

NO. YET NOT PROVIDED

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IN THE  
SUPREME COURT OF THE UNITED STATES

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TIMOTHY MICHAEL DEVER — PETITIONER

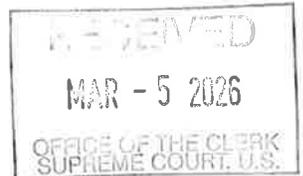
VS.

UNITED STATES OF AMERICA — RESPONDED

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MOTION FOR EXTENSION OF TIME IN WHICH TO FILE  
PETITION FOR WRIT OF CERTIORARI

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TO 4TH CIRCUIT JUSTICE ROBERTS:

COMES NOW, Timothy Michael Dever, henceforth, Mr. Dever, a PRO SE litigant, who most humbly and respectfully submits the foregoing in the above style. In support thereof, Mr. Dever will show the following--

- a. Mr. Dever's case arises from his conviction on Case No. 1:22-Cr-72-01 Western District of North Carolina, in the matter of United States v. Timothy Michael Dever.
- b. Mr. Dever appealed the judgment of conviction. See, Appeal No. 23-4557 United States Court of Appeals for the Fourth Circuit. The Court affirmed.
- c. The deadline for filling Mr. Dever's Writ of Certiorari is set for March 3rd, AD2026. About 11-days as of the date of this filing.
- d. Mr. Dever's counsel, Rick Foster, has withdrawn from further

representation as about one month ago.

e. Mr. Dever has not been able to obtain his transcripts of the below proceedings.

f. Mr. Dever is now proceeding as a PRO SE litigant.

g. Mr. Dever's case involves complex litigation, thus, as he is now proceeding PRO SE, he requires more time as to review his files, obtain transcripts and search for the case law which supports his grounds.

#### CONCLUSION

a. WHEREFORE, above premises considered, Mr. Dever respectfully asks Justice Roberts to grant him a 60-day extension of time in which to file his Writ of Certiorari. The above circumstances provide good cause for this Motion to be granted.

b. This is the first time Mr. Dever asks for an extension of time.

Respectfully submitted on this 23rd day of February, Year of the LORD 2026.

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Timothy Michael Dever, PRO SE  
Reg. No. 01298-506

**VERIFICATION**

a. I, Timothy Michael Dever, do hereby **VERIFY** that the information provided herein is true and correct to the best of my understanding, knowledge and belief under penalty of perjury. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed on this 23rd day of February, Year of the LORD 2026.

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Timothy Michael Dever, PRO SE  
Reg. No. 01298-506  
FEDERAL CORRECTIONAL INSTITUTION  
P. O. Box 1000  
Oxford, Wisconsin 53952

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**No. 23-4557**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TIMOTHY MICHAEL DEVER, a/k/a timothy-michael: de vere, a/k/a Timothy Michael Deaver,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Martin K. Reidinger, Chief District Judge. (1:22-cr-00072-MR-WCM-1)

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Submitted: August 7, 2025

Decided: December 3, 2025

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Before WILKINSON, RICHARDSON, and RUSHING, Circuit Judges.

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Affirmed in part and dismissed in part by unpublished per curiam opinion.

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**ON BRIEF:** Eric J. Foster, Asheville, North Carolina, for Appellant. Dena J. King, United States Attorney, Anthony J. Enright, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

Timothy Michael Dever appeals his convictions and the 120-month sentence imposed following his guilty plea, pursuant to a written plea agreement, to five counts of aiding and abetting interstate threatening communication, in violation of 18 U.S.C. §§ 2, 875(c). On appeal, Dever argues that his guilty plea is not supported by an adequate factual basis and that his sentence is procedurally and substantively unreasonable. The Government has requested that we dismiss Dever's appeal of his sentence pursuant to the appeal waiver contained in Dever's plea agreement.

