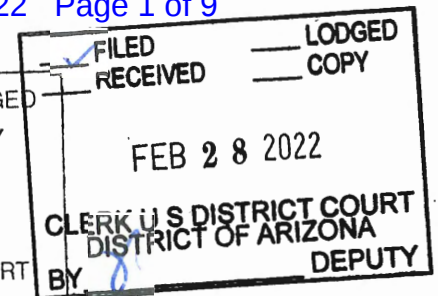
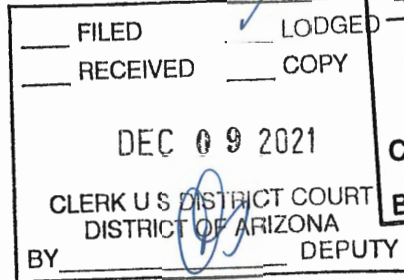


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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

vs.

Marcia Johnson,

Defendant.

CR-21-08140-PCT-DJH

PLEA AGREEMENT

Plaintiff, United States of America, and the defendant, Marcia Johnson, hereby agree to dispose of this matter on the following terms and conditions:

1. PLEA

The defendant will plead guilty to **Count 1** of the information charging the defendant with a violation of Title 52, United States Code (U.S.C.) § 10307(e), **Voting More Than Once**, a Class D felony offense.

2. MAXIMUM PENALTIES

a. A violation of 52 U.S.C. § 10307(e), is punishable by a maximum fine of **\$10,000**, a maximum term of imprisonment of **five (5) years**, or both, and a term of supervised release of **three (3) years**. A maximum term of probation is **five (5) years**.

b. According to the Sentencing Guidelines issued pursuant to the Sentencing Reform Act of 1984, the Court shall order the defendant to:

SCANNED

1 (1) make restitution to any victim of the offense pursuant to 18 U.S.C.
2 § 3663 and/or 3663A, unless the Court determines that restitution would not be
3 appropriate;

4 (2) pay a fine pursuant to 18 U.S.C. § 3572, unless the Court finds that a
5 fine is not appropriate;

6 (3) serve a term of supervised release when required by statute or when a
7 sentence of imprisonment of more than one year is imposed (with the understanding that
8 the Court may impose a term of supervised release in all other cases); and

9 (4) pay upon conviction a **\$100** special assessment for each count to
10 which the defendant pleads guilty pursuant to 18 U.S.C. § 3013.

11 **3. AGREEMENTS REGARDING SENTENCING**

12 a. **Stipulation.** Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and
13 the defendant stipulate that defendant shall be placed on **probation** under terms and
14 conditions deemed appropriate by the Court.

15 b. **Restitution.** There is no restitution due or owing in this case.

16 c. **Assets and Financial Responsibility.** The defendant shall make a full
17 accounting of all assets in which the defendant has any legal or equitable interest. The
18 defendant shall not (and shall not aid or abet any other party to) sell, hide, waste, spend, or
19 transfer any such assets or property before sentencing, without the prior approval of the
20 United States (provided, however, that no prior approval will be required for routine, day-
21 to-day expenditures). The defendant also expressly authorizes the United States Attorney's
22 Office to immediately obtain a credit report as to the defendant to evaluate the defendant's
23 ability to satisfy any financial obligation imposed by the Court. The defendant also shall
24 make full disclosure of all current and projected assets to the U.S. Probation Office
25 immediately and prior to the termination of the defendant's supervised release or probation,
26 such disclosures to be shared with the U.S. Attorney's Office, including the Financial
27 Litigation Unit, for any purpose. Finally, the defendant shall participate in the Inmate
28 Financial Responsibility Program to fulfill all financial obligations due and owing under

1 this agreement and the law.

2 d. **Acceptance of Responsibility.** If the defendant makes full and complete
3 disclosure to the U.S. Probation Office of the circumstances surrounding the defendant's
4 commission of the offense, and if the defendant demonstrates an acceptance of
5 responsibility for this offense up to and including the time of sentencing, the United States
6 will recommend a two-level reduction in the applicable Sentencing Guidelines offense
7 level pursuant to U.S.S.G. § 3E1.1(a). If the defendant has an offense level of 16 or more,
8 the United States will move the Court for an additional one-level reduction in the applicable
9 Sentencing Guidelines offense level pursuant to U.S.S.G. § 3E1.1(b).

