KRIS W. KOBACH
Secretary of State

Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564

STATE OF KANSAS

May 31, 2012

Mr. Brandon Quester
News21 Assistant Project Manager
Cronkite School of Journalism
555 N. Central Avenue
Phoenix, AZ 85004

RE: Kansas Open Records Act Request

Dear Mr. Quester:

Our office is in receipt of your PRAR Form including credit card information. Enclosed herewith please find the documents you requested. Based on this production, we consider your request complete.

Please feel free to contact our office with any questions.

Sincerely,

Desiree Taliaferro
Assistant to Ryan Kriegshauser

OFFICE OF THE KANSAS SECRETARY OF STATE
KNOWN REPORTED INCIDENTS OF ELECTION CRIMES, 1997 - 2012
March 15, 2012

YEAR	JURISDICTION	DESCRIPTION OF VIOLATION	CRIMES ALLEGED	NUMBER OF CASES	ACTIONS TAKEN
2010	BARTON	Person voted in both Kansas and Colorado	Double vote	1	Evidence collected
2002	BOURBON	Ballots returned for advance voters with non-matching signatures.	Perjury, impersonation of a voter	Multiple	Unknown
1998	BOURBON	Mother voted for her son, forged signature	Perjury, forgery	1	Unknown
1998	BOURBON	Nursing home supervisor voted for other persons without their consent	Perjury, forgery	Multiple	Unknown
2006	BUTLER	Person voted twice	Double vote	1	Referred to county attorney
2002	CHEYENNE	Person voted in Kansas and Colorado	Double vote	1	Investigated by FBI, not pursued
2004	CLARK	Electioneering near an advance voting location	Electioneering	1	Convicted of 2 counts of Class B misdemeanors by state of KS
Multiple	DECATUR	Nursing home residents' ballots voted by adult children	Perjury, forgery	Multiple	Unknown
2004	DECATUR	Voters incapable of voting but ballots voted anyway	Perjury, forgery	4	Ballots challenged
Multiple	DECATUR	Ballots voted by wife, nephew, social worker of nursing home residents	Perjury, forgery	Multiple	Ballots challenged
2004	DOUGLAS	Party voter registration drive screened applications and did not deliver some	Voter registration suppression	Multiple	D.A. investigation
Multiple	ELLIS	Multiple ballots challenged each election due to nonmatching signatures	Perjury, impersonation of a voter	6	Ballots challenged
2008	FINNEY	Non US citizen registered and voted	Perjury, voting without being qualified	1	Prosecuted by county attorney, resulted in diversion
2010	FINNEY	Person voted in both Kansas and Oklahoma	Double vote	1	Referred to county attorney, investigated
2010	FORD	Person voted in both Kansas and Iowa	Double vote	1	Referred to county attorney
2010	HAMILTON	Person voted in both Kansas and Colorado	Double vote	1	Evidence collected

OFFICE OF THE KANSAS SECRETARY OF STATE

KNOWN REPORTED INCIDENTS OF ELECTION CRIMES, 1997 - 2012

March 15, 2012

YEAR	JURISDICTION	DESCRIPTION OF VIOLATION	CRIMES ALLEGED	NUMBER OF CASES	ACTIONS TAKEN
2008	HARVEY	Person double voted three times in both HV and LY in 2006, 2008	Double vote	1	Referred to county attorney, not pursued
Multiple	JOHNSON	Advance ballots challenged every election due to nonmatching signatures	Perjury, impersonation of a voter	Multiple	Ballots challenged
Multiple	JOHNSON	Multiple examples of questionable ballots	Perjury, impersonation of a voter	Multiple	Ballots challenged
2008	JOHNSON	Person voted in both Kansas and Colorado	Double vote	1	Evidence collected
2010	JOHNSON	Voter registered at MO bar, voted in KS in 2006, 2008, 2010	Perjury, voting without being qualified	1	Referred to D.A.
2010	JOHNSON	Voter received advance ballot for which he did not apply. Another person filed application.	Perjury	1	No action taken
2010	JOHNSON	Persons voted advance in person, then voted at polls on election day	Double vote	3	Referred to D.A.
2008	JOHNSON	Non US citizen registered, voted in 2008	Perjury, voting without being qualified	1	No action taken
2008	JOHNSON	Person registered to vote in JO, WY same day and attempted to vote in both	Double vote	1	Provisional ballot, not counted
2008	JOHNSON	Registration applications received with KS address, MO zip codes	Perjury	20	No action taken
2008	JOHNSON	Person not registered, found another person's address on poll book, used that address to register and vote	Perjury, impersonation of a voter	1	Referred to D.A.
2010	JOHNSON	Persons voted in both Kansas and Arkansas	Double votes	2	Referred to D.A.
2010	JOHNSON	Person voted in both Kansas and Iowa	Double vote	1	Referred to D.A.
2012	JOHNSON	Person voted twice in mail ballot election	Double vote	1	Referred to D.A.
2004	KANSAS CITY	Persons voted in Missouri and Kansas	Double vote	3	Prosecuted by US Attorney, pled guilty to misdemeanor, convicted by federal government
2008	LYON	Non US citizen registered to vote	Perjury	1	Referred to county attorney, not pursued
2010	MARSHALL	Person voted in both Kansas and Nebraska	Double vote	1	Referred to county attorney, under investigation

OFFICE OF THE KANSAS SECRETARY OF STATE
KNOWN REPORTED INCIDENTS OF ELECTION CRIMES, 1997 - 2012
March 15, 2012

YEAR	JURISDICTION	DESCRIPTION OF VIOLATION	CRIMES ALLEGED	NUMBER OF CASES	ACTIONS TAKEN
2008	MONTGOMERY	Persons voted in KS and AZ	Double votes	2	Convicted by federal government of Title 18 U.S.C. 242, Deprivation of Rights Under Color of Law
2004	NEMAHA	Person voted in both Nemaha and Shawnee counties	Double vote	1	Convicted of misdemeanor by state of KS
2010	OSAGE	Person under felony sentence registered to vote	Perjury	1	Referred to law enforcement, no charges
2002	OSAGE	Nursing home assistance when voter not aware	Perjury, forgery	1	No action taken
2006	POTTAWATOMIE	Multiple advance ballots mailed to apartments where voters did not live, ballots were voted	Perjury, forgery	7	Referred to law enforcement, not pursued
2006	POTTAWATOMIE	Advance ballot voted by voter who no longer resided in KS, but in France	Perjury, forgery	1	Referred to law enforcement, not pursued
2010	RILEY	Persons voted in both Kansas and Colorado	Double vote	2	
Multiple	SEDGWICK	Ballot applications signed by parent, spouse or relative	Perjury	Multiple	Provisional ballots not counted
2006	SEDGWICK	Parent voted for college student by power of attorney	Perjury, impersonation of a voter	1	Provisional ballot not counted
2006	SEDGWICK	Candidates and poll watchers intimidated voters by asking voters who they were and who they voted for	Voter intimidation	Multiple	No action taken
2010	SEDGWICK	Non U.S. citizen registered, voted in 2000, 2002, 2004, 2006, 2008	Perjury, voting without being qualified	1	Dept. of Homeland Security contacted county election office. Not pursued.
2009	SEDGWICK	Non US citizens registered; 1 voted	Perjury, voting without being qualified	8	Referred to D.A.
2009	SEDGWICK	Non-matching signature on an advance ballot envelope	Perjury, forgery	1	Provisional ballot not counted
2006	SEDGWICK	Intimidation of poll workers	Disorderly election conduct	Multiple	Referred to law enforcement
2006	SEDGWICK	Candidate paid $50-$75 to deliver 20 votes each	Election bribery	Multiple	No action taken

OFFICE OF THE KANSAS SECRETARY OF STATE
KNOWN REPORTED INCIDENTS OF ELECTION CRIMES, 1997 - 2012
March 15, 2012

YEAR	JURISDICTION	DESCRIPTION OF VIOLATION	CRIMES ALLEGED	NUMBER OF CASES	ACTIONS TAKEN
2006	SEDGWICK	Electioneering by a candidate at a polling place	Electioneering	1	Referred to D.A.
2010	SEDGWICK	Person voted in both Kansas and Louisiana	Double vote	1	Referred to D.A.
2011	SEWARD	Non U.S. citizen registered to vote	Perjury	1	Registration canceled
1997	SEWARD	Employer bused employees, including alleged non-citizens, to register to vote at election office	Perjury	Multiple	No action taken
2005	SHAWNEE	Advance ballots picked up and delivered to a campaign P.O. Box and never delivered to election office	Advance voting suppression	Multiple	No action taken
2005	SHAWNEE	Campaign workers picked up voted ballots, did not deliver to election office	Advance voting suppression	4	Referred to law enforcement, not pursued
2005	SHAWNEE	Tyler Towers, Jackson Towers, Polk Plaza voted ballots picked up but not delivered	Advance voting suppression	Multiple	No action taken
2005	SHAWNEE	Ballots taken to dark room and flashlight used to see how they were voted	Advance voting suppression	Multiple	No action taken
2005	SHAWNEE	Voters had their voted ballots taken from mail box	Advance voting suppression	Multiple	No action taken
2008	SHAWNEE	Person voted in both Kansas and Kentucky	Double vote	1	KS US attorney investigating
2005	SHAWNEE	Person voted in both city and county on consolidation question	Double vote	1	Investigated but not prosecuted
2002	SHERMAN	Person voted in both Kansas and Colorado	Double vote	1	Investigated by FBI, not pursued
2010	SHERMAN	Person voted in both Kansas and Colorado	Double vote	1	Evidence collected
Multiple	WYANDOTTE	Nurse's aides voted ballots for residents without their consent	Perjury, forgery	Multiple	Provisional ballots not counted
Multiple	WYANDOTTE	Spouse voting for spouse	Perjury, impersonation of a voter	Multiple	Provisional ballots not counted
2010	WYANDOTTE	Felons voted. Provisional ballots were not counted	Voting without being qualified	17	Referred to D.A., under investigation
2010	WYANDOTTE	Persons not registered. Signed affidavits claiming residency in Wyandotte	Perjury	4	Referred to D.A., under investigation

