

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

APR 25 2023

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 21-50304

Plaintiff-Appellee,

D.C. No.  
2:20-cr-00332-DSF-1

v.

SAMUEL TRELAWNEY HUGHES,

MEMORANDUM\*

Defendant-Appellant.

Appeal from the United States District Court  
for the Central District of California  
Dale S. Fischer, District Judge, Presiding

Submitted April 20, 2023\*\*  
Pasadena, California

Before: WARDLAW and KOH, Circuit Judges, and MCMAHON,\*\*\* District Judge.

Samuel Trelawney Hughes appeals his convictions for stalking, witness tampering, and making interstate threats. Hughes contends that the district court

\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2).*

\*\*\* The Honorable Colleen McMahon, United States District Judge for the Southern District of New York, sitting by designation.

failed to ensure the voluntariness of his guilty pleas as required by Federal Rule of Criminal Procedure 11(b)(2) and the Due Process Clause of the Fifth Amendment. As the parties are familiar with the facts of this case, we do not recite them here. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Because Hughes failed to object below, we review for plain error. *See* *United States v. Ferguson*, 8 F.4th 1143, 1145 (9th Cir. 2021). “In conducting the plain-error analysis, we are ‘not restricted to the record of the plea colloquy.’” *Id.* at 1146 (quoting *United States v. Ross*, 511 F.3d 1233, 1236 (9th Cir. 2008)).

1. The district court did not plainly err under Rule 11(b)(2). Before accepting a guilty plea, Rule 11(b)(2) requires the district court to “determine that the plea is voluntary and did not result from force, threats, or promises (other than promises in a plea agreement).” Relying on *United States v. Fuentes-Galvez*, 969 F.3d 912 (9th Cir. 2020), Hughes argues that the district court did not adequately ensure his guilty plea was voluntary.

However, unlike in *Fuentes-Galvez*, the district court addressed Hughes’s “competence to enter the plea,” *id.* at 916, by making sufficient “inquiries as to whether [Hughes] was capable of knowingly and voluntarily entering a plea” at the plea hearing, *id.* at 915. In response to the district court’s inquiries, Hughes stated that he took medication for depression, to which the district court followed up by asking for the name of the medication, how long he had been taking it, and the last

time he had taken it. Hughes denied that his medication affected his ability to understand what others say to him, noting that the medication in fact helped him understand his feelings and make better decisions. After Hughes indicated having a condition that affects his communications and interactions, without explicit mention of his autism spectrum disorder, and being drowsy, the district court asked if Hughes wanted to proceed with his pleas. Hughes answered affirmatively. Then, the district court reiterated that Hughes could stop the hearing at any time if he did not understand something, needed to consult with his counsel, or no longer wished to plead guilty. Underscoring that the district court wanted to ensure that Hughes understood the hearing and that Hughes understood he was not required to proceed with the hearing, the district court again asked Hughes if there was any reason why the hearing should not go forward. Hughes confirmed there was no such reason.

In addition, the district court told Hughes numerous times that Hughes need not plead guilty if he did not want to do so. Moreover, throughout the hearing, the district court repeatedly asked Hughes if he understood the hearing and his pleas. Hughes confirmed that he discussed the plea agreement with his counsel, did not need any additional time to discuss the agreement, and understood its terms. Hughes also confirmed that he understood both the proceedings and the consequences of pleading guilty, and denied there being any reason why the

district court should not accept his pleas. When the district court asked if Hughes was pleading guilty voluntarily and was competent to plead guilty, Hughes answered affirmatively each time.

“To reverse the judgment of conviction on this record, we would have to presume that [Hughes] did not understand the court’s questions when he testified under oath that he did.” *United States v. Timbana*, 222 F.3d 688, 704 (9th Cir. 2000) (rejecting Rule 11 claim by defendant with mental and physical impairments). In concluding that Hughes was competent to plead guilty, the district court properly “rel[ied] on [Hughes’s] answers to [its] inquiries as well as [its] observations of [Hughes] during the hearing.” *United States v. Carter*, 795 F.3d 947, 954–55 (9th Cir. 2015); *see also United States v. Kaczynski*, 239 F.3d 1108, 1115 (9th Cir. 2001) (explaining that substantial weight is given to defendant’s in-court statements in assessing voluntariness).

The record also reflects that Hughes asked questions when he did not understand something or needed clarification, and the district court properly responded by offering an explanation, allowing his counsel to explain, or providing time for him to consult his counsel. *See Timbana*, 222 F.3d at 702 (“The record shows that, whenever [defendant] raised a question concerning the effect of a guilty plea . . . , the district court explained the concept, or what was happening in terms [defendant] could understand.”).

Further unlike *Fuentes-Galvez*, the district court repeatedly confirmed with Hughes's counsel that Hughes was competent and was pleading guilty voluntarily. *See* 969 F.3d at 915 (observing that the magistrate judge "did not ask defense counsel whether he thought [defendant] was pleading knowingly and voluntarily"). Having recently discussed the plea hearing with Hughes, Hughes's counsel denied there being any reason Hughes should not proceed with his pleas, representing that Hughes wanted to plead guilty and was competent to do so. While recognizing that Hughes's autism spectrum disorder contributed to his conduct, Hughes's counsel explained that "[t]here are no competency issues and he was not legally insane or incompetent or anything like that." Additionally, Hughes's counsel affirmed her belief that Hughes was entering his pleas voluntarily and intelligently, and agreed that the district court complied with Rule 11.

"The fact that [Hughes's] attorney apparently considered him competent is significant evidence that he was competent." *United States v. Clark*, 617 F.2d 180, 186 n.11 (9th Cir. 1980); *see also Stanley v. Cullen*, 633 F.3d 852, 861 (9th Cir. 2011) ("Trial counsel's assurances to the court are relevant because 'a defendant's counsel is in the best position to evaluate a client's comprehension of the proceedings.'") (quoting *Hernandez v. Ylst*, 930 F.2d 714, 718 (9th Cir. 1991))).

In response to the district court's questions, Hughes also confirmed that he was satisfied with his counsel's representation, had sufficient time to discuss the

case with her, and believed that his counsel had fully advised him. *See Fuentes-Galvez*, 969 F.3d at 915 (noting that “the magistrate judge did not ask [defendant] whether he understood his attorney or felt fully satisfied with the counsel, representation, and advice given to him by his attorney”).

Finally, the record further shows that Hughes “admitted guilt and expressed remorse” at sentencing, and “[a]t no point did he say he wanted to change his plea or suggest his plea was involuntary.” *Ferguson*, 8 F.4th at 1147. Rather, Hughes “affirmed that he was pleading guilty because he committed the charged crimes.”

*Id.*

Even assuming Hughes showed a Rule 11(b)(2) error, it was not plain. On this record, we cannot say that such an error would be ““so clear-cut”” and ““so obvious”” under our case law that ““a competent district judge should [have] be[en] able to avoid it without benefit of objection.”” *United States v. Zalapa*, 509 F.3d 1060, 1064 (9th Cir. 2007) (quoting *United States v. Smith*, 424 F.3d 992, 1002 (9th Cir. 2005)); *see also United States v. Gonzalez Becerra*, 784 F.3d 514, 518 (9th Cir. 2015) (“An error is plain if it is clear or obvious under current law.” (citation omitted)).<sup>1</sup>

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<sup>1</sup> In light of our conclusion, “it is unnecessary to consider” the remaining prongs of plain error review. *Gonzalez Becerra*, 784 F.3d at 518.

