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IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA ) Greensboro, North Carolina  
 ) September 3, 2014  
vs. ) 10:57 a.m.  
 )  
BRIAN DAVID HILL, )  
 ) Case No. 1:13CR435-1  
Defendant. )  
 )

TRANSCRIPT OF MOTION HEARING  
BEFORE THE HONORABLE WILLIAM L. OSTEEN, JR.  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: TIMOTHY NICK MATKINS, AUSA  
Office of the U.S. Attorney  
PO BOX 1858  
Greensboro, North Carolina 27402

For the Defendant: ERIC D. PLACKE, AFD  
Office of the Federal Public Defender  
301 N. Elm Street, Suite 410  
Greensboro, North Carolina 27401

Court Reporter: Joseph B. Armstrong, RMR, FCRR  
324 W. Market, Room 101  
Greensboro, NC 27401

Proceedings reported by stenotype reporter.  
Transcript produced by Computer-Aided Transcription.

P R O C E E D I N G S

(At 10:57 a.m., proceedings commenced.)

(Defendant present.)

MR. MATKINS: Your Honor, the final matter the Government will call this morning is United States versus Brian David Hill, 1:13CR435-1. Mr. Hill is represented by Attorney Eric Placke, and the matter is before the Court for a motion.

THE COURT: Mr. Hill, you may have a seat. I'm going to talk to Mr. Placke first.

All right, Mr. Placke. Presently before the Court is your motion to withdraw in light of the most recent letter sent by Mr. Hill in this case. As I read the motion to withdraw, it certainly expresses some concern about the allegations made by Mr. Hill with respect to counsel's performance, but it also seems to me to say that at this point in time the Court needs to make a decision on whether I should remain in this case; and if the Court decides that I should, then I can certainly continue and see this to conclusion. Is that summary fair?

MR. PLACKE: That's a fair summary, Your Honor.

THE COURT: All right. Mr. Hill, I'm going to speak with you a minute. You are represented by counsel in this case, which means you have an absolute right to remain silent. Do you understand that?

THE DEFENDANT: (Nodding.)

THE COURT: Mr. Hill?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And if you choose to address the Court  
3 or, as you've done, to write a letter to the Court, then I can  
4 take that information contained in that letter or that is  
5 provided in your statements, and not only me or the  
6 Government -- the Government also, we can consider that against  
7 you in this case. Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: So if you choose to speak, that's  
10 ultimately your choice to give up this right you have to remain  
11 silent and have your attorney speak on your behalf. Do you  
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And if ultimately you do decide to say  
15 something, and you hurt your case or hurt your future, that's  
16 your responsibility. Do you understand that? It's part of the  
17 decision you make.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand that?

20 THE DEFENDANT: Um-hum.

21 THE COURT: Now, having warned you about that, you've  
22 written a letter making allegations against Mr. Placke with  
23 respect to some of the facts of the case and some other  
24 information you want investigated, and you sent that to the  
25 Probation Office. I've seen that letter. Knowing that I've

1 seen that letter that you wrote, is there anything else you  
2 want to say?

3 THE DEFENDANT: I have evidence, Your Honor, a  
4 four-page declaration of lawyer that I have sent to the State  
5 Bar and I have sent to the clerk of court, but it's not been  
6 filed on the docket yet, Your Honor. The papers are right over  
7 here. And pretty much it contains all the facts that my  
8 counsel has not done a good enough job to prove my innocence.  
9 My counsel has basically not suppressed the evidence when there  
10 was evidence of such. And in these four pages, it explains  
11 everything. That is the reason why I withdraw Mr. Placke as  
12 counsel.

13 THE COURT: All right. So you and Mr. Placke are  
14 still talking to each other; is that correct or incorrect?

15 THE DEFENDANT: I did meet with him one time, but  
16 other than that, we haven't -- well --

17 THE COURT: When you have met, when the two of you  
18 have been together, are you able to speak with Mr. Placke? I'm  
19 not talking about agree or disagree with what's going on. I'm  
20 just asking can you talk to him? Have you been talking to him?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And you disagree now with what Mr. Placke  
23 recommended you do with this case, is that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you remember appearing here in court

1 and being placed under oath?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And do you remember pleading guilty?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you remember telling me that you were  
6 pleading guilty because you were, in fact, guilty?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And are you now coming in here and  
9 telling me that's not true?