OFFICE OF THE KANSAS SECRETARY OF STATE

KNOWN REPORTED INCIDENTS OF ELECTION CRIMES, 1997 - 2012

March 15, 2012

YEAR	JURISDICTION	DESCRIPTION OF VIOLATION	CRIMES ALLEGED	NUMBER OF CASES	ACTIONS TAKEN
2010	WYANDOTTE	Persons attempted to vote more than once	Double vote	4	Referred to D.A., under investigation
2008	WYANDOTTE	Non US citizens registered; 1 voted	Perjury, voting without being qualified	3	Referred to D.A.
2008	WYANDOTTE	Advance ballot applications signed by campaign worker, not voter	Perjury	25	No charges filed
2004	WYANDOTTE	Advance ballot application filed without voter's knowledge	Perjury	1	No action taken
2002	WYANDOTTE	Fraudulent advance ballot applications	Perjury	50	Referred to D.A.
			TOTAL REPORTS	**235+**	

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA

-vs-

JAMES D. SCHERZER

Case No.: 04-00401-01-CR-W-SWH

USM Number: 17586-045

Mark Sachse, Retained
748 Ann Avenue
Kansas City, KS 66101

JUDGMENT IN A CRIMINAL CASE

The defendant pleaded guilty to Counts one thru four of the Information. Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 U.S.C. 242	Civil Rights Violation	November 5, 2002	one thru four

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: June 22, 2005

/s/ Sarah W. Hays
SARAH W. HAYS
UNITED STATES MAGISTRATE JUDGE

June 22, 2005

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	No. _____
	)	COUNTS ONE THROUGH FOUR:
Plaintiff,	)	18 U.S.C. § 242
	)	NMT One Year Imprisonment
v.	)	One Year Supervised Release
	)	$100,000 Fine
JAMES D. SCHERZER,	)	$25 Special Assessment
[DOB: xx/xx/36]	)	Class A Misdemeanor
	)	
Defendant.	)	

INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

1. At all times material to this Information:

a. Defendant JAMES D. SCHERZER was a domiciliary of the State of Kansas, residing at 1016 Tenny Avenue, Kansas City, Kansas.

b. Defendant SCHERZER was not a resident of the State of Missouri and, as Defendant knew, was not eligible to vote in the State of Missouri.

c. Election registration in the State of Missouri is unitary, in the sense that a registrant registers once to become simultaneously eligible to vote for federal as well as non-federal candidates.

d. On the following dates, elections were held in Kansas City, Missouri for the purpose of selecting and electing candidates for Federal, State and local offices: (1) August 8, 2000 primary election; (2) November 7, 2000 general election; (3) August 6, 2002 primary election; and (4) November 5, 2002

general election. Qualified voters eligible to vote under the laws of the State of Missouri cast ballots for candidates of their preference at these elections.

e. In the primary election on August 8, 2000, and the general election on November 7, 2000, candidates for the office of President and Vice-President of the United States, as well as for the United States House of Representatives were on the ballot in the State of Missouri, including Kansas City, Missouri. In the primary election on August 6, 2002, and the general election on November 5, 2002, candidates for the United States Senate and the United States House of Representatives were on the ballot in the State of Missouri, including Kansas City, Missouri.

f. The votes cast in Kansas City, Missouri in the aforesaid elections were tabulated by the Kansas City Board of Election Commissioners, and the results certified by the Kansas City Board of Election Commissioners.

g. The qualified voters in the aforesaid elections had a right guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution to have the aforesaid election officials count their votes and certify elections based on the number of valid ballots cast in said election, free from dilution from the counting of ballots that were cast by unqualified individuals and that were thereby false and spurious.

2. On or about the dates listed below, on the election days listed below, Defendant JAMES D. SCHERZER willfully caused the aforementioned election officials, acting under color of law, to deprive inhabitants of the State of Missouri, that is, qualified voters in the primary and general elections in which candidates for Federal office were selected and elected, of their right guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, by diluting the valid ballots cast for various elective offices with Defendant SCHERZER'S invalid ballots, by Defendant SCHERZER voting in elections in Missouri, Defendant knowing that he was a resident of Kansas and not entitled to vote in these elections:

COUNT	DATE	ELECTION
ONE	August 8, 2000	Primary election for the purpose of selecting and electing Federal, State and Local offices
TWO	November 7, 2000	General election for the purpose of selecting and electing Federal, State and Local offices
THREE	August 6, 2002	Primary election for the purpose of selecting and electing Federal, State and Local offices
FOUR	November 5, 2002	General election for the purpose of selecting and electing Federal, State and Local offices

All in violation of Title 18, United States Code, Sections 242 and 2.

Todd P. Graves
United States Attorney

By */s/ J. Daniel Stewart*

J. Daniel Stewart
Assistant United States Attorney

Dated: December 13, 2004

Form KS111A—Criminal Complaint

For Court use only

FILED
2004 OCT 28 P 3:23
CLERK DISTRICT COURT
CLARK COUNTY, KS

DISTRICT COURT OF CLARK **COUNTY, KANSAS**

913 HIGHLAND, ASHLAND, KANSAS 67831
Address and Location of Court

THE STATE OF KANSAS

vs.

ALBERT A. PUCKETT, Defendant

418 5th ST., ASHLAND, KANSAS 67831, address

DL	d/o/b	Race/Sex	Height	Weight	Eye Color	Hair Color
K00817215	12/01/1940	W/M	5'11"	170	BRO	

No. 04-CR-18

CLARK
County of Alleged Offense in Kansas

COMPLAINT

BRAD HARRIS, CLARK COUNTY SHERIFF,
of lawful age, being first duly sworn on oath, for complaint against the above named defendant alleges and states:

Count 1

That on or about OCTOBER 25, 2004, the above named defendant, within the above named County in the State of Kansas, then and there being, did then and there contrary to the statutes of the State of Kansas unlawfully

and knowingly attempt to persuade or influence eligible voters to vote for or against a particular candidate or party by exhibiting signs, posters or other materials that clearly identify a candidate in the election within 250 feet from the entrance of a polling place, to wit: the Clark County Courthouse, Ashland, Kansas, an advance voting site, during the time period allowed by law for casting a ballot.

WITNESSES: Ramona Myers, Ashland, Kansas; Dennis Hernandez, Ashland, Kansas; Rebecca Mishler, Ashland, Kansas; Brad Harris, Ashland, Kansas; Bill Johannsen, Ashland, Kansas.

Electioneering
Contrary to K.S.A. § 25-2430
Class C misdemeanor
Counts ____ through ____ attached
Penalties: K.S.A. §§ 21-4503a & 21-4502
Summons issued for the defendant's appearance on
day of November, 2004, at ____ M.
OR Warrant issued — appearance bond requirement is $ ____

Brad Harris Sheriff
Complainant

Subscribed and sworn to before me on Oct 28, 2004

Judge — Notary Public

Com. Exp. ____

Original for Court - Copy for prosecuting attorney

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Reorder Ph. 316-283-3628, FAX 316-283-3635

Form KS113D – Criminal Multiple Counts

To be Attached to the Criminal Complaint and Summons or Warrant

THE STATE OF KANSAS

vs.

ALBERT A. PUCKETT, Defendant.

418 5th ST., ASHLAND, KANSAS 67831, address

MULTIPLE COUNTS

No. 04-CR-18

CLARK
County of Alleged Offense in Kansas

Count 2

That on or about October 25, 2004, the above named defendant, within the above named County in the State of Kansas, then and there being, did then and there contrary to the statutes of the State of Kansas unlawfully

and knowingly attempt to persuade or influence eligible voters to vote for or against a particular candidate or party by exhibiting signs, posters or other materials that clearly identify a candidate in the election within 250 feet from the entrance of a polling place, to wit: the Clark County Courthouse, Ashland, Kansas, an advance voting site, during the time period allowed by law for casting a ballot.

Electioneering
Contrary to K.S.A. § 25-2430
Class C misdemeanor
Penalties: K.S.A. §§ 21-4503a & 21-4502

Count 3

That on or about October 26, 2004, the above named defendant, within the above named County in the State of Kansas, then and there being, did then and there contrary to the statutes of the State of Kansas unlawfully

and knowingly attempt to persuade or influence eligible voters to vote for or against a particular candidate or party by exhibiting signs, posters or other materials that clearly identify a candidate in the election within 250 feet from the entrance of a polling place, to wit: the Clark County Courthouse, Ashland, Kansas, an advance voting site, during the time period allowed by law for casting a ballot.

Electioneering
Contrary to K.S.A. § 25-2430
Class C misdemeanor
Penalties: K.S.A. §§ 21-4503a & 21-4502

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Attach to complaint and summons or warrant

Form KS111D – Criminal Multiple Counts

To be Attached to the Criminal Complaint and Summons or Warrant

THE STATE OF KANSAS

vs.

ALBERT A. PUCKETT, Defendant.

418 5th ST., ASHLAND, KANSAS 67831, address

MULTIPLE COUNTS

No. 04-CR-18

CLARK

County of Alleged Offense in Kansas

Count 4

That on or about October 27, 2004, the above named defendant, within the above named County in the State of Kansas, then and there being, did then and there contrary to the statutes of the State of Kansas unlawfully

and knowingly attempt to persuade or influence eligible voters to vote for or against a particular candidate or party by exhibiting signs, posters or other materials that clearly identify a candidate in the election within 250 feet from the entrance of a polling place, to wit: the Clark County Courthouse, Ashland, Kansas, an advance voting site, during the time period allowed by law for casting a ballot,

Electioneering
Contrary to K.S.A. § 25-2430
Class C misdemeanor
Penalties: K.S.A. §§ 21-4503a & 21-4502

Count 5

That on or about October 28, 2004, the above named defendant, within the above named County in the State of Kansas, then and there being, did then and there contrary to the statutes of the State of Kansas unlawfully

and knowingly attempt to persuade or influence eligible voters to vote for or against a particular candidate or party by exhibiting signs, posters or other materials that clearly identify a candidate in the election within 250 feet from the entrance of a polling place, to wit: the Clark County Courthouse, Ashland, Kansas, an advance voting site, during the time period allowed by law for casting a ballot.