2. Nor did the district court plainly err under the Due Process Clause of the Fifth Amendment. “[I]f a defendant’s guilty plea is not equally voluntary and knowing, it has been obtained in violation of due process and is therefore void.” *Boykin v. Alabama*, 395 U.S. 238, 243 n.5 (1969). Hughes relies on the same grounds underlying his Rule 11 claim. For the reasons discussed above, the record contains “*some* affirmative evidence that [Hughes] entered his plea knowingly and willfully.” *United States v. Diaz-Ramirez*, 646 F.3d 653, 658 (9th Cir. 2011). Indeed, the plea hearing transcript “contains several indicators that [Hughes] indeed entered his plea knowingly and voluntarily,” *id.* at 657–58, as he was “represented by, and able to consult with, experienced defense counsel,” *id.* at 658, was “expressly advised of all relevant rights and consequences of [his] guilty pleas,” *id.*, and “had the opportunity to voice any confusion audibly during the many times that [the district court] asked [him] whether [he] understood what [the district court] had described,” *id.* at 658 n.5.

**AFFIRMED.**

6 UNITED STATES OF AMERICA, )  
7 Plaintiff, )  
8 vs. ) NO. CR 20-332-DSF  
9 SAMUEL TRELAWNEY HUGHES, )  
10 Defendant. )

14 | REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 Los Angeles, California

17 | Wednesday, October 28, 2020, 8:29 A.M.

## 19 | Change of Plea Hearing

21 PAT CUNEO CSR 1600, CRR-CM  
22 Official Reporter  
23 First Street Courthouse  
24 350 West First Street  
25 Room 4311  
Los Angeles, CA 90012  
213-894-1782  
patcuneo1600@gmail.com  
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1 APPEARANCES:

2 FOR THE PLAINTIFF: NICOLA T. HANNA, UNITED STATES ATTORNEY  
3 BY: LAUREN RESTREPO  
4 ASSISTANT UNITED STATES ATTORNEY  
United States Courthouse  
312 North Spring Street  
Los Angeles, California 90012

5 FOR THE DEFENDANT: CUAUHTEMOC ORTEGA  
6 INTERIM FEDERAL PUBLIC DEFENDER  
7 BY: CHRISTINE O'CONNOR, DEPUTY  
321 East Second Street  
Los Angeles, California 90012

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1 LOS ANGELES, CALIF.; WEDNESDAY, OCTOBER 28, 2020; 8:29 A.M.

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3 THE COURT: All right. I think we have everyone  
4 here. Ms. O'Connor is unable to connect up by video.

5 Mr. Hughes, is that all right with you? Do you  
6 want to proceed even though you can't see her?

7 You can see Mr. Hughes, Ms. O'Connor?

8 MS. O'CONNOR: I can see Mr. Hughes and I can see  
9 and hear everybody.

10 THE COURT: All right.

11 Is that all right with you, Mr. Hughes?

12 THE DEFENDANT: I am perfectly happy to proceed.  
13 If I don't see O'Connor, that's fine.

15 Then Ms. Fisher would

16 THE CLERK: Case No. CR 30-332 DCE United

17 of America vs. Samuel Trelawney Hughes.

Please state your appearances.

19 MS. RESTREPO: Good morning, Your Honor  
20 Lauren Restrepo on behalf of the United States.

21 MS. O'CONNOR: And good morning, your Honor.

22 Christy O'Connor from the Federal Public Defender's Office  
23 on behalf of Mr. Hughes.

24 THE COURT: Good morning.

25 This proceeding is being held by video conference

1 pursuant to the CARES Act. Mr. Hughes consented to have  
2 this matter proceed by video conference, and my order under  
3 the Act was filed on October 23. I incorporate those  
4 findings.

5 Mr. Hughes, do you still want to proceed with this  
6 matter by video conference?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And, Ms. O'Connor, do you concur?

9 MS. O'CONNOR: I do, Your Honor.

10 THE COURT: If there's anyone else who can see or  
11 hear this proceeding other than my court staff, identify  
12 yourself.

13 (No response.)

14 THE COURT: Everyone who can see or hear this  
15 proceeding is ordered not to broadcast or record the  
16 proceeding in any way with the exception of my official  
17 court reporter Ms. Cuneo.

18 I understand Mr. Hughes wants to enter a plea of  
19 guilty pursuant to the agreement filed on October 21. That  
20 agreement will be incorporated and made a part of this  
21 proceeding.

22 Ms. Restrepo, have the victims been notified of  
23 this proceeding?

24 MS. RESTREPO: Yes, Your Honor.

25 THE COURT: Does any victim want to be heard?

1 MS. RESTREPO: No, Your Honor.

2 THE COURT: Mr. Hughes, before I accept your plea  
3 of guilty, I must be sure that you're fully informed of your  
4 rights and that you understand your rights and the nature of  
5 this proceeding.

6 I'm going to ask you a series of questions and  
7 tell you about certain rights. If you don't understand --

8 THE DEFENDANT: Okay.

9 THE COURT: -- one of my questions or any  
10 statement that I make, please tell me --

11 THE DEFENDANT: Okay.

12 THE COURT: -- and I'll make it clearer for you.

13 Also, you may stop me at any time to talk to your  
14 lawyer so please let me know whenever you want to do that.

15 THE DEFENDANT: Okay.

16 THE COURT: Ms. Fisher, would you administer the  
17 oath.

18 THE CLERK: Please raise your right hand.

19 Do you solemnly swear that the answers to such  
20 questions as may be put to you by this Court shall be the  
21 truth, the whole truth, and nothing but the truth, so help  
22 you God?

23 THE DEFENDANT: Uh, what should I say?

24 MS. O'CONNOR: You should say --

25 THE COURT: Wait a minute.

1                   Did you understand what Ms. Fisher said?

2                   THE DEFENDANT: I swear to tell the truth,  
3 anything but the truth.

4                   THE COURT: All right. Renee, would you say that  
5 again a little bit more slowly please.

6                   THE CLERK: Do you solemnly swear that the answers  
7 to such questions as may be put to you by this Court shall  
8 be the truth, the whole truth, and nothing but the truth, so  
9 help you God?

10                  THE DEFENDANT: Umm, so what do I need to say?

11                  Yes, Your Honor, it will be the truth.

12                  THE COURT: It's not a matter of what you need to  
13 reply. If you do swear, then say "yes"; if you don't want  
14 to swear --

15                  THE DEFENDANT: I swear.

16                  THE COURT: -- if you don't want to go forward,  
17 then we'll stop.

18                  THE DEFENDANT: I swear.

19                  THE COURT: All right.

20                  Do you understand that you have the right to  
21 remain silent and not to answer any of my questions?

22                  THE DEFENDANT: Yes, Your Honor.

23                  THE COURT: Do you give up that right?

24                  THE DEFENDANT: No.

25                  THE COURT: Okay. Let me explain a little bit,

1       Mr. Hughes.

2               You're charged with a criminal offense and, as I  
3       said, you have the right to remain silent as all criminal  
4       defendants do.

5               You can maintain that right all the way up through  
6       trial. You never have to take the stand. You never had to  
7       testify.

8               However, I understand that you want to plead  
9       guilty today to some of the charges. If you've changed your  
10      mind now or at any time, then we'll stop.