10 THE DEFENDANT: Permission to speak?

11 THE COURT: Just a yes or no. Are you coming in here  
12 and telling me that's not true?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: So after making -- so if that is, in  
15 fact, the case, why did you tell me something false during a  
16 Rule 11 hearing?

17 THE DEFENDANT: Basically, I was being rushed into  
18 the jury trial, and all my evidence that I had sent to the  
19 court never made docket, and all the suppression stuff never  
20 made it. I basically sent stuff to the Clerk of Court with the  
21 reasons why, but basically my health is bad. My A1C is 10.9.  
22 That's verifiable with the FCI Butner medical records. Because  
23 of my health, because of the rush to jury trial, and the fact  
24 that there was no defense being sent, that Placke didn't have  
25 any kind of defense, I would have been found guilty on the spot

1 with up to 20 years hard time in prison. I wanted to fight on  
2 my own, but then my family told me over there -- you know, when  
3 they were sitting over there, they said take the guilty plea,  
4 take the guilty plea, and I was like what? And I was wondering  
5 why do they want me to take the guilty plea. And I learned  
6 later that basically they said I would have been found guilty  
7 on the spot. So I had no chance to -- I had no chance to be  
8 able to submit evidence. Everything just -- you know, it's a  
9 combination, lack of --

10 THE COURT: Let me ask you a question. From your  
11 perspective, who was responsible for rushing you to a jury  
12 trial? Whose fault was that?

13 THE DEFENDANT: N.C. Tilley, Jr.

14 THE COURT: Judge Tilley's the one?

15 THE DEFENDANT: Yeah.

16 THE COURT: That actually is pretty close to a  
17 correct answer. Mr. Placke can't control when cases are called  
18 for trial. The judges do. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: The law says you have a certain amount of  
21 time to prepare for trial under the Speedy Trial Act; but once  
22 that time frame is met, it's up to the judges of this district,  
23 whichever judge is assigned your case, to ultimately decide  
24 when your case gets called for trial, correct?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And what I hear you saying to me right  
2 now is that you were interested in perhaps having a little more  
3 time yourself, but your family told you to take the plea in the  
4 case, correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And you listened to them?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: So tell me this. Did your family give  
9 you good advice or bad advice?

10 THE DEFENDANT: Bad advice.

11 THE COURT: All right. But that was their advice?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, what is the condition you just  
14 mentioned earlier, diagnosed by Butner?

15 THE DEFENDANT: My A1C was 10.9.

16 THE COURT: What's your A1C?

17 THE DEFENDANT: A1C blood hemoglobin level is the  
18 level of a three-month average where the higher the level, that  
19 means my blood sugars have been more higher, and it can affect  
20 my ability to think clearly, and it can also cause  
21 complications such as kidney failure, eyesight failure, nerve  
22 damage. The longer my A1C stays up, my health deteriorates  
23 with a high A1C average.

24 THE COURT: All right. All right. Let's -- have you  
25 been evaluated during the course of this case?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: By a psychologist or a psychiatrist?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And are there any other conditions that  
5 you have that you are aware of?

6 THE DEFENDANT: I think so.

7 THE COURT: What is it -- what do you think?

8 THE DEFENDANT: I know I have mild autism, OCD, and,  
9 you know, obsessive compulsive disorder, and, you know, I have  
10 a lot of anxiety, so general anxiety disorder.

11 THE COURT: And so is it fair -- do those -- and I'm  
12 not trying to embarrass you. I just need to get to the bottom  
13 of this issue that you have raised. You mentioned OCD,  
14 obsessive compulsive disorder. When you were originally  
15 debriefed in this case -- or when you were originally arrested  
16 and confronted by law enforcement, you told those officers that  
17 someone else must have downloaded those images to your  
18 computer, is that correct?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Am I remembering correctly, Mr. Placke?

