

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA)	
)	
VS.)	
)	
TYJAILON SMITH,)	
)	CRIMINAL ACTION
DEFENDANT.)	FILE NO. 22SC183571
)	
)	

TRANSCRIPT OF THE GUILTY PLEA PROCEEDINGS
IN THE ABOVE-MENTIONED CASE
BEFORE THE HONORABLE PAIGE REESE WHITAKER,
COMMENCING ON THE 15TH DAY OF FEBRUARY, 2023.

APPEARANCES:

ON BEHALF OF THE STATE: ABIGAIL POTTER,
ASSISTANT DISTRICT ATTORNEY

ON BEHALF OF THE DEFENDANT: SAMANTHA TRIPPEDO,
DEPUTY PUBLIC DEFENDER

EVELYN PARKER
OFFICIAL COURT REPORTER
T-5855 JUSTICE CENTER TOWER
185 CENTRAL AVENUE, S.W.

1 IN-PERSON COURT PROCEEDINGS

2 FEBRUARY 15, 2023

3 MS. POTTER: THIS IS THE STATE OF GEORGIA VERSUS
4 TYJAILON SMITH, 22SC183571. MR. SMITH, WOULD YOU
5 PLEASE RAISE YOUR RIGHT HAND.

6 TYJAILON SMITH,
7 HAVING BEEN DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:
8 EXAMINATION

9 BY MS. POTTER:

10 Q. PLEASE STATE YOUR TRUE, CORRECT, LEGAL NAME.

11 A. TYJAILON SMITH.

12 Q. AT THIS TIME, ARE YOU TAKING OR UNDER THE INFLUENCE OF
13 ANY ALCOHOL, DRUGS, OR MEDICATION?

14 A. NO, MA'AM.

15 Q. TAKE ANY MEDICATION THAT YOU NORMALLY TAKE IN THE
16 MORNING THAT YOU HAVEN'T BEEN GIVEN TODAY?

17 A. NO, MA'AM.

18 Q. HOW OLD ARE YOU?

19 A. TWENTY-ONE YEARS OLD.

20 Q. AND HOW FAR HAVE YOU GONE IN SCHOOL?

21 A. ELEVENTH GRADE.

22 Q. OKAY. AND ARE YOU ABLE TO READ, WRITE, AND UNDERSTAND
23 THE ENGLISH LANGUAGE?

24 A. YES, MA'AM.

25 Q. OKAY. DO YOU UNDERSTAND THAT THE STATE HAS REDUCED

1 THIS CASE JUST TO ONE FELONY COUNT OF THEFT BY TAKING, WHICH
2 CARRIES A SENTENCE OF 1 TO 10 YEARS?

3 A. YES, MA'AM.

4 Q. AND DO YOU UNDERSTAND THAT YOU HAVE THE RIGHT TO PLEAD
5 GUILTY OR NOT GUILTY TO THESE CHARGES, AND IF YOU PLEAD NOT
6 GUILTY, REMAIN SILENT, YOU MAY RECEIVE A JURY TRIAL?

7 A. YES, MA'AM.

8 Q. HAVE YOU HAD ENOUGH TIME TO GO OVER ALL YOUR RIGHTS
9 WITH YOUR ATTORNEY, MS. TRIPPEDO?

10 A. YES, MA'AM.

11 Q. INCLUDING ALL AND ANY DEFENSES?

12 A. YES, MA'AM.

13 Q. AND DO YOU NEED ANY MORE TIME TO SPEAK WITH HER?

14 A. NO, MA'AM.

15 Q. ARE YOU SATISFIED WITH HER SERVICES?

16 A. YES, MA'AM.

17 Q. OKAY.

18 MS. POTTER: MS. TRIPPEDO, DO YOU WAIVE FORMAL
19 READING OF THE INDICTMENT AND ANY AND ALL DEFECTS?

20 MS. TRIPPEDO: YES, WE DO.

21 BY MS. POTTER:

22 Q. MR. SMITH, DO YOU UNDERSTAND THIS IS A NEGOTIATED PLEA,
23 AND THE STATE IS GOING TO RECOMMEND TO THE COURT 5 YEARS
24 PROBATION WITH 100 HOURS OF COMMUNITY SERVICE, STAY AWAY, AND
25 HAVE NO CONTACT WITH THE VICTIMS, AND STAY AWAY FROM FULTON