Electioneering
Contrary to K.S.A. § 25-2430
Class C misdemeanor
Penalties: K.S.A. §§ 21-4503a & 21-4502

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Reorder Ph. 316-283-3628, FAX 316-283-3635

Attach to complaint and summons or warrant

GERALD WOOLWINE
CLARK COUNTY ATTORNEY
119 W. 8th Street
P. O. Box 871
Ashland, Kansas 67831
(620) 635-2131
Attorney for Plaintiff

FILED
2005 MAR 10 AM 9:25
DISTRICT COURT CLERK
CLARK COUNTY
BY SDH

IN THE DISTRICT COURT OF CLARK COUNTY, KANSAS

STATE OF KANSAS,

PLAINTIFF,

vs. Case No. 04-CR-18

ALBERT A. PUCKETT,

DEFENDANT.

JOURNAL ENTRY OF TRIAL AND SENTENCING

NOW on this 9th day of February, 2005, the above captioned matter comes on before the Hon. E. Leigh Hood, District Judge, for trial. Plaintiff appears by and through the Clark County Attorney Gerald Woolwine. Defendant Albert A. Puckett appears in person and with his attorney, Lawrence P. Daniels of Dodge City, Kansas. There are no other appearances.

WHEREUPON, voir dire of the jury panel and all parties exercise of preemptory challenges, a six (6) person jury is selected.

WHEREUPON, the plaintiff presents its opening statement.

WHEREUPON, the defendant defers its opening statement until the completion of the plaintiff's case.

WHEREUPON, the State calls as its witnesses Rebecca Mishler, Ramona Myers, Elizabeth Betchart, Dennis Hernandez and Bill Johannsen.

WHEREUPON, counsel for defendant cross-examines the State's witnesses.

WHEREUPON, the State rests.

WHEREUPON, defendant moves for judgment of acquittal on all counts of the Complaint, and counsel for both parties argue such Motion.

WHEREUPON, the Court denies defendant's Motion to dismiss any of the pending charges.

WHEREUPON, plaintiff files its Amended Complaint.

WHEREUPON, the defendant makes its opening statement.

WHEREUPON, the defendant calls as his witness Clara Puckett, and defendant testifies in her own behalf.

WHEREUPON, counsel for the State cross-examines the defendant and defendant's witness.

WHEREUPON, the defense rests.

WHEREUPON, the State calls no rebuttal witnesses.

WHEREUPON, the Court takes up the matter of jury instructions. Defendant objects to the Court's refusal to give a certain instruction, and such objection is noted by the Court.

WHEREUPON, jury instructions are read to the jury by the Hon. E. Leigh Hood, District Judge.

WHEREUPON, the State presents its closing argument.

WHEREUPON, the defendant presents its closing argument.

WHEREUPON, the State presents rebuttal argument.

WHEREUPON, the jury is sent to the jury room with instructions and all exhibits which have been admitted into evidence, and commence deliberations.

WHEREUPON, the Court is informed that the jury has reached a verdict.

WHEREUPON, the decision of the jury is given to District Judge E. Leigh Hood who reads the verdict form stating the jury's verdict that defendant Albert A. Puckett is guilty of Count 1 of the Complaint, electioneering, a Class B nonperson misdemeanor in violation of K.S.A. §25-2403; not guilty of Count 2 of the Complaint, electioneering, a Class B nonperson misdemeanor in violation of K.S.A. §25-2403; and guilty of Count 3 of the Complaint, electioneering, a Class B nonperson misdemeanor in violation of K.S.A. §25-2403.

WHEREUPON, the Court inquires of the parties if they wish to poll the jury. Defendant request that the jury be polled. The Court polls the jury and each juror states that the above is his or her verdict.

WHEREUPON, the jury panel is dismissed.

WHEREUPON, the Court inquires if there is any reason that Court should not proceed to sentencing, and hearing none, the Court proceeds to sentencing and receives the recommendations made by the Sate and the defendant.

IT IS THEREFORE BY THE COURT ORDERED, ADJUDGED AND DECREED that the defendant is guilty of two (2) counts of electioneering, as charged in Counts 1 and 3 of the Complaint, each being a Class B nonperson misdemeanor in violation of K.S.A. §25-2403.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant shall be sentenced as follows:

1. Defendant is sentenced to serve thirty (30) days in the Clark County Jail on each count, such sentences to run concurrent with each other. The sentence imposed shall be suspended, and defendant is placed on probation for a period of one (1) year, such probation to be supervised by the Sixteenth Judicial District Office of Court Services on the standard conditions of probation and the following specific conditions:

a. Defendant shall conduct himself at all times as a law abiding citizen and shall not violate the laws of any City, State or the U. S. Government.

b. Defendant shall not possess nor consume any alcoholic beverage or any controlled substance, and shall immediately submit to random urinalysis or breath tests at the request of the Court, the County Attorney, or his CSO, or any law enforcement officer. Failure to promptly comply with any request for urinalysis or breath test shall be a violation of probation.

c. Defendant shall notify the Court and County Attorney of any change of address or employment within seven (7) days of any such change, including the name, address and telephone number of his employer.

d. Defendant shall write a letter of apology at least one-half (1/2) page in length to the County Clerk and her staff, to be approved by his CSO and forwarded to the County Clerk.

2. Defendant shall pay Court costs in the amount of $117.00, probation supervision fee in the amount of $25.00, BIDS fee in the amount of $50.00, and attorney fees in the amount of $ -0- for his Court appointed attorney, such costs to be paid in full within six (6) months. Defendant shall make some payment each month toward fines and costs assessed herein.

IT IS SO ORDERED.

HON. E. LEIGH HOOD
DISTRICT JUDGE

APPROVED:

GERALD WOOLWINE, #11688
Clark County Attorney

LAWRENCE P. DANIELS, #08691
Attorney for Defendant

Jan. 17. 2012 3:07PM Clark County District Court No. 3009 P. 6

THE STATE OF KANSAS SIXTEENTH JUDICIAL DISTRICT

IN THE DISTRICT COURT OF CLARK COUNTY, KANSAS

STATE OF KANSAS, PLAINTIFF

VS. CASE NO. 04CR18

Albert A. Puckett DEFENDANT

FILED
2005 MAR 16 AM 9:28
DISTRICT COURT CLERK
CLARK COUNTY
BY

ORDER OF PROBATION

In accordance with the authority conferred by the laws of Kansas (KSA 21-4603 and 21-4610), you have been placed on probation this date February 9, 2005, for the charge(s) of 2 counts Electioneering, a Class C misdemeanors for a period of 1 year by the Honorable E. Leigh Hood, Judge of the District Court, from a sentence of 30 days concurrent. Keep in mind that Probation is a privilege and the Judge and CSO want you to be successful. Be truthful in all matters.

It is the order of the Court that you shall comply with the following general and special conditions of probation:

AP 1. Obey all federal, state and local laws. Notify your Court Services Officer immediately of any Law Enforcement contact.
AP 2. Report to Court Services Officer as directed.
AP 3. Pay the following costs to the Clerk of the District Court:

Court Costs	117.00	Restitution	
Fine		Attorney Fees	
Other	50.00	Probation Fees	25.00
		Total Costs	192.00

Monthly payments _____

Payments need to be mailed to : Clerk of the Court, ~~Ford~~ Clark County Courthouse, ~~P.O. Box 197, Dodge City~~, Kansas, ~~67801~~

AP 4. Do not engage in physical violence or threats of violence of any sort.
AP 5. Maintain full time employment unless verified disabled or a full time student.
AP 6. Permit your Court Services Officer to visit at your place of residence, place of employment, or elsewhere.
AP 7. Obtain written permission from your Court Services Officer prior to leaving the State of Kansas.
AP 8. No possession or consumption of alcohol, illegal drugs or inhalants. No bars, taverns or cantinas.
AP 9. You are subject to random drug or alcohol testing as directed by your officer or law enforcement. Refusal to submit shall be a violation of probation. You may be responsible for any costs related to drug testing.
AP 10. Notify the Court Services Officer of any changes in residence, telephone number or employment within 24 hours.
AP 11. Comply with any other conditions or restrictions imposed by the Court Services Officer and participate in any treatment, counseling or evaluation as ordered by the Court Services Officer.
AP 12. I understand that I cannot become involved as an informant for any Law Enforcement Agency while under supervision of Court Services.
AP 13. I shall not have any association or affiliation with any gangs or known gang members. The defendant will not wear or display any gang attire, gang colors, gang graffiti, or any other gang-related paraphernalia.
AP 14. Search of Property: You shall allow a search without a warrant of your residence, your person, or any property under your control upon request of any law enforcement officer or Court Services Officer.

SPECIAL CONDITIONS

AP 15. Write a letter of apology at least ½ page in length to the County Clerk and her staff.
AP 16. Cost to be paid in 6 months.

The Court may at any time revoke your probation for cause, modify the condition of probation, and reduce or extend the period as provided by law. The Court may issue a warrant for your arrest, or the Court Services Officer may arrest without a warrant, for any violation of the conditions of probation.

Bonnie C. Hunt
COURT SERVICES OFFICER

[signature]
JUDGE

I have read or have had explained to me and I understand the foregoing conditions and I will abide by them.