21 MR. PLACKE: In part, Your Honor. There was a  
22 noncustodial interview conducted the day after the search  
23 warrant. It was recorded, and I've listened to it several  
24 times, played it with Mr. Hill. That was said initially.  
25 Later, the course of the interview changed, and Mr. Hill told



1 the officers that he had downloaded child pornography.

2 THE COURT: That's right. There was an initial  
3 statement, and then later that changed.

4 Mr. Hill, ultimately, you can tell -- you can talk to  
5 your lawyer about whatever you think might be helpful to you in  
6 defending a case. Do you understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: But at the end of the day, the question  
9 becomes what evidence will be presented by the Government, what  
10 evidence will there be of what you say may have occurred. Do  
11 you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: So let's say that Mr. Placke went out and  
14 got all this evidence to support what you have said about  
15 somebody else must have downloaded these images to my computer.  
16 You're still left with a problem, and that is you've admitted  
17 that you did it. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand the problems that that  
20 causes?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And do you understand that those are  
23 things you need to discuss with your attorney?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Regardless of who that is?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And do you understand that your attorney  
3 may disagree with you on the wisdom of going to trial when  
4 there is mixed evidence, some that might show somebody else did  
5 it, and some that might show you did it. Do you understand  
6 that?

7 THE DEFENDANT: Um-hum, yes.

8 THE COURT: And so seizing on to one piece or one  
9 thought, somebody else did this, may not be in your best  
10 interest. Do you understand that? I'm not saying it is or it  
11 isn't. I'm just asking if you understand that concept?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: So would you agree or disagree with me  
14 that while there may be some things that you wish could be done  
15 differently that you and Mr. Placke did discuss the options  
16 that were available to you. Do you agree with that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And do you agree that you and Mr. Placke  
19 tried to make the best -- or the decision that was in your best  
20 interest at the time whether to go to trial or plead guilty?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And at this point in time you're not  
23 happy about that decision, is that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: But at the same time in talking to me

1 about this, do you at least a little bit understand how that  
2 may have been -- the decision to plead guilty may have been an  
3 appropriate decision at the time? Do you understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. Now, in terms of Mr. Placke,  
6 you disagree with some of the -- or don't like some of the  
7 things he did or didn't do on your behalf, correct?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Now -- but in terms of the way this case  
10 has proceeded, hindsight's always 20/20, but I don't hear a lot  
11 of doubt in your mind that Mr. Placke was trying to do what was  
12 in your best interest, and at least at points you agreed with  
13 him; is that correct?

14 THE DEFENDANT: I don't think so, no.

15 THE COURT: You don't think so.

16 THE DEFENDANT: I mean, with all the evidence, I've  
17 pretty much got four witnesses to the fact that I was  
18 threatened to falsely confess, and I have two witnesses to the  
19 fact that the computer was being used by the police detectives  
20 before it was sent to the state crime lab.

21 THE COURT: All right. That's the information you've  
22 got in that piece of paper? That's information developed after  
23 you had entered a guilty plea?

24 THE DEFENDANT: Yeah.

25 THE COURT: And who are the four witnesses?

1 THE DEFENDANT: My mother, Roberta Ruth Hill.

2 THE COURT: The same person who told you to plead  
3 guilty?

4 THE DEFENDANT: Yes. And the second witness is  
5 Stella Forinash.

6 THE COURT: Who's she?

7 THE DEFENDANT: My grandma.

8 THE COURT: Another one that was telling you to plead  
9 guilty?

10 THE DEFENDANT: Yeah.

11 THE COURT: All right.

12 THE DEFENDANT: The third witness is my grandpa,  
13 Kenneth Forinash.

14 THE COURT: And he was also here the day of your  
15 guilty plea, wasn't he?

16 THE DEFENDANT: Yep, um-hum.

17 THE COURT: And who else?

18 THE DEFENDANT: Myself.

19 THE COURT: All right. And you, as we discussed  
20 earlier, stood up and said under oath that you were pleading  
21 guilty because you are, in fact, guilty, correct?

