

No. 20-_____

IN THE
SUPREME COURT OF THE UNITED STATES

CORDARRIUS BONDS,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Sixth Circuit**

APPENDIX

JENNIFER NILES COFFIN
Assistant Federal Defender
Federal Defender Services
of Eastern Tennessee, Inc.
800 South Gay Street, Suite 2400
Knoxville, Tennessee 37929
(865) 637-7979

argument below, it should be reviewed de novo because: (1) the indictment is fatally flawed, as “the conduct charged . . . does not constitute a federal offense”; and (2) the argument that he now raises was not reasonably available until the Supreme Court decided *Rehaif*. Bonds also argues that his guilty plea was entered unintelligently and involuntarily because he was unaware that the government had to prove that he knew that he was a convicted felon when he possessed the firearm. Finally, Bonds argues that the district court erred by sentencing him as an armed career criminal because it relied on improper documents to determine that his predicate offenses were committed on different occasions.

Generally, we review the sufficiency of an indictment de novo. *United States v. McAuliffe*, 490 F.3d 526, 531 (6th Cir. 2007). However, when an “indictment [is] challenged for the first time on appeal,” it “must be construed liberally in favor of its sufficiency.” *United States v. Perry*, 438 F.3d 642, 652 (6th Cir. 2006) (quoting *United States v. Gatewood*, 173 F.3d 983, 986 (6th Cir. 1999)). “[U]nless the defendant can show prejudice, a conviction will not be reversed where the indictment is challenged only after conviction unless the indictment cannot within reason be construed to charge a crime.” *Id.* (quoting *United States v. Hart*, 640 F.2d 856, 857-58 (6th Cir. 1981)). Regardless of which standard is applied, Bonds is not entitled to relief. An indictment’s failure to charge “the ‘knowledge-of-status’ element required by *Rehaif*” does not deprive a district court of jurisdiction. *United States v. Hobbs*, 953 F.3d 853, 857 (6th Cir. 2020). And Bonds’s valid, unconditional guilty plea waives all pre-plea, non-jurisdictional errors. *United States v. Satterwhite*, 893 F.3d 352, 355 (6th Cir. 2018). For reasons discussed below, Bonds has not shown that his guilty plea is invalid. Thus, Bonds’s only preserved claim—a claim of jurisdictional error—is meritless in light of *Hobbs*.

To the extent that Bonds challenges his guilty plea, we have addressed the exact situation in which Bonds now finds himself: the defendant in *Hobbs* pleaded guilty to a § 922(g)(1) offense before *Rehaif* was decided and argued on direct appeal that his plea was not entered knowingly and voluntarily because he was unaware that the government would have to prove that he knew that he was a convicted felon when he possessed the firearm. *See Hobbs*, 953 F.3d at 855-56. Although *Rehaif* was decided after *Hobbs* pleaded guilty, we applied the plain-error

standard of review. *Id.* at 857. Under that standard, a defendant “must identify ‘an (1) error (2) that was obvious or clear, (3) that affected [his] substantial rights and (4) that affected the fairness, integrity, or public reputation of the judicial proceedings.’” *Id.* (alteration in original) (quoting *United States v. Crawford*, 943 F.3d 297, 308 (6th Cir. 2019)). To show that his substantial rights were affected, Bonds must show that there is “a reasonable probability that, but for the [alleged failure to inform him of the knowledge-of-status element], he would not have entered the plea.” *Id.* (alteration in original) (quoting *United States v. Dominguez Benitez*, 542 U.S. 74, 76 (2004)). Bonds does not allege on appeal that he would not have pleaded guilty if he had been told that the government had to prove that he knew that he was a convicted felon when he committed the firearm offense. Even if he had made such an allegation, a defendant’s post-plea assertions, standing alone, are insufficient to show an impairment of substantial rights. *Id.* We “instead look to contemporaneous evidence to substantiate a defendant’s expressed preferences.” *Id.* (quoting *Lee v. United States*, 137 S. Ct. 1958, 1967 (2017)).

