

ORIGINAL

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Criminal Division – Felony Branch**

2010
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UNITED STATES OF AMERICA : **Case No. 2010 CF2 904**
:
: **The Honorable Robert E. Morin**
:
: **Sentencing: March 26, 2010**
GILBERT ARENAS :

GOVERNMENT’S MEMORANDUM IN AID OF SENTENCING

The United States, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this memorandum in aid of sentencing. On January 15, 2010, the defendant, Gilbert Arenas, pled guilty to one count of carrying a pistol without a license after he carried four firearms into the Washington Wizards’ locker room located at the Verizon Center. The government bases this sentencing recommendation on *all* of the evidence its investigation has uncovered, not just the defendant’s version of the events. Based on the record in this case, the government respectfully requests that the Court sentence the defendant to six (6) months’ incarceration, with the execution of that sentence suspended as to all but three (3) months, followed by three (3) years’ probation, to include three-hundred (300) hours of community service.

I. INTRODUCTION

Among the factors the Court must consider in fashioning an appropriate sentence are the seriousness of the offense, just punishment, and deterrence. See D.C. Code § 24-403.01(a) (2001 ed.). All of these factors weigh heavily in favor of the government’s sentencing recommendation. Perhaps of equal significance, while Defendant Arenas has admitted carrying pistols without a license in violation of the law, he has neither fully accepted responsibility for



the totality of his actions, nor has he shown genuine remorse. In support of its sentencing request, the government highlights the following five points:

- The evidence uncovered by the government contradicts the defendant's claims regarding when and why he brought the four firearms into the Verizon Center, a matter bearing directly on the seriousness of the offense;
- Contrary to the defendant's claim, his conduct was not a laughing matter;
- The defendant feigns ignorance of the law, which is plainly untrue, in an effort to mitigate the significance of his actions;
- The defendant has not been as forthcoming as he suggests, but instead has repeatedly attempted to minimize the extent of his culpability; and
- The defendant's conduct since the time of the incident establishes that he has shown little genuine remorse for anything other than how this incident may affect his career.

For these reasons, among others that may be noted at the defendant's sentencing hearing, the government submits that its recommended sentence is appropriate.

II. FACTUAL BACKGROUND

On Friday, December 19, 2009, the Washington Wizards boarded a red-eye flight to the Washington, D.C. area from Phoenix, Arizona, where they had just played a game. In the early morning hours of Saturday, December 20, 2009, the defendant and teammate Javaris Crittenton began arguing over a debt owed in a card game. As the argument escalated, it drew the attention of several other players on the flight. The argument continued until the flight had landed that morning at Dulles International Airport and carried onto the shuttle-bus ride from the airplane to the terminal. Throughout the argument, which spanned thirty to forty-five minutes, the

defendant and Crittenton exchanged threats. Specifically, the defendant threatened to shoot Crittenton in the face, and set his Cadillac Escalade on fire. Crittenton responded that he would shoot the defendant in his knee. According to Crittenton, he believed the defendant's threats were genuine, and that the defendant intended to harm him. See Crittenton's Plea Agreement at 4 (attached as Exhibit A).

During the government's investigation, several witnesses on the plane corroborated the objective reasonableness of Crittenton's belief that the defendant intended to harm him. These witnesses stated that, although it is sometimes difficult to tell whether the defendant is joking or serious, when he was threatening Crittenton on the plane, the defendant appeared to be serious. In fact, one eyewitness with the Wizards organization – who is familiar with the defendant's sense of humor – recounted that, when threatening Crittenton about blowing up his Escalade, the defendant had never appeared so serious, and that he also took the defendant's threat to Crittenton as genuine. Towards the end of the argument, at least two uninvolved witnesses heard the defendant repeat to Crittenton words to the effect of: "We'll see on Monday. We'll see on Monday."

On Monday, December 21, 2009, at approximately 9:30 a.m., the defendant arrived at the Verizon Center at 601 F Street N.W., Washington, D.C. At the time the defendant arrived, several other players and members of the team staff already had arrived, and were either in the locker room or adjacent training room preparing for practice. When the defendant entered the locker room on December 21, 2009, he was oddly wearing a black backpack strapped to the front of his body. This fact is captured by surveillance videotape from the hallway outside the Wizards' locker room. Soon after entering the locker room, the defendant walked over to Crittenton's locker. From inside the backpack that he had carried in that same day, which he was

still wearing, the defendant pulled out at least three, possibly four firearms and placed them on the chair in front of Crittenton's locker.¹ The defendant wrote the message "PICK 1" on a piece of paper and placed it on Crittenton's chair.

Genuinely believing that the defendant intended to make good on his threats, Crittenton brought a firearm of his own into the Wizards locker room inside of his gym bag. See Crittenton's Plea Agreement (Exhibit A) at 4. When Crittenton observed the defendant's firearms on Crittenton's chair, he believed that the defendant intended Crittenton to select a firearm with which the defendant would carry out his threat to shoot him. Id. Crittenton immediately became upset and feared for his safety to the point that he felt the need to pull out his own firearm from his bag. Id.

At least six additional individuals of the Wizards organization observed the defendant's firearms openly present in the locker room at some point that morning. These six additional individuals arrived and departed the locker room at different times, and accordingly, some observed more than others. For example, some observed the firearms as the defendant pulled them out of his backpack and laid them out for Crittenton. Some observed the firearms only after they had been laid out by the defendant, but before Crittenton had arrived. Some observed the firearms during the beginning of the confrontation between Crittenton and Arenas. According to the government's investigation, however, no uninvolved witness observed how the confrontation ended between the defendant and Crittenton. By that time, all of the witnesses had

¹ In his factual proffer, the defendant admitted to bringing at least one firearm into the Verizon Center on the day of the offense. The government's evidence, albeit circumstantial, would have shown that *all* of the firearms that the defendant placed in Crittenton's chair were brought in that morning and were taken out of the same backpack that he had worn to the Verizon Center on December 21, 2009. Also, one witness, who admitted that his observations were brief, remembered that the defendant was holding the backpack in his hand, rather than wearing it. The evidence is conflicting as to whether the defendant placed three or four guns on the chair.

fled the locker room. Some fled out of a desire to be uninvolved, some fled out of feeling uncomfortable, while others left out of sheer fear.

According to the defendant and Crittenton, the confrontation soon de-escalated and Crittenton placed his firearm back in his bag and the defendant collected his firearms and placed them in a suitcase. Meanwhile, some of the uninvolved witnesses contacted the Wizards management. Before the Wizards management responded to the locker room, the defendant asked another teammate to take his suitcase to the area of the parking garage specifically reserved for players.² According to the defendant, he asked the teammate to place the suitcase in his car, but the teammate was unable to identify precisely which car belonged to the defendant and left the bag in a corner of the garage.

In a subsequent meeting later that morning, members of team management asked the defendant directly whether he had firearms in the locker room, and the defendant admitted that he did. When asked why the defendant had firearms in the locker room, he became hostile. He stood up and raised his voice, stating words to the effect of: "Fuck that, you guys are trying to blame me. I'm out of here. I'm leaving." The defendant was ordered to sit down, and he complied. When asked again why he brought firearms to the locker room, the defendant gave different reasons. At one instance, the defendant claimed to have brought them to the locker room to get them away from his family. At another instance, the defendant claimed to have brought them to the locker room to sell to another teammate.

