

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

FILED

MAY 13 2004

ROBERT D. DENNIS
U.S. DIST. COURT, WESTERN DIST OF OKLA.
BY _____ DEPUTY

UNITED STATES OF AMERICA,)

Plaintiff,)

-vs-)

DONALD "DONNIE" LEON CHEW,)

Defendant.)

CR 04-092 HE

Violation: 29 U.S.C. § 501(c)

INFORMATION

The United States Attorney charges:

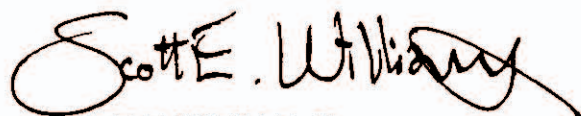
From about November 15, 2001, to about April 30, 2002, at Oklahoma City, Oklahoma,
in the Western District of Oklahoma,

----- DONALD "DONNIE" LEON CHEW, -----

while serving as financial secretary of the Bakery Workers Union Local 173, a labor organization engaged in an industry affecting interstate commerce within the meaning of Sections 402(i) and 402(j) of Title 29 of the United States Code, did embezzle, steal, and unlawfully and willfully convert to his own use moneys of the Bakery, Confectionery, and Tobacco Workers Union Local 173 in the amount of approximately \$9,330.20.

All in violation of Title 29, United States Code, Section 501(c).

ROBERT G. McCAMPBELL
United States Attorney



SCOTT E. WILLIAMS
Assistant U.S. Attorney



IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

FILED

MAY 27 2004

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY _____ DEPUTY

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
-vs-)
)
DONALD "DONNIE" LEON CHEW,)
)
Defendant.)

CR. 04-092 HE

PLEA AGREEMENT

Introduction

1. This document contains the entire plea agreement between Donald "Donnie" Leon Chew and the United States through its undersigned attorney. No other agreement or promise exists, nor may any additional agreement be entered into unless in writing and signed by all parties. Any unilateral modification of this agreement is hereby rejected by the United States. This agreement applies only to the criminal violations described and does not apply to any civil matter or any civil forfeiture proceeding except as specifically set forth. This agreement binds only the United States Attorney's Office for the Western District of Oklahoma and does not bind any other federal, state, or local prosecuting, administrative, or regulatory authority. If the defendant does not accept the terms of this agreement by May 21, 2004, the offer is withdrawn.

Guilty Plea

2. The defendant agrees to enter a plea of guilty to an Information charging him with embezzlement from a labor union, a violation of 29 U.S.C. § 501(c). To be found guilty of violating this statute as charged in the Information, a defendant must admit that he or she embezzled, stole, or unlawfully and willfully converted to his or her own use moneys of a labor organization of which he or she was an officer.

Maximum Penalty, Restitution, and Special Assessments

3. The maximum penalty that could be imposed as a result of this plea is five years of imprisonment, three years of supervised release, and two additional years of imprisonment in the event of a violation of the terms of supervised release, in addition to a fine of \$250,000.00 and a mandatory special assessment of \$100.00.

4. In addition, the Court must order the payment of restitution to the victims of the offense.

5. The defendant agrees to pay the special assessment due the United States to the Office of the United States Court Clerk immediately following sentencing. The defendant understands that any fine or restitution ordered by the Court is immediately due unless the Court provides for payment on a date certain or in installments.

6. If the Court sentences the defendant to a term of imprisonment, the Court may also impose a term of supervised release, which the defendant will begin to serve after being released from custody. During the term of supervised release, the defendant will be subject to conditions that will include prohibitions against violating local, state, or

federal law, reporting requirements, restrictions on travel and residence, and possible testing for controlled substance use. If the defendant violates the conditions of his supervised release, the Court may revoke his supervised release and sentence him to an additional term of imprisonment. This additional term of imprisonment would be served without credit for the time defendant successfully spent on supervised release. When combined, the original term of imprisonment and any subsequent term of imprisonment the Court imposes may exceed the statutory maximum prison term allowable for the offense.

Sentencing Guidelines

7. Based upon the information that is known to the parties on the date that this agreement is executed, the positions they expect to take at sentencing with respect to the United States Sentencing Guidelines will include the following:

- (1) The parties agree that the defendant should receive a two-level downward adjustment for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a), if he commits no further crimes and fully complies with all of the other terms of this agreement. Further, to the extent that the Court finds that the defendant qualifies for that two-level downward adjustment and U.S.S.G. § 3E1.1(b) is applicable, the parties agree that he should receive the additional one-level downward adjustment of § 3E1.1(b), if the defendant

accepts the terms of this plea agreement by the deadline established in paragraph 1.

- (2) The parties agree that the loss for purposes of U.S.S.G. § 2B1.1(b)(1), based on relevant conduct, is more than \$5,000 and less than \$10,000.
- (3) The parties agree that the defendant received \$9,330.20 illegally in the form of extra salary and travel expenses.