1 COUNTY?

2 A. YES, MA'AM.

3 Q. OKAY. BUT EVEN THOUGH THIS IS NEGOTIATED, THE COURT
4 DOESN'T HAVE TO ACCEPT THAT, AND CAN SENTENCE YOU TO THE MAXIMUM
5 ON THIS CHARGE?

6 A. OKAY.

7 Q. DO YOU UNDERSTAND THAT?

8 A. WHAT YOU MEAN BY THAT?

9 Q. SO EVEN THOUGH WE HAVE NEGOTIATED THIS, THE COURT
10 DOESN'T HAVE TO ACCEPT THAT.

11 A. OKAY.

12 THE COURT: WELL, IF I DON'T ACCEPT IT, THOUGH,
13 THEN YOU GET A CHANCE TO SAY THAT I DON'T WANT TO DO
14 THIS.

15 THE DEFENDANT: OKAY.

16 THE COURT: IF I'M NOT GOING TO ACCEPT IT, I
17 WILL LET YOU KNOW.

18 BY MS. POTTER:

19 Q. DO YOU UNDERSTAND IF YOU ARE CURRENTLY ON PROBATION OR
20 PAROLE, YOUR PROBATION OR PAROLE MAY BE REVOKED BASED ON YOU
21 ENTERING THIS GUILTY PLEA TODAY?

22 A. YES, MA'AM.

23 Q. DO YOU UNDERSTAND IF YOU ARE PLACED ON PROBATION OF ANY
24 KIND, YOU CANNOT VIOLATE ANY CRIMINAL LAWS OF ANY GOVERNMENTAL
25 UNIT OR ANY SPECIAL CONDITIONS OF PROBATION WITHOUT BEING SUBJECT

1 TO REVOCATION FOR THE BALANCE OF THAT SENTENCE?

2 A. YES, MA'AM.

3 Q. OKAY. ARE YOU A UNITED STATES CITIZEN?

4 A. YES, MA'AM.

5 Q. DO YOU UNDERSTAND BY PLEADING GUILTY TO A FELONY, IF
6 YOU USE, RECEIVE, POSSESS, OR TRANSPORT A FIREARM, YOU WILL BE
7 GUILTY OF A FELONY WHICH MAY CARRY A SENTENCE OF 1 TO 15 YEARS IN
8 PRISON?

9 A. YES, MA'AM.

10 Q. OKAY. AND I BELIEVE YOU ARE ASKING TO BE TREATED AS A
11 FIRST OFFENDER?

12 A. YES, MA'AM.

13 Q. OKAY. HAVE YOU EVER PLED GUILTY OR NOLO CONTENDERE OR
14 EVER BEEN CONVICTED OF A FELONY IN THE STATE OF GEORGIA OR ANY
15 OTHER JURISDICTION?

16 A. NO, MA'AM.

17 Q. HAVE YOU EVER BEEN SENTENCED FOR ANY CRIME, FELONY OR
18 MISDEMEANOR, UNDER THE FIRST OFFENDER ACT?

19 A. NO, MA'AM.

20 Q. HAS YOUR LAWYER EXPLAINED TO YOU THE FIRST OFFENDER ACT
21 AND ALL THE PROS AND CONS?

22 A. YES, MA'AM.

23 Q. DO YOU UNDERSTAND IF YOU VIOLATE THE TERMS OF FIRST
24 OFFENDER AND COMMIT A NEW OFFENSE WHILE YOU ARE ON FIRST OFFENDER
25 PROBATION, YOUR FIRST OFFENDER STATUS COULD BE REVOKED, YOU COULD