Here, as in *Hobbs*, “[i]t would have been exceedingly easy for the government to prove at trial that [Bonds] knew he was a felon when he committed the firearms offense.” *See id.* at 858. Bonds had prior Tennessee convictions for robbery, reckless endangerment, aggravated burglary, and aggravated robbery. He was sentenced to six years of imprisonment for the aggravated-burglary convictions and eight years of imprisonment for the aggravated-robbery convictions, and he actually served a total of three years and eleven months of imprisonment for those offenses. In light of Bonds’s failure to even allege that he would have gone to trial if he had been informed of the knowledge-of-status element, the “long odds” that Bonds would have faced at trial, and the lack of any contemporaneous evidence suggesting that Bonds would have proceeded to trial, Bonds has failed to show that his substantial rights were affected. *See id.* at 857-58.

Finally, Bonds argues that the district court erred by consulting documents identified in *Shepard v. United States*, 544 U.S. 13 (2005), to determine whether the prior offenses that were counted as ACCA predicates were committed on different occasions. He contends that *Shepard* documents may be consulted “only to determine the elements of a given prior offense.” As

Bonds concedes, however, his argument is foreclosed by our holding that “a district court may consider both elemental and non-elemental facts contained in *Shepard*-approved documents to determine whether prior felonies were committed on occasions different from one another for purposes of the ACCA.” *United States v. Hennessee*, 932 F.3d 437, 444 (6th Cir. 2019), *cert. denied*, 140 S. Ct. 896 (2020).

Accordingly, we **AFFIRM** the district court’s judgment.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", is written over a horizontal line.

Deborah S. Hunt, Clerk

No. 18-6085

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Aug 05, 2020
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

V.

CORDARRIUS BONDS,

Defendant-Appellant.

ORDER

BEFORE: SUHRHEINRICH, GILMAN, and LARSEN, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT

Wm L. Hunt

Deborah S. Hunt, Clerk

FILED

JUL 25 2017

Clerk, U. S. District Court
Eastern District of Tennessee
AT CHATTANOOGA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

UNITED STATES OF AMERICA

v.

CORDARRIUS BONDS

1:17-cr-108

Judge McDonough/Steger

INDICTMENT

COUNT ONE

The Grand Jury charges that on or about March 8, 2017, in the Eastern District of Tennessee, the defendant, CORDARRIUS BONDS, having previously been convicted in court of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess in and affecting commerce, a firearm; in violation of Title 18, United States Code, Section 922(g)(1).

A TRUE BILL

FOREPERSON OF THE GRAND JURY

Nancy Stallard Harr
United States Attorney

By: [Signature] for
Christopher D. Poole
Assistant U.S. Attorney

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE CHATTANOOGA DIVISION

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

(For Offenses committed on or after November 1, 1987)

v.

Case Number: **1:17-CR-00108-TRM-CHS(1)**

CORDARRIUS BONDS

USM#52697-074

Gianna Maio

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to Count One of the Indictment.
☐ pleaded nolo contendere to count(s) which was accepted by the court.
☐ was found guilty on count(s) after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

Title & Section and Nature of Offense	Date Violation Concluded	Count
18 U.S.C. § 922(g)(1) and 18 U.S.C. § 924(e) Felon in Possession of Firearm (Armed Career Criminal)	03/08/2017	1

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984 and 18 U.S.C. § 3553.

- ☐ The defendant has been found not guilty on count(s).
☐ All remaining count(s) as to this defendant are dismissed upon motion of the United States.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and the United States attorney of any material change in the defendant's economic circumstances.

October 1, 2018

Date of Imposition of Judgment

/s/ Travis R. McDonough

Signature of Judicial Officer

Travis R. McDonough, United States District Judge

Name & Title of Judicial Officer

October 11, 2018

Date

DEFENDANT: CORDARRIUS BONDS
CASE NUMBER: 1:17-CR-00108-TRM-CHS(1)

Judgment - Page 2 of 7

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

186 months as to Count One.

- ☒ The court makes the following recommendations to the Bureau of Prisons:
The court will recommend that the defendant receive a mental health assessment and any necessary treatment while in the custody of the Bureau of Prisons.
- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
☐ at ☐ a m. ☐ p m. on
☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
☐ before 2 p m. on .
☐ as notified by the United States Marshal.
☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on
to ,
at ,
with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: CORDARRIUS BONDS
CASE NUMBER: 1:17-CR-00108-TRM-CHS(1)

Judgment - Page 3 of 7

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **five (5) years**.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentencing of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: CORDARRIUS BONDS
CASE NUMBER: 1:17-CR-00108-TRM-CHS(1)

Judgment - Page 4 of 7

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the mandatory, standard, and any special conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: CORDARRIUS BONDS
CASE NUMBER: 1:17-CR-00108-TRM-CHS(1)

Judgment - Page 5 of 7

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall participate in a program of mental health treatment, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer.