March 9, 2005
DATE

[signature]
SIGNATURE OF PROBATIONER

After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted, or diverted of the crime except that:

1. upon conviction for any subsequent crime, the conviction expunged may be considered as a prior conviction in determining sentence to be imposed;
2. the petitioner shall disclose that the conviction occurred if asked about previous arrests, convictions or diversions:
   - A. in any application for employment with a private detective agency, as security personnel with a private patrol operator, or with an institution of the department of social and rehabilitation services;
   - B. in any application for admission, or for order of reinstatement, to the practice of law in this state;
   - C. to aid in determining petitioner's qualifications for sensitive positions in the Kansas lottery;
   - D. to aid in determining petitioner's qualifications for employment with the Kansas racing commission;
   - E. upon application for a commercial driver's license;
   - F. to aid in determining petitioner's qualifications for employment with the state gaming agency;
   - G. to aid in determining petitioner's qualification for employment with a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;
   - H. in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative; or
   - I. in any application for a commercial guide permit or associate guide permit.
3. The court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;
4. The conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged, and
5. Upon commitment to the custody of the Secretary of Corrections any previously expunged record in the possession of the Secretary of Corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

In any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction, or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted, or diverted of such a crime. The expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

Whenever the record of any arrest, conviction, or diversion has been expunged under this statute, the custodian of records of such arrest, conviction, diversion, and incarceration shall not disclose the existence of such records except as provided in the K.S.A. 21-4619.

Consult your attorney for any question regarding expungement of conviction.

I have been provided a copy of this expungement notification form.

[signature]
Defendant

[signature]
Court Services Officer

Date: 3-9-05

Rev. 07/02

FILED
2005 NOV 17 AM 10:52
DISTRICT COURT CLERK
CLARK COUNTY
BY

THE STATE OF KANSAS
SIXTEENTH JUDICIAL DISTRICT

Ford, Gray, Comanche, Kiowa, Clark, Meade Counties

ORDER OF TERMINATION OF PROBATION

CLARK COUNTY

Albert A. Puckett

Case No: 04CR18

Now on this 4 day of November 2005, this case comes before this Court terminating probation, and the Court being duly advised finds that an order should be entered, and the probationer should be discharged from probation:

x x Successfully _____ Unsuccessfully

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the probation heretofore granted the probationer be and is hereby terminated and that the probationer be and is hereby discharged from probation and from further obligation or restraint in the above action.

COURT SERVICES OFFICER
Bonnie C. Trent

JUDGE OF THE DISTRICT COURT
E. Leigh Hood

Notice of the above order acknowledge:

COUNTY ATTORNEY
Gerald Woolwine

FILED
U.S. DISTRICT COURT
DISTRICT OF KANSAS
04 DEC 15 PM 4:16
RALPH L. DELOACH
CLERK
BY [illegible] DEPUTY
AT KANSAS CITY, KS.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LESLIE E. MCINTOSH,

Defendant.

No. 04-20142-01-KHV

SUPERSEDING INFORMATION

The United States Attorney charges:

Count 1

1. At all times material to this Information:

a. Defendant LESLIE E. MCINTOSH was a resident of the State of Missouri, and was not eligible to vote in the State of Kansas.

b. On November 5, 2002, an election was held in Wyandotte County, Kansas, to elect candidates for federal, state, and local offices, including candidates for the United States Senate and the United States House of Representatives.

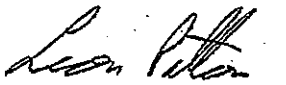
c. The qualified voters in that election had rights guaranteed by the Constitution and laws of the United States to have the election officials in Wyandotte County, Kansas, count their votes and certify the election based on the number of valid ballots cast in that election, free from the dilution of their ballots by any ballots that were cast by unqualified individuals and that were thereby fraudulent.

2. On or about November 5, 2002, in the District of Kansas, the defendant,

LESLIE E. MCINTOSH,

voted in the election which was held on that date in Wyandotte County, Kansas, to elect candidates for federal, state, and local offices, including candidates for the United States Senate and the United States House of Representatives, and thereby knowingly and willfully caused election officials in Wyandotte County, Kansas, who were acting under color of law, to deprive the qualified voters of Wyandotte County, Kansas, of their rights under the Constitution and laws of the United States to have their votes tabulated and counted in that election, free from the dilution of the value and worth of their ballots through the invalid ballot which was cast by LESLIE E. MCINTOSH. This was in violation of Sections 2 and 242 of Title 18 of the United States Code.

ERIC F. MELGREN
United States Attorney



LEON PATTON
Assistant United States Attorney
500 State Avenue, Suite 360
Kansas City, Kansas 66101
913-551-6730
Ks. S. Ct. No. 11782

Penalties: A term of imprisonment of not more than one year, a fine of not more than $100,000 or twice the gross pecuniary gain from the offense or twice the gross pecuniary loss (whichever is greater), a term of supervised release of not more than one year, and a special assessment of $25.00.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA, Plaintiff, vs. **LESLIE E. MCINTOSH,** Defendant.	No. 04-20142-01-KHV

PLEA AGREEMENT

The United States of America, by and through undersigned counsel, and the defendant, Leslie E. McIntosh, personally and by and through his undersigned counsel, hereby enter into the following plea agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure:

1. **Defendant's Guilty Plea.** The defendant agrees to plead guilty to count 1 of the superseding information charging him with depriving other voters of their rights, in violation of Title 18, United States Code, §§ 2 and 242. The defendant will enter his plea of guilty no later than December 20, 2004. By entering into this plea agreement, he admits to knowingly committing this offense, and to being guilty of this offense. The defendant understands that the maximum punishment which may be imposed as to count 1 of the superseding information is a term of imprisonment which may not be more than one year; a maximum fine of $100,000; a $25 mandatory special assessment; a term of supervised release after imprisonment of not more than one year; and if the term of supervised release is revoked he may be required to serve a term of not more than one year in prison. There are no restitution or forfeiture issues in this proceeding. The United States agrees that at

the time of sentencing it will move for dismissal of the remaining charges pending against the defendant.

2. **Factual Basis for the Guilty Plea.** The parties agree the facts constituting the offense to which the defendant is pleading guilty are as follows:

An investigation by the F.B.I. showed that on November 5, 2002, Leslie E. McIntosh voted in an election in Wyandotte County, Kansas, even though he was a resident of the State of Missouri and was not eligible to vote in the State of Kansas.

According to records maintained by the Kansas City, Missouri, Board of Elections, Mr. McIntosh registered to vote in Jackson County, Missouri, on October 9, 1968 and listed his residential address as 3622 Norton Avenue, Kansas City, Missouri.

While he was still registered to vote in Missouri, Mr. McIntosh registered to vote in Wyandotte County, Kansas, on November 17, 1992, listing his residence and mailing address as "1936 N. 5th St. #1 K.C.K. 66101." Further investigation by the F.B.I. revealed that address is the location of a barber shop and pool hall which Mr. McIntosh owns.

On November 5, 2002, general elections were held in both Kansas City, Kansas, and Kansas City, Missouri, to elect candidates for federal, state, and local offices. According to the Election Commissioner for Wyandotte County, candidates for the office of Member of the United States House of Representatives and Member of the United States Senate were on the ballot at that election, as well as candidates for state and local offices. Mr. McIntosh voted in both Kansas and Missouri, utilizing the addresses which he had previously given.

Under Kansas law a qualified voter must reside in the voting area in which he or she seeks to vote. For voting purposes under Kansas law, residence means the place adopted by a person as such person's place of habitation, and to which, whenever such person is absent, such person has the intention of returning.

On October 5, 2004, two F.B.I. agents interviewed Mr. McIntosh at his residence at 3622 Norton Avenue, Kansas City, Missouri. Mr. McIntosh said he had resided there since 1961 or 1962, regularly filed his income tax returns in Missouri, had obtained a driver's license in Missouri, and registered his vehicles in Missouri. Mr. McIntosh said that he owned property

at 1936 North 5th Street, Kansas City, Kansas, and that a barber shop and a pool hall were located there.

Mr. McIntosh said that, although he was already registered to vote in Missouri, he also registered in Kansas, using the 1936 North 5th Street address in order to do so. He admitted that he had voted in both Missouri and in Kansas during the November 2002 general election.

By voting in Wyandotte County, Kansas, at the November 5, 2002, election, Mr. McIntosh knowingly and willfully caused election officials in Wyandotte County, Kansas, who were acting under color of law, to deprive the qualified voters of Wyandotte County, Kansas, of their rights under the Constitution and laws of the United States to have their votes tabulated and counted in that election, free from the dilution of the value and worth of their ballots through the invalid ballot which was cast by Mr. McIntosh.

3. **Relevant Conduct.** The defendant agrees that the conduct charged in any dismissed counts is to be considered as well as all other uncharged related criminal activity as relevant conduct for purposes of calculating the offense level for the count(s) of conviction, in accordance with U.S. Sentencing Guidelines (U.S.S.G.) § 1B1.3(a)(2).

4. **Government's Agreements.** In return for the defendant's plea of guilty as set forth herein, the United States Attorney for the District of Kansas agrees:

a. To not file any additional charges against him arising out of the facts forming the basis for the present charges;

b. To not take a position on the sentence to be imposed within the applicable guideline range, except that the government reserves the right to request a period of home confinement of two months with work release as a condition of any probation; however, if the defendant receives a downward departure over the opposition of the United States, the United States may recommend any sentence within the applicable guideline range as finally determined by the court;

c. To recommend a 2-level reduction in the applicable offense level under the sentencing guidelines for acceptance of responsibility. Additionally, if the defendant's offense level is 16 or greater prior to any reduction for acceptance of responsibility and the court determines the defendant qualifies for that reduction, the government will move at the time of sentencing for a reduction of one additional

level for timely acceptance of responsibility. However, the government's obligations concerning acceptance of responsibility are contingent upon the defendant's continuing manifestation of acceptance of responsibility as determined by the United States. If he denies or gives conflicting statements as to his involvement, falsely denies or frivolously contests relevant conduct that the court determines to be true, willfully obstructs or impedes the administration of justice as defined in U.S.S.G. § 3C1.1 (or willfully attempts to do so), or engages in additional criminal conduct, the United States reserves the right to withdraw this recommendation without breaching this agreement; and

d. To not request an upward departure from the applicable sentencing guideline range if the defendant does not request a downward departure.