1 BE ADJUDICATED GUILTY, AND YOU COULD BE RESENTENCED UP TO THE
2 MAXIMUM SENTENCE FOR EACH CHARGE IN THE INDICTMENT?

3 A. YES, MA'AM.

4 Q. YOU UNDERSTAND THAT?

5 A. YES, MA'AM.

6 Q. OKAY. DO YOU UNDERSTAND THAT YOU WAIVE ANY AND ALL
7 DEFENSES BY ENTERING THIS GUILTY PLEA?

8 A. YES, MA'AM.

9 Q. INCLUDING ANY MENTAL HEALTH DEFENSES?

10 A. YES, MA'AM.

11 Q. OKAY. DO YOU UNDERSTAND THAT BY PLEADING GUILTY, YOU
12 ARE GIVING UP THE FOLLOWING RIGHTS: THE RIGHT TO TRIAL BY
13 JURY -- AND I WILL LIST THEM OUT: RIGHT TO TRIAL BY JURY, THE
14 RIGHT TO REMAIN SILENT AND NOT INCRIMINATE YOURSELF, THE RIGHT TO
15 CONFRONT WITNESSES AGAINST YOU, THE RIGHT TO ASSISTANCE OF
16 COUNSEL HIRED BY YOU OR APPOINTED COUNSEL IF YOU CANNOT AFFORD AN
17 ATTORNEY AT A TRIAL OF YOUR CASE, THE RIGHT TO PRESUMPTION OF
18 INNOCENCE, THE RIGHT TO TESTIFY IN YOUR OWN BEHALF AND TO PRESENT
19 OTHER EVIDENCE, THE RIGHT TO SUBPOENA WITNESSES AND COMPEL THE
20 PRODUCTION OF EVIDENCE, THE RIGHT TO HAVE THE CHARGES AGAINST YOU
21 PROVED BEYOND A REASONABLE DOUBT, THE RIGHT TO APPEAL IF
22 CONVICTED OF THESE CHARGES AFTER A TRIAL?

23 A. YES, MA'AM.

24 Q. YOU UNDERSTAND YOU ARE WAIVING ALL THOSE RIGHTS BY
25 ENTERING THIS GUILTY PLEA?

1 A. YES, MA'AM.

2 Q. ANYONE FORCED, THREATENED, OR PROMISED YOU ANYTHING TO
3 GET YOU TO ENTER THIS GUILTY PLEA?

4 A. NO, MA'AM.

5 Q. IS IT YOUR DECISION TO WAIVE THESE RIGHTS AND ENTER A
6 GUILTY PLEA BECAUSE YOU ARE IN FACT GUILTY?

7 A. YES, MA'AM.

8 Q. OKAY. HOW DO YOU PLEAD TO THE CHARGE OF THEFT BY
9 TAKING, 16-8-12, IN INDICTMENT 22SC183571?

10 A. GUILTY.

11 Q. IS THIS GUILTY PLEA FREELY, VOLUNTARILY GIVEN WITH THE
12 FULL CHARGES KNOWN; WITH KNOWLEDGE OF THE FULL CHARGES AGAINST
13 YOU?

14 A. YES, MA'AM.

15 Q. OKAY. AND DO YOU UNDERSTAND THAT YOU HAVE A LIMITED
16 RIGHT TO APPEAL THIS GUILTY PLEA CONVICTION? YOU HAVE GOT 4
17 YEARS FROM TODAY TO FILE A HABEAS CORPUS PETITION, AND THAT
18 CHALLENGES THE CONSTITUTIONALITY OF THIS GUILTY PLEA. YOU HAVE
19 GOT 30 DAYS FROM TODAY TO FILE WHAT'S CALLED A DIRECT APPEAL, AND
20 YOU HAVE UNTIL THE END OF THIS TERM OF COURT TO FILE A MOTION TO
21 WITHDRAW YOUR GUILTY PLEA.