The defendant must waive all rights to confidentiality regarding mental health treatment in order to allow release of information to the supervising United States Probation Officer and to authorize open communication between the probation officer and the mental health treatment providers.

The defendant must submit his person, property, house, residence, vehicle, papers, [computers (as defined in Title 18 U.S.C. § 1030(e)(1), other electronic communications or data storage devices or media,) or office, to a search conducted by a United States probation officer or designee. Failure to submit to a search may be grounds for revocation of release. The defendant must warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that the defendant has violated a condition of his supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

DEFENDANT: CORDARRIUS BONDS
CASE NUMBER: 1:17-CR-00108-TRM-CHS(1)

Judgment - Page 6 of 7

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments sheet of this judgment.

	Assessment	JVTA Assessment*	Fine	Restitution
TOTALS	\$100.00	\$.00	\$.00	\$.00

- ☐ The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options under the Schedule of Payments sheet of this judgment may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- | | | |
|---|-------------------------------|--|
| <input type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution |
| <input type="checkbox"/> the interest requirement for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: CORDARRIUS BONDS
CASE NUMBER: 1:17-CR-00108-TRM-CHS(1)

Judgment - Page 7 of 7

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A** ☒ Lump sum payments of \$ 100.00 due immediately, balance due
☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period
of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after the date of this judgment; or
- D** ☐ Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period
of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after release from imprisonment to a term of
supervision; or
- E** ☐ Payment during the term of supervised release will commence within _____ (*e.g., 30 or 60 days*) after release from
imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to **U.S. District Court, 900 Georgia Avenue, Joel W. Solomon Federal Building, United States Courthouse, Chattanooga, TN, 37402**. Payments shall be in the form of a check or a money order, made payable to U.S. District Court, with a notation of the case number including defendant number.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
☐ Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVT Assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TENNESSEE

AT CHATTANOOGA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CORDARRIUS BONDS,

Defendant.

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:
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:
:
:
:
:

1:17-CR-108

Chattanooga, Tennessee
March 29, 2018

BEFORE: THE HONORABLE CHRISTOPHER H. STEGER
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

CHRISTOPHER D. POOLE
Assistant United States Attorney
U. S. Department of Justice
Office of the United States Attorney
1110 Market Street, Suite 515
Chattanooga, Tennessee 37402

FOR THE DEFENDANT:

GIANNA MAIO
Federal Defender Services
835 Georgia Avenue, Suite 600
One Central Plaza
Chattanooga, Tennessee 37402

REARRAIGNMENT

UNITED STATES DISTRICT COURT

1 THE COURT: Please call the case.

2 THE COURTROOM DEPUTY: Criminal Action 1:17-CR-108,
3 United States of America versus Cordarrius Bonds.

4 THE COURT: Counsel, please make appearances for the
5 record.

6 MR. POOLE: Chris Poole for the United States.

7 MS. MAIO: Gianna Maio for Mr. Bonds.

8 THE COURT: Mr. Poole, could you please state the
9 status of the case.

10 MR. POOLE: Yes, sir. Mr. Bonds is here to withdraw
11 his earlier not guilty plea and plead guilty to the one-count
12 indictment pursuant to a notice of intent to plead guilty.
13 There's no written plea agreement, Your Honor.

14 THE COURT: Thank you.

15 Mr. Bonds, my name is Chris Steger. I'm the United
16 States Magistrate Judge. We met during your initial
17 appearance. Could you please raise your right hand, sir, and
18 we'll get you sworn in.

19 (The defendant was duly sworn.)

20 THE COURT: Mr. Bonds, do you understand that you're
21 now under oath and if you answer any of my questions falsely
22 your answers could later be used against you in another
23 prosecution for perjury or for making a false statement, so
24 it's important that you tell the truth today?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. Ms. Maio, would you please state
2 for the record whether your client Mr. Bonds is moving to
3 withdraw his not guilty plea to Count 1 of the one-count
4 indictment?