As the meeting progressed, team management reminded the defendant that the possession of firearms in the Wizards' locker room violated NBA regulations and District of Columbia law.

² This teammate had not been present during the time that the defendant's firearms were openly present in the locker room, and there is no evidence that this teammate knew what had happened earlier that morning or that the suitcase contained firearms.

In response, the defendant claimed that, after a recent presentation to the Wizards players by an NBA league official regarding player security, he was under the impression that his possession of firearms in the locker room violated neither the law nor league policy, so long as he received permission of the team. As will be described more fully below, this representation does not in any way reflect the substance of the training the defendant had received just one month prior; but in any event, the defendant had never asked the Wizards for permission to bring firearms into the Wizards' locker room. The team management directed a member of the security staff to take possession of the defendant's firearms and remove them from the premises. The defendant led the member of security staff to the suitcase that had been left in the garage area, which was then removed from the premises.

On December 24, 2009, the defendant, through counsel, reported to law enforcement officials that he had brought firearms into the Wizards' locker room. Nowhere in his report, however, was there any mention of the confrontation with Crittenton or any other player; in fact, neither Crittenton nor his possession of a firearm was mentioned at all. That same day, the Metropolitan Police Department responded to Virginia, where the defendant's four firearms were surrendered to the Metropolitan Police Department. These firearms consisted of:

- One .50-caliber gold-plated semi-automatic Desert Eagle with magazine
- One 500 magnum, silver Smith and Wesson revolver
- One .45 caliber, black semi-automatic Kimber Eclipse with magazine
- One 9 millimeter Browning with magazine (and extended magazine)

See Photographs of the Defendant's Firearms (attached as Exhibit B). All four firearms were unloaded and no ammunition was recovered. Other than through the statements of the defendant, the government has established no evidence to determine whether the firearms were loaded when possessed by the defendant in the Wizards' locker room.

III. ARGUMENT

A. When and Why the Defendant Brought the Four Firearms into Washington, D.C.

On the morning of December 21, 2009, after the locker room confrontation with Crittenton, team management was the first to confront the defendant about having brought firearms into the Wizards' locker room. In this meeting, the defendant falsely told team management that he had brought all four of the firearms to the Verizon Center prior to the December 21, 2009, locker room confrontation with Crittenton. When asked why he brought the firearms into the locker room, the defendant gave two different stories for bringing the firearms into the Verizon Center. First, the defendant claimed to have brought the firearms into the locker room to get them away from his family. Next, the defendant claimed to have brought the firearms into the locker room to sell to a teammate. In addition to the contradictory stories that he provided to the Wizards organization, three days after the locker room confrontation, the defendant articulated a similar story in a text message to the *Washington Times*, but omitted his alleged plan to sell one of the firearms to a teammate:

It happened like December 10th. Right after my daughter was born. I decided I didn't want the guns in my house and around the kids anymore, so [I] took them to my lock box at Verizon Center. Then like a week later, I turned them over to team security and told them to hand them over to the police, because I don't want them anymore. I wouldn't have brought them to D.C. had I known the rules. After my daughter was born, I was just like, I don't need these anymore.

Notably, at the time the defendant made these claims, he had not yet admitted to law enforcement the confrontation with Crittenton. Again, on January 4, 2010, the defendant issued a similar statement, stating that: "I had kept the four unloaded handguns in my house in Virginia, but then moved them over to my locker at the Verizon Center to keep them away from my young

kids.” See Statement on Behalf of Gilbert Arenas and Mr. Arenas’ Statement, January 4, 2010 (hereinafter “Defendant’s Statement of January 4, 2010”).

After his multiple public statements that he had brought all the firearms to the locker room before his confrontation with Crittenton, to keep them away from his children, the defendant changed his story. Now, as the defendant admits in his factual proffer in support of his plea, when he entered the locker room on December 21, 2009, “[the defendant] was carrying at least one firearm.” See Defendant’s Plea Agreement at 5 (attached as Exhibit C). The remaining three firearms, he now claims, were already there. See Defendant’s PSR at 6 (“I already had three guns in my locker when I took them from my house”).

Had this case proceeded to trial, the government’s evidence would have shown that none of the defendant’s versions are true, but rather, he brought all four of the firearms into the Verizon Center on the morning of his locker room confrontation with Crittenton. On December 21, 2009, at the time the defendant arrived (around 9:30 a.m.), several other players and members of the team staff already had arrived, and were either in the locker room or in an adjacent training room preparing for practice. When the defendant entered the locker room that morning, he was wearing a black backpack in an odd position, strapped to the front of his body, rather than his back. Shortly after entering, the defendant walked over to Crittenton’s locker, still wearing the backpack strapped to the front of his body. The defendant reached into this backpack and pulled out at least three, and possibly four, firearms and placed them on the chair in front of Crittenton’s locker.

For the defendant’s story to hold true, he would have had to:

- already had three firearms in his locker in violation of team policy and D.C. law, either to (a) protect his children, or (b) sell to a teammate,

- but nonetheless brought an additional firearm to the Verizon Center in a backpack strapped to his front within forty-eight hours of threatening to shoot Crittenton; again, either because it now occurred to the defendant that this additional firearm, which the defendant claims was forever unloaded, likewise posed a danger to his children or was of interest to a teammate,
- then walked to his locker, removed three additional firearms from his locker, and, rather than just place them in Crittneton's chair just feet away, placed the three firearms inside of his "front pack" which already contained the fourth firearm,
- then seconds later emptied all four firearms from his "front" pack onto Crittenton's chair,
- all as part of some spur-of-the-moment harmless "joke."

This story simply defies logic and credulity – because it is false. Plainly, the defendant armed himself with all four firearms, brought them to the Verizon Center in his backpack strapped to his front, and then upon entering the locker room, placed them into Crittenton's chair as a continuation of, and to substantiate, his previous threats.

Given that the defendant brought these firearms to the Verizon Center the very morning of the locker room confrontation with Crittenton, the obvious question is raised: Why, then, did he bring them? At one point, the defendant stated that the birth of his newborn child motivated him to remove the firearms from his house (even though he claims to have no ammunition). At another point, the defendant stated that he wanted to sell a firearm to one of his teammates. Just the day before, however, the defendant and Crittenton had a heated argument in which they exchanged threats about shooting one another. Additionally, at least two uninvolved witnesses to that argument heard the defendant specifically repeat to Crittenton words to the effect of:

“We’ll see on Monday. We’ll see on Monday.” The government does not believe that it was mere coincidence that, on Monday, the defendant just happened to carry four firearms into the locker room. Rather, the defendant brought them to the Verizon Center for the purpose of confronting Crittenton.