If the defendant breaches or violates this plea agreement or otherwise fails to adhere to its terms, the United States shall not be bound by this paragraph and may pursue any additional charges arising from the criminal activity under investigation as well as any perjury, false statement, or obstruction of justice charges which may have occurred. The defendant understands and agrees that if he violates this plea agreement, all statements made by him subsequent to the execution of this plea agreement, any testimony given by defendant before a grand jury or any tribunal, and any leads from such statements or testimony shall be admissible against him in any and all criminal proceedings. The defendant waives any rights which might be asserted under the United States Constitution, any statute, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, and any other federal rule that pertains to the admissibility of any statements made by him subsequent to this plea agreement.

5. **Sentence to be Determined by the Court.** The defendant understands that the sentence to be imposed will be determined solely by the United States District

Judge. The United States cannot make and has not made any promise or representation as to what sentence he will receive.

6. **Information Provided by Defendant.** The United States agrees not to use new information the defendant provides about his own criminal conduct except as specifically authorized by U.S.S.G. § 1B1.8. As such, this information may be revealed to the court but may not be used against the defendant in determining his applicable guideline range or departing above his guideline range. Defendant understands and agrees, however, that under U.S.S.G. § 1B1.8 there shall be no such restrictions on the use of the information: (1) previously known to the United States; (2) revealed to the United States by, or discoverable through, an independent source; (3) in a prosecution for perjury or giving a false statement; (4) if there is a breach of this agreement; or (5) in determining whether and to what extent a downward departure as a result of a government motion pursuant to 18 U.S.C. § 3553(e) or U.S.S.G. § 5K1.1 is warranted.

7. **Withdrawal of Plea Not Permitted.** The defendant understands that if the court accepts this plea agreement but imposes a sentence with which he does not agree, he will not be permitted to withdraw this plea of guilty.

8. **Payment of Special Assessment.** The defendant understands that a mandatory special assessment of ~~$25~~ $50 + $25 per count of conviction will be entered against him at the time of sentencing. The defendant agrees to deliver to the clerk of the court a check or money order payable to "Clerk of the U.S. District Court" in the appropriate amount no later than the day of his guilty plea. If he fails to make full payment of the special assessment, and is financially able to do so, the United States will no longer be bound by

the provisions contained in section 4(b) of this agreement. The burden of establishing an inability to pay the required special assessment lies with the defendant.

9. **Waiver of Appeal and Collateral Attack.** Defendant knowingly and voluntarily waives any right to appeal or collaterally attack any matter in connection with this prosecution and sentence. The defendant is aware that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. By entering into this agreement, he knowingly waives any right to appeal a sentence imposed which is within the guideline range determined appropriate by the court. He also waives any right to challenge a sentence or the manner in which it was determined in any collateral attack, including, but not limited to, a motion brought under 28 U.S.C. § 2255 [except as limited by *United States v. Cockerham*, 237 F.3d 1179, 1187 (10th Cir. 2001)], as well as any motion brought under 18 U.S.C. § 3582(c)(2). In other words, he waives the right to appeal the sentence imposed in this case except to the extent, if any, the court departs upwards from the applicable sentencing guideline range determined by the court. However, if the United States exercises its right to appeal the sentence imposed as authorized by 18 U.S.C. § 3742(b), he is released from this waiver and may appeal his sentence as authorized by 18 U.S.C. § 3742(a).

10. **Waiver of *Blakely* rights.** The defendant agrees to waive any rights that may have been conferred under *Blakely v. Washington*, 2004 WL 1402697 (June 24, 2004), and agrees to have the sentence in this case determined under the U.S. Sentencing Guidelines (Guidelines). The defendant further waives any right to have facts that determine the offense level under the Guidelines alleged in an indictment and found by a jury beyond a reasonable doubt; agrees that facts that determine the offense level will be

found by the court at sentencing by a preponderance of the evidence and agrees that the court may consider any reliable evidence, including hearsay; and the defendant agrees to waive all constitutional challenges to the validity of the Guidelines.

11. **Waiver of FOIA Request.** The defendant waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case including, without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

12. **Full Disclosure by United States.** The defendant understands the United States will provide to the court and the United States Probation Office all information it deems relevant to determining the appropriate sentence in this case. This may include information concerning his background, character, and conduct, including the entirety of his criminal activities. The defendant understands these disclosures are not limited to the count to which he has pled guilty. The United States may respond to comments made or positions taken by the defendant or his counsel and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject only to any limitations set forth in this plea agreement. The defendant also has the right to provide information concerning the offense to the United States Probation Office.

13. **Parties to the Agreement.** The defendant understands this plea agreement only binds him and the United States Attorney for the District of Kansas, and that it does not bind any other federal, state, or local prosecution authority.

14. **No Other Agreements.** The defendant has had sufficient time to discuss this case, the evidence, and this agreement with his attorney and defendant is fully satisfied with the advice and representation provided by his counsel. Further, he acknowledges that he has read the plea agreement, understands it, and agrees it is true and accurate and not the result of any threats, duress, or coercion. The defendant further understands that this plea agreement supersedes any and all other agreements or negotiations between the parties, and that this agreement embodies each and every term of the agreement between the parties. The defendant acknowledges that he is entering into this agreement and is pleading guilty because he is guilty and is doing so freely and voluntarily.

Date: 12-15-04

LEON PATTON
Assistant United States Attorney
500 State Avenue, Suite 360
Kansas City, Kansas 66101
913-551-6730
Ks. S. Ct. No. 11782

Date: December 15, 2004

MARIETTA PARKER, No. 77807
Supervisory Assistant U.S. Attorney
500 State Avenue, Suite 360
Kansas City, Kansas 66101
913-551-6730

Date: 12-20-04

LESLIE E. McINTOSH
Defendant

Date: 12-20-04

DAVID J. PHILLIPS
Federal Public Defender
500 State Avenue, Suite 201
Kansas City, KS 66101
Counsel for Defendant

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SEP 14 2009
CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
BY DEPUTY

JOHN J. TUCHI
United States Attorney
District of Arizona

Raymond K. Woo
Assistant U.S. Attorney
Two Renaissance Square
40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408
Arizona State Bar No. 023050
Telephone (602) 514-7500
raymond.woo@usdoj.gov

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

James A. Marshall,

Defendant.

No. CR09-1526-TUC-CKJ(BPV)

INFORMATION

VIO: 18 U.S.C. § 242

(Count 1: Deprivation of Rights Under Color of Law)

THE UNITED STATES ATTORNEY CHARGES:

At all times material to this information:

1. On November 5, 2008, an election was held in Montgomery County, Kansas, to elect candidates for Federal, state and local offices, including candidates for the United States Presidency. The qualified voters in this election had rights guaranteed by the Constitution and laws of the United States to have the election officials in Montgomery County, Kansas, count their votes and certify the election based on the number of valid ballots cast in that election, free from the dilution of their ballots by ballots that were cast by unqualified individuals.

2. The Defendant, JAMES A. MARSHALL, was not eligible to vote in the Kansas election because he was an Arizona resident that had already voted in the November 5th election in Arizona.

3. JAMES A. MARSHALL voted in Kansas by mailing a vote-by-mail ballot to Kansas from Arizona.

COUNT ONE

4. On or about, October 22, 2008, in the District of Arizona, the defendant, JAMES A. MARSHALL, voted in the election which was held on November 5, 2008, in Montgomery County, Kansas, to elect candidates for Federal, state, and local offices, including candidates for the United States Presidency, and thereby knowingly and willfully caused election officials in Montgomery County, Kansas, who were acting under color of law, to deprive the qualified voters of Montgomery County, Kansas, of their rights under the Constitution and laws of the United States to have their votes tabulated and counted in that election, free from the dilution of the value and worth of their ballots through the invalid ballot cast by JAMES A. MARSHALL.

All in violation of Title 18 Section 242 of the United States Code.

Dated this 14th day of September, 2009.

JOHN J. TUCHI
United States Attorney
District of Arizona

RAYMOND K. WOO
Assistant U.S. Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America

v.

JAMES A MARSHALL
(Name and address of defendant)

MISDEMEANOR
JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed on or After November 1, 1987)

No. CR 09-01526-001-TUC-CKJ(BPV)

Alfred S Donau (Retained)
Attorney for Defendant

THE DEFENDANT ENTERED A PLEA OF:
☒ guilty ☐ nolo contendre: as to The Information

☐ not guilty as to count(s)

THERE WAS A:
☒ finding ☐ verdict: of guilty as to The Information

THERE WAS A:
☐ finding ☐ verdict: of not guilty as to count(s)

☐ judgment of acquittal as to count(s)
The defendant is acquitted and discharged as to this/these counts.

IT IS FURTHER ORDERED that all remaining charges are DISMISSED on motion of the United States.

ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S): violating Title 18, U.S.C., Section 242, Deprivation of Rights Under Color of Law as charged in the Information filed herein.

IT IS THE JUDGMENT OF THIS COURT THAT: Defendant is placed on probation for a term of **ONE (1) YEAR** on the condition that defendant violate no law of the United States of America and no law of any state of the United States of America; that the defendant shall make the required reports and carry out the directions of the probation officer tending toward defendant's rehabilitation.

CRIMINAL MONETARY PENALTIES

The defendant shall pay to the Clerk, U.S. District Court, Attn: Finance, Suite 130, 401 West Washington St., SPC 1, Phoenix, Arizona 85003-2118, the following total criminal monetary penalties:

SPECIAL ASSESSMENT: $25.00 **FINE:** $1000.00 **RESTITUTION:** N/A

All monetary penalties are due immediately or no later than the termination of probation.

Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S. District Court, of any change in name and address.