5 MS. MAIO: Yes, Your Honor.

6 THE COURT: Mr. Bonds, do you understand that you're
7 withdrawing your guilty plea to Count 1 of the one-count
8 indictment because you have indicated that you want to enter a
9 plea of guilty to that count?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Before I can make a recommendation to the
12 district court judge about accepting your guilty plea, there
13 are a number of questions that I need to ask you today to
14 assure that your plea is valid and voluntary and that you
15 understand all of the rights that you're waiving, including
16 your constitutional rights.

17 Some of these questions are a bit long; some are --
18 they are repetitive. If at any point you don't understand any
19 of the questions that I ask you, please just ask me to repeat
20 or rephrase the question, and I'll be happy to do that for
21 you.

22 Also, if at any point or points during this hearing
23 today you need to consult with your attorney Ms. Maio, just
24 let me know that, and I'll give you as much time as you need
25 to talk with your lawyer. This is an important decision for

1 you, and I don't want to rush you through it. I don't want
2 you to feel compelled to do anything here today. Okay? Can
3 we have that agreement?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Great. Mr. Bonds, how old are you?

6 THE DEFENDANT: I'm 26, Your Honor.

7 THE COURT: Twenty- --

8 THE DEFENDANT: Twenty-six.

9 THE COURT: Twenty-six. Okay. And how far did you
10 go in school?

11 THE DEFENDANT: Eleventh grade.

12 THE COURT: Have you ever been treated for any mental
13 illness of any kind?

14 THE DEFENDANT: No, sir.

15 THE COURT: Have you ever been treated for any
16 addiction to narcotic drugs of any kind?

17 THE DEFENDANT: No, sir.

18 THE COURT: Are you presently under the influence of
19 any drug, medication, or alcoholic beverage?

20 THE DEFENDANT: No, sir.

21 THE COURT: Okay. Ms. Maio, do you consider
22 Mr. Bonds to be competent to enter a plea of guilty?

23 MS. MAIO: Yes, Your Honor.

24 THE COURT: Do you have a copy of the indictment at
25 the podium?

1 MS. MAIO: I do, Your Honor.

2 THE COURT: Okay. Mr. Bonds, have you read the
3 indictment?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Have you had enough opportunity to
6 discuss your case with your attorney Ms. Maio?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Are you satisfied with Ms. Maio's
9 representation of you in this case?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Mr. Bonds, by pleading guilty you give up
12 certain rights that are guaranteed to you by the United States
13 Constitution. These are important rights, and I'm going go
14 through them with you specifically here in open court to make
15 sure that you understand that you'll be giving up these
16 particular rights -- rights by pleading guilty.

17 You're giving up the right to plead not guilty or to
18 persist in the not guilty plea that you had earlier made in
19 this case at the arraignment during the initial appearance.

20 You're giving up the right to a trial by jury.

21 You're giving up the presumption of innocence, that
22 is, that all persons are presumed innocent until proven guilty
23 beyond a reasonable doubt.

24 You're giving up the right of assistance, during the
25 trial, of counsel, that is, to try your case in front of a

1 jury and to have Ms. Maio represent you at the trial of that
2 case.

3 You're giving up the right to confront and
4 cross-examine witnesses against you.

5 You're giving up the right not to be compelled to
6 incriminate yourself or, in other words, to make statements
7 against your own self-interest.

8 You're giving up the right to require the United
9 States to prove you guilty beyond a reasonable doubt.

10 And, finally, you're giving up the right to subpoena
11 witnesses -- to compel the attendance of witnesses—excuse
12 me—to testify in your behalf and in your defense.

13 Do you understand that by pleading guilty you're
14 giving up these rights that are guaranteed to you by the
15 United States Constitution?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And if you plead guilty, Mr. Bonds, there
18 will not be a trial of any kind. Do you understand this?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you understand that once you have
21 entered a plea of guilty and if the district judge accepts your
22 plea, you will have no right to withdraw your guilty plea?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. Mr. Bonds, has anyone attempted in
25 any way to force you to plead guilty or otherwise threatened

1 you to make you plead guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: Has anyone promised or suggested that you
4 will receive a lighter sentence or any other form of leniency
5 if you plead guilty?

6 THE DEFENDANT: No, sir.

7 THE COURT: All right. Bottom line, are you pleading
8 guilty of your own free will?

9 THE DEFENDANT: Oh, yes, sir.

10 THE COURT: Okay. Ms. Jones, would you please read
11 Count 1 of the indictment?

12 THE COURTROOM DEPUTY: "Count 1. The grand jury
13 charges that on or about March the 8th, 2017, in the Eastern
14 District of Tennessee, the defendant, Cordarrius Bonds, having
15 previously been convicted in court of a crime punishable by
16 imprisonment for a term exceeding one year, did knowingly
17 possess in and affecting commerce a firearm, in violation of
18 Title 18, United States Code, Section 922(g)(1)."