To be sure, the fact that the defendant brought the firearms to the Verizon Center for the purpose of confronting Crittenton does not change his ultimate criminal exposure. While not an element of the offense, the defendant’s motivation for carrying the firearms into the Verizon Center on December 21, 2009, is important for two reasons. First, it illustrates just how reckless and dangerous the defendant’s decisions were. This was not a spur-of-the-moment joke, but rather, the defendant had planned to engage in this conduct – it was calculated and premeditated. On the day after the plane ride, he necessarily must have located the firearms in his house, placed them in his backpack, and drove them into Washington, D.C. He then took the backpack, walked into the locker room, and when he arrived, placed them on Crittenton’s chair. The defendant’s actions in the locker room on December 21, 2009, were the result of his conscious decision to respond to a teammate who had disrespected him on a plane in front of his teammates.

Second, the fact that defendant brought the firearms into the Verizon Center on December 21, 2009, to confront Crittenton also undermines the defendant’s credibility regarding his explanation of the entire incident, thereby calling into question the extent to which he has truly accepted responsibility. From the very beginning, the defendant maintained that the firearms had been at the Verizon Center prior to the locker room confrontation with Crittenton. If this story were to be believed, it conveniently mitigates the defendant’s conduct in multiple respects. First, it belies any conclusion that his confrontation with Crittenton was premeditated

and that he brought the firearms into the Verizon Center for that purpose – a conclusion that he would be well-served to avoid for a host of reasons. Second, it supports the story that this was all a spur-of-the-moment joke, that is, that he arrived that day without a plan, without thinking, and played a misguided prank. Through its investigation, however, the government’s evidence showed that the defendant’s self-serving, ever-evolving story is not true. Indeed, the defendant himself admitted that his earlier accounts were untruthful when he acknowledged in his factual proffer that he brought “at least one” gun into the Verizon Center on the morning of December 21, 2009. Because the defendant is willing to color the truth, and shade the facts to be consistent with what is, for him, a better and more convenient story, it is clear that he has not truly accepted responsibility for his actions, and his perspectives and explanations are worthy of little weight.³

To be clear, the government does not believe that the defendant intended to carry out his threat to shoot Crittenton in the face. The government, however, also does not believe that this was all the result of a misguided prank or practical joke. In the confined quarters of an airplane, a younger, junior player disrespected the defendant in front of the entire team. Crittenton told the defendant that they should fight, and when the defendant countered, Crittenton refused to back down. On a team where the defendant is the highest-paid player, was the face of the franchise, and is known for particularly outrageous conduct, the defendant believed he had no choice but to respond. And he did. By placing his firearms in Crittenton’s chair, the defendant tried to send a message that he should not be disrespected, and, if he so desired, he could back up his threats. When Crittenton refused to back down again, the already-volatile situation became even more dangerous.

³ For this reason, the conclusions and recommendation of the Pre-Sentence Report carry far less weight, as they are based almost entirely on the defendant’s version of events.

B. The Defendant's "Joke" Explanation

Repeatedly, to team officials, the public, and the Court, the defendant has attempted to explain his actions by claiming that his actions were a "misguided effort to play a joke." See Defendant's Statement of January 4, 2010. With a history of outrageous behavior, this explanation comes as no surprise, as there is no other explanation to mitigate his conduct.⁴ The government's evidence contradicts the notion that this was a joke. Both Crittenton and uninvolved witnesses stated that the defendant was serious when he was threatening Crittenton on the plane. At times, the defendant might have laughed, but people familiar with his personality were still left with the impression that his threats were genuine. Further, in the locker room, even though the defendant may have been laughing, Crittenton and the other people were not. Some present went so far as to say they "felt endangered." They did not take it as a joke because it was not a joke. Instead, this was the defendant's calculated response to confront a more junior player who had disrespected him in front of the entire team.⁵

C. Defendant's Feigned Ignorance of the Law Excuse

The defendant argues that one's ignorance of the law may serve as a mitigating factor to be considered at sentencing: Perhaps, but only when that ignorance of the law is genuine. The

⁴ See, e.g., Mike Wise and Michael Lee, "For Gilbert Arenas and Wizards Franchise, Latest Incident Sheds Light on Entitlement," *Washington Post*, January 10, 2010 (noting that "[the defendant], a notorious practical joker, often crossed the line of acceptable decorum. The example often cited [is] how [the defendant] once defecated in teammate Andray Blatche's shoe.")

⁵ The defendant argues (at 21) that "Mr. Crittenton could not have been too afraid" because, after the incident, Arenas and Crittenton were in the Jacuzzi together and had a "light-hearted" conversation about the encounter. See Defendant's Memorandum at 21-22. Although it is true that the defendant joined Crittenton in the Jacuzzi after the incident, this again is the defendant's self-serving version. According to Crittenton, Crittenton had entered the Jacuzzi to prepare for his physical therapy session. When the defendant joined him, the defendant was friendly to Crittenton and tried to make small talk. Given what had just previously unfolded in the locker room, Crittenton was shocked as to how the defendant – who Crittenton believed had just threatened him – was acting as if nothing had ever happened. Bewildered, Crittenton ultimately left the Jacuzzi. Their encounter in the Jacuzzi was not the summit of conflict resolution that the defendant suggests.

defendant has repeatedly stated that he did not believe that he was breaking the law in Washington, D.C. when he brought the firearms to the Verizon Center. Much like his initial story that he brought all the firearms to the Verizon Center long before the day of the locker room confrontation, the defendant's claimed ignorance of the law lacks credibility. The defendant's claim is all the more suspect in light of the fact that he is a recidivist, having previously entered a guilty plea to violating firearms laws in the State of California.

The Washington Wizards (and other NBA Teams) commonly have meetings for their players at which they discuss player security. In November 2009, such a meeting was convened at the Verizon Center, and all players were required to attend. In the presentation, the laws surrounding possessing and carrying firearms in Washington, D.C. were discussed by law enforcement officials. Further, NBA officials carefully explained the rules and regulations regarding possession of firearms on NBA premises.

The presentation sponsored by the Wizards, which included participants from the Metropolitan Police Department and United States Attorney's Office, conveyed a clear message to the players: (1) pistols must be registered and those who wish to carry them must be licensed; and (2) the NBA has a complete ban on the possession of firearms on NBA properties and facilities. During its investigation, the government had the opportunity to speak with several other Wizards players about their impressions from the same meeting with the defendant. When asked, none of the players were left with the same impression that the defendant now claims: that he could carry a pistol into the locker room with the team's permission (which of course was never sought, let alone granted). With respect to the law in D.C., none of them believed it was legal to carry a firearm – loaded or unloaded – in Washington, D.C. In fact, one player stated that his clearest impression from the meeting was: no matter what, never bring a gun in your car

into Washington, D.C. With respect to NBA regulations, the players were even clearer. When asked about the meeting, none were left with the impression that, upon permission of the team, that you may carry a firearm in the locker room. In fact, many members of the Wizards organization believed the proposition to be ridiculous.