CONDITIONS OF SUPERVISION

Where probation/supervised release has been ordered, the defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

It is the order of the Court that, pursuant to General Order 05-36, which incorporates the requirements of USSG §§5B1.3 and 5D1.2, you shall comply with the following conditions:

1) You shall not commit another federal, state, or local crime during the term of supervision.
2) You shall not leave the judicial district or other specified geographic area without the permission of the Court or probation officer.
3) You shall report to the Probation Office as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month.
4) You shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
5) You shall support your dependents and meet other family responsibilities.
6) You shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
7) You shall notify the probation officer at least ten days prior to any change of residence or employment.
8) You shall refrain from excessive use of alcohol and are subject to being prohibited from the use of alcohol if ordered by the Court in a special condition of supervision.
9) You shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 801) or any paraphernalia related to such substances, without a prescription by a licensed medical practitioner. Possession of controlled substances will result in mandatory revocation of your term of supervision.
10) You shall not frequent places where controlled substances are illegally sold, used, distributed or administered, or other places specified by the Court.

13) You shall immediately notify the probation officer (within forty-eight (48) hours if during a weekend or on a holiday) of being arrested or questioned by a law enforcement officer.
14) You shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the Court.
15) As directed by the probation officer, you shall notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and shall permit the probation officer to make such notification and to confirm your compliance with such notification requirement.
16) If you have ever been convicted of a felony, you shall refrain from possessing a firearm, ammunition, destructive device, or other dangerous weapon. If you have ever been convicted of a misdemeanor involving domestic violence, you shall refrain from possession of any firearm or ammunition. Possession of a firearm will result in mandatory revocation of your term of supervision. This prohibition does not apply to misdemeanor cases that did not entail domestic violence, unless a special condition is imposed by the Court.
17) Unless suspended by the Court, you shall submit to one substance abuse test within the first 15 days of supervision and thereafter at least two, but no more than two periodic substance abuse tests per year of supervision, pursuant to 18 U.S.C. §§ 3563(a)(5) and 3583(d);
18) If supervision follows a term of imprisonment, you shall report in person to the Probation Office in the district to which you are released within seventy-two (72) hours of release.
19) You shall pay any monetary penalties as ordered by the Court. You will notify the probation officer of any material change in your economic circumstances that might affect your ability to pay restitution, fines, or special assessments.
20) If you have ever been convicted of any qualifying federal or military offense (including any federal felony) listed under 42 U.S.C. § 14135a(d)(1) or 10 U.S.C. § 1565(d), you shall cooperate in the collection of DNA as directed by the probation officer pursuant to 42 U.S.C. § 14135a(a)(2).

The Court may change the conditions of probation or supervised release or extend the term of supervision, if less than the authorized maximum, at any time during the period of probation or supervise release. The Court may issue a warrant and revoke the original or any subsequent sentence for a violation occurring during the period of probation or supervised release.

THE DEFENDANT PREVIOUSLY WAIVED HIS RIGHT TO APPEAL.

IT IS FURTHER ORDERED that the Clerk of the Court deliver a certified copy of this judgment to the United States Marshal of this district.

Date of Imposition of Sentence: **Tuesday, November 24, 2009**

Bernardo P. Velasco Date 11/24/09
BERNARDO P. VELASCO, U. S. MAGISTRATE JUDGE

RETURN

I have executed this Judgment as follows:_____

Defendant delivered on _____ to _____ at _____, the institution designated by the Bureau of Prisons, with a certified copy of this judgment in a Criminal case.

United States Marshal By: Deputy Marshal

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SEP 14 2009
CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
BY DEPUTY

JOHN J. TUCHI
United States Attorney
District of Arizona

RAYMOND K. WOO
Assistant U.S. Attorney
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408
Arizona State Bar No. 023050
Telephone (602) 514-7500
raymond.woo@usdoj.gov

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

James A. Marshall,

Defendant.

CR09-1526-TUC-CKJ (BPV)

PLEA AGREEMENT

Plaintiff, United States of America, and defendant, JAMES A. MARSHALL, hereby agree to the following disposition of this matter:

PLEA

Defendant will plead guilty to Count 1 of the Information which charges a violation of Title 18 U.S.C. Section 242, Deprivation of Rights Under Color of Law, a Class A misdemeanor offense.

TERMS

Defendant understands that the Court is required to consider the United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") among other factors in determining defendant's sentence. Defendant understands, however, that the Sentencing Guidelines are only advisory, and that after considering the Sentencing Guidelines, the Court may be free to exercise its discretion to impose any reasonable sentence up to the maximum set by statute for the crimes of conviction.

1. **MAXIMUM PENALTIES**

a. A violation of Title 18, United States Code, Section 242, is punishable by a maximum fine of $100,000, a maximum term of imprisonment of one year, or both, and a term of supervised release of up to one year.

b. According to the Sentencing Reform Act of 1984, the court shall:

(1) Order the defendant to make restitution to any victim of the offense unless, pursuant to Title 18, United States Code, Section 3663, the court determines that restitution would not be appropriate in this case;

(2) Order the defendant to pay a fine, which may include the costs of probation, supervised release or incarceration, unless, pursuant to Title 18, United States Code, Section 3572, the Court finds upon consideration of the factors therein and in Section 3553 that a fine is not appropriate;

(3) Order the defendant, pursuant to Title 18, United States Code, Section 3583 to serve a term of supervised release when required by statute or when a sentence of imprisonment of more than one year is imposed, and the court may impose a term of supervised release in all other cases.

c. Pursuant to Title 18, United States Code, Section 3013, the court is required to impose a special assessment on the defendant of $25.00. The special assessment is due at the time the defendant enters the plea of guilty, but in no event shall it be paid later than the time of sentencing.

2. **AGREEMENTS REGARDING SENTENCING**

a. Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the parties stipulate that the defendant shall receive probation.

b. Defendant understands that the Court is neither a party to nor bound by this agreement and specifically that the United States' recommendation is not binding on the court,

and the court may impose any sentence provided for by law. Defendant further understands that if the court imposes a sentence different from what the United States recommends the defendant will not be permitted to withdraw the guilty plea.

c. The United States retains the unrestricted right to make any and all statements it deems appropriate to the Probation Office and to make factual and legal responses to any statements made by the defendant or defense counsel or objections to the presentence report or to questions by the court at the time of sentencing.

d. If the court, after reviewing this plea agreement, concludes that any provision is inappropriate, it may reject the plea agreement, giving defendant, in accordance with Fed. R. Crim. P. 11(c)(5), an opportunity to withdraw the guilty plea.

e. Acceptance of Responsibility Assuming the defendant makes full and complete disclosure to the Probation Department of the circumstances surrounding the defendant's commission of the offense, and if the defendant demonstrates an acceptance of responsibility for this offense up to and including the time of sentencing, the United States will stipulate to a two-point reduction in the applicable advisory Guideline offense level, pursuant to Section 3E1.1(a) of the advisory Guidelines.

f. Criminal History Options This agreement is conditioned on defendant having fewer than 4 criminal history points. If defendant has 4 or more criminal history points the government shall have the right to withdraw from this agreement.

3. AGREEMENT TO DISMISS OR NOT TO PROSECUTE

Pursuant to Fed. R. Crim. P. 11(c)(1)(A), the United States will dismiss Counts 1 through 5 in the indictment (CR09-1526-CKJ-BPV).

4. WAIVER OF DEFENSES AND APPEAL RIGHTS

The defendant waives any and all motions, defenses, probable cause determinations, and objections which the defendant could assert to the indictment or information or to the Court's entry of judgment against the defendant and imposition of sentence upon the defendant, providing the sentence is consistent with this agreement. The defendant further waives: (1) any right to appeal the Court's entry of judgment against defendant; (2) any right to appeal the

imposition of sentence upon defendant under Title 18, United States Code, Section 3742 (sentence appeals); and (3) any right to collaterally attack defendant's conviction and sentence under Title 28, United States Code, Section 2255, or any other collateral attack. The defendant acknowledges that this waiver shall result in the dismissal of any appeal or collateral attack the defendant might file challenging his conviction or sentence in this case.

5. **PERJURY AND OTHER FALSE STATEMENT OFFENSES OR OTHER OFFENSES**

Nothing in this agreement shall be construed to protect the defendant in any way from prosecution for perjury, false declaration or false statement, or any other offense committed by defendant after the date of this agreement. Any information, statements, documents, and evidence which defendant provides to the United States pursuant to this agreement may be used against the defendant in all such prosecutions.

6. **REINSTITUTION OF PROSECUTION**

If defendant's guilty plea is rejected, withdrawn, vacated, or reversed at any time, the United States will be free to prosecute the defendant for all charges of which it has knowledge, and any charges that have been dismissed because of this plea agreement will be automatically reinstated. In such event, defendant waives any objections, motions, or defenses based upon the Statute of Limitations, the Speedy Trial Act or constitutional restrictions in bringing of the later charges or proceedings. The defendant understands that any statements made at the time of the defendant's change of plea or sentencing may be used against the defendant in any subsequent hearing, trial or proceeding as permitted by Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410.

7. **DISCLOSURE OF INFORMATION TO U.S. PROBATION OFFICE**

The defendant will cooperate fully with the United States Probation Office. Such cooperation will include truthful statements in response to any questions posed by the Probation Department including, but not limited to:

a. All criminal history information, i.e., all criminal convictions as defined under the Sentencing Guidelines.

b. All financial information, e.g., present financial assets or liabilities that relate to the ability of the defendant to pay a fine or restitution.

c. All history of drug abuse which would warrant a treatment condition as part of sentencing.

d. All history of mental illness or conditions which would warrant a treatment condition as a part of sentencing.

8. **FORFEITURE, CIVIL, AND ADMINISTRATIVE PROCEEDINGS**

a. Nothing in this agreement shall be construed to protect the defendant from civil forfeiture proceedings or prohibit the United States from proceeding with and/or initiating an action for civil forfeiture.

b. Further, this agreement does not preclude the United States from instituting any civil or administrative proceedings as may be appropriate now or in the future.

DEFENDANT'S APPROVAL AND ACCEPTANCE

I have read each of the provisions of the entire plea agreement with the assistance of counsel and understand its provisions.

I have discussed the case and my constitutional and other rights with my attorney. I understand that by entering my plea of guilty I will be giving up my rights to plead not guilty, to trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to present evidence in my defense, to remain silent and refuse to be a witness against myself by asserting my privilege against self-incrimination -- all with the assistance of counsel -- and to be presumed innocent until proven guilty beyond a reasonable doubt.

