

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Action No. 01-CR-418-WM

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARSALAN ABSAR RIZVI,

Defendant.

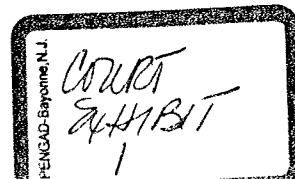
**PLEA AGREEMENT AND STATEMENT OF FACTS
RELEVANT TO SENTENCING**

COMES NOW the United States of America, by and through Gregory Goldberg, Assistant United States Attorney for the District of Colorado, the defendant, Arsalan Absar Rizvi, personally and through counsel, Charles Szekely, Assistant Federal Public Defender, submit the following Plea Agreement and Statement of Facts Relevant to Sentencing.

I. PLEA AGREEMENT

The Defendant agrees to plead guilty to count one of the Indictment charging a violation of Title 18, United States Code, Section 922(g)(5), an alien unlawfully in the United States in possession of a firearm.

In exchange for the Defendant's plea of guilty the government will move to dismiss counts two and three of the Indictment and further agree that the sporting exception applies in the sentencing guideline computation.



II. STATUTORY PENALTIES

The maximum statutory penalty for a violation of 18 U.S.C. § 922(g)(1): 10 years imprisonment; not more than \$250,000.00 fine, or both; not more than 3 years supervised release and a mandatory \$100.00 special assessment fee.

A violation of the conditions of probation or supervised release may result in a separate prison sentence.

III. STIPULATION OF FACTUAL BASIS AND FACTS RELEVANT TO SENTENCING

The parties agree that there is no dispute as to the material elements which establish a factual basis of the offense of conviction.

Pertinent facts are set out below in order to provide a factual basis of the plea and to provide facts which the parties believe are relevant, pursuant to §1B1.3, for computing the appropriate guideline range. To the extent the parties disagree about the facts relevant to sentencing, the statement of facts identifies which facts are known to be in dispute at the time of the plea. (§6B1.4(b))

The statement of facts herein does not preclude either party from presenting and arguing, for sentencing purposes, additional facts or factors not included herein which are relevant to the guideline computation (§1B1.3) or to sentencing in general (§1B1.4). In "determining the factual basis for the sentence, the Court will consider the stipulation [of the parties], together with the results of the presentence investigation, and any other relevant information." (§6B1.4 Comm.)

The parties agree that the government's evidence would show that the date on which conduct relevant to the offense (§1B1.3) began is August, 2001.

The parties agree that the government's evidence would be:

On or about January 20, 2000, the Defendant, Arsalan Absar Rizvi, entered the United States as a lawful non-immigrant worker under a classification H-1 visa at Atlanta, Georgia for the purpose of working for SCC Communications in Boulder, Colorado. The H-1 visa granted the Defendant lawful status only if he were employed by and continued to work for SCC Communications. On or about April 20, 2000, the Defendant, Rizvi, ceased employment with SCC Communications. Thereafter, SCC notified the INS that Rizvi was no longer employed by their company. The Defendant was aware of his unlawful status in the United States. On or about August 4, 2000, based on SCC's notification, the INS revoked and terminated the Defendant's H-1 classification and lawful status in this country.

On or about August 29, 2001, pursuant to a state authorized search warrant, various state and federal officers executed a search of the Defendant's residence in Broomfield, Colorado, State and District of Colorado. Pursuant to the execution of this search warrant, the agents seized a Belgium Browning, 12-gauge shotgun, serial number 113NN23046 and approximately 325 rounds of 12-gauge shotgun ammunition. The Defendant admitted possession of the weapon.

It is undisputed that the above stated firearm is a high grade trap gun, commonly used in shooting trap and other clay target sporting events. Additionally, the Defendant advised that he was a trap shooter and that was the purpose for which he obtained and possessed the firearm as well as the ammunition for the shotgun.

Agents of the Alcohol, Tobacco and Firearms Unit thereafter test fired the shotgun and found that it functioned as designed. Additionally, all Browning shotguns are manufactured outside the State of Colorado and the firearm necessarily crossed state lines thereby effecting commerce.

IV. SENTENCING COMPUTATION

The parties stipulate that sentencing in this case will be determined by application of the sentencing guidelines, issued pursuant to 28 U.S.C. § 994(a).

The parties understand that the Court may impose any sentence, up to the statutory maximum, regardless of any guideline range computed, and that the Court is not bound by any position of the parties. (§6B1.4(d)) The Court is free, pursuant to §§6A1.3 and 6B1.4, to reach its own findings of facts and sentencing factors considering the parties' stipulations, the presentence investigation, and any other relevant information. (§6B1.4 Comm.; §1B1.4)

To the extent the parties disagree about the sentencing factors, the computations below identify the factors which are in dispute. (§6B1.4(b))

A. Pursuant to guideline §2K2.1(a)(6), the Defendant is a prohibited person and has a base offense level of 14.

B. Both parties agree that the specific offense characteristic pursuant to §2K2.1(b)(2) applies for the reason that the Defendant possessed the firearm and all ammunition solely for sporting purposes and the offense level is thereby reduced to 6.

C. There are no victim-related, role in the offense, obstruction and/or multiple count adjustments.


- D. The adjusted offense level would accordingly be 6.
- E. The Defendant should receive the adjustment for acceptance of responsibility resulting in an offense level of 4.
- F. The parties understand that the Defendant's criminal history computation is tentative. The criminal history category must be determined by the Court. The parties are unaware of any criminal convictions of the Defendant and accordingly he falls into category I.
- G. Assuming a tentative criminal history category of I and offense level of 4, the Guideline Range resulting therefrom is 0-6 months. However, in order to be as accurate as possible, with the criminal history category undetermined at this time, the estimated offense level of 4 could conceivably result in a range of 0 months to 12 months.
- I. Pursuant to §5E1.2, the fine range for this offense would be \$250.00 to \$5,000.00.
- J. Pursuant to guideline §5D1.2, if the Court should impose a term of supervised release, that term shall be at least 2 years but not more than 3 years.

V. WHY THE PROPOSED PLEA DISPOSITION IS APPROPRIATE

The parties believe the sentencing range resulting from the proposed plea agreement is appropriate because all relevant conduct is disclosed, the sentencing guidelines take into account all pertinent sentencing factors with respect to this defendant, and the charges to which the defendant has agreed to plead guilty adequately reflect the seriousness of the actual offense behavior.


This document states the parties' entire agreement. There are no other promises, agreements (or "side agreements"), terms, conditions, understandings or assurances, express or implied. In entering this agreement, neither the government nor the defendant have relied, or are relying, on any terms, promises, conditions or assurances not expressly stated in this agreement.

Date: 1-25-02



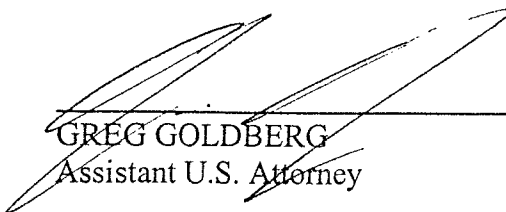
ARSALAN ABSAR RIZVI
Defendant

Date: 1-25-02



CHARLES SZEKELY
Attorney for Defendant

Date: 1/29/02



GREG GOLDBERG
Assistant U.S. Attorney