It defies common sense that the defendant was the only person that left the meeting with a convenient misunderstanding of District of Columbia law and NBA regulations. Not only were other players left with a different impression than the defendant's, but instead, they had a seemingly accurate grasp of the law in this jurisdiction. Moreover, given that he has previously been convicted of a similar offense, and had an arsenal of approximately 500 firearms (he claims to have once had a collection in his Virginia home, which he later gave away), one would think that the defendant would be particularly sensitive to understanding the law surrounding firearms possession. In light of this evidence, it is clear that the defendant's claimed ignorance of the law is, again, a feigned, convenient excuse to mitigate his conduct. Rather than admit that he knowingly engaged in illegal conduct, the defendant argues to the public and the Court that: "I didn't know it was illegal." Such an argument, when proven false (as here), is not a mitigating factor, but simply shows that the defendant has failed to fully accept responsibility for his actions.

D. The Defendant Has Not Been Forthcoming

The defendant argues that this Court should take into account the fact that he has been completely and entirely forthcoming, and that he fully accepted personal responsibility for the firearms immediately after the offense. The government submits that the defendant has not been as forthcoming as he may suggest. The defendant met his initial questioning by the Wizards

with anger, not with an immediate acceptance of responsibility. Moreover, he subsequently attempted to orchestrate a cover-up to conceal his confrontation with Crittenton.

1. The Defendant's First Questioning

After the locker room confrontation, the defendant collected his firearms, placed them in a suitcase, and instructed a teammate to place the suitcase in his car. Of course, based on the defendant's then and current story, the firearms had been in his locker for some time, which (according only to him) was in compliance with both District of Columbia law and NBA policy. Obviously, and in contradiction of his claims otherwise, the defendant wanted to remove the firearms from the scene knowing them to be illegal and in violation of NBA rules. Moreover, his request to have the firearms placed back into his car, which the defendant would then presumably drive back to his home where his family resides, further belies his explanation that he wanted to remove the firearms from his home because of his children.

After team management arrived, they first met with Crittenton while the defendant and the rest of the team gathered on the practice court. After the meeting with Crittenton, two members of the Wizards organization went to retrieve the defendant from the practice court. According to one witness, when the defendant was first informed that management wanted to see him, he responded loudly with words to the effect of: "Fuck that, they don't need to see me about shit. I didn't do anything." In response, a member of team management ordered the defendant to come with him, and the defendant then complied.

In the meeting, members of team management asked the defendant directly whether he had firearms in the locker room, and the defendant admitted that he did. When asked why the defendant had firearms in the locker room, he became hostile. He stood up and raised his voice, stating words to the effect of: "Fuck that, you guys are trying to blame me. I'm out of here. I'm

leaving.” The defendant was ordered to sit down, and he complied. When asked again why he brought firearms into the locker room, the defendant provided his differing reasons (i.e., that he wanted to get them away from his family, and, that he wanted to sell one of them to a teammate).

At the end of the meeting, team management ordered a member of the security staff to take possession of the defendant’s firearms and remove them from the premises. The defendant never freely offered the firearms to the team. In reality, when the defendant informed the team about the location of the firearms, he had little choice to do otherwise. The defendant then led a member of the security staff to the suitcase that had been left in the garage area, which was then removed from the premises not by law enforcement, but by team personnel.

The defendant met his first questioning about the incident with hostility, not a willingness to accept personal responsibility. Additionally, he did not offer his firearms to team management; rather, he placed them in a suitcase, and instructed another player to remove them from the locker room. When team management directed staff to take the defendant’s firearms, at that point, the defendant turned them over. True, the defendant could have lied, and he did not. With at least six uninvolved witnesses who had seen his firearms openly present in the locker room, the reality is that the defendant had little choice but to admit that he had possessed firearms. That the defendant did not lie when he had little choice to do otherwise should carry little, if any, weight in evaluating his acceptance of responsibility.

2. The Defendant’s Attempt to Cover-up the Crittenton Confrontation

Moreover, the day after the locker room confrontation, the defendant tried to orchestrate a cover-up to conceal his confrontation with Crittenton, a campaign that would continue in press statements for some time. In a text message early the next morning, December 22, 2009, a member of team management confronted the defendant regarding the seriousness of his conduct.

The member of team management told the defendant that employees were “extremely upset” and “felt endangered.” Although the defendant had told other members of team management just the day before that Javaris Crittenton also had a firearm, the defendant fabricated a story in which Crittenton was not even present. The defendant responded in a text message:

I[']ll take full responsibility for everything. I had the guns and nobody else. Javaris wasn't even in the locker r[oo]m when I showed them. I pulled them out my locker. To give to teammates. So I endanger the locker r[oo]m. Nobody else. That's the story.

In response, the member of team management told the defendant that the “story” contradicts what he had said in the meeting with team management the previous day, and that “half the league” was talking about the locker room incident already. The defendant responded in a text message:

What I said on the plane[,] [w]as i[']ll rather shoot u in the face befor[e] I use my hands to hit u. I didn't say anything in the locker r[oo]m. I don't remember him havin[g] a gun now. I thought he did. I just had them.

In response, the member of team management again reiterated the seriousness of the defendant's conduct. The defendant last responded to the member of team management at 1:58 p.m.:

I didn't see him with one. So I just had them in the locker r[oo]m. That's my story. And I'm sticking with it. Javaris didn't hav[e] a gun he wasn't even in the locker r[oo]m.

Seven minutes later, at 2:05 p.m., the defendant sent a text message to a fellow teammate. According to that teammate, the defendant did not have Crittenton's cell phone number, and accordingly, the defendant asked the teammate (who did have Crittenton's cell phone number) to send this message to Crittenton:

[“]Ur new story. U were [i]n the training r[oo]m when u got out there were 3 guns on ur chair with a note. That said pick one.[”] Send that to Javaris. I[']ll take all the Blame.he didn't hav[e] a

gun he didn't do anything. I[']ll come up with the story. But that[']s all he needs to say. If we hav[e] to talk to the nba office.

See Exhibit D. At the defendant's request, the teammate communicated this message to Crittenton.

Two days later, on December 24, 2009, the defendant, through counsel, notified law enforcement that he had brought firearms into the locker room. In that disclosure, there was no mention of the confrontation with Crittenton. There was no mention of Crittenton's firearm. Indeed, there was no mention of Crittenton at all.

3. The Defendant's Multiple Versions

Throughout this incident, the defendant has provided conflicting, self-serving accounts regarding: why he brought the firearms to the Verizon Center; when he brought the firearms to the Verizon Center; whether Crittenton had a firearm; whether there was a confrontation with Crittenton; or whether Crittenton was even present. To summarize:

- December 21, 2009 – When questioned by team management, the defendant admits to possessing firearms in the locker room that morning. He states that Crittenton possessed a firearm also. The reasons for bringing them to the locker room were two-fold: to get them away from his children, and to sell one to a teammate.
- December 22, 2009 – In text messages to a member of team management, the defendant's "story" is that he possessed all the firearms in the locker room that morning. Now, he does not remember Crittenton with a firearm of his own. In fact, according to the defendant, Crittenton was not even present in the locker room. The defendant stated that his plan was to give the firearms to teammates.
- December 22, 2009 – In a text message to a teammate to be sent to Crittenton, the defendant now states that the "story" is that he possessed all the firearms. Crittenton did not have a firearm, and Crittenton did not do anything.
- December 24, 2009 – Through counsel, the defendant reports his possession of four firearms to law enforcement. There is no mention of Crittenton or the confrontation between them.