I agree to enter my guilty plea as indicated above on the terms and conditions set forth in this agreement.

I have been advised by my attorney of the nature of the charges to which I am entering my guilty plea. I have further been advised by my attorney of the nature and range of the possible sentence and that my ultimate sentence will be determined after consideration of the advisory Sentencing Guidelines. I understand that any Guideline Range referred to herein or discussed with my attorney is not binding on the court and is merely an estimate.

My guilty plea is not the result of force, threats, assurances or promises other than the promises contained in this agreement. I agree to the provisions of this agreement as a voluntary act on my part and I agree to be bound according to its provisions.

I fully understand that, if I am granted probation or placed on supervised release by the court, the terms and conditions of such probation/supervised release are subject to modification at any time. I further understand that, if I violate any of the conditions of my probation/supervised release, my probation/supervised release may be revoked and upon such revocation, notwithstanding any other provision of this agreement, I may be required to serve a term of imprisonment or my sentence may otherwise be altered.

I agree that this written plea agreement contains all the terms and conditions of my plea and that promises made by anyone (including my attorney), and specifically any predictions as to the guideline range applicable, that are not contained within this written plea agreement are without force and effect and are null and void.

I am satisfied that my defense attorney has represented me in a competent manner.

I am fully capable of understanding the terms and conditions of this plea agreement. I am not now on or under the influence of any drug, medication, liquor, or other intoxicant or depressant, which would impair my ability to fully understand the terms and conditions of this plea agreement.

ELEMENTS OF OFFENSE AND FACTUAL BASIS

The defendant understands that if the case were to proceed to trial, the government would be required to prove the following element beyond a reasonable doubt before the defendant could be found guilty of the subject offense:

Count 1, Deprivation of Rights Under Color of Law

THAT the defendant knowingly and willfully acted under color of law, statute, ordinance, regulation, and custom to deprive the inhabitants and citizens of a certain electoral district of rights, privileges, and immunities secured and protected by the Constitution and laws of the United States.

The United States would also be required to prove, by a preponderance of the evidence, that at least part of the offense occurred in the District of Arizona.

Factual Basis

I acknowledge that an election was held in Montgomery County, Kansas, on November 5, 2008, for the purpose of selecting and electing candidates for Federal, State, and local offices. I acknowledge that this election involved candidates for the United States Presidency. I acknowledge that only qualified voters, who were eligible to vote under the laws of the state of Kansas, could cast ballots for candidates at the November 5, 2008, election. I further acknowledge that the votes cast in Montgomery County, Kansas, for the November 5th election, were tabulated and certified by the election officials in Montgomery County, Kansas.

On or about October 22, 2008, in the District of Arizona, I voted in the November 5, 2008, general election in Montgomery County, Kansas, by mailing an vote-by-mail ballot from Arizona to the election officials in Kansas. I was not eligible to vote in Kansas because I was an Arizona resident that had already voted in the November 5, 2008, election in Arizona. I therefore knowingly and willfully caused election officials in Montgomery County, Kansas, who were acting under color of low, to deprive the qualified voters of Montgomery County, Kansas, of their rights under the Constitution and laws of the United States to have their votes tabulated and counted in that election, free from the dilution of the value and worth of their ballots through the invalid ballot I cast.

I understand that I will have to swear under oath to the accuracy of this statement, and if I should be called upon to testify about this matter in the future, any intentional material inconsistencies in my testimony may subject me to additional penalties of perjury or false swearing which may be enforced by the United States under this agreement.

9-14-09
Date

JAMES A. MARSHALL
Defendant

DEFENSE ATTORNEY'S APPROVAL

I have discussed this case and the plea agreement with my client, in detail and have advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the constitutional and other rights of an accused, the factual basis for and the nature of the offense to which the guilty plea will be entered, possible defenses, and the consequences of the guilty plea including the maximum statutory sentence possible. I have further discussed the concept of the advisory sentencing guideline with the defendant. No assurances, promises, or representations have been given to me or to the defendant by the United States or by any of its representatives which are not contained in this written agreement. I concur in the entry of the plea as indicated above and on the terms and conditions set forth in this agreement as in the best interests of my client. I agree to make a bona fide effort to ensure that the guilty plea is entered in accordance with all the requirements of Fed. R. Crim. P. 11.

9/14/09
Date

ALFRED S. DONAU III
Attorney for Defendant

UNITED STATES' APPROVAL

I have reviewed this matter and the plea agreement. I agree on behalf of the United States that the terms and conditions set forth are appropriate and are in the best interests of justice.

JOHN J. TUCHI
United States Attorney
District of Arizona

9/14/09
Date

RAYMOND K. WOO
Assistant U.S. Attorney

FILED LODGED
RECEIVED COPY
SEP 14 2009
CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
BY DEPUTY

JOHN J. TUCHI
United States Attorney
District of Arizona

Raymond K. Woo
Assistant U.S. Attorney
Two Renaissance Square
40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408
Arizona State Bar No. 023050
Telephone (602) 514-7500
raymond.woo@usdoj.gov

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

Karen S. Marshall,

Defendant.

No. CR09-1526-TUC-CKJ(BPV)

INFORMATION

VIO: 18 U.S.C. § 242

(Count 1: Deprivation of Rights Under Color of Law)

THE UNITED STATES ATTORNEY CHARGES:

At all times material to this information:

1. On November 5, 2008, an election was held in Montgomery County, Kansas, to elect candidates for Federal, state and local offices, including candidates for the United States Presidency. The qualified voters in this election had rights guaranteed by the Constitution and laws of the United States to have the election officials in Montgomery County, Kansas, count their votes and certify the election based on the number of valid ballots cast in that election, free from the dilution of their ballots by ballots that were cast by unqualified individuals.

2. The Defendant, KAREN S. MARSHALL, was not eligible to vote in the Kansas election because she was an Arizona resident that had already voted in the November 5th election in Arizona.

3. KAREN S. MARSHALL voted in Kansas by mailing a vote-by-mail ballot to Kansas from Arizona.

COUNT ONE

4. On or about, October 22, 2008, in the District of Arizona, the defendant, KAREN S. MARSHALL, voted in the election which was held on November 5, 2008, in Montgomery County, Kansas, to elect candidates for Federal, state, and local offices, including candidates for the United States Presidency, and thereby knowingly and willfully caused election officials in Montgomery County, Kansas, who were acting under color of law, to deprive the qualified voters of Montgomery County, Kansas, of their rights under the Constitution and laws of the United States to have their votes tabulated and counted in that election, free from the dilution of the value and worth of their ballots through the invalid ballot cast by KAREN S. MARSHALL.

All in violation of Title 18 Section 242 of the United States Code.

Dated this 14 day of September, 2009.

JOHN J. TUCHI
United States Attorney
District of Arizona

RAYMOND K. WOO
Assistant U.S. Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America

v.

KAREN S MARSHALL
(Name and address of defendant)

MISDEMEANOR
JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed on or After November 1, 1987)

No. CR 09-01526-002-TUC-CKJ(BPV)

Alfred S Donau (Retained)
Attorney for Defendant

THE DEFENDANT ENTERED A PLEA OF:
☒ guilty ☐ nolo contendre: as to The Information

☐ not guilty as to count(s)

THERE WAS A:
☒ finding ☐ verdict: of guilty as to The Information

THERE WAS A:
☐ finding ☐ verdict: of not guilty as to count(s)

☐ judgment of acquittal as to count(s)
The defendant is acquitted and discharged as to this/these counts.

IT IS FURTHER ORDERED that all remaining charges are DISMISSED on motion of the United States.

ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S): violating Title 18, U.S.C., Section 242, Deprivation of Rights Under Color of Law as charged in the Information filed herein.

IT IS THE JUDGMENT OF THIS COURT THAT: Defendant is placed on probation for a term of **ONE (1) YEAR** on the condition that defendant violate no law of the United States of America and no law of any state of the United States of America; that the defendant shall make the required reports and carry out the directions of the probation officer tending toward defendant's rehabilitation.

CRIMINAL MONETARY PENALTIES

The defendant shall pay to the Clerk, U.S. District Court, Attn: Finance, Suite 130, 401 West Washington St., SPC 1, Phoenix, Arizona 85003-2118, the following total criminal monetary penalties:

SPECIAL ASSESSMENT: $25.00 **FINE:** $1000.00 **RESTITUTION:** N/A

All monetary penalties are due immediately or no later than the termination of probation.

Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S. District Court, of any change in name and address.

CONDITIONS OF SUPERVISION

Where probation/supervised release has been ordered, the defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

It is the order of the Court that, pursuant to General Order 05-36, which incorporates the requirements of USSG §§5B1.3 and 5D1.2, you shall comply with the following conditions:

1) You shall not commit another federal, state, or local crime during the term of supervision.
2) You shall not leave the judicial district or other specified geographic area without the permission of the Court or probation officer.
3) You shall report to the Probation Office as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month.
4) You shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
5) You shall support your dependents and meet other family responsibilities.
6) You shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
7) You shall notify the probation officer at least ten days prior to any change of residence or employment.
8) You shall refrain from excessive use of alcohol and are subject to being prohibited from the use of alcohol if ordered by the Court in a special condition of supervision.
9) You shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 801) or any paraphernalia related to such substances, without a prescription by a

licensed medical practitioner. Possession of controlled substances will result in mandatory revocation of your term of supervision.

10) You shall not frequent places where controlled substances are illegally sold, used, distributed or administered, or other places specified by the Court.

11) You shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.

12) You shall permit a probation officer to visit at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.

13) You shall immediately notify the probation officer (within forty-eight (48) hours if during a weekend or on a holiday) of being arrested or questioned by a law enforcement officer.

14) You shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the Court.

15) As directed by the probation officer, you shall notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and shall permit the probation officer to make such notification and to confirm your compliance with such notification requirement.