The parties have entered into this plea agreement under the provisions of Rule 11(c)(1)(B). The defendant acknowledges and understands that the Court is not bound by, nor obligated to accept, these stipulations, agreements, or recommendations of the United States or the defendant. Even if the Court rejects one or more of these stipulations, agreements, or recommendations, that fact alone would not allow the defendant to withdraw his plea of guilty. It is the expectation of the United States that its criminal investigation of the defendant's conduct (as opposed to the wrongdoing of others) will cease upon the signing of this plea agreement. However, subject to the terms and conditions of this plea agreement, the United States expressly reserves the right to take positions that deviate from the foregoing stipulations, agreements, or recommendations in the event that material credible evidence requiring such a deviation is discovered during the course of the United States's investigation subsequent to the signing of this agreement or arises from sources independent of the United States, including the U.S. Probation Office.

Waiver of Right to Appeal and Bring Collateral Challenge

8. The defendant understands that a sentencing guideline range for his case will be determined by the Court under the guidelines issued by the U.S. Sentencing Commission. The defendant also understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximum for the offense to which he is pleading guilty. The defendant further understands that Title 28, United States Code, Section 1291, and Title 18, United States Code, Section 3742, give him the right to appeal the judgment and sentence imposed by the Court. Acknowledging all this, and in exchange for the promises and concessions made by the United States in this plea agreement, the defendant knowingly and voluntarily waives his right to appeal or collaterally challenge:

- a. The defendant's guilty plea and any other aspect of his conviction, including but not limited to any rulings on pretrial suppression motions or any other pretrial dispositions of motions and issues.
- b. The defendant's sentence as imposed by the Court and the manner in which the sentence is determined, provided the sentence is within or below the applicable guideline range determined by the Court to apply to this case, even if the Court rejects one or more of the positions of the United States or the defendant set forth in paragraph 7 concerning the application of the U.S. Sentencing Guidelines.

It is provided that (i) the defendant specifically does not waive the right to appeal an upward departure from the sentencing guideline range determined by the Court to

apply to this case, and (ii) his waiver of rights to appeal and to bring collateral challenges shall not apply to appeals or challenges based on changes in the law reflected in Tenth Circuit or Supreme Court cases decided after the date of this agreement that are held by the Tenth Circuit or Supreme Court to have retroactive effect.

9. The United States agrees to waive its right under 18 U.S.C. § 3742 to appeal the sentence imposed by the Court and the manner in which the sentence was determined, provided that the defendant's sentence is within the applicable guideline range determined by the Court to apply to this case. By this agreement, the United States specifically does not waive its right to appeal a downward departure from the sentencing guideline range determined by the Court to apply to this case.

The Obligations of the Defendant

10. The defendant shall commit no further crimes. It is understood that, should the defendant commit any further crimes, should it be determined that he has knowingly given false, incomplete, or misleading testimony or information, or should he otherwise violate any provision of this agreement, the United States may declare this agreement null and void and prosecute the defendant for any and all of his federal criminal violations, including perjury and obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement may be brought against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this agreement and the commencement of such prosecution. The defendant hereby waives all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this agreement is signed.

11. The defendant agrees that he will not serve as an officer, director, trustee, board member, business agent, manager, organizer, employee, consultant, or representative in any capacity of any labor organization within the meaning of Sections 402(i) and 402(j) of Title 29 of the United States Code. The defendant further agrees that he will not serve in any capacity, other than as a member of any labor organization, that involves the authority to make decisions concerning the custody or control of moneys, funds, assets, or property of any labor organization within the meaning of Sections 402(i) and 402(j) of Title 29 of the United States Code. The prohibition described in this paragraph will expire fifteen years after the date that the defendant's conviction becomes final.

The Obligations of the United States

12. If the defendant enters a plea of guilty as described above and fully meets all obligations under this agreement, the United States will not prosecute the defendant further for any embezzlement from Bakery, Confectionery, and Tobacco Workers Union Local 173 between November 15, 2001, and April 30, 2002. This agreement does not provide any protection against prosecution for any crime not specifically described above.

13. The defendant understands that the sentence to be imposed upon him is within the sole discretion of the Court. The United States does not make any promise or representation as to what sentence the defendant will receive. The United States reserves the right to inform the Probation Office and the Court of the nature and extent of the


defendant's activities with respect to this case and all other activities of the defendant that the United States judges to be relevant to sentencing.

Signatures


14. By signing this agreement, the defendant acknowledges that he has discussed its terms with his attorney and that he understands and accepts those terms. Further, the defendant acknowledges that this document contains the only terms of the agreement concerning ^{his} her plea of guilty in this case and that there are no other deals, bargains, agreements, or understandings that modify or alter these terms.

Dated this 10 day of May, 2004.


APPROVED:


ARLENE JOPLIN
Chief, Criminal Division

ROBERT G. McCAMPBELL
United States Attorney


SCOTT E. WILLIAMS
Assistant U.S. Attorney
Oklahoma Bar No. 17167
210 W. Park Avenue, Suite 400
Oklahoma City, Oklahoma 73102
(405) 553-8808 (office)
(405) 553-8888 (fax)
scott.e.williams@usdoj.gov


DONALD "DONNIE" LEON CHEW
Defendant


JUNE TYHURST
Attorney for Donald "Donnie" Leon Chew
Assistant Federal Public Defender
215 Dean A. McGee, Suite 109
Oklahoma City, Oklahoma 73102
(405) 609-5945 (office)
(405) 609-5932 (fax)