

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS — HOUSTON DIVISION
UNITED STATES OF AMERICA v. JASON GANDY — Criminal No. 12-503

PLEA AGREEMENT — REDACTED PUBLIC-DISTRIBUTION COPY

Editor's note: This is a redacted version of the original 2014 plea agreement, prepared for public and press distribution. Graphic sexual content has been removed and replaced with redaction bars. The passage describing Jason Gandy's Miranda waiver and voluntary statement to Homeland Security Investigations is bolded and highlighted below, as it is the focus of ongoing advocacy regarding the case. This copy is not a substitute for the complete court record.

The United States of America, by and through Kenneth Magidson, United States Attorney for the Southern District of Texas, and Sherri L. Zack, Assistant United States Attorney, and the defendant, Jason Gandy, and the defendant's counsel, Dan Cogdell, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, state that they have entered into an agreement, the terms and conditions of which are as follows:

Defendant agrees to plead guilty to Count One of the Indictment, charging Transportation of a Minor, in violation of 18 U.S.C. § 2423(a). Defendant, by entering this plea, waives any right to have the facts essential to punishment charged in the Indictment or proven to a jury or judge beyond a reasonable doubt.

The statutory penalty for violation of 18 U.S.C. § 2423(a) is imprisonment of not less than 10 years up to Life, and a fine of not more than \$250,000. Defendant shall also receive a term of supervised release of at least 5 years up to Life. Defendant is not eligible for parole.

Defendant understands that under the Sex Offender Registration and Notification Act, he must register and keep such registration current in every jurisdiction where he resides, is employed, or is a student, and must report changes within three business days. Failure to comply subjects him to federal prosecution under 18 U.S.C. § 2250.

Pursuant to 18 U.S.C. § 3013(a)(2)(A), defendant will pay a \$100 special assessment per count of conviction, payable to the Clerk of the United States District Court.

Defendant understands the Court may order a fine sufficient to reimburse the government for costs of imprisonment or supervised release, and may order restitution to an identifiable victim if requested. Any fine or restitution is due immediately, and defendant agrees not to contest forfeiture of items described in the indictment. Defendant agrees to make complete financial disclosure (Form OBD-500) prior to sentencing if requested.

Defendant waives the right to appeal the sentence under 18 U.S.C. § 3742 and the right to collaterally attack the conviction or sentence under 28 U.S.C. § 2255. Defendant acknowledges that any sentencing-range estimate received from counsel, the United States, or the Probation Office is a prediction, not a promise, and does not bind the United States, the Probation Office, or the Court. Defendant waives venue, speedy-trial, and statute-of-limitations defenses in the event the conviction is later vacated, the agreement is violated, or the plea is withdrawn.

The United States agrees not to oppose a 2-level (and, if applicable, an additional 1-level) downward adjustment for acceptance of responsibility under U.S.S.G. § 3E1.1(a), and agrees to request a sentence of 10 years on Count One, followed by a term of Life on supervised release — a recommendation binding on the Court under Rule 11(c)(1)(C) if the agreement is accepted. The United States reserves the right to

present its version of the facts to the Probation Office, dispute sentencing factors, and file related pleadings.

Defendant acknowledges the Court has authority to impose any sentence up to the statutory maximum, that the Sentencing Guidelines are advisory, and that if the Court rejects the plea agreement, defendant will be given the opportunity to withdraw his guilty plea.

Defendant represents that he is satisfied his attorney rendered effective assistance, and acknowledges that by pleading guilty he surrenders the right to a speedy jury trial, the right to confront and cross-examine witnesses, the right to compel witnesses on his own behalf, and the privilege against self-incrimination.

Defendant is pleading guilty because he is guilty of the charge in Count One. The parties agree the following facts, among others, would be offered to establish Defendant's guilt (graphic portions redacted below):

On July 19, 2012, Jason Gandy ("GANDY") arrived in the United Kingdom at Heathrow International Airport aboard United Airlines Flight 4, which he boarded in Houston, Texas, traveling with a 15-year-old male, KV, who is not related to GANDY. Upon landing, GANDY was selected for secondary inspection by UK Immigration officers, who became suspicious about his purpose of travel and his relationship to KV. UK authorities contacted KV's mother, who confirmed she had given permission for the trip but gave a conflicting reason for it. UK officials denied GANDY and KV entry and arranged for their immediate return to the United States.