- December 25, 2009 – in a text message to the *Washington Times*, the defendant admits to bringing all of the firearms into Washington, D.C. on December 10, 2009, eleven days prior to the locker room confrontation. The defendant states that he wanted the firearms away from his children. He omits any reference to his plan to sell the firearms to a teammate. Again, the defendant makes no mention of Crittenton or a confrontation between them.
- December 29, 2009 – the Washington Wizards and the defendant, through counsel, report to law enforcement that Crittenton may have been involved in a confrontation with the defendant in the locker room.
- January 4, 2010 – after meeting with law enforcement authorities, the defendant releases a public statement claiming that he brought all four firearms into Washington, D.C. some time before the day of the locker room confrontation to keep them away from his young kids.⁶
- January 15, 2010 – the defendant pleads guilty, now admitting to bringing “at least one” firearm into Washington, D.C. on the day of the locker room confrontation. The defendant also admits there was a confrontation with Crittenton and that Crittenton had a firearm.

The defendant attempts to paint a picture that, from the very beginning, he has fully accepted responsibility, confessed the truth when first confronted, and has been a symbol of cooperation throughout his prosecution. In reality, it is quite the opposite. The defendant was not as forthcoming with Wizards management as he suggests, but rather, was belligerent when first confronted. Afterwards, the defendant engaged in obstructive conduct by concocting a “story” to cover up the truth of any confrontation with Crittenton, and the defendant planned to “stick” to it. Such actions are not those of a man who is fully forthcoming in accepting responsibility for his crimes. From the beginning of this case, the defendant’s story has evolved, and now, he is most certainly sticking to it. Yet the story still does not amount to a truthful account of what

⁶ To be clear, in this particular statement, the government would not expect the defendant to publicly incriminate Crittenton. The government notes this statement because, in this version, the defendant claims that he brought all the firearms to the Verizon Center before December 21, 2009, a fact which he subsequently changes.

happened. For a man who said that he is not nervous about sentencing “if [the judge] goes off the actual real story,”⁷ the question becomes: Which story is he talking about?

E. Defendant’s Lack of Remorse

On Monday, January 4, 2010, the defendant released a statement after meeting with members of the Metropolitan Police Department and the United States Attorney’s Office. In that statement, the defendant sought to highlight his profound sense of remorse. In sharp contrast to that statement, on Tuesday, January 5, 2010, after a game against the Philadelphia 76ers, the defendant told reporters: “If I really did something wrong, it would bother me. I would feel remorse for what I did. I didn’t do anything.”⁸ This was the defendant’s state of remorse after the locker room confrontation on December 21, 2009, after law enforcement had commenced its investigation, and after the defendant had met with law enforcement authorities. These words most accurately capture whether the defendant has any sincere remorse for the locker room confrontation with Crittenton. Approximately two weeks after the incident, he did not. The defendant put it simply – in his mind, he did nothing wrong. He has no remorse.

If the defendant’s words were somehow unclear or insufficient to demonstrate his state of mind, the Court can look to his actions. Before the January 5, 2010, game against the Philadelphia 76ers, during warm-ups, the defendant went onto the basketball court before the entire crowd and engaged in his unforgettable, mocking gun-slinging pantomime. See Exhibit E. When viewed either alone or in context, there is only one interpretation for his actions: the defendant believed he did nothing wrong. He had no remorse. To him, it is all a joke.

⁷ Joseph White, “AP Interview: Arenas Shrugs Off Sentencing Nerves,” *Associated Press*, March 3, 2010.

⁸ Phil Jasner, “Wizards’ Arenas: I Know the Rest of ‘The Story,’” *Philadelphia Daily News*, January 6, 2010.

Understandably, the defendant goes through great strides to minimize his actions before the Philadelphia game on January 5, 2010, in an attempt to color them in a less negative light. Again, the defendant puts forward another convenient or “more nuanced” explanation. See Defendant’s Memorandum at 25. Despite the clear message his actions sent that day, he creatively claims that the defendant’s gunslinging pantomime was only in reaction to the rumors that he had pulled a gun on his teammate. According to the defendant, it was not, in any way, a demonstration that “he did not fully accept that he was wrong to bring guns to the Verizon Center.” Id. If so, then why did the defendant state to reporters, just a few hours after the pantomime, that: “If I really did something wrong, it would bother me. I would feel remorse for what I did. I didn’t do anything.” The answer is simple. His explanation – just like his assertion that all the firearms were in the locker room prior to the confrontation, just like his claim that this was all a joke, and just like his claimed ignorance of the law – is not genuine. It is, again, a convenient excuse in an attempt to mitigate his actions, further undermining his credibility as well as his claimed acceptance of responsibility.

IV. THE DEFENDANT’S SENTENCE SHOULD INCLUDE A TERM OF INCARCERATION

To accomplish the statutory objectives pursuant to the District of Columbia Code, a sentence must reflect the seriousness of the offense, reflect the criminal history of the offender, provide for just punishment, and afford deterrence to potential criminal conduct by the defendant and others. See D.C. Code § 24-403.01(a) (2001 ed.) In order to achieve these goals, the defendant should be sentenced to a term including incarceration.

Before these factors are discussed, however, the government acknowledges some of the mitigating factors favoring the defendant. First, the defendant turned his firearms over to law

enforcement, agreed to meet with authorities, and pled guilty at an early stage of the proceedings. Although all of these factors often weigh in favor of a defendant, they should carry less weight when such steps are taken for reasons other than accepting criminal responsibility. Here, the defendant turned over his firearms to the Washington Wizards because, realistically, he had no choice. Here, the defendant met with law enforcement, and pled guilty at an early stage of the proceedings, because, realistically, he had little practical choice. The government recognizes that the defendant had to be seen – by the Washington Wizards, by the NBA, and by the public – as accepting responsibility for his actions. The defendant’s guilty plea allowed the defendant to receive his punishment from the NBA, and ultimately, to continue playing basketball in the future. Of course, as evidenced by his plea offer, these factors still provide the defendant with considerable credit. Where a person elects to plead guilty, and their decision to plead guilty also aligns with their professional (and financial) interests to do so, it casts doubt on the extent to which the defendant is pleading guilty because it is the “right thing to do.”

Second, the government also recognizes the number of letters of reference written on the defendant’s behalf as well as his acts of community service. As an initial matter, it appears that none of these letters of reference acknowledge the full extent of the defendant’s conduct before, during, or after the offense. To the extent they do acknowledge the facts at all, they rely on some portion of the defendant’s version, which the government submits is self-serving and lacking in credibility. To be clear, the government does not dispute that the defendant is a benevolent man, and with the fortune that has been bestowed upon him, he has contributed meaningfully to the Washington, D.C. community. These contributions were a considerable factor in the government’s decision to not only limit its allocation to the bottom of the defendant’s guideline

range, but also to not seek his detention pending sentencing, and to recommend a split-sentence of incarceration followed by a period of probation.