11              There's no requirement that you plead guilty and  
12      in fact you're presumed to be innocent.

13              But if you want to go forward with this plea  
14      agreement and plead guilty to these charges -- there are  
15      three of them that I understand that you're going to plead  
16      guilty to -- then you will have to answer my questions and  
17      so you will be giving up the right to remain silent.

18              So let me ask you again: You have the right to  
19      remain silent and not to answer any of my questions.

20              Do you give up that right?

21              THE DEFENDANT: If I do --

22              MS. O'CONNOR: If I may, Your Honor, I'm sorry.

23      This is Christy O'Connor. I think he's a little confused.

24              Mr. Hughes, we do want to plead guilty so we do  
25      want to give up that right. Okay. So that's the answer we

1 talked about and I know that's --

2 THE DEFENDANT: Yes.

3 MS. O'CONNOR: -- the answer you mean to say. I  
4 know you're a little confused.

5 THE DEFENDANT: I'm a little confused, yes,  
6 Christy, and, yes, Your Honor. I must admit I'm a bit  
7 confused by what you said and I do give up that right now to  
8 remain silent.

9 THE COURT: Okay.

10 So do you want to go to trial, sir?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Do you want to plead guilty to three  
13 of these charges?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: All right.

16 And I'll remind you again if at any time you  
17 change your mind, just stop me right away and we'll stop.  
18 All right?

19 THE DEFENDANT: Okay.

20 THE COURT: And if you want to talk to  
21 Ms. O'Connor again, we'll figure out a way to have you do  
22 that privately so, again, just stop me if you want to talk  
23 to Ms. O'Connor or if you've changed your mind about  
24 pleading guilty.

25 THE DEFENDANT: Okay.

1                   THE COURT: Counsel join in the waiver?

2                   MS. O'CONNOR: I do, Your Honor.

3                   THE COURT: What is your true and correct full  
4 name, sir?

5                   THE DEFENDANT: It's Samuel Trelawney Hughes.

6                   THE COURT: How old are you?

7                   THE DEFENDANT: 31.

8                   THE COURT: What is your true and correct full  
9 name? I'm sorry. I asked you that.

10                  How many years of school have you completed?

11                  THE DEFENDANT: I completed bachelors. I'd say,  
12 you know, through the twelve years.

13                  THE COURT: All right.

14                  Have you been treated recently for any mental  
15 illness or addiction to narcotics of any kind?

16                  THE DEFENDANT: No.

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

19                  THE DEFENDANT: No.

20                  THE COURT: Have you had any drugs, medication, or  
21 alcohol within the last three days?

22                  THE DEFENDANT: I take medication for depression  
23 and so, yes, to medication. No, to narcotics or alcohol.

24                  THE COURT: Do you know the name of that  
25 medication?

1                   THE DEFENDANT: I think it's Lexapro, for anti --  
2 anti-depressant medication.

3                   THE COURT: How long have you been taking Lexapro?

4                   THE DEFENDANT: Since June. And I've been on and  
5 off medication over the past 15 years for depression.

6                   THE COURT: And when was the last time that you  
7 took the Lexapro?

8                   THE DEFENDANT: Yesterday.

9                   THE COURT: Okay.

10                  And in the time that you've been taking Lexapro,  
11 have you noticed that it affects your ability to understand  
12 what people are saying to you?

13                  THE DEFENDANT: No. It seems to help me  
14 understand how I feel now; helps me feel a bit more -- like  
15 moods are a bit more better than it was before.

16                  THE COURT: Good. Does it affect your ability to  
17 make good decisions for yourself?

18                  THE DEFENDANT: Oh, it's -- it helps make better  
19 decisions than before.

20                  THE COURT: All right. Thank you.

21                  Do you suffer from any mental condition or  
22 disability that would prevent you from fully understanding  
23 the charges against you or the consequences of your guilty  
24 plea?

25                  THE DEFENDANT: Well, I have, you know, that

1 sometimes it effects interaction. Sometimes, especially a  
2 case where I swear I know if I can fully understand what to  
3 say, it sometimes affects communications. Sometimes it's  
4 superficial and sometimes I'm not.

5 I, you know, have had major depressions for 15  
6 years. Sometimes I feel like my mind is very cloudy and I  
7 may not always make the right decisions. Sometimes I have  
8 anxiety and fear; fear affects a lot.

9 So I'm -- I'd say not always in my state of mind  
10 and so I normally need the charges to be very clear towards  
11 you, Your Honor.

12 THE COURT: All right.

13 How are you feeling right now?

14 THE DEFENDANT: Oh, well, I'm quite drowsy. You  
15 know, I didn't realize this was a court -- I wrote a letter  
16 to Christy O'Connor just because that's the only way to  
17 communicate in this special housing unit.

18 So I'm like -- I'm aware of the deal, the  
19 proceeding with the deal, but I didn't know today was the  
20 day that there was going to be the change-of-plea hearing.

21 THE COURT: Are you comfortable proceeding today  
22 or do you want to change this to another date?

23 THE DEFENDANT: I'm happy to get it under the  
24 conference today.

25 THE COURT: Okay. Well, again, if you feel at any

1 time like you're not really able to understand what's going  
2 on or if you want to talk to Ms. O'Connor or if you just  
3 don't feel like going forward today, then just let us know  
4 and we'll stop.

5 I want to make sure that you understand what's  
6 going on and that you can make good decisions for yourself  
7 today because this is an important day.

8 And as I said, we can postpone it if at any time  
9 you tell me that you don't want to go forward today.

10 All right?

11 THE DEFENDANT: All right, Your Honor.

12 THE COURT: Okay.

13 And right now, as you sit here, is there any  
14 reason we should not go forward today?

15 THE DEFENDANT: I do not see any reason why not.  
16 Umm, I'm a little bit more aware now what's going on.

17 THE COURT: Okay.

18 Ms. O'Connor, have you had a chance to talk to  
19 Mr. Hughes recently about these proceedings?

20 MS. O'CONNOR: I have, Your Honor, and it was  
21 probably about a week and a half ago where we discussed  
22 these proceedings. Or maybe two weeks.

23 And Mr. Hughes -- just if I may address  
24 Mr. Hughes, Your Honor?

25 THE COURT: Yes.

1                   MS. O'CONNOR: Mr. Hughes, the judge is just  
2 asking you these questions to make sure you want to plead  
3 guilty and you understand what's going on. Okay?

4                   THE DEFENDANT: Okay.

5                   MS. O'CONNOR: Okay?

6                   So it's pretty simple; and I know from talking to  
7 you, you do understand what's going on and you want to plead  
8 guilty. So it's going to be simple today. Okay?

9                   You're going to do a good job. You're doing a  
10 good job?

11                  THE DEFENDANT: Well, thank you, Christy. I  
12 appreciate it.

13                  MS. O'CONNOR: Okay.

14                  THE COURT: All right, Ms. O'Connor, do you have  
15 any reason to believe that Mr. Hughes should not go forward  
16 with the plea today?

17                  MS. O'CONNOR: I do not, Your Honor. I believe  
18 that he wants to go forward and it's in his best interest  
19 and it's going to be fine.

20                  THE COURT: Do you believe that he's in possession  
21 of his faculties and is competent to proceed?

22                  MS. O'CONNOR: I do, Your Honor.

23                  THE COURT: Based on the statements of defendant  
24 and his counsel and my observations, I find the defendant is  
25 in full possession of his faculties and is competent to

1 proceed.