19 THE COURT: Mr. Bonds, Count 1 of the indictment
20 charges that you knowingly possessed a firearm after having
21 been previously convicted of a felony in violation of 18 United
22 States Code, Section 922(g)(1).

23 For you to be convicted of this offense if you were
24 to take your case to trial, the government would have to prove
25 beyond a reasonable doubt the following three elements:

1 First, that you knowingly possessed a firearm; and, second,
2 that prior to that possession you had been convicted of a
3 crime punishable by a term of imprisonment exceeding one
4 year—that would be a felony—and the third element is that
5 the firearm traveled in and affected interstate commerce. So
6 if you were to try your case, the government would have to
7 prove to a jury those three elements beyond a reasonable
8 doubt. Do you understand what you are pleading guilty to?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Mr. Poole, would you please advise
11 Mr. Bonds as to any maximum or mandatory minimum penalty
12 provided by law for these charges?

13 MR. POOLE: Yes, sir.

14 Mr. Bonds, it depends on your previous criminal
15 history. If you are not what's called an armed career
16 criminal, you're looking at between zero and ten years in
17 prison, supervised release for up to three years after you get
18 out, could be a fine of up to \$250,000.

19 If you are an armed career criminal, there would be
20 a 15-year minimum to a maximum of life, you would be on
21 supervision for up to 5 years once you get out, the fine range
22 would be the same.

23 You'll have to pay a 100-dollar special assessment
24 either way.

25 THE COURT: Thank you, Mr. Poole.

1 Mr. Bonds, the court may order you to make
2 restitution to any victim of the offense, and will require you
3 to pay a special assessment of \$100 for each count of a felony
4 to which you plead. You're pleading guilty to one count, so
5 it will be a 100-dollar special assessment.

6 In addition, the court may require you to forfeit
7 certain property to the government.

8 If your plea is accepted by the district court
9 judge, you will be adjudged guilty of a felony, and this may
10 deprive you of valuable civil rights, such as the right to
11 vote, the right to hold public office, the right to serve on a
12 jury, and, of course, the right to possess any -- any kind of
13 firearms. If convicted, a defendant who is not a United
14 States citizen may be removed from the United States, denied
15 citizenship, and denied admission to the United States in the
16 future. Do you understand all of these possible consequences
17 of your guilty plea?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And knowing these consequences, do you
20 still want to plead guilty?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Are you presently on probation as to any
23 previous offense?

24 THE DEFENDANT: No, sir.

25 THE COURT: Are you presently on parole from a

1 penitentiary or other institution?

2 THE DEFENDANT: No, sir.

3 THE COURT: Okay. Under the Sentencing Reform Act of
4 1984, the United States Sentencing Commission has issued
5 advisory guidelines for judges to consider in determining the
6 sentence in a criminal case. Your sentence will be determined
7 by the district court judge, who will consider a combination of
8 the advisory sentencing guidelines, possible authorized
9 departures from those guidelines, and other statutory
10 sentencing factors. The Court may lawfully impose a sentence
11 upon you up to and including the maximum penalty that the
12 government, through Mr. Poole, just advised you of. Mr. Bonds,
13 have you and your attorney Ms. Maio talked about the possible
14 sentence that you might receive in this case?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And have you and Ms. Maio talked about
17 how the advisory sentencing guidelines might apply to your
18 case?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you understand that the sentence
21 ultimately imposed by the district judge may be different from
22 any estimate of the sentence that your attorney may have given
23 you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand that the district court

1 judge will not be able to determine the advisory guidelines
2 sentence for your case until after a presentence report has
3 been prepared by the United States Probation Office and both
4 you and the government's attorney have had an opportunity to
5 review the information in that report and to challenge the
6 information in the report?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you also understand that after the
9 initial -- excuse me, after your initial advisory guideline
10 range has been determined, the court has the authority, in some
11 circumstances, to depart upward or downward from that range,
12 and will also examine other sentencing factors that may result
13 in the imposition of a sentence that is either greater or
14 lesser than the advisory guideline range?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that it is possible
17 that if you have prior convictions those could increase your
18 sentence under the sentencing guidelines?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And do you understand that as part of
21 your sentence you may receive a term of supervised release
22 after you serve your prison sentence?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you also understand that the concept
25 of parole has been abolished in the federal system, and that if