These mitigating factors notwithstanding, the defendant's conduct here was too reckless, the situation too dangerous, his acceptance of responsibility too lacking, his explanations too disingenuous, and his lack of remorse too blatant, to warrant a mere probationary sentence. To achieve the statutory objectives established by the City Council, his sentence must include a term of incarceration.

A. The Seriousness of the Offense

The defendant correctly argues that this case is not the "typical" CPWL case. See Defendant's Memorandum at 27. In fact, the government considers this case worse. The defendant's decisions created an explosive, hostile environment that could have potentially resulted in far worse consequences. The defendant's actions were not taken as a joke, and many (including Crittenton) believed the defendant to be serious. Moreover, when the defendant laid the firearms out on the chair, several uninvolved witnesses fled the locker room because they were either uncomfortable or feared for their safety. In fact, during the incident, one uninvolved witness in the locker room "appeared terrified." Further, another player was seen coming into the locker room in his street clothes, gathering his belongings in his arms, and fleeing. This serious offense notwithstanding, the defendant met his initial questioning with hostility, concocted a false story, gave untruthful explanations of his conduct, subsequently claimed that he had done nothing wrong, felt no remorse, and considered it a matter about which he could joke on television.

B. Criminal History

As accurately reported in the Presentence Report, the defendant has a prior criminal conviction for misdemeanor Carrying a Concealed Weapon from California in 2003, leaving him with a criminal history score of 0.25. See Defendant's PSR at 10. The weapon in that case was another unregistered firearm. One of the most troublesome concerns about the defendant is that he engaged in this serious offense with a prior criminal conviction for a related weapons offense. He is a recidivist. Having received no jail time for his first offense, the defendant received a second chance. Now, after his bold, brazen conduct in the Wizards' locker room, and pleading guilty to a felony, the defendant asks for yet another chance to go on with his life without any meaningful punishment for his crimes. Having failed to learn anything from his previous probationary sentence, there is no reason to believe that a subsequent probationary sentence, unattended by any period of incarceration, will have any deterrent effect on this defendant.

C. Just Punishment

Notwithstanding his conduct, his criminal history, and the seriousness of the offense, the defendant argues that he has been punished sufficiently already by the government's decision not to provide him with a more lenient plea offer. The standard plea offer in CPWL cases such as this is to the very charge that the defendant pled: CPWL. In exchange for meeting with law enforcement and accepting his guilt at an early stage of the proceedings, the government also agreed not to seek the defendant's incarceration pending his sentencing or any term of incarceration greater than the bottom of the defendant's applicable guideline range. Moreover, the government has significantly limited the extent to which it may ask for incarceration at sentencing. These considerable benefits accurately reflect and reward the defendant's decision to meet with law enforcement and plead guilty at an early stage in the proceedings.

Here, the defendant created an explosive situation that could have been considerably worse. Not only had Crittenton been placed in fear to the point that he felt he needed to bring a firearm, but other witnesses “felt endangered” by the defendant’s conduct. After the incident, the defendant engaged in obstructive conduct by fabricating a false version of events, and then tried to get Crittenton to agree to it. When he realized that it was too late, the defendant provided untruthful explanations of his conduct, claiming that the firearms were already present in the locker room and that he did not know it was illegal. Last, after all this, even though he knew that his conduct was being taken seriously by others, he still didn’t. So, he joked about it on television during a game. When asked, the defendant said that because he “didn’t do anything,” he felt no remorse. For these actions, the only just punishment must include a term of incarceration.

D. Deterrence

The defendant’s conduct before, during, and after the incident, coupled with his criminal history, provide a more than adequate basis for his incarceration. Nevertheless, the government wishes to note that, from a general deterrence perspective, to sentence the defendant to merely probation with community service sends the wrong message and is at odds with the clear message from the City Council concerning the seriousness and danger presented by those who illegally carry a firearm in the District of Columbia, let alone four firearms. Such a sentence essentially would tell the community that you can commit a serious offense, with a criminal history, and joke about it later. With enough money, fame, and the right representation, you can avoid paying the price that others in this city would certainly pay in these circumstances. Such a message undermines the bedrock belief that the sentences of criminal defendants are handed out equally, and it is the wrong message to send to the city of Washington, D.C., particularly those

members of our community that have idolized Gilbert Arenas in the past, and who may sympathize with him in the present.

V. CONCLUSION

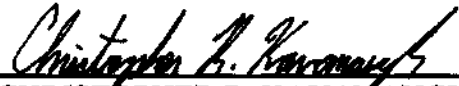
If any other individual – without the fame, power, and the wealth of this defendant – brought four firearms into Washington, D.C. for the purpose of a similar confrontation, fabricated a story to conceal that confrontation, provided convenient explanations in an attempt to mitigate his conduct that were proved false, joked about the incident to large groups, and stated that he did nothing wrong and felt no remorse, the government would seek their incarceration, and the Court would almost certainly give it. The defendant, although famous, powerful, and wealthy, should be treated no differently.

WHEREFORE, the government respectfully requests the Court sentence the defendant to six (6) months' incarceration, with the execution of that sentence suspended as to all but three (3) months, followed by three (3) years probation, to include three-hundred (300) hours of community service.⁹

Respectfully submitted,

RONALD C. MACHEN JR.
United States Attorney

By:


CHRISTOPHER R. KAVANAUGH
Assistant United States Attorney
United States Attorney's Office
for the District of Columbia
Felony Major Crimes, Room, 3126
555 Fourth Street NW
Washington, D.C. 20004

⁹ At the sentencing hearing, the government will provide the Court with specific community service recommendations that would serve the community well as part of the defendant's sentence.

EXHIBIT A



U.S. Department of Justice
United States Attorney
District of Columbia

Judiciary Center
555 Fourth St. N.W.
Washington, D.C. 20530

January 25, 2010

Peter White
Schulte, Roth & Zabel, LLP
1152 Fifteenth Street NW, Suite 850
Washington, D.C. 20005

Re: United States v. Javaris Crittenton
Case Number: 2010 CMD 1576

Dear Counsel:

I am writing to extend the below plea offer to your client. The government reserves the right to revoke this plea offer at any time before your client enters a guilty plea in this case, however. If your client accepts the terms and conditions set forth below, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the plea agreement between your client and the Office of the United States Attorney for the District of Columbia. The terms of the offer are as follows:

1. Your client agrees to admit guilt and enter a plea of guilty to one count of Possession of an Unregistered Firearm, in violation of D.C. Code § 7-2502.01 (2001), for which the maximum possible penalty is one year of incarceration and a \$1,000 fine.
2. Your client understands that the government will waive its right to allocute as to whether your client should be incarcerated pending sentencing; and reserve its right to allocute at the time of sentencing. However, in its allocution, the government will not oppose probation.
3. Your client understands that the government will not seek indictment on any greater or remaining charges arising from the facts in the above-referenced case. Your client also understands that the government will dismiss any remaining charges at the time of sentencing.
4. Your client understands that, to the extent necessary, he will continue to cooperate with law enforcement in this investigation.