2                   Mr. Hughes, did you receive a copy of the  
3 Indictment? That's the written statement of the charges  
4 against you.

5                   THE DEFENDANT: Yes, Your Honor. It has been from  
6 August time I received the Indictment and I saw all the list  
7 of counts so the 1 to 26.

8                   MS. O'CONNOR: And I'm sorry.

9                   THE COURT: Go ahead.

10                  MS. O'CONNOR: May I interject?

11                  Mr. Hughes, you can just keep your answers simple  
12 if that might be easier to do. Okay?

13                  THE DEFENDANT: Okay. Just simple answers.

14                  MS. O'CONNOR: Exactly.

15                  THE DEFENDANT: Okay.

16                  MS. O'CONNOR: All right.

17                  THE COURT: And did you read the Indictment or  
18 have someone read it to you?

19                  THE DEFENDANT: I remember myself with the  
20 ex-public defender before Christine.

21                  THE COURT: You have the right to have me read it  
22 to you again. Do you want me to read it to you again?

23                  THE DEFENDANT: No.

24                  THE COURT: Do you give up that right?

25                  THE DEFENDANT: Well, I give up that right to read

1 the Indictment again, yes.

2 THE COURT: All right.

3 And you also have some other constitutional  
4 rights. I'm going to tell you about them. These are rights  
5 that you are giving up if you plead guilty.

6 You have the right to plea of not guilty to any  
7 offense charged against you and to persist in that plea.

8 You have the right to a speedy and public trial.

9 You have the right to a trial by jury.

10 And at trial you would be presumed to be innocent  
11 and the government would have to prove your guilt by proving  
12 each element of the charge beyond a reasonable doubt.

13 Now, if both you and the government give up the  
14 right to a jury trial, then you would have the right to be  
15 tried by the Court. That means that I would be the person  
16 who decides.

17 You also have the right to the assistance of  
18 counsel for your defense even if you do not enter into this  
19 plea agreement.

20 If you cannot afford counsel, the Court will  
21 appoint counsel for you free of charge to assist you at  
22 trial and at every other stage of the proceedings.

23 You also have the right to confront and  
24 cross-examine the witnesses against you, that is, to see  
25 them and hear all the witnesses and have them questioned by

1 your lawyer.

2 You have the right to present evidence and have  
3 witnesses subpoenaed and compelled to testify on your  
4 behalf.

5 You have the right to testify yourself on your own  
6 behalf.

7 You also have the privilege against  
8 self-incrimination. That means that you have the right not  
9 to testify or incriminate yourself in any way, and that fact  
10 couldn't be used against you if you decided not to testify.

11 But as we discussed, by pleading guilty you're  
12 giving up that right and you are incriminating yourself and  
13 you also have the right to appeal your conviction and your  
14 sentence if you go to trial and you are convicted.

15 Has Ms. O'Connor talked to you about all these  
16 rights?

17 THE DEFENDANT: Umm, yes, Your Honor.

18 THE COURT: Do you understand all of them?

19 THE DEFENDANT: Yes, I do understand, Your Honor.

20 THE COURT: Do you have any questions about any of  
21 them?

22 THE DEFENDANT: I would ask about when does the  
23 sentencing proceed after the change of plea hearing.

24 THE COURT: Well, there's a process at the end.  
25 I'll tell you about it a little bit more. But a process

1 where a probation officer will talk to you and get some  
2 information and Ms. O'Connor will be with you either by  
3 video or phone while that's happening.

4 And then Ms. Restrepo will have the opportunity to  
5 present the government's position on the sentence and then  
6 Ms. O'Connor will also present something on your behalf and  
7 she'll discuss that with you as well.

8 THE DEFENDANT: Okay.

9 THE COURT: And altogether, that takes about four  
10 months so that's the approximate time estimate.

11 THE DEFENDANT: Okay. Will I be able to get some  
12 sort of psych evaluation in that time and --

13 MS. O'CONNOR: Mr. Hughes --

14 THE DEFENDANT: -- and so Ms. O'Connor --

15 MS. O'CONNOR: Yes, Mr. Hughes. This is what we  
16 talked about before. We will do that. But you and I can  
17 talk about all these questions about your sentencing on our  
18 next VTC. Okay?

19 Today, for the Court's purposes, the Court just  
20 wants to make sure that you want to plead guilty voluntarily  
21 and you understand what you're doing. Okay?

22 So that's simple for today; and then you and I  
23 will have plenty of chances to talk going forward.

24 THE DEFENDANT: Thank you, Ms. O'Connor. I  
25 appreciate it.

1 MS. O'CONNOR: Yeah. And you're doing a good job.  
2 So take a deep breath and let's keep it simple and you're  
3 doing a great job.

4 THE DEFENDANT: Okay.

5 THE COURT: Okay.

6 Do you have any other questions about any of the  
7 rights that I told you about?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: Do you need anymore time to discuss  
10 them with Ms. O'Connor?

11 THE DEFENDANT: No.

12 THE COURT: And so, again, if your plea is  
13 accepted, then you will be incriminating yourself and you  
14 will have given up your right to a trial and all those other  
15 rights I just described. Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Do you give up those rights?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Ms. O'Connor, are you satisfied that  
20 each of the waivers is knowingly, voluntarily, and  
21 intelligently made?

22 MS. O'CONNOR: I am, Your Honor.

23 THE COURT: Do you join and concur in each of the  
24 waivers?

25 MS. O'CONNOR: Yes, Your Honor.

1                   THE COURT: Mr. Hughes, I know you've talked to  
2 Ms. O'Connor about the charges you'll be pleading to and I'm  
3 going to describe them in our legal terms and then I'm going  
4 to ask you if you understand them.

5                   So first, you're charged with stalking and that's  
6 a violation of our law and it's Title 18, United States  
7 Code, Section 2261A(2) (A) and (B), 2261(b) (5).

8                   The other charge is witness tampering and that's a  
9 violation of Title 18, United States Code, 1512(b) (3); and  
10 then the third charge is threats by interstate communication  
11 and stalking in violation of Title 18, United States Code,  
12 Section 875(c).

13                  Now, those are felonies and I'm going to ask  
14 Ms. Restrepo to describe in a little bit more detail the  
15 nature of each of those charges and then, again, I'm going  
16 to ask you if you understand.

17                  Ms. Restrepo?

18                  MS. RESTREPO: For defendant to be guilty of the  
19 crime charged in Count 5 of the Indictment, that is,  
20 stalking, in violation of Title 18, United States Code,  
21 Sections 2261A(2) (A) and (B) and 2261(b) (5), the following  
22 must be true:

23                  1. Defendant, with the intent to harass or  
24 intimidate another person, used the mail and interactive  
25 computer service for electronic communication service or

1 electronic communication system of interstate commerce or  
2 any other facility of interstate or foreign commerce to  
3 engage in a course of conduct that, (a), placed that person  
4 in reasonable fear of death and serious bodily injury to  
5 that person or immediate family member of that person or,  
6 (b), caused, attempted to cause, or reasonably be expected  
7 to cause substantial emotional distress to that person or an  
8 immediate family member of that person.

9 For defendant to be guilty of the crime charged in  
10 Count 10 of the Indictment, that is, witness tampering, in  
11 violation of Title 18, United States Code,  
12 Section 1512(b) (3), the following must be true:

13 1. Defendant knowingly intimidated, threatened,  
14 or corruptly persuaded another person or attempted to do so.