1 you are sentenced to prison you will not be released early on
2 parole?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand that there may be
5 circumstances under which either you or the government may
6 appeal any sentence that the district judge may impose?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you understand that if the
9 sentence you receive is more severe than you anticipated, you
10 will still be bound by your guilty plea and you will have no
11 right to withdraw it?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Mr. Bonds, a pleading
14 captioned Factual Basis for Plea was filed in the record. Do
15 you have a copy of that at the podium?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. Did you carefully review the
18 factual basis contained in that pleading with your attorney
19 Ms. Maio before this change of plea hearing?

20 (Brief pause.)

21 THE COURT: Have you reviewed the factual basis?

22 MS. MAIO: Your Honor, we mailed that factual basis
23 to Mr. Bonds on Friday the 23rd, and we did -- he did receive a
24 copy of it, and we discussed it this morning. I did not have
25 an opportunity to go meet with him at the jail earlier this

1 week to discuss it, but we did --

2 THE COURT: Mr. Bonds-- Okay. Do you feel like you
3 need to take another look at the-- What-- I'm going to be
4 asking you some questions about the accuracy of the factual
5 statement, and I need to make sure that you've read it and that
6 you can attest to its accuracy. Do you feel like you can do
7 that --

8 THE DEFENDANT: Yes, sir.

9 THE COURT: -- or do you need to take a minute to
10 look at it?

11 THE DEFENDANT: I can do that.

12 THE COURT: You can do it?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay. Do you agree that the factual
15 basis as set forth in the pleading entitled Factual Basis for
16 Plea is true and accurate?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Is there anything in the written factual
19 basis that you contend is false?

20 THE DEFENDANT: No. No, sir.

21 THE COURT: Do you agree with the government's
22 summary, as set forth in the written factual basis, of what you
23 did?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And bottom line, Mr. Bonds, are you

1 offering to plead guilty because you are in fact guilty?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. Ms. Maio, do you agree that the
4 factual basis is accurate, and that it satisfies the essential
5 elements of the offense?

6 MS. MAIO: Yes, Your Honor.

7 THE COURT: Mr. Bonds, before I take your plea, I
8 want to let you know that you have the right to have this plea
9 hearing conducted by the United States District Judge, but you
10 can waive that right and consent to having your plea taken by
11 me as a United States Magistrate Judge. Do you understand
12 this?

13 (Off-the-record discussion between the defendant and
14 defense counsel.)

15 THE DEFENDANT: I do.

16 THE COURT: Have any threats or promises been made to
17 induce you to consent to proceeding before the magistrate
18 judge?

19 THE DEFENDANT: No, sir.

20 THE COURT: Okay. I have a consent form, and I'm
21 going to have Ms. Jones hand it to you. I'd like you to review
22 it with your attorney Ms. Maio, and then if you still want to
23 consent after you've reviewed the form, please sign it.

24 (Brief pause.)

25 THE COURT: Mr. Bonds, did you have sufficient

1 opportunity to review the consent form with your attorney?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And is this your signature, sir?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. I find that the waiver and consent
6 is knowledgeably and voluntarily made, and is accepted.

7 Cordarrius Bonds, how do you plead to Count 1 of the
8 one-count indictment—guilty, or not guilty?

9 THE DEFENDANT: Guilty.

10 THE COURT: It is the finding of the Court in this
11 case that the defendant Cordarrius Bonds is fully competent and
12 capable of entering an informed plea, and that his plea of
13 guilty is a knowing and voluntary plea supported by an
14 independent basis in fact containing the essential elements of
15 the offense. I will recommend that Mr. Bonds' plea be
16 accepted, and that Mr. Bonds be adjudged guilty of the
17 previously referenced offense.

18 Acceptance of the plea and sentencing will be
19 accomplished by the district court judge in accordance with
20 the Sentencing Reform Act of 1984 and Title 18, United States
21 Code, Section 3553, and the court's local rules.