5. The parties further agree that your client, after taking an oath to tell the truth, shall agree to the attached factual proffer in open court on the date of the plea.
6. Your client agrees that this letter is binding on the government, but not binding on the court, and that your client cannot withdraw this plea at a later date, because of the harshness of any sentence imposed by the court. The government understands that your client is not bound by the government's allocution, and may request a lesser sentence within your client's applicable guideline range.
7. Your client also agrees that if any firearms or illegal contraband were seized by any law enforcement agency from the possession of or the direct or indirect control of your client, then your client consents to the administrative forfeiture, official use and/or destruction of said firearms or contraband by any law enforcement agency involved in the seizure of those items.
8. In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute. In particular, your client knowingly and voluntarily waives or gives up his right against self-incrimination with respect to the offense(s) to which your client is pleading guilty before the Court which accepts your client's plea. Your client also understands that by pleading guilty, your client is waiving or giving up your client's right to be tried by a jury or by a judge sitting without a jury, the right to be assisted by an attorney at trial, and the right to confront and cross-examine witnesses.
9. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the Office of the United States Attorney for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this office and your client.

If you have any questions, please do not hesitate to contact me at (202) 514-7418.

Respectfully Submitted,

CHANNING D. PHILLIPS
Acting United States Attorney

By:

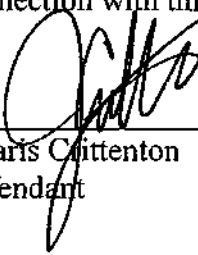


CHRIS KAVANAUGH
Assistant United States Attorney
United States Attorney's Office
555 Fourth Street, N.W., Room 3126
Washington, D.C. 20530

DEFENDANT'S ACCEPTANCE

I have read this plea agreement and attached factual proffer and have discussed it with my attorney, Peter White, Esquire. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me, nor am I under the influence of anything that could impede my ability to understand this agreement fully. I am pleading guilty because I am in fact guilty of the offenses set forth herein.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.




Javaris Crittenton
Defendant

1/25/10
Date

ATTORNEY'S ACKNOWLEDGMENT

I have read each of the preceding two pages constituting this plea agreement, reviewed them with my client, Javaris Crittenton, and discussed the provisions of the agreement with my client, fully. These pages accurately and completely set forth the entire plea agreement.



Peter White, Esq.
Attorney for Javaris Crittenton

1/28/10
Date

PROFFER OF FACTS

Had the case of *United States v. Javaris Crittenton* proceeded to trial, the parties would have presented the following facts and circumstances, among other evidence, which establish the defendant's guilt beyond a reasonable doubt:

On December 19, 2009, into the early morning hours of December 20, 2009, the Washington Wizards professional basketball team chartered a flight to Washington, D.C. from Phoenix, Arizona, where they had just played a game. On that flight, Javaris Crittenton, a Washington Wizards player, got into an argument over a card game with Gilbert Arenas, another Wizards player. In a heated exchange, Arenas stated he was too old to fistfight and threatened to shoot Crittenton in the face. Crittenton responded that he would shoot Arenas in his surgically-repaired knee. On the shuttle bus from the airplane to the terminal, Arenas further stated that he was going to burn or blow up Crittenton's car when they came to practice the following Monday. According to Crittenton, he believed that Arenas intended to harm him. After getting off the shuttle bus, other individuals that were present during the argument made comments to Crittenton that confirmed his belief that Arenas intended to follow through with his threats.

On December 21, 2009, at approximately 9:00 a.m., Crittenton arrived at the Verizon Center, 601 F Street N.W., Washington, D.C., to receive medical treatment and attend Wizards' practice. According to Crittenton, before he left his home in Virginia for practice that day, Crittenton had placed a lawfully owned, unloaded handgun into his backpack because he believed that Arenas would carry out his threat to shoot him that day. Crittenton initially proceeded to the Wizards' locker room but, fearing that Arenas would blow up his car or attempt to shoot him, Crittenton returned to his vehicle to retrieve his backpack, which contained the handgun. According to Crittenton, at the time he retrieved his backpack Crittenton feared for his own safety.

Once Crittenton entered the Wizards' locker room, he put his backpack in his locker and went to a separate room to see team trainers and medical personnel. When Crittenton returned to the locker room, he saw Arenas walking away from the area in front of Crittenton's locker. On the chair located directly in front of Crittenton's locker, Arenas had placed several handguns with a piece of paper with the message "PICK 1." According to Crittenton, he believed that Arenas intended Crittenton to select a firearm with which Arenas would carry out his threat to shoot Crittenton. Arenas has claimed he placed the guns on Crittenton's chair as part of a practical joke.


Crittenton asked Arenas "[w]hat is this?" and told him to get the guns off his chair, picking up one of the firearms by its extended clip and tossing it along the floor away from his chair. According to Crittenton, he feared for his own safety, so he told Arenas he had his own gun. Crittenton took his handgun out of his backpack and, without pointing it at anyone, showed it to Arenas, holding it below his waist pointed downward. There is no evidence that Crittenton's firearm was loaded when he pulled it out of his backpack or that Crittenton ever loaded the firearm with ammunition. There also is no evidence that Crittenton ever chambered a round, pulled back the hammer, raised or pointed the firearm, or otherwise brandished the firearm in a threatening manner at any time during this incident.

According to Crittenton, Arenas responded to Crittenton by stating: "You are going to need more than that little gun." After deciding that Arenas did not intend to shoot Crittenton at that time, Crittenton placed his firearm back in his backpack and went from the locker room to the trainer's room.

Crittenton arranged for the voluntary surrender of the firearm involved in this incident, an unloaded silver and black nine millimeter semi-automatic Taurus with magazine, which is now in possession of law enforcement. Crittenton's firearm is designed or intended to expel a projectile by means of an explosive, and was not registered in the District of Columbia. Crittenton, who was 21 years old at the time of the incident, has no criminal record, has never been arrested, and has been cooperative and forthcoming with law enforcement.

DEFENDANT'S ACKNOWLEDGMENT

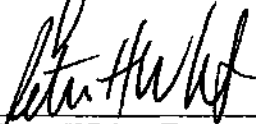
I have read and discussed the government's Proffer of Facts with my attorney, Peter White, Esquire. I agree, and acknowledge by my signature, that this Proffer of Facts is true and correct.