22 THE DEFENDANT: Yes.

23 THE COURT: Mr. Hill, let me make a comment. I don't  
24 know how your case is going to end up. You have some mental  
25 and emotional difficulties. You seem to be relatively bright.

1 You also seem to be very pleasant to talk to. You are  
2 represented by an attorney in this district who works for the  
3 Federal Public Defender but is a very, very fine criminal  
4 defense lawyer. And I can understand someone in your  
5 condition, having entered a guilty plea, looking back and  
6 thinking maybe I could have done something different or maybe  
7 something would have worked out otherwise. Have you seen your  
8 presentence report at this point?

9 THE DEFENDANT: Yes, sir, Your Honor.

10 THE COURT: And my guess is the guideline calculation  
11 calls for a pretty lengthy sentence, doesn't it?

12 THE DEFENDANT: Yes.

13 THE COURT: And that's got you second guessing  
14 whether or not you should have taken the plea, is that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: But you don't know yet how this case is  
17 going to work out, do you?

18 THE DEFENDANT: No.

19 THE COURT: And it's very hard to trust a lawyer when  
20 there is so much uncertainty, correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: But would you agree with me that maybe  
23 the better path is to continue to trust in Mr. Placke's  
24 judgment in this case since he understands and has been through  
25 this type of case before?

1 THE DEFENDANT: No, sir.

2 THE COURT: All right. Listen to me. Why in the  
3 world would you, who have never been through something like  
4 this before, make a decision that runs against what somebody  
5 who is very well-experienced in this has told you?

6 THE DEFENDANT: Well, I believe I have enough  
7 evidence to challenge the case and that with the letters I've  
8 sent to the FBI, the letters I've sent to the DOJ, I have  
9 worked hard in trying to challenge the evidence that the  
10 Government has so that I would be able to have enough evidence  
11 with an investigation to overturn -- overturn the evidence that  
12 the prosecution has and prove my innocence.

13 THE COURT: All right. Anything else, Mr. Hill?

14 THE DEFENDANT: Pretty much I submit these papers to  
15 the Court.

16 THE COURT: All right. Mr. Placke, do you want me to  
17 take a look at the papers?

18 MR. PLACKE: Your Honor, I haven't seen the most  
19 recent --

20 THE COURT: Why don't you look at them first.

21 MR. PLACKE: If I may.

22 THE COURT: You may. Let's take about a 10-minute  
23 recess and let Mr. Placke look at those papers. Then we'll  
24 come back. Mr. Matkins, you may -- I don't know how much you  
25 know about this case. I believe, if I remember correctly, the

1 Government agreed that Mr. Hill could plead to the zero to 10,  
2 is that right?

3 MR. PLACKE: That's correct, Your Honor.

4 THE COURT: Zero to 10 possession offense. I think  
5 that no matter what the guideline range may show, I don't  
6 believe your office is pushing for a lengthy active -- any type  
7 of active sentence. I may have misread what I was hearing, but  
8 at this point I'd be -- assuming all those facts to be the  
9 case, I would be inclined to not substitute counsel here but  
10 let this case move forward to what appeared to me to have been  
11 the intended resolution. I may be speaking out of turn, but I  
12 certainly recall there being signals of that type. So if you  
13 need to talk to Mr. Ramaswamy, we'll be at ease for 10 minutes.

14 (At 11:18 a.m., break taken.)

15 (At 11:31 a.m., break concluded.)

16 THE COURT: All right. Mr. Placke, do you want me to  
17 take a look at that, or what's your position?

18 MR. PLACKE: Your Honor, I first appreciate the  
19 chance to review it. I don't believe there's anything new that  
20 the Court hasn't already heard in one form or another that  
21 would be adverse to Mr. Hill. By and large, it's simply  
22 comments about me, and I certainly don't want to interfere with  
23 his ability to communicate to the Court about that. I checked  
24 with Mr. Hill during the recess, and he does want the Court to  
25 see it. Therefore, I prefer to just provide it to the Court.