22 A. YES, MA'AM.

23 Q. DO YOU UNDERSTAND THOSE TIME LIMITS?

24 A. YES.

25 Q. OKAY. THANK YOU, MR. SMITH. THAT'S ALL.

1 MS. POTTER: YOUR HONOR, YOU MIGHT REMEMBER THE
2 FACTS OF THIS CASE. THIS OCCURRED ON APRIL 30TH,
3 2022, AT THE WESTIN HOTEL LOCATED AT 210 PEACHTREE
4 ROAD IN FULTON COUNTY. OFFICERS RESPONDED TO TWO
5 FEMALES ABOUT A THEFT CALL. THE FEMALES WERE TYLAH
6 LOVE AND TAMIA SIMS. THEY HAD JUST BEEN WITH MS.
7 SIMS' BOYFRIEND AT THE TIME, WHO IS TYJAILON HERE IN
8 FRONT OF YOU, ALONG WITH HIS TWO FRIENDS, WHICH ARE
9 CODEFENDANTS IN THIS CASE.

10 MS. SMITH -- OR MS. LOVE AND MS. SIMS HAD DRIVEN
11 FROM SOUTH CAROLINA TO WORK FOR THE NIGHT AT MAGIC
12 CITY. AFTER THEY HAD MADE SOME MONEY, THEY CALLED
13 MR. SMITH. EXCUSE ME. I'M SORRY. YOU ARE NOT MS.
14 SIMS' BOYFRIEND.

15 MS. TRIPPEDO: NO.

16 MS. POTTER: I'M SORRY. THAT WAS MR. KNUCKLES.
17 THE THREE OF THEM, IN ADDITION TO AN UNKNOWN MALE;
18 SO FOUR TOTAL, DROVE FROM SOUTH CAROLINA TO MEET THE
19 GIRLS. THEY WALKED INTO THE HOTEL. TWO OF THEM
20 WALKED INTO THE HOTEL. THEY WENT BACK TO THE CAR,
21 AMBUSHED BY SOMEONE IN THE CAR WHO HAD ON A MASK,
22 PULLED OUT A GUN, AND STOLE CLOSE TO \$20,000 FROM
23 THEM.

24 THE MAN WITH THE GUN WAS NEVER APPREHENDED OR
25 IDENTIFIED, AND THE OTHER THREE IN THE CAR ARE THE

1 DEFENDANTS IN THIS CASE.

2 WE, OBVIOUSLY, HAVE SOME CONCERNS ABOUT THE
3 CREDIBILITY OF OUR VICTIM. AS YOU KNOW, SHE DID
4 TAKE MONEY FROM ONE OF THE DEFENDANTS TO DROP THE
5 CASE; SO THAT'S WHY WE HAVE REDUCED THIS TO THEFT BY
6 TAKING.

7 THE OFFER IS 5 YEARS PROBATION, 100 HOURS
8 COMMUNITY SERVICE; TO DO AT LEAST 25 A YEAR. STAY
9 AWAY FROM THE VICTIMS. NO CONTACT WITH THEM. AND
10 STAY AWAY FROM FULTON COUNTY.

11 I DO BELIEVE THAT HE DOES NOT HAVE A CRIMINAL
12 HISTORY AT ALL.

13 MS. TRIPPEDO: THAT'S CORRECT.

14 MS. POTTER: THAT'S ALL FROM THE STATE.

15 THE COURT: OKAY. MS. TRIPPEDO, ANYTHING THE
16 DEFENSE WANTS TO PUT ON THE RECORD?

17 MS. TRIPPEDO: YOUR HONOR, WE WOULD JUST ASK FOR
18 YOU TO ACCEPT THE STATE'S RECOMMENDATION, AND ALSO
19 TO TREAT MR. SMITH AS A FIRST OFFENDER.

20 THE COURT: ALL RIGHT. AND WE HAVE -- YOU HAVE
21 DISCUSSED THE BENEFITS AND DRAWBACKS TO FIRST
22 OFFENDER ACT AND WHAT THAT'S GOING TO REQUIRE FROM
23 HIM?

