



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*

June 18, 2014

**VIA ELECTRONIC MAIL**

Madalyn Harvey  
Public Defender Service

**Re: United States v. James Yates III, 2014-CF1-7487**

Dear Ms. Harvey,

I write to convey a plea offer to your client, James Yates III, which will remain open until the date of the next hearing in this case. Please note that the government reserves the right to revoke this plea offer at any point before your client enters a guilty plea in open court and the guilty plea is accepted by the Court.

If your client accepts the terms and conditions set forth below, please have him execute this document in the space provided. Upon receipt of the executed document, subject to the two conditions noted above, 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 and conditions of the plea offer are as follows:<sup>1/</sup>

**TERMS AND CONDITIONS**

1. Your client agrees to admit guilt and enter a plea of guilty to the charge of **Second Degree Murder While Armed**, in violation of D.C. Code §§ 22-2103, 4502.

Your client understands that the offense of Second Degree Murder carries a potential maximum penalty of **40 years imprisonment** and a maximum of **5 years of supervised release**.

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<sup>1/</sup> Any references to "the defendant" or "your client" refer to James Yates III. Any reference to "the government" refers to the United States Attorney's Office for the District of Columbia. Any reference to "the parties" refers to James Yates III and the United States Attorney's Office for the District of Columbia. Any reference to the "agreement" refers to this plea agreement.

2. Your client understands that, in exchange for his plea of guilty to the offenses described in paragraph 1, supra, the government will:
  - a) not indict your client on any greater or related charges, including but not limited to **First Degree Murder**, arising out of the April 25, 2014 murder of Andre Joyner, as detailed in the attached factual proffer; and
  - b) waive the filing of any applicable sentencing enhancement papers.
3. The parties agree that your client will remain incarcerated pending sentencing.
4. 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.
5. Your client understands that the Court may use the District of Columbia Sentencing Commission's Voluntary Sentencing Guidelines in imposing the sentence in this case. **The government agrees not to seek a sentence above 18 years imprisonment. The defense agrees not to seek a sentence below 12 years imprisonment.**
6. 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 5, above.
7. Your client acknowledges and has been made aware that pursuant to the Innocence Protection Act, that 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.
8. 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.
9. 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.

10. 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.
11. Enclosed for your review:
  - a. Defendant's Acknowledgment & Attorney's Acknowledgment
  - b. Proffer of Facts & Defendant's Acknowledgment
  - c. Information
  - d. Waiver of Indictment
  - e. Defendant's Agreement to Waive DNA testing

Respectfully,

RONALD C. MACHEN JR.  
United States Attorney

\_\_\_\_\_/s/  
Jonathan Kravis  
Assistant United States Attorney  
United States Attorney's Office  
555 4th St. NW, Room 9407  
Washington, D.C. 20530  
202-252-7055

### **PROFFER OF FACTS**

On the evening of Sunday, April 20, 2014, the decedent Andre Joyner and the defendant James Yates III encountered one another in the 1200 block of 5<sup>th</sup> Street NW, Washington DC. During that encounter, the decedent and the defendant began to argue. In the course of that argument, the decedent retrieved a gun from his car and pointed the gun at the defendant, but did not fire the gun.

Five days later, on Friday, April 25, 2014, at approximately 3:32pm, the decedent was standing on the sidewalk in the 600 block of Morris Place NE, Washington DC. The defendant drove into the block in a blue/gray Nissan Altima. The defendant got out of the car and walked toward Mr. Joyner. Several witnesses reported that the defendant and Mr. Joyner then exchanged words, although the witnesses could not hear what the men were saying. The defendant then pulled out a gun and shot Mr. Joyner in the head. Mr. Joyner was transported to Medstar, where he was pronounced dead at 4:03pm. On April 26, 2014, an autopsy was performed on the decedent. The cause of death was determined to be a gunshot wound to the head and the manner of death was determined to be a homicide.

The defendant's actions were voluntary and intentional, were not the result of accident or mistake, and were not undertaken in self-defense.

### **DEFENDANT'S ACKNOWLEDGMENT**

I have read and discussed the above Proffer of Facts with my attorney, whose signature is below. I agree, and acknowledge by my signature, that this Proffer of Facts is true and correct.

Date: 6/25/14

J. Yates  
James Yates III  
Defendant

### **ATTORNEY'S ACKNOWLEDGMENT**

I have read and discussed the above Proffer of Facts with my client, James Yates III, whose signature appears above. I know of no reason why his adoption of the above Proffer of Facts is not knowing, voluntary, or intelligent, or of any other reason why his guilty plea to Second Degree Murder While Armed, based on the above Proffer of Facts, should not be accepted by the Court.

Date: 6/25/14

[Signature]  
Madalyn Harvey, Esq.  
Attorney for Defendant