1 THE COURT: All right. If you'll hand it up, I'll  
2 take a look at that.

3 (Court reviewing documents.)

4 THE COURT: I reviewed Mr. Hill's letter, and at this  
5 point I have not seen the presentence report. I have, however,  
6 seen the evaluations and the factual basis and a number of  
7 letters. Mr. Hill, if nothing else, is a prolific letter  
8 writer. Let me see. I said I've seen the factual basis. I've  
9 seen some facts somewhere, but was there one filed in this  
10 case, or was it withheld?

11 MR. PLACKE: There was a factual basis, Your Honor.

12 THE COURT: Well, as I alluded to earlier, the  
13 Government in the vast majority of these possession of child  
14 pornography cases these days where file sharing is involved has  
15 been requiring a plea to the 5 to 20 offense rather than a zero  
16 to 10. So there is -- in light of the Government's extension  
17 of a plea to the zero to 10 offense, the zero to 10 possession  
18 offense rather than the 5 to 20 offense, that certainly at  
19 least indicates to some degree the Government's evaluation of  
20 the seriousness of the offense. I think for whatever reason  
21 there was some discussion at the Rule 11 colloquy about this  
22 particular case as well in terms of the Government's position.  
23 Yes, sir, Mr. Matkins?

24 MR. MATKINS: I received an email from Mr. Ramaswamy  
25 yesterday regarding this matter, and I came to the same



1 conclusion that the Court came to or recalls from the change of  
2 plea previously as to the Government's position.

3           THE COURT: Yeah, okay. It's a difficult time for  
4 Mr. Hill, I'm sure, confronted with a guideline calculation  
5 that's probably -- if it's not up -- I haven't seen the  
6 presentence report, but the majority of these types of cases  
7 end up with an 84-, 97-, or even higher than 120-month  
8 guideline calculation, and that would have difficult -- could  
9 have an extreme effect on anyone, and it's certainly  
10 understandable the effect that seeing that presentence report  
11 would have on Mr. Hill in light of various mental and emotional  
12 conditions that he has described here today, much of that  
13 confirmed by various evaluations. I can understand where there  
14 would be some turmoil and concern about revisiting decisions  
15 with respect to plea or trial that had already been made.

16           Now, ultimately, I will say, I think to be clear,  
17 that it wouldn't make any difference to me in any way, shape,  
18 form, or fashion what the extended plea was if a defendant came  
19 forward with a proffer of substantial evidence of innocence  
20 such that the case should be set aside. Unfortunately, in this  
21 case, Mr. Hill's current complaints echo a lot of what Mr. Hill  
22 was representing originally in this case, and ultimately here  
23 we're not -- in this type of possession of child pornography  
24 case, the investigations are not extremely complicated.

25           So ultimately, it seems to me, number one,

1 Mr. Hill -- I am impressed with Mr. Hill's candor. He  
2 begrudgingly, but candidly, admitted that he and Mr. Placke  
3 were still communicating, and he candidly admitted that, in  
4 large part, he relied on pressure from his family, which is --  
5 a defendant is free to rely on whatever advice they choose to  
6 rely on in terms of accepting a plea. But in fairness to  
7 Mr. Hill, I don't think there's any question but that  
8 Mr. Placke recommended this course as well as evidenced from  
9 the responses given during the Rule 11 colloquy.

10 I simply don't find Mr. Hill's current allegations to  
11 rise anywhere near a level expressing ineffective assistance of  
12 counsel or actual innocence or any other matter that would  
13 necessitate allowing -- substituting counsel and allowing  
14 Mr. Hill to -- and/or allowing Mr. Hill to withdraw his plea  
15 and proceed to trial in this case. These letters, like a  
16 number of other letters that Mr. Hill has written, claim to  
17 have substantial evidence, but ultimately present nothing more  
18 than a series of conclusory allegations unsupported by any  
19 evidence with respect to his innocence of these particular  
20 charges.