10 **4. AGREEMENT TO DISMISS OR NOT TO PROSECUTE**

11 a. Pursuant to Fed. R. Crim. P. 11(c)(1)(A), the United States, at the time of
12 sentencing, shall dismiss the following charges: **none**.

13 b. The United States Attorney—District of Arizona shall not prosecute the
14 defendant for any other offenses committed by the defendant, and known by the United
15 States, in connection with **FBI file number 56D-PX-3277473**.

16 c. This agreement does not, in any manner, restrict the actions of the United
17 States in any other district or bind any other United States Attorney's Office.

18 **5. COURT APPROVAL REQUIRED; REINSTITUTION OF PROSECUTION**

19 a. If the Court, after reviewing this plea agreement, concludes that any
20 provision contained herein is inappropriate, it may reject the plea agreement and give the
21 defendant the opportunity to withdraw the guilty plea in accordance with Fed. R. Crim. P.
22 11(c)(5).

23 b. If the defendant's guilty plea or plea agreement is rejected, withdrawn,
24 vacated, or reversed at any time, this agreement shall be null and void, the United States
25 shall be free to prosecute the defendant for all crimes of which it then has knowledge and
26 any charges that have been dismissed because of this plea agreement shall automatically
27 be reinstated. In such event, the defendant waives all objections, motions, and defenses
28 based upon the Statute of Limitations, the Speedy Trial Act, or constitutional restrictions

1 in bringing later charges or proceedings. The defendant understands that any statements
2 made at the time of the defendant's change of plea or sentencing may be used against the
3 defendant in any subsequent hearing, trial, or proceeding subject to the limitations of Fed.
4 R. Evid. 410.

5 **6. WAIVER OF DEFENSES AND APPEAL RIGHTS**

6 The defendant waives (1) any and all motions, defenses, probable cause
7 determinations, and objections that the defendant could assert to the indictment or
8 information; and (2) any right to file an appeal, any collateral attack, and any other writ or
9 motion that challenges the conviction, an order of restitution or forfeiture, the entry of
10 judgment against the defendant, or any aspect of the defendant's sentence, including the
11 manner in which the sentence is determined, including but not limited to any appeals under
12 18 U.S.C. § 3742 (sentencing appeals) and motions under 28 U.S.C. §§ 2241 and 2255
13 (habeas petitions), and any right to file a motion for modification of sentence, including
14 under 18 U.S.C. § 3582(c). This waiver shall result in the dismissal of any appeal,
15 collateral attack, or other motion the defendant might file challenging the conviction, order
16 of restitution or forfeiture, or sentence in this case. This waiver shall not be construed to
17 bar an otherwise-preserved claim of ineffective assistance of counsel or of "prosecutorial
18 misconduct" (as that term is defined by Section II.B of Ariz. Ethics Op. 15-01 (2015)).

19 **7. DISCLOSURE OF INFORMATION**

20 a. The United States retains the unrestricted right to provide information and
21 make all statements it deems appropriate to the U.S. Probation Office and to the Court in
22 connection with the case.

23 b. Any information, statements, documents, and evidence that the defendant
24 provides to the United States pursuant to this agreement may be used against the defendant
25 at any time.

26 c. The defendant shall cooperate fully with the U.S. Probation Office. Such
27 cooperation shall include providing complete and truthful responses to questions posed by
28 the U.S. Probation Office including, but not limited to, questions relating to:

- (1) criminal convictions, history of drug abuse, and mental illness; and
- (2) financial information, including present financial assets or liabilities that relate to the ability of the defendant to pay a fine or restitution.

8. FORFEITURE, CIVIL, AND ADMINISTRATIVE PROCEEDINGS

Nothing in this agreement shall be construed to protect the defendant from administrative or civil forfeiture proceedings or prohibit the United States from proceeding with and/or initiating an action for civil forfeiture. Pursuant to 18 U.S.C. § 3613, all monetary penalties, including restitution imposed by the Court, shall be due immediately upon judgment, shall be subject to immediate enforcement by the United States, and shall be submitted to the Treasury Offset Program so that any federal payment or transfer of returned property the defendant receives may be offset and applied to federal debts (which offset will not affect the periodic payment schedule). If the Court imposes a schedule of payments, the schedule of payments shall be merely a schedule of minimum payments and shall not be a limitation on the methods available to the United States to enforce the judgment.