Beginning with the validity of Dever's guilty plea, because Dever did not object to the adequacy of the factual basis before the district court, we review that issue for plain error. *United States v. Stitz*, 877 F.3d 533, 536 (4th Cir. 2017). "Under the plain error standard, [we] will correct an unpreserved error if (1) an error was made; (2) the error is plain; (3) the error affects substantial rights; and (4) the error seriously affects the fairness, integrity, or public reputation of judicial proceedings." *United States v. Harris*, 890 F.3d 480, 491 (4th Cir. 2018) (citation modified). "In the Rule 11 context, this inquiry means that [the defendant] must demonstrate a reasonable probability that, but for the error, he would not have pleaded guilty." *United States v. Sanya*, 774 F.3d 812, 816 (4th Cir. 2014) (citation modified).

A guilty plea is valid if the defendant knowingly, voluntarily, and intelligently pleads guilty "with sufficient awareness of the relevant circumstances and likely consequences." *United States v. Fisher*, 711 F.3d 460, 464 (4th Cir. 2013) (citation modified). Before accepting a guilty plea, the district court must conduct a plea colloquy

in which it ensures that there is a factual basis for the plea. Fed. R. Crim. P. 11(b)(3). The factual basis requirement “ensure[s] that the court make[s] clear exactly what a defendant admits to, and whether those admissions are factually sufficient to constitute the alleged crime.” *United States v. Mastrapa*, 509 F.3d 652, 659-60 (4th Cir. 2007) (citation modified). “The district court possesses wide discretion in finding a factual basis, and it need only be subjectively satisfied that there is a sufficient factual basis for a conclusion that the defendant committed all of the elements of the offense.” *Stitz*, 877 F.3d at 536 (citation modified).

Under federal law, one who “aids, abets, counsels, commands, induces or procures” the commission of a crime “is punishable as a principal.” 18 U.S.C. § 2(a). To convict a defendant under a theory of aiding and abetting, the government must prove “that the defendant (1) took an affirmative act in furtherance of the underlying offense and (2) did so with the intent of facilitating the offense’s commission.” *United States v. Odum*, 65 F.4th 714, 721 (4th Cir. 2023) (citation modified). Focusing on the defendant’s state of mind, “a person aids and abets a crime when (in addition to taking the requisite act) he intends to facilitate that offense’s commission.” *United States v. Oloyede*, 933 F.3d 302, 317 (4th Cir. 2019) (citation modified).

To establish a violation of § 875(c), the government must prove “(1) the defendant knowingly communicate[d] a statement in interstate commerce that (2) contain[ed] a ‘true threat’ that is not protected by the First Amendment.” *United States v. White*, 810 F.3d 212, 219 (4th Cir. 2016). The government must also “prove the defendant ‘had some understanding of his statements’ threatening character,” in that he at least “‘consciously

disregarded a substantial risk that his communications would be viewed as threatening violence.” *In re Rendelman*, 129 F.4th 248, 252 (4th Cir. 2025) (quoting *Counterman v. Colorado*, 600 U.S. 66, 69, 73 (2023)). Upon review, we conclude that the magistrate judge did not plainly err in finding Dever’s guilty plea to aiding and abetting the charged violations of § 875(c) was supported by an adequate factual basis.

To the extent Dever seeks to appeal his sentence, the Government asks us to dismiss the appeal pursuant to the appeal waiver contained in Dever’s plea agreement. “When, as here, the government seeks to enforce an appeal waiver and has not breached the plea agreement, we will enforce the waiver if it is valid and if the issue being appealed falls within its scope.” *United States v. Richardson*, 146 F.4th 394, 398 (4th Cir. 2025) (citation modified). “Whether a defendant knowingly and intelligently agreed to waive his right of appeal must be evaluated by reference to the totality of the circumstances.” *United States v. Manigan*, 592 F.3d 621, 627 (4th Cir. 2010) (citation modified). But a waiver generally is valid “if a district court questions a defendant regarding the waiver of appellate rights during the Rule 11 colloquy and the record indicates that the defendant understood the full significance of the waiver.” *United States v. Thornsbury*, 670 F.3d 532, 537 (4th Cir. 2012).

Dever does not contest the validity of the appeal waiver, and our review of the Fed. R. Crim. P. 11 hearing leads us to conclude that the waiver is valid and enforceable. We further conclude that Dever’s challenges to the reasonableness of his sentence fall squarely within the waiver’s scope.

Accordingly, we affirm Dever's convictions and dismiss the remainder of the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED IN PART,  
DISMISSED IN PART*