the elevator, and snuck up on Mr. Griffin from behind while carrying a knife in his right hand, taking a stutter-step to his left as he approached in order to stay behind Mr. Griffin and out of Mr. Griffin's field of vision. Myers then reached out and stabbed Mr. Griffin in the chest with the knife.

As Mr. Griffin stumbled towards the emergency gate next to the station kiosk, Myers then ran back down to the platform. Although Myers did not see what happened next on the mezzanine, he later watched Metro security camera footage of it. As Mr. Griffin stumbled to the right of the camera, Myers heard on the security camera footage something that he acknowledged sounded like the knife clattering to the ground. He then heard, on the security camera footage, D.T. (whose voice he recognized) shout, "Hey, pick that knife up, cuz!", and saw Whittaker bend down, out of the camera's range and moving toward where the knife would have fallen after the stabbing. He then saw and heard, on the security camera footage, Swann shout, among other things, "Bitch, we don't play!... Say word!" He then saw, on the security camera footage, Whittaker bend down and pick up his coat while holding the knife in his left hand.

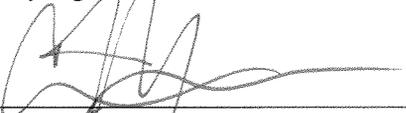
Myers agrees and understands that, when he stabbed Mr. Griffin in the chest, he caused Mr. Griffin's death and that he did so in furtherance of the armed robbery of Isaac Chase, which was still ongoing at that time.

This summary of the facts does not include all of the facts and circumstances of the offenses, nor does it specify all of the actions taken by the members of the conspiracy on November 16 and 17, 2012. Rather, this summary of the facts is limited to those facts and circumstances necessary to the plea of guilty.

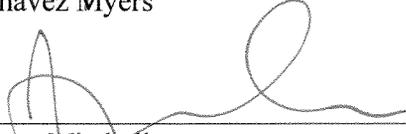
**DEFENDANT'S ACKNOWLEDGMENT**

I have read and discussed the Government's Proffer of Facts with my attorney, Janet Mitchell. I agree, and acknowledge by my signature, that this Proffer of Facts is true and correct.

Date: 9.24.13

  
\_\_\_\_\_  
Chavez Myers

Date: 9.24.13

  
\_\_\_\_\_  
Janet Mitchell  
Attorney for Defendant Chavez Myers

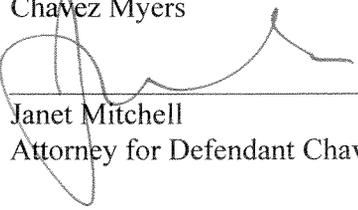
**DEFENDANT'S AGREEMENT TO WAIVE DNA TESTING**

My attorney has discussed the contents of this plea agreement with me, including the fact that I may request or waive DNA testing, including independent DNA testing. I understand the conditions of the plea and agree to them. I knowingly, intentionally, and voluntarily waive and give up DNA testing, including independent DNA testing, of any biological materials in this case. I further state that I am fully satisfied with the services my attorney has provided to me and am fully satisfied with the explanation my attorney has provided me concerning the terms of the plea offer, the potential evidentiary value of DNA evidence in this case, and the consequences of waiving and giving up DNA testing in this case and pleading guilty.

Date: 9.24.13

  
\_\_\_\_\_  
Chavez Myers

Date: 9.24.13

  
\_\_\_\_\_  
Janet Mitchell  
Attorney for Defendant Chavez Myers