15 2. Defendant acted with intent to hinder, delay,  
16 or prevent that person from communicating information to law  
17 enforcement officer of the United States.

18 And 3. Such information related to the commission  
19 or possible commission of a federal offense.

20 For defendant to be guilty of the crime charged in  
21 Count 11 of the Indictment, that is, threat by interstate  
22 communication in violation of Title 18, United States Code,  
23 Section 875(c), the following must be true:

24 1. Defendant knowingly transmitted an interstate  
25 or foreign commerce an electronic communication containing a

1 threat to injure.

2 And 2. Such communication was transmitted for the  
3 purpose of issuing a threat.

4 THE COURT: Mr. Hughes, do you understand the  
5 nature of those charges?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Have you discussed the charges and the  
8 elements of the charges with Ms. O'Connor?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Do you have any questions about the  
11 charges?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: Have you been advised of the maximum  
14 penalties?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Ms. Restrepo, would you describe the  
17 penalties please.

18 MS. RESTREPO: Yes, Your Honor.

19 The statutory maximum sentence that the Court can  
20 impose for a violation of Title 8, United States Code,  
21 Section 2261A(2) (a) and (B), 2261(b) (5), is five years'  
22 imprisonment, a three-year period of supervised release, a  
23 fine of \$250,000, and a mandatory special assessment of  
24 \$100.

25 The statutory maximum sentence that the Court can

1 impose for a violation of Title 18, United States Code,  
2 Section 1512(b)(3) is 20 years' imprisonment, a three-year  
3 period of supervised release, a fine of \$250,000, and a  
4 mandatory special assessment of \$100.

5 The statutory maximum sentence that the Court can  
6 impose for a violation 18, United States Code,  
7 Section 825(c), is five years' imprisonment, a three-year  
8 period of supervised release, a fine of \$250,000 and a  
9 mandatory special assessment of \$100.

10 Therefore, the total maximum sentence for all  
11 offenses to which defendant is pleading guilty is 30 years'  
12 imprisonment, a three-year period of supervised release, a  
13 fine of \$750,000 and a mandatory special assessment of \$300.

14 THE COURT: Are there any *Apprendi* issues,  
15 Ms. Restrepo?

16 MS. RESTREPO: No, Your Honor.

17 THE COURT: Mr. Hughes, you'll be subject to  
18 supervised release for a number of years after your release  
19 from prison. Have you discussed with Ms. O'Connor and do  
20 you understand supervised release?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Do you understand that if you're  
23 sentenced to serve some time in prison and you're placed on  
24 supervised release following imprisonment and you violate  
25 one or more of the conditions of supervised release, you may

1 be returned to prison for all or part of the term of  
2 supervised release allowed by law?

3 THE DEFENDANT: Yes. Yes, Your Honor.

4 THE COURT: Do you understand that if that happens  
5 it could result in your serving a total term of imprisonment  
6 greater than the statutory maximum?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do you understand that if you're now  
9 on parole, probation, or supervised release this plea alone  
10 may be the basis for revocation of that parole, probation,  
11 or supervised release and, as a result, you may be returned  
12 to prison on that other case?

13 THE DEFENDANT: I do not fully understand, Your  
14 Honor, to be honest.

15 THE COURT: Okay. Well, I don't know about the  
16 United Kingdom but in this country --

17 THE DEFENDANT: Yeah.

18 THE COURT: -- we have or used to have something  
19 called parole.

20 THE DEFENDANT: Yeah, parole.

21 THE COURT: And there is also probation and  
22 supervised release.

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand those things?

25 THE DEFENDANT: Yes, I'm aware of that. I'm aware

1 about just keeping in close contact with your probation or  
2 parole officer by law.

3 THE COURT: Okay. So I don't know and you don't  
4 have to tell me whether you're on parole or probation --

5 THE DEFENDANT: I'm not.

6 THE COURT: -- for something else.

7 THE DEFENDANT: No, I'm not.

8 THE COURT: But if you were, I just want to tell  
9 you that if you were on probation or parole or some other  
10 supervision term like that, then pleading guilty in this  
11 case could be a violation of that parole or probation.

12 Do you understand that?

13 THE DEFENDANT: I do now. Yes, Your Honor.

14 THE COURT: Okay.

15 And then that violation could send you back to  
16 prison or jail on that other case but that wouldn't be for  
17 me to deal with. That would be for the other court to deal  
18 with.

19 THE DEFENDANT: Yeah, yes.

20 THE COURT: All right. And do you also understand  
21 that you are deportable under the immigration laws of the  
22 United States and you've waived your right to notice and a  
23 hearing prior to deportation?

24 THE DEFENDANT: I do, Your Honor, waive what  
25 relates to the waiver for the deportation.

1                   THE COURT: Okay.

2                   You also agreed that I'm going to enter an order  
3 for your removal from the United States -- removal and  
4 deportation are basically the same concepts.

5                   Do you understand that?

6                   THE DEFENDANT: Yes.

7                   THE COURT: Do you agree to that?

8                   THE DEFENDANT: Yes, Your Honor.

9                   THE COURT: There are some more consequences about  
10 the immigration issues surrounding your plea agreement and  
11 those are contained in the plea agreement.

12                  Did you go over those with Ms. O'Connor?

13                  THE DEFENDANT: Umm, I don't know. I think we  
14 did. We mostly went over the plea agreement so I'm not -- I  
15 don't think we went through all the immigration --  
16 (background noise).

17                  MS. O'CONNOR: May I have a moment, Your Honor?

18                  THE COURT: Certainly.

19                  MS. O'CONNOR: Mr. Hughes, she's just asking you  
20 to confirm that we reviewed all of this together before you  
21 signed.

22                  THE DEFENDANT: Okay.

23                  MS. O'CONNOR: Okay? So that's all she's asking  
24 you to do.

25                  THE DEFENDANT: Okay. Yes, we did.

1                   THE COURT: All right.

2                   And, sir, you're pleading to felony offenses. If  
3                   your plea is accepted, I will find you guilty and so that  
4                   may deprive you of valuable civil rights.

5                   Now, I'm referring generally to rights that we  
6                   have here in the United States and those would be, for  
7                   example, the right to vote, the right to hold public office,  
8                   the right to serve on a jury, and the right to possess a  
9                   firearm of any kind. Do you understand that?

10                  THE DEFENDANT: Yes, Your Honor.

11                  THE COURT: And is there any issue of restitution,  
12                  Ms. Restrepo?

13                  MS. RESTREPO: No, Your Honor.

14                  THE COURT: All right.

15                  Sir, do you understand the possible consequences  
16                  of your plea including the maximum sentence you can receive  
17                  and the other terms Ms. Restrepo and I described?

18                  THE DEFENDANT: Yes, Your Honor.

19                  THE COURT: Do you understand that parole has been  
20                  abolished and you will not be released on parole?

21                  THE DEFENDANT: Yes, Your Honor.

22                  THE COURT: Do you have any questions about the  
23                  potential sentence you may receive if I accept your plea of  
24                  guilty?

25                  THE DEFENDANT: I don't, no.

1                   THE COURT: Have you discussed the possible  
2 punishment, the facts of your case, and the possible  
3 defenses with Ms. O'Connor?

4                   THE DEFENDANT: We have, yes.

5                   THE COURT: Have you understood everything that's  
6 been said so far?

7                   THE DEFENDANT: Yes, Your Honor.

8                   THE COURT: Is there any reason I should not  
9 continue with these proceedings and take your plea today?