On July 20, 2012, at approximately 1:35 p.m. (CDT), GANDY arrived at George Bush Intercontinental Airport in Houston, within the Southern District of Texas, and was escorted by U.S. Customs and Border Protection officers to secondary inspection, where he made a binding declaration that the luggage and items he carried were his.

HSI Special Agent Juanae Johnson, along with Houston Police Department Detective Joseph Roscoe, met with GANDY upon his arrival and questioned him as to the purpose of his trip to the United Kingdom and his travel with KV. GANDY was advised of his Miranda rights and informed that he was not under arrest. GANDY waived his rights and spoke willingly and voluntarily with law enforcement about his travels to the UK with KV. The interview took place in the baggage search area in the CBP secondary inspection area.

GANDY stated that he and KV had met through a mutual "friend" on Facebook. GANDY, who is 35 years old, knew KV was 15 years of age.

Description of gifts, activities, and personal relationship — REDACTED

GANDY informed the agents that he is a licensed massage therapist and buys and sells real estate for a living, and that he owned and operated a massage business.

Graphic description of massage-business operations and alleged sexual conduct — REDACTED

Personnel trained in child psychology from the Harris County Children's Assessment Center, along with officers, also interviewed KV.

Graphic description of KV's alleged role in the massage business and alleged sexual conduct — REDACTED

GANDY stated that he and KV recently began discussing a trip to England. GANDY purchased both plane tickets (approximately \$2,150) and gave KV money for an expedited passport (approximately \$200). GANDY received a signed, notarized affidavit from KV's mother authorizing KV to travel with

GANDY and remain in the UK in GANDY's custody from July 18 to August 22, 2012. GANDY had not reserved accommodations in the UK.

During the secondary search of GANDY's belongings, CBP officers discovered approximately 90 condoms.

Statement regarding intended use of items and further travel plans — REDACTED

KV stated that GANDY promised that once in London he would possibly be able to attend the Olympics, be taken to his favorite clothing store, and see his favorite bands. KV understood he might be asked to perform some massages while in the UK but was most excited about the shopping, the Olympics, and the concerts.

If defendant fails to fulfill any obligation under this agreement, the United States is released from its obligations and the plea and sentence stand. If defendant withholds evidence or is not truthful, the United States may move to set aside the guilty plea and reinstate prosecution. Whether a breach occurred is determined solely by the United States Attorney's Office, whose judgment is final.

Defendant agrees to waive interest in assets subject to related forfeiture proceedings, with the exception of the real property on Truxillo Street and Dowling Street, Houston, Texas. Defendant admits the following assets (subject of United States v. 2005 C5500 Chevrolet Recreational Vehicle, et al., No. 4:12-cv-3668) were used or intended to be used to facilitate the offense: the Truxillo/Dowling Street real property (to be satisfied by payment of fair market value rather than forfeiture of the property itself), a 2005 Chevrolet C5500 Recreational Vehicle, and a 2012 Toyota Scion IQ. Defendant waives the right to challenge the related civil forfeiture judgment on any grounds.

This written plea agreement, consisting of 15 pages including the addendum, constitutes the complete agreement between the United States, defendant, and his counsel. No promises or representations have been made except as set forth in writing. Defendant acknowledges no threats have been made against him and that he is pleading guilty freely and voluntarily. Any modification must be in writing and signed by all parties.

Filed at Houston, Texas, 2014.

Jason Gandy — Defendant

UNITED STATES DISTRICT CLERK, by: Deputy United States District Clerk

APPROVED:

Kenneth Magidson, United States Attorney, by: Sherri L. Zack, Assistant United States Attorney

Dan Cogdell, Attorney for Defendant