21 So, ultimately, I conclude that while there is at  
22 present some disagreement between Mr. Hill and Mr. Placke as to  
23 how this case should proceed that there is still communication  
24 between the parties, Mr. Placke is still -- even under very  
25 difficult circumstances has Mr. Hill's best interest in mind in

1 pursuing this matter, and ultimately it seems to me the best  
2 course is to proceed with this case as is and deny Mr. Hill's  
3 request for substitution of counsel.

4           And to put it all in complete perspective at this  
5 point, Mr. Hill's statements in his letters run completely  
6 contrary to what would ordinarily be required for an individual  
7 defendant to receive acceptance of responsibility following the  
8 entry of a guilty plea and an acknowledgment of guilt at a Rule  
9 11 colloquy. However, I have seen enough of Mr. Hill's  
10 letters -- I think, unless I'm mistaken, there have been two  
11 evaluations. Was Mr. Hill originally sent to Butner for an  
12 evaluation?

13           MR. PLACKE: Your Honor, this spring he was evaluated  
14 at Butner with respect to competency and mental responsibility  
15 at the time of the offense. More recently, he was evaluated as  
16 part of the presentence process by Dr. Hirsch. There is  
17 concurrence on the three diagnoses that have been discussed  
18 here today. Dr. Hirsch did identify and make one additional  
19 diagnosis that's probably particularly relevant, delusional  
20 disorder, persecutory type, and that's discussed in his report  
21 as well as in the position paper filed.

22           THE COURT: Those diagnoses collectively also give  
23 this Court substantial doubt with respect to the -- I'm not  
24 sure exactly what word to use. It may very well be that  
25 Mr. Hill genuinely believes some of what -- some or all of what

1 he's saying. I don't know the answer to that.

2           But in terms of the veracity of these allegations  
3 with respect to actual innocence, I have substantial doubt.  
4 Quite frankly, the statements, the letters, and other things  
5 are entirely consistent with the disorders that -- or the  
6 issues that have been identified by the -- through the  
7 evaluations, and, quite honestly at this point, I don't find  
8 anything here that ultimately causes -- I don't even find that  
9 these allegations, in light of all the circumstances, rise to  
10 the level where I would take -- where I would at this point  
11 take away acceptance of responsibility from Mr. Hill, just to  
12 be completely fair and candid.

13           It's a very difficult situation that's been  
14 presented. I understand completely Mr. Hill's concern about  
15 his future in light of what I believe would have been the  
16 presentence report guideline calculation, maybe even properly  
17 calculated, but without regard to departure or variance issues  
18 that will be presented at the time of sentencing in light of  
19 all these evaluations.

20           So, Mr. Placke and Mr. Matkins, unless there is  
21 some -- something that I have said that you disagree with or  
22 wish to be heard further on, that will be -- that's my  
23 conclusion and will ultimately be my ruling here.

24           Mr. Placke, do you wish to be heard further at this  
25 point?

1           MR. PLACKE: No, Your Honor. I would simply add that  
2 if those diagnoses were not present, my position would probably  
3 be different.

4           THE COURT: As would mine.

5           MR. PLACKE: But as the Court has alluded to and more  
6 explicitly stated, we, the criminal justice system, have to be  
7 able to move forward in cases like this, and the individuals  
8 involved, counsel, whoever, have to be able to move forward or  
9 else it's ultimately to the detriment, I believe, of the  
10 individual.

11          THE COURT: I agree. I haven't made a decision with  
12 respect to a plea. I can completely understand being concerned  
13 about that decision and these various conditions leading to  
14 attacks or efforts to change that decision, but at this point I  
15 think -- number one, I don't think there's grounds to go back  
16 and revisit the decision. Number two, I think it's, to a large  
17 degree, understandable.

18          Mr. Matkins, you would be the one ultimately  
19 defending what I do here today. Do you wish to be heard  
20 further on this?

21          MR. MATKINS: No, sir, Your Honor.

22          THE COURT: All right. Mr. Hill, let me ask you to  
23 stand up, please, sir. I know that you probably disagree with  
24 some or all of what I have said, and you're entitled to  
25 disagree with me. On the other hand, I have to make certain

1 decisions about -- based on the evidence that's been presented,  
2 and I make those decisions, and the case continues to move  
3 forward. At this point I am denying your motion for new  
4 counsel for the reasons that I have described. Do you  
5 understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And that means that Mr. Placke will  
8 continue to represent you in this case. There is -- when's  
9 this case set for sentencing, Mr. Placke? It's like in two or  
10 three weeks maybe?