10                  THE DEFENDANT: I can't think of anything.

11                  THE COURT: All right.

12                  Mr. Hughes, you'll be sentenced under the  
13 Sentencing Reform Act of 1984. The United States Sentencing  
14 Commission has issued guidelines that judges must consult  
15 and take into account but are not required to follow them in  
16 determining the sentence in criminal cases.

17                  And that means that in determining your sentence  
18 I'm required to calculate the applicable sentencing  
19 guidelines range and then I consider that range and possible  
20 departures under the sentencing guidelines.

21                  And there are some other factors that I'm required  
22 to consider under the law that are in Title 18, United  
23 States Code, Section 3553(a).

24                  Have you and Ms. O'Connor talked about how the  
25 guidelines might be applied in your case?

1                   THE DEFENDANT: Yes.

2                   THE COURT: Do you understand that regardless of  
3 the guidelines range I may sentence you to prison for up to  
4 the maximum time allowed by law?

5                   THE DEFENDANT: Yes.

6                   THE COURT: And has Ms. O'Connor explained how the  
7 various elements and factors will be used to determine your  
8 sentence?

9                   THE DEFENDANT: Yes.

10                  THE COURT: Do you understand that neither the  
11 Court nor Ms. O'Connor will be able to determine the  
12 guidelines range for your case until after the presentence  
13 report has been prepared?

14                  THE DEFENDANT: Yes.

15                  THE COURT: Do you understand that you and the  
16 government will have an opportunity to review the report and  
17 challenge the reported facts and the guidelines range  
18 calculation and to suggest that the Court consider other  
19 factors?

20                  THE DEFENDANT: Yes.

21                  THE COURT: Do you understand that the sentence  
22 that I impose may be different from any estimate that  
23 Ms. O'Connor may have given you?

24                  THE DEFENDANT: Yes.

25                  THE COURT: Do you understand that after your

1 guidelines range has been calculated, I can impose a  
2 sentence that is more severe or less severe than that called  
3 for in the guidelines?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand that neither this  
6 uncertainty nor the disappointment you may feel over the  
7 guidelines range for your case nor the Court's eventual  
8 sentence would be a basis to withdraw your plea of guilty?

9 THE DEFENDANT: Yes.

10 THE COURT: Did you read the plea agreement or  
11 have someone read it to you and discuss it with Ms. O'Connor  
12 before you signed it?

13 THE DEFENDANT: We discussed it over the VTC so  
14 she is the one who read it word for word before signing it  
15 so yes.

16 THE COURT: Okay.

17 And did you authorize her to sign it?

18 THE DEFENDANT: I signed it.

19 THE COURT: You signed it. Okay.

20 And did you understand the terms of the agreement?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you want anymore time to discuss it  
23 with Ms. O'Connor?

24 THE DEFENDANT: No.

25 THE COURT: Do you understand that the Court is

1 not a party to the agreement and is not bound by its terms?

2 THE DEFENDANT: So can you repeat that? There's a  
3 bit of background noise.

4 THE COURT: There certainly is, yes.

5 So I don't sign the plea agreement and I'm not  
6 bound by it. Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Are the terms of the agreement the  
9 entire understanding that you have with the government?

10 THE DEFENDANT: Yes.

11 THE COURT: Has anyone made any promises or  
12 representations or guarantees of any kind to you in an  
13 effort to get you to plead guilty in this case other than  
14 what's contained in the written plea agreement?

15 THE DEFENDANT: No.

16 THE COURT: Other than what's contained in the  
17 written plea agreement and other than a general discussion  
18 of the guidelines with Ms. O'Connor, has anyone made you any  
19 promises of leniency, a particular sentence or a range,  
20 probation or any other inducement of any kind to get you to  
21 plead guilty?

22 THE DEFENDANT: No.

23 THE COURT: Has anyone told you that I will impose  
24 a specific sentence or a sentence within any specific range  
25 in the event your plea of guilty is accepted?

1                   THE DEFENDANT: Yes.

2                   THE COURT: Okay. Let me ask again.

3                   So I don't even know what the range is going to  
4                   be. I don't know what's going to be in your probation  
5                   report or what the lawyers are going to tell me.

6                   So has anybody told you what sentence I'm going to  
7                   give you?

8                   THE DEFENDANT: No.

9                   THE COURT: Okay.

10                  Has anyone attempted in any way to threaten you, a  
11                  family member, or anyone close to you or to force you to  
12                  plead guilty in this case?

13                  THE DEFENDANT: No.

14                  THE COURT: Are you pleading guilty voluntarily  
15                  and of your own free will?

16                  THE DEFENDANT: My own free will.

17                  THE COURT: As part of the plea agreement, sir,  
18                  the government has agreed to make certain recommendations  
19                  concerning your sentence or the offense level to be used in  
20                  determining your sentence.

21                  Do you understand that those terms of the plea  
22                  agreement are just recommendations to the Court and I can  
23                  reject those recommendations --

24                  THE DEFENDANT: Yes.

25                  THE COURT: -- and impose a sentence that is

1 higher than you may expect and you wouldn't be able to  
2 withdraw your plea just because of that?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that by entering  
5 into this plea agreement and entering a plea of guilty you  
6 will have given up or limited your right to appeal or  
7 collaterally attack this conviction and your right to appeal  
8 or collaterally attack all or part of your sentence?

9 THE DEFENDANT: Yes.

10 THE COURT: And, Ms. Restrepo, would you describe  
11 the waivers please.

12 MS. RESTREPO: Yes, Your Honor.

13 With the exception of an appeal based on a claim  
14 that defendant's guilty pleas are involuntary, by pleading  
15 guilty defendant is waiving and giving up any right to  
16 appeal defendant's convictions on the offenses to which  
17 defendant is pleading guilty.

18 This waiver includes but is not limited to  
19 arguments that the statutes to which defendant is pleading  
20 guilty are unconstitutional and any and all claims that the  
21 statement of facts provided in the plea agreement is  
22 insufficient to support defendant's pleas of guilty.

23 Defendant gives up the right to appeal all of the  
24 following:

25 The procedures and calculations used to determine

1 and impose any portion of the sentence.

2 The term of imprisonment imposed by the Court  
3 provided it is no more than the high end of the sentencing  
4 guidelines range calculated by the Court.

5 The fine imposed by the Court provided it is  
6 within the statutory maximum.

7 To the extent permitted by law, the  
8 constitutionality or legality of defendant's sentence  
9 provided it is within the statutory maximum.

10 The term of probation or supervised release  
11 imposed by the Court provided it is within the statutory  
12 maximum.

13 And any of the following conditions of probation  
14 or supervised release imposed by the Court:

15 The conditions set forth in General Order 20-04 of  
16 this Court; the drug testing conditions mandated by Title  
17 18, United States Code, Sections 3553(a)(5) and 3583(d); and  
18 the alcohol and drug use conditions authorized by Title 18,  
19 United States Code, Section 3563(b)(7).

20 Defendant also gives up any right to bring a  
21 post-conviction collateral attack on the convictions or  
22 sentence, except a post-conviction collateral attack based  
23 on the claim of ineffective assistance of counsel, or an  
24 explicitly retroactive change in the applicable sentencing  
25 guidelines, sentencing statutes, or statutes of conviction.