24 MS. TRIPPEDO: YES, YOUR HONOR.

25 THE COURT: YOU UNDERSTAND THAT, MR. SMITH?

1 THE DEFENDANT: YES.

2 THE COURT: ALL RIGHT. I FIND THERE TO BE A
3 FACTUAL BASIS FOR THIS PLEA, AND I WILL ACCEPT IT AS
4 FREELY, KNOWINGLY, VOLUNTARILY, AND INTELLIGENTLY
5 ENTERED WITH AN UNDERSTANDING OF THE CONSEQUENCE;
6 AND I WILL SENTENCE IN ACCORD WITH THE NEGOTIATED
7 RECOMMENDATION.

8 ON THE REDUCED CHARGE OF THEFT BY TAKING UNDER
9 16-8-12, 5 YEARS PROBATION. SPECIAL CONDITIONS OF
10 THAT PROBATION INCLUDE YOU ARE TO COMPLETE 100 HOURS
11 OF COMMUNITY SERVICE. YOU ARE TO STAY AWAY FROM THE
12 VICTIMS, AND YOU ARE TO STAY OUT OF FULTON COUNTY,
13 GEORGIA. AND YOU LIVE IN SOUTH CAROLINA?

14 THE DEFENDANT: YES, MA'AM.

15 THE COURT: OKAY. SO IS PROBATION GOING -- IS
16 THAT GOING TO GET TRANSFERRED, THEN?

17 PROBATION OFFICER: I WILL SPEAK WITH HIM AFTER.
18 THERE IS A POSSIBILITY HE WILL NEED ICOTS, WHICH IS
19 A TRANSFER.

20 MS. POTTER: SHOULD --

21 PROBATION OFFICER: YOU CAN KEEP IT.

22 MS. POTTER: OKAY.

23 THE COURT: I DON'T KNOW IF I MENTIONED,
24 COMPLETE AT LEAST -- WHAT DID YOU SAY?

25 MS. POTTER: 25 HOURS A YEAR.

1 THE COURT: 25 HOURS A YEAR. SO THAT WOULD MEAN
2 YOU WOULD BE FINISHED IN 4 YEARS.

3 MS. TRIPPEDO: HE QUALIFIES FOR A BEHAVIORAL
4 INCENTIVE DATE OF 3 YEARS.

5 THE COURT: WHICH WOULD BE 3 YEARS.

6 MS. POTTER: THIRTY-THREE.

7 THE COURT: I MEAN, IF YOU WANT TO GET OFF OF
8 YOUR PROBATION IN 3 YEARS, YOU NEED TO HAVE
9 COMPLETED ALL OF THE REQUIREMENTS OF PROBATION. SO
10 THAT WOULD MEAN YOU WOULD NEED TO DO 33, 34 HOURS A
11 YEAR EACH YEAR FOR 3 YEARS. ALL RIGHT?

12 MS. TRIPPEDO: THAT'S CORRECT.

13 THE COURT: OKAY. SO THE BEHAVIORAL INCENTIVE
14 DATE WILL BE 3 YEARS FROM NOW. AND I WILL SENTENCE
15 AS FIRST OFFENDER. ALL RIGHT. GOOD LUCK TO YOU.

16 THE DEFENDANT: THANK YOU.

17 (END OF PROCEEDINGS)
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19
20
21
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25

C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I, EVELYN PARKER, COURT REPORTER, DO HEREBY
CERTIFY THAT THE FOREGOING PAGES ARE A TRUE, COMPLETE,
AND CORRECT COPY OF THE PROCEEDINGS TAKEN DOWN BY ME IN
THE CASE AFORESAID.

THIS CERTIFICATION IS EXPRESSLY WITHDRAWN AND
DENIED UPON THE DISASSEMBLY OR PHOTOCOPYING OF THE
FOREGOING TRANSCRIPT, OR ANY PART THEREOF, INCLUDING
EXHIBITS, UNLESS SAID DISASSEMBLY OR PHOTOCOPYING IS
DONE BY THE UNDERSIGNED OFFICIAL COURT REPORTER AND
ELECTRONIC SIGNATURE ATTACHED THERETO.

THIS, THE 20TH DAY OF MARCH, 2023.

/S/ EVELYN PARKER

EVELYN PARKER,
OFFICIAL COURT REPORTER
CCR-B-772, RPR, CM