16) If you have ever been convicted of a felony, you shall refrain from possessing a firearm, ammunition, destructive device, or other dangerous weapon. If you have ever been convicted of a misdemeanor involving domestic violence, you shall refrain from possession of any firearm or ammunition. Possession of a firearm will result in mandatory revocation of your term of supervision. This prohibition does not apply to misdemeanor cases that did not entail domestic violence, unless a special condition is imposed by the Court.

17) Unless suspended by the Court, you shall submit to one substance abuse test within the first 15 days of supervision and thereafter at least two, but no more than two periodic substance abuse tests per year of supervision, pursuant to 18 U.S.C. §§ 3563(a)(5) and 3583(d);

18) If supervision follows a term of imprisonment, you shall report in person to the Probation Office in the district to which you are released within seventy-two (72) hours of release.

19) You shall pay any monetary penalties as ordered by the Court. You will notify the probation officer of any material change in your economic circumstances that might affect your ability to pay restitution, fines, or special assessments.

20) If you have ever been convicted of any qualifying federal or military offense (including any federal felony) listed under 42 U.S.C. § 14135a(d)(1) or 10 U.S.C. § 1565(d), you shall cooperate in the collection of DNA as directed by the probation officer pursuant to 42 U.S.C. § 14135a(a)(2).

The Court may change the conditions of probation or supervised release or extend the term of supervision, if less than the authorized maximum, at any time during the period of probation or supervise release. The Court may issue a warrant and revoke the original or any subsequent sentence for a violation occurring during the period of probation or supervised release.

THE DEFENDANT PREVIOUSLY WAIVED HIS RIGHT TO APPEAL.

IT IS FURTHER ORDERED that the Clerk of the Court deliver a certified copy of this judgment to the United States Marshal of this district.

Date of Imposition of Sentence: **Tuesday, November 24, 2009**

Bernardo P. Velasco Date 11/24/09

BERNARDO P. VELASCO, U. S. MAGISTRATE JUDGE

RETURN

I have executed this Judgment as follows: _____

Defendant delivered on _____ to _____ at _____, the institution designated by the Bureau of Prisons, with a certified copy of this judgment in a Criminal case.

_____ By: _____
United States Marshal Deputy Marshal

FILED LODGED
RECEIVED COPY
SEP 14 2009
CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
BY DEPUTY

JOHN J. TUCHI
United States Attorney
District of Arizona

RAYMOND K. WOO
Assistant U.S. Attorney
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408
Arizona State Bar No. 023050
Telephone (602) 514-7500
raymond.woo@usdoj.gov

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

Karen S. Marshall,

Defendant.

CR09-1526-TUC-CKJ (BPV)

PLEA AGREEMENT

Plaintiff, United States of America, and defendant, KAREN S. MARSHALL, hereby agree to the following disposition of this matter:

PLEA

Defendant will plead guilty to Count 1 of the Information which charges a violation of Title 18 U.S.C. Section 242, Deprivation of Rights Under Color of Law, a Class A misdemeanor offense.

TERMS

Defendant understands that the Court is required to consider the United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") among other factors in determining defendant's sentence. Defendant understands, however, that the Sentencing Guidelines are only advisory, and that after considering the Sentencing Guidelines, the Court may be free to exercise its discretion to impose any reasonable sentence up to the maximum set by statute for the crimes of conviction.

1. **MAXIMUM PENALTIES**

a. A violation of Title 18, United States Code, Section 242, is punishable by a maximum fine of $100,000, a maximum term of imprisonment of one year, or both, and a term of supervised release of up to one year.

b. According to the Sentencing Reform Act of 1984, the court shall:

(1) Order the defendant to make restitution to any victim of the offense unless, pursuant to Title 18, United States Code, Section 3663, the court determines that restitution would not be appropriate in this case;

(2) Order the defendant to pay a fine, which may include the costs of probation, supervised release or incarceration, unless, pursuant to Title 18, United States Code, Section 3572, the Court finds upon consideration of the factors therein and in Section 3553 that a fine is not appropriate;

(3) Order the defendant, pursuant to Title 18, United States Code, Section 3583 to serve a term of supervised release when required by statute or when a sentence of imprisonment of more than one year is imposed, and the court may impose a term of supervised release in all other cases.

c. Pursuant to Title 18, United States Code, Section 3013, the court is required to impose a special assessment on the defendant of $25.00. The special assessment is due at the time the defendant enters the plea of guilty, but in no event shall it be paid later than the time of sentencing.

2. **AGREEMENTS REGARDING SENTENCING**

a. Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the parties stipulate that the defendant shall receive probation.

b. Defendant understands that the Court is neither a party to nor bound by this agreement and specifically that the United States' recommendation is not binding on the court,

and the court may impose any sentence provided for by law. Defendant further understands that if the court imposes a sentence different from what the United States recommends the defendant will not be permitted to withdraw the guilty plea.

c. The United States retains the unrestricted right to make any and all statements it deems appropriate to the Probation Office and to make factual and legal responses to any statements made by the defendant or defense counsel or objections to the presentence report or to questions by the court at the time of sentencing.

d. If the court, after reviewing this plea agreement, concludes that any provision is inappropriate, it may reject the plea agreement, giving defendant, in accordance with Fed. R. Crim. P. 11(c)(5), an opportunity to withdraw the guilty plea.

e. Acceptance of Responsibility Assuming the defendant makes full and complete disclosure to the Probation Department of the circumstances surrounding the defendant's commission of the offense, and if the defendant demonstrates an acceptance of responsibility for this offense up to and including the time of sentencing, the United States will stipulate to a two-point reduction in the applicable advisory Guideline offense level, pursuant to Section 3E1.1(a) of the advisory Guidelines.

f. Criminal History Options This agreement is conditioned on defendant having fewer than 4 criminal history points. If defendant has 4 or more criminal history points the government shall have the right to withdraw from this agreement.

3. AGREEMENT TO DISMISS OR NOT TO PROSECUTE

Pursuant to Fed. R. Crim. P. 11(c)(1)(A), the United States will dismiss Counts 1 through 5 in the indictment (CR09-1526-CKJ-BPV).

4. WAIVER OF DEFENSES AND APPEAL RIGHTS

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imposition of sentence upon defendant under Title 18, United States Code, Section 3742 (sentence appeals); and (3) any right to collaterally attack defendant's conviction and sentence under Title 28, United States Code, Section 2255, or any other collateral attack. The defendant acknowledges that this waiver shall result in the dismissal of any appeal or collateral attack the defendant might file challenging his conviction or sentence in this case.

5. PERJURY AND OTHER FALSE STATEMENT OFFENSES OR OTHER OFFENSES

Nothing in this agreement shall be construed to protect the defendant in any way from prosecution for perjury, false declaration or false statement, or any other offense committed by defendant after the date of this agreement. Any information, statements, documents, and evidence which defendant provides to the United States pursuant to this agreement may be used against the defendant in all such prosecutions.

6. REINSTITUTION OF PROSECUTION

If defendant's guilty plea is rejected, withdrawn, vacated, or reversed at any time, the United States will be free to prosecute the defendant for all charges of which it has knowledge, and any charges that have been dismissed because of this plea agreement will be automatically reinstated. In such event, defendant waives any objections, motions, or defenses based upon the Statute of Limitations, the Speedy Trial Act or constitutional restrictions in bringing of the later charges or proceedings. The defendant understands that any statements made at the time of the defendant's change of plea or sentencing may be used against the defendant in any subsequent hearing, trial or proceeding as permitted by Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410.

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The defendant will cooperate fully with the United States Probation Office. Such cooperation will include truthful statements in response to any questions posed by the Probation Department including, but not limited to:

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c. All history of drug abuse which would warrant a treatment condition as part of sentencing.

d. All history of mental illness or conditions which would warrant a treatment condition as a part of sentencing.

8. **FORFEITURE, CIVIL, AND ADMINISTRATIVE PROCEEDINGS**

a. Nothing in this agreement shall be construed to protect the defendant from civil forfeiture proceedings or prohibit the United States from proceeding with and/or initiating an action for civil forfeiture.

b. Further, this agreement does not preclude the United States from instituting any civil or administrative proceedings as may be appropriate now or in the future.

DEFENDANT'S APPROVAL AND ACCEPTANCE

I have read each of the provisions of the entire plea agreement with the assistance of counsel and understand its provisions.

I have discussed the case and my constitutional and other rights with my attorney. I understand that by entering my plea of guilty I will be giving up my rights to plead not guilty, to trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to present evidence in my defense, to remain silent and refuse to be a witness against myself by asserting my privilege against self-incrimination -- all with the assistance of counsel -- and to be presumed innocent until proven guilty beyond a reasonable doubt.

I agree to enter my guilty plea as indicated above on the terms and conditions set forth in this agreement.

I have been advised by my attorney of the nature of the charges to which I am entering my guilty plea. I have further been advised by my attorney of the nature and range of the possible sentence and that my ultimate sentence will be determined after consideration of the advisory Sentencing Guidelines. I understand that any Guideline Range referred to herein or discussed with my attorney is not binding on the court and is merely an estimate.

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I fully understand that, if I am granted probation or placed on supervised release by the court, the terms and conditions of such probation/supervised release are subject to modification at any time. I further understand that, if I violate any of the conditions of my probation/supervised release, my probation/supervised release may be revoked and upon such revocation, notwithstanding any other provision of this agreement, I may be required to serve a term of imprisonment or my sentence may otherwise be altered.

I agree that this written plea agreement contains all the terms and conditions of my plea and that promises made by anyone (including my attorney), and specifically any predictions as to the guideline range applicable, that are not contained within this written plea agreement are without force and effect and are null and void.

I am satisfied that my defense attorney has represented me in a competent manner.

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The defendant understands that if the case were to proceed to trial, the government would be required to prove the following element beyond a reasonable doubt before the defendant could be found guilty of the subject offense:

Count 1, Deprivation of Rights Under Color of Law

THAT the defendant knowingly and willfully acted under color of law, statute, ordinance, regulation, and custom to deprive the inhabitants and citizens of a certain electoral district of rights, privileges, and immunities secured and protected by the Constitution and laws of the United States.