1                   This waiver includes but is not limited to  
2 arguments that the statutes to which defendant is pleading  
3 guilty are unconstitutional, that newly discovered evidence  
4 purportedly supports defendant's innocence, and any and all  
5 claims that the statement of facts provided in the plea  
6 agreement is insufficient to support defendant's pleas of  
7 guilty.

8                   THE COURT: Thank you.

9                   Sir, did you discuss giving up those rights with  
10 Ms. O'Connor?

11                  THE DEFENDANT: Yes, Your Honor.

12                  THE COURT: And do you agree that you're giving up  
13 those rights on the terms and conditions just stated?

14                  THE DEFENDANT: Yes, Your Honor.

15                  THE COURT: Ms. O'Connor, the plea agreement  
16 indicates it was signed -- I think I'm reading the  
17 handwriting correctly -- on October 19 by you but on  
18 October 13 by Mr. Hughes. Is that right?

19                  MS. O'CONNOR: That's correct, Your Honor.

20                  THE COURT: Did you discuss the contents of the  
21 agreement with Mr. Hughes before he signed it?

22                  MS. O'CONNOR: I did, Your Honor.

23                  THE COURT: Does the agreement represent the  
24 entire agreement between Mr. Hughes and the government?

25                  MS. O'CONNOR: It does, Your Honor.

1                   THE COURT: Did you review the facts of the case  
2 and all the discovery provided by the government with  
3 Mr. Hughes?

4                   MS. O'CONNOR: Yes, Your Honor.

5                   THE COURT: Did you pursue with him the potential  
6 defenses he might have?

7                   MS. O'CONNOR: I did, Your Honor.

8                   THE COURT: Have you advised him concerning the  
9 legality or admissibility of any statements or confessions  
10 or other evidence the government has against him?

11                  MS. O'CONNOR: Yes, Your Honor.

12                  THE COURT: To the best of your knowledge, is he  
13 pleading guilty because of any illegally obtained evidence  
14 in the possession of the government?

15                  MS. O'CONNOR: No, Your Honor.

16                  THE COURT: Did you and Mr. Hughes agree it was in  
17 his best interest to enter into this plea agreement?

18                  MS. O'CONNOR: We did, Your Honor.

19                  THE COURT: Do you believe he's entering into this  
20 plea agreement freely and voluntarily with full knowledge of  
21 the charges and the consequences of the plea?

22                  MS. O'CONNOR: Yes, Your Honor.

23                  THE COURT: Have there been any promises,  
24 representations, or guarantees made either to you or  
25 Mr. Hughes other than what's contained in the written plea

1 agreement?

2 MS. O'CONNOR: No, Your Honor.

3 THE COURT: Other than what's contained in the  
4 written plea agreement and other than a general discussion  
5 of the guidelines and other sentencing considerations, have  
6 you given any indication to Mr. Hughes of what specific  
7 sentence the Court would impose or conveyed to him any  
8 promise of a particular sentence or a range in the event the  
9 Court accepts his plea of guilty?

10 MS. O'CONNOR: No, Your Honor.

11 THE COURT: Do you know of any reason why the  
12 Court should not accept the plea?

13 MS. O'CONNOR: I do not.

14 THE COURT: Ms. Restrepo, other than what's  
15 expressly contained in the written plea agreement, has the  
16 government made any promises, representations, or guarantees  
17 either to the defendant or his counsel?

18 MS. RESTREPO: No, Your Honor.

19 THE COURT: Does the government waive jury trial?

20 MS. RESTREPO: We do, Your Honor.

21 THE COURT: Mr. Hughes, are you satisfied with the  
22 representation Ms. O'Connor has provided?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Have you told Ms. O'Connor everything  
25 you know about your case?

1                   THE DEFENDANT: Yes, Your Honor.

2                   THE COURT: Do you believe that she's fully  
3                   considered any defense you may have to the charges?

4                   THE DEFENDANT: Umm, yes, Your Honor.

5                   THE COURT: Do you believe that she's fully  
6                   advised you concerning this matter?

7                   THE DEFENDANT: Yes, Your Honor.

8                   THE COURT: Have you had enough time to discuss  
9                   the matter with her?

10                  THE DEFENDANT: Yes, Your Honor.

11                  THE COURT: Did Ms. O'Connor or anyone else tell  
12                  you what answers to give to any of the questions I asked you  
13                  today?

14                  THE DEFENDANT: No, Your Honor.

15                  THE COURT: Do you believe you understand  
16                  everything that happened here today and everything that was  
17                  said by the Court and by the lawyers?

18                  THE DEFENDANT: Yes, Your Honor.

19                  THE COURT: Do you believe you understand the  
20                  consequences to you of this plea?

21                  THE DEFENDANT: Yes, Your Honor.

22                  THE COURT: Do you believe you're competent to  
23                  make the decision to plead guilty?

24                  THE DEFENDANT: Yes, Your Honor.

25                  THE COURT: Do you know of any reason why I

1        shouldn't accept your plea of guilty?

2                    THE DEFENDANT: No, Your Honor.

3                    THE COURT: Do you understand then that all that's  
4        left in your case, if I accept your plea of guilty, is the  
5        imposition of sentence which may include imprisonment?

6                    THE DEFENDANT: Yes, Your Honor.

7                    THE COURT: Sir, having in mind all that we've  
8        discussed regarding your plea of guilty, the rights you'll  
9        be giving up, the maximum sentence you can receive, do you  
10       still want to plead guilty?

11                  THE DEFENDANT: Yes, Your Honor.

12                  THE COURT: Please listen carefully, sir, because  
13       I'm going to ask Ms. Restrepo to state of facts or summarize  
14       the facts that the government would be prepared to prove at  
15       trial and then I'm going to ask you some questions about  
16       what Ms. Restrepo is about to say.

17                  Ms. Restrepo?

18                  MS. RESTREPO: If this case were to proceed to  
19       trial, the government would be prepared to prove the  
20       following facts beyond a reasonable doubt:

21                  Since approximately May 2019 and continuing  
22       through June 2020, in the Central District of California and  
23       elsewhere, defendant engaged in a course of conduct in which  
24       he stalked and sent anonymous threatening communications to  
25       numerous victims including the victims identified in the

1 Indictment as Victims 1 through 10.

2                   Defendant's conduct often followed a pattern  
3 whereby he met the victim, usually a woman at a networking  
4 event through his employment.

5                   After the event or after having been employed for  
6 a period of time, he would send communications to the victim  
7 email or social media account seeking further social  
8 interaction with the victim or inviting the victim to meet  
9 him for a future date in a one-on-one setting.

10                  The victim would not reciprocate defendant's  
11 desire for further social interaction, would indicate that  
12 she or he no longer wished to interact with defendant or  
13 would inform defendant that he was no longer welcome at  
14 certain company events.

15                  The defendant would then send anonymous threats to  
16 the victim, often from anonymous online accounts used and  
17 created by defendant to disguise his identity.

18                  Defendant sent the threatening communications via  
19 numerous email, cellphone, and social media accounts as well  
20 as through the US mail.

21                  The messages sent to the victims were direct,  
22 graphic, and disturbing in nature, and contained threats to  
23 injure, rape, and/or kill victims.

24                  After being contacted by both federal and state  
25 law enforcement officers on multiple occasions regarding the

1 threatening communications, defendant continued to send  
2 electronic communications and letters threatening to injure,  
3 rape, and/or kill victims who had reported his threats to  
4 law enforcement.

5 In his communications to some victims, defendant  
6 threatened that contacting the police would lead to the  
7 injury or death of the victim or the victims' family  
8 members.