22 Mr. Bonds and Ms. Maio, the date set for sentencing
23 is August 10, 2018.

24 Ms. Maio, does that date work for you? It's at
25 2:00 in the afternoon.

1 MS. MAIO: Yes, Your Honor.

2 THE COURT: Mr. Poole?

3 MR. POOLE: Yes, sir. Thank you.

4 THE COURT: Okay. Mr. Bonds, any objections to this
5 plea hearing must be served on opposing parties and filed with
6 the clerk of the court within 14 days of the date of this plea
7 hearing. Failure to timely file objections constitutes a
8 waiver of any further right to appeal the issues addressed or
9 claims resolved as a result of this plea hearing. Do you
10 understand this?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. Let me ask your attorney.

13 Ms. Maio, I believe that covers everything we need
14 to do in the plea hearing. Is there anything further you'd
15 like to discuss?

16 MS. MAIO: No, thank you, Your Honor.

17 THE COURT: Mr. Poole?

18 MR. POOLE: No, sir.

19 THE COURT: Okay. Mr. Bonds, you've appeared before
20 me a couple of times. You've been very courteous. I
21 appreciate that.

22 And once you get off to the Federal Bureau of
23 Prisons, it will be a whole lot better than where you're being
24 housed now. There will be some opportunities there for you.
25 You're still a very young man, so I think you can turn this

1 into something positive. I know nobody wants to serve time,
2 but it will -- there are some educational and vocational
3 opportunities there, and I hope you'll take advantage of them
4 and put all this behind you. But, anyway, I appreciate your
5 courtesy, and I do wish you well, sir.

6 THE DEFENDANT: Thank you.

7 THE COURT: Thank you.

8 END OF PROCEEDINGS
9
10

11 I, Elizabeth B. Coffey, do hereby certify that I
12 reported in machine shorthand the proceedings in the
13 above-styled cause, and that this transcript is an accurate
14 record of said proceedings.

15 s/Elizabeth B. Coffey
16 Elizabeth B. Coffey,
17 Official Court Reporter
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

UNITED STATES OF AMERICA)	
)	
)	1:17-cr-108
v.)	
)	Judge McDonough/Steger
)	
CORDARRIUS BONDS)	

FACTUAL BASIS FOR PLEA

Comes now the United States of America by and through United States Attorney J. Douglas Overbey, and Assistant United States Attorney Christopher D. Poole, and submits the following summary of the government's evidence in support of defendant's plea to Count One of the One count indictment:

These are the facts submitted for purposes of the defendant's guilty plea. They do not necessarily constitute all of the facts in the case. Other facts may be relevant to sentencing.

a) On March 8, 2017, the Chattanooga Police Department ("CPD") attempted to stop the defendant for a light law and noise ordinance violation. The defendant did not stop his car and engaged in a lengthy pursuit. CPD eventually arrested the defendant and found a firearm and holster in the defendant's waistband.

b) The defendant admitted possession of the firearm on at least one recorded telephone call from jail.

c) Prior to possessing the firearm the defendant was a convicted felon. The defendant had at least the following felony convictions: Robbery, Reckless Endangerment, Aggravated Burglary (x2), and multiple counts of Aggravated Robbery.

d) If this case proceeded to trial an expert would testify that the firearm did travel in and affect interstate commerce.

e) The defendant admits that he knowingly possessed a firearm after having been convicted of a felony.

f) All of these events occurred in the Eastern District of Tennessee.

ELEMENTS OF THE OFFENSE

1. The defendant knowingly possessed a firearm.
2. Prior to that possession, the defendant had been convicted of a crime punishable by a term of imprisonment exceeding one year.
3. The firearm traveled in and affected interstate commerce.

PENALTIES

If defendant is not determined to be an Armed Career Criminal, imprisonment for up to ten years; fine of up to \$250,000; supervised release for up to three years; any lawful restitution; and a \$100 special assessment.

If defendant is determined to be an Armed Career Criminal, a term of imprisonment of not less than fifteen years and up to Life; fine of up to \$250,000; supervised release for up to five years; any lawful restitution; and a \$100 special assessment.

Respectfully submitted,

J. DOUGLAS OVERBEY
United States Attorney

By: /s/ Christopher D. Poole
Christopher D. Poole
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing pleading has been served upon all parties at interest in this case or counsel for said parties via the U.S. District Court's Electronic Case Filing System.

This 22nd day of March, 2018.

J. DOUGLAS OVERBEY
United States Attorney

By: /s/ Christopher D. Poole
Christopher D. Poole
Assistant U.S. Attorney