9. ELEMENTS

Voting More Than Once

On or about November 6, 2018, in the District of Arizona:

1. Defendant voted more than once,
2. In any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, or Member the United States House of Representatives, and
3. Did so knowingly, willfully, and expressly for the purpose of having her vote count more than once.

10. FACTUAL BASIS

- a. The defendant admits that the following facts are true and that if this matter were to proceed to trial the United States could prove the following facts beyond a

1 reasonable doubt:

2 b. On or about November 6, 2018, in the District of Arizona, MARCIA
3 JOHNSON voted more than once in the general election held on November 6, 2018, an
4 election in which Members of the United States Senate and the United States House of
5 Representatives were elected. MARCIA JOHNSON did so by casting both her own ballot
6 and that of Kenneth Johnson who had been deceased since 2012. MARCIA JOHNSON
7 voted more than once knowingly, willfully, and expressly for the purpose of having her
8 vote count more than once.

9 c. The defendant shall swear under oath to the accuracy of this statement and,
10 if the defendant should be called upon to testify about this matter in the future, any
11 intentional material inconsistencies in the defendant's testimony may subject the defendant
12 to additional penalties for perjury or false swearing, which may be enforced by the United
13 States under this agreement.

14 **APPROVAL AND ACCEPTANCE OF THE DEFENDANT**

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

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

23 I have been advised by my attorney of the nature of the charges to which I am
24 entering my guilty plea. I have further been advised by my attorney of the nature and range
25 of the possible sentence and that my ultimate sentence shall be determined by the Court
26 after consideration of the advisory Sentencing Guidelines.

1 My guilty plea is not the result of force, threats, assurances, or promises, other than
2 the promises contained in this agreement. I voluntarily agree to the provisions of this
3 agreement and I agree to be bound according to its provisions.

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

10 This written plea agreement, and any written addenda filed as attachments to this
11 plea agreement, contain all the terms and conditions of the plea. Any additional
12 agreements, if any such agreements exist, shall be recorded in a separate document, and
13 may be filed with the Court under seal; accordingly, additional agreements, if any, may not
14 be in the public record.

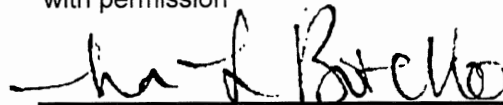
15 I further agree that promises, including any predictions as to the Sentencing
16 Guideline range or to any Sentencing Guideline factors that will apply, made by anyone
17 (including my attorney) that are not contained within this written plea agreement, are null
18 and void and have no force and effect.

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

20 I fully understand the terms and conditions of this plea agreement. I am not now
21 using or under the influence of any drug, medication, liquor, or other intoxicant or
22 depressant that would impair my ability to fully understand the terms and conditions of this
23 plea agreement.

24
25 October 4, 2021
Date

with permission



Marcia Johnson
Defendant

APPROVAL OF DEFENSE COUNSEL

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 Guidelines with the defendant. No assurances, promises, or representations have been given to me or to the defendant by the United States or any of its representatives that are not contained in this written agreement. I concur in the entry of the plea as indicated above and that the terms and conditions set forth in this agreement are 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.

October 4, 2021

Date



Ana Botello
Attorney for Defendant

APPROVAL OF THE UNITED STATES

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

GLENN B. McCORMICK
Acting United States Attorney
District of Arizona

FRANK GALATI

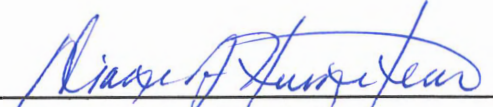
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GALATI
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Date

FRANK T. GALATI
Assistant U.S. Attorney

ACCEPTANCE BY THE COURT

1
2
3 Feb 28, 2022
Date


Honorable Diane J. Humetewa
United States District Court Judge