9 Defendant admits that he threatened the persons  
10 identified in the Indictment as Victims 1 through 10 as  
11 described in the Indictment and that factual allegations in  
12 Counts 1 through 23 of the Indictment with respect to  
13 defendant's conduct as to each of those victims are true and  
14 accurate.

15 Defendant made the threats discussed in the plea  
16 agreement and in the Indictment knowing that they would  
17 reasonably be viewed by the victims as threats and would  
18 reasonably put the victim in fear of death or serious bodily  
19 injury to themselves or their family members and would cause  
20 substantial emotional distress to the victims and their  
21 families.

22 Defendant also intended that these statements  
23 would be viewed as threats include as relates to Victim 4.

24 Specifically, beginning in October 2019 and  
25 continuing through August 23<sup>rd</sup>, 2020, defendant harassed

1 and threatened Victim 4.

2 On or about October 2<sup>nd</sup>, 2019, defendant and  
3 Victim 4 both attended a writing workshop in the Los Angeles  
4 area at which time defendant learned Victim 4's LinkedIn  
5 profile name.

6 On or about October 3<sup>rd</sup>, 2019, defendant sent  
7 Victim 4 a message via LinkedIn inviting her to discuss a  
8 film proposal. The same day, defendant started following  
9 Victim's 4 Instagram account.

10 Defendant began leaving comments on Victim 4's  
11 Instagram posts complimenting the Victim 4's appearance.  
12 These comments made Victim 4 feel uncomfortable and she  
13 blocked defendant on Instagram.

14 Victim 4 also responded to defendant's LinkedIn  
15 message telling him that she would not be available to meet.

16 On or about October 17<sup>th</sup>, 2019, the defendant  
17 began following Victim 4 on Instagram using a different  
18 Instagram account.

19 After Victim 4 blocks defendant's second Instagram  
20 account from viewing her post, the defendant then emailed  
21 Victim 4 complaining about her blocking him on Instagram.

22 On or around that same date, defendant posted a  
23 negative review on the Facebook page of Victim 4's business.  
24 Defendant also posted a message on Instagram that included a  
25 photo of Victim 4 with the text "cunt" placed across Victim

1 4's face in which contained the following message: "This  
2 woman here is an ugly bitch attitude. She got me hating on  
3 women because she felt harassed by a few IG comments. I  
4 will defame her indefinitely."

5 On or about October 18<sup>th</sup>, 2019, Victim 4 sent an  
6 email to defendant in which she asked him to stop contacting  
7 her and told him that she was saving his messages to provide  
8 to law enforcement. The next day defendant mailed the  
9 Victim 4 -- emailed Victim 4 the next day that he would no  
10 longer contact her.

11 On or about October 22<sup>nd</sup>, 2019, Victim 4  
12 reported defendant's contact to the Los Angeles Police  
13 Department. Shortly thereafter, on or about October 30<sup>th</sup>,  
14 2019, defendant sent an anonymous email to Victim 4 which  
15 stated in part: "You are a diabolical motherfucking cunt,  
16 and someone I can guarantee will come out and first bash  
17 your head in, rape you, slash your throat, and burn your car  
18 and house. You brought this on yourself and it ain't going  
19 to stop not even a damn stinking police report can put an  
20 end to your wrath and I hope you fucking die you cunt!!  
21 Regards, Your Nemesis."

22 The next month, starting on or about  
23 November 10<sup>th</sup>, 2019, to on or about November 24<sup>th</sup>, 2019,  
24 defendant sent additional threatening emails from a  
25 different anonymous email account.

1                   This included a message sent on or about  
2 November 10<sup>th</sup>, 2019, in which the defendant in part wrote:

3                   "Please, Victim 4, end your fucking miserable  
4 life. Cut your wrists, go hang yourself, just fucking kill  
5 yourself you fucking bitch. You are a nonce and don't  
6 deserve to live. My gang will do it for you! Go on fucking  
7 do it! and don't ever report me to the police as horrible  
8 things will happen!"

9                   The message sent by defendant on or about  
10 November 17<sup>th</sup>, 2019, included the following:

11                  "Hello, Victim 4. You fucking sick vile cunt.  
12 Don't ever report my threats to the police. It won't help  
13 you and that makes me more likely to come after you and your  
14 family. I hope when I see, I rape you, slash your throat,  
15 and pour gasoline over your half-mutilated body while you  
16 regret being a little childish bitch over decent people who  
17 are just trying to be nice. You are guilty of causing  
18 decent people distress and I urge you to take it seriously.  
19 Either way, you're gonna die. You're gonna pay."

20                  From this time on November -- on or about  
21 November 11<sup>th</sup>, 2019, using the same anonymous email  
22 accounts, defendant sent an email to a colleague of Victim 4  
23 in which defendant accused Victim 4 of being a  
24 "meth-addicted child molester."

25                  The next month, on or about December 8<sup>th</sup>, 2019,

1 after Victim 4 had filed another report with the LAPD, and  
2 this time without disguising his identity, defendant sent an  
3 email to Victim 4 that included the following:

4 "Because you accused me of sexual harassment and  
5 made accusations, I hope my reviews of you have destroyed  
6 your reputation. I hope sometime you come apologize to me  
7 because this will still keep going."

8 Two days later on or about December 10<sup>th</sup>, 2019,  
9 after another anonymous email using another anonymous email  
10 account, defendant sent Victim 4 a message that included the  
11 following:

12 "Victim 4, I will cut your fucking throat out,  
13 sever your windpipe and smother you in gasoline and light  
14 your half-mutilated corpse, you fucking cunt. I hope you  
15 get abused forever."

16 Several months later, on or about May 16<sup>th</sup>, 2020,  
17 defendant sent Victim 4 another email without disguising his  
18 identity, containing the following:

19 "I hope you realize from such anonymous death  
20 threats you received how disgusting it is to wrong me like  
21 this and you got what you deserve, you fucking cunt. I hope  
22 you fucking die, you little miserable cunt getting the law  
23 involved like this."

24 The course of conduct by defendant placed Victim 4  
25 in a reasonable fear of death and serious bodily injury to

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

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SAMUEL TRELAWNEY HUGHES,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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**On Petition for A Writ of *Certiorari* to The United States Court of Appeals for  
the Ninth Circuit**

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**PROOF OF SERVICE**

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I, David A. Schlesinger, declare that on July 24, 2023, as required by Supreme Court Rule 29, I served Petitioner Samuel Trelawney Hughes's MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on counsel for Respondent by depositing an envelope containing the motion and the petition in the United States mail (Priority, first-class), properly addressed to her, and with first-class postage prepaid.

The name and address of counsel for Respondent is as follows:

The Honorable Elizabeth B. Prelogar, Esq.  
Solicitor General of the United States  
United States Department of Justice  
950 Pennsylvania Ave., N.W., Room 5614  
Washington, DC 20530-0001  
Counsel for Respondent

Additionally, I mailed a copy of the motion and the petition to my client, Petitioner Samuel Trelawney Hughes, by depositing an envelope containing the documents in the U.S. mail (for overseas delivery), postage prepaid, and sending it to the following address:

Samuel Trelawney Hughes  
3 Pen An Vre, Treliwer RD  
Mabe Burnthouse  
Penryn  
Cornwall England  
TR109DF  
United Kingdom

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 24, 2023



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DAVID A. SCHLESINGER  
Declarant