11 MR. PLACKE: Later this month, Your Honor. It's set  
12 for -- I can't remember if it's September 26 or September 30.

13 MR. MATKINS: I believe it's the 30th, Your Honor.

14 MR. PLACKE: The 30th.

15 THE COURT: Mr. Placke -- I am directing Mr. Placke  
16 to proceed ahead with his representation of you, Mr. Hill, in  
17 terms of the presentence report and the various other matters  
18 to be presented. I'm going to ask -- since I've denied the  
19 motion, I'm going to ask that you continue to work with  
20 Mr. Placke even though you may disagree with the things that he  
21 is doing on your behalf to finish this case up. Do you  
22 understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. I'm going to tell you that  
25 you have been very respectful toward me in the way you have

1 addressed this Court and the way you have expressed the matters  
2 that you are concerned about, and I appreciate that. I want  
3 you to leave here with some understanding that I wasn't always  
4 a judge. I used to do similar cases. I'm sure I didn't handle  
5 them nearly as well, but I used to handle cases like  
6 Mr. Placke, criminal defense work, and I've been there when  
7 there have been problems when the presentence report was  
8 disclosed and things looked very bleak in terms of how the case  
9 was going to work out.

10           You are entitled to your lawyer -- to the best advice  
11 your lawyer can possibly give you, you're entitled to a lawyer  
12 who represents your interests to the best of his ability, and  
13 you are entitled to a lawyer who advocates on your behalf in  
14 the courtroom. The one thing you're not entitled to is a  
15 lawyer who simply tells you what you want to hear just to make  
16 you feel better or advises you to do something simply because  
17 it's the easiest way to make you happy. Do you understand  
18 that?

19           THE DEFENDANT: Yes, sir.

20           THE COURT: Mr. Placke at this point has not  
21 presented anything to me to suggest that Mr. Placke has failed  
22 to discharge his duties to you or that he has given bad advice  
23 to the extent that it rises to the level of ineffective  
24 assistance of counsel. Do you understand that?

25           THE DEFENDANT: Yes, sir.

1           THE COURT: I'm going to ask you to trust in  
2 Mr. Placke just a little bit longer, and let's see how this  
3 case works out. All right?

4           THE DEFENDANT: All right.

5           THE COURT: All right. Anything further, Mr. Placke?

6           MR. PLACKE: Just for the record, Your Honor, the  
7 second half of the motion was for an extension of the pleading  
8 deadline. Since there's not going to be new counsel, I think  
9 that's moot. I filed our position paper.

10          THE COURT: There was a position paper. All right.  
11 I'm going to ask Ms. Welch to note upon the docket that the  
12 motion to withdraw is denied for the reasons stated in the  
13 record; and as a result of the denial of the motion, the Court  
14 finds the motion for extension of time to file sentencing  
15 pleadings is moot and, therefore, denied.

16          Anything further, Mr. Matkins?

17          MR. MATKINS: No, sir, Your Honor.

18          THE COURT: Mr. Placke?

19          MR. PLACKE: No, Your Honor. There is something on a  
20 completely different matter, though, if the Court has a moment  
21 after we've adjourned.

22          THE COURT: All right. I'll do that. If there's  
23 nothing further, we'll stand in recess until 2:00.

24          (At 11:50 a.m., proceedings concluded.)

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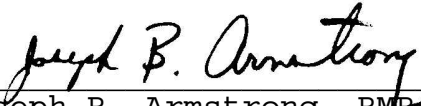


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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the proceedings in the above-entitled matter.

Date: 06/24/2015	 <hr style="width: 100%; border: 0.5px solid black;"/> Joseph B. Armstrong, RMR, FCRR United States Court Reporter 324 W. Market Street Greensboro, NC 27401
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