Javaris Crittenton
Defendant

1/25/10

Date

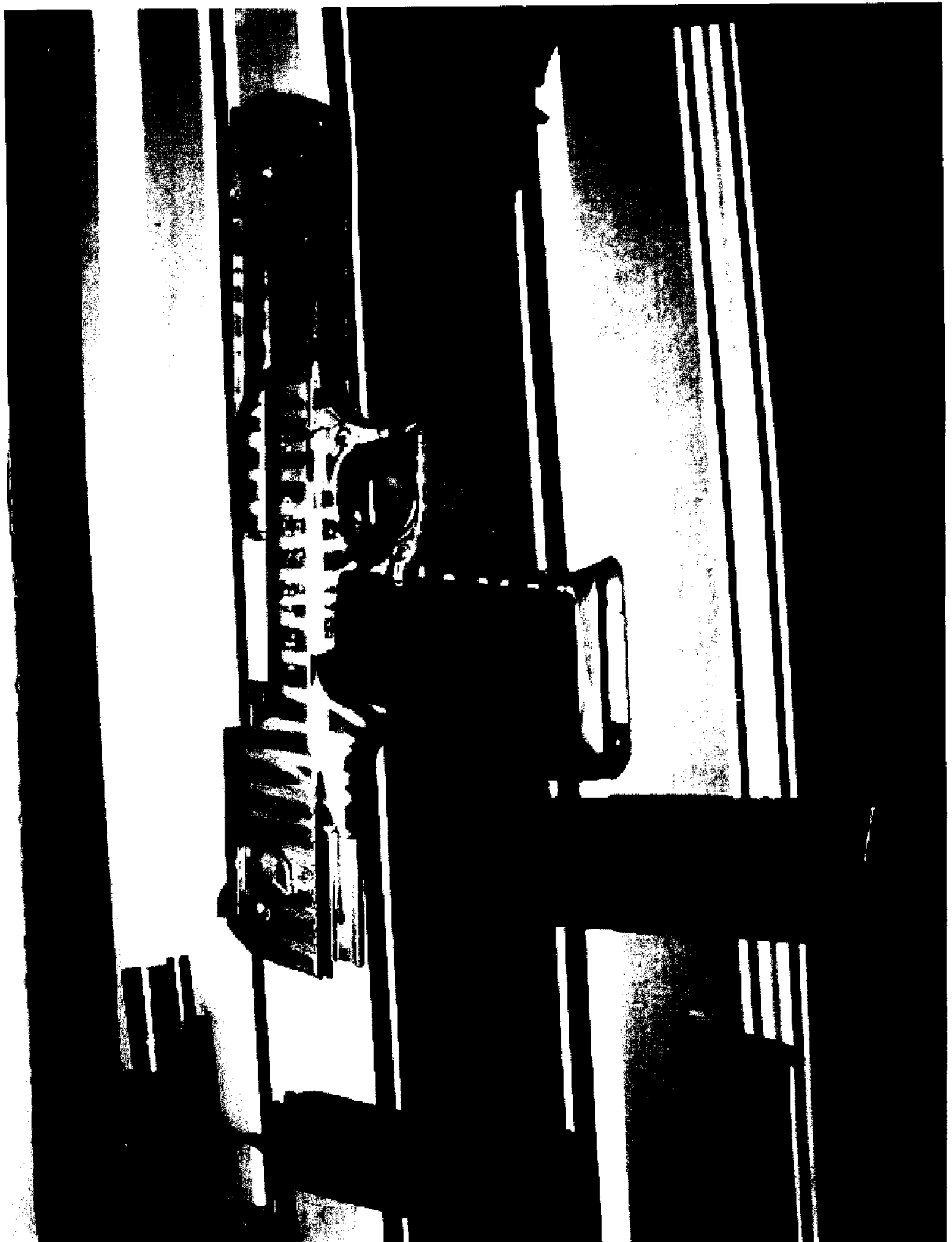


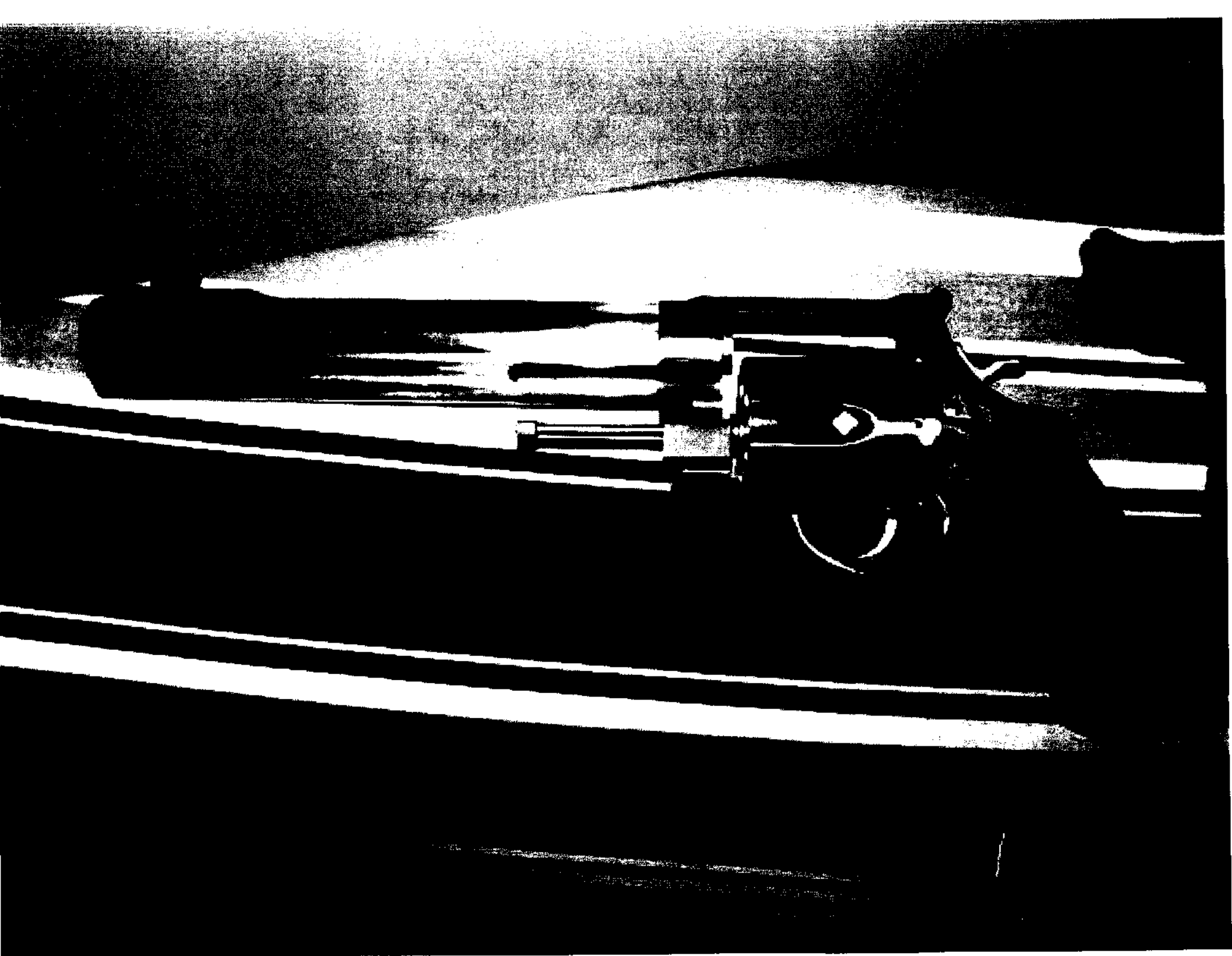
Peter White, Esq.
Attorney for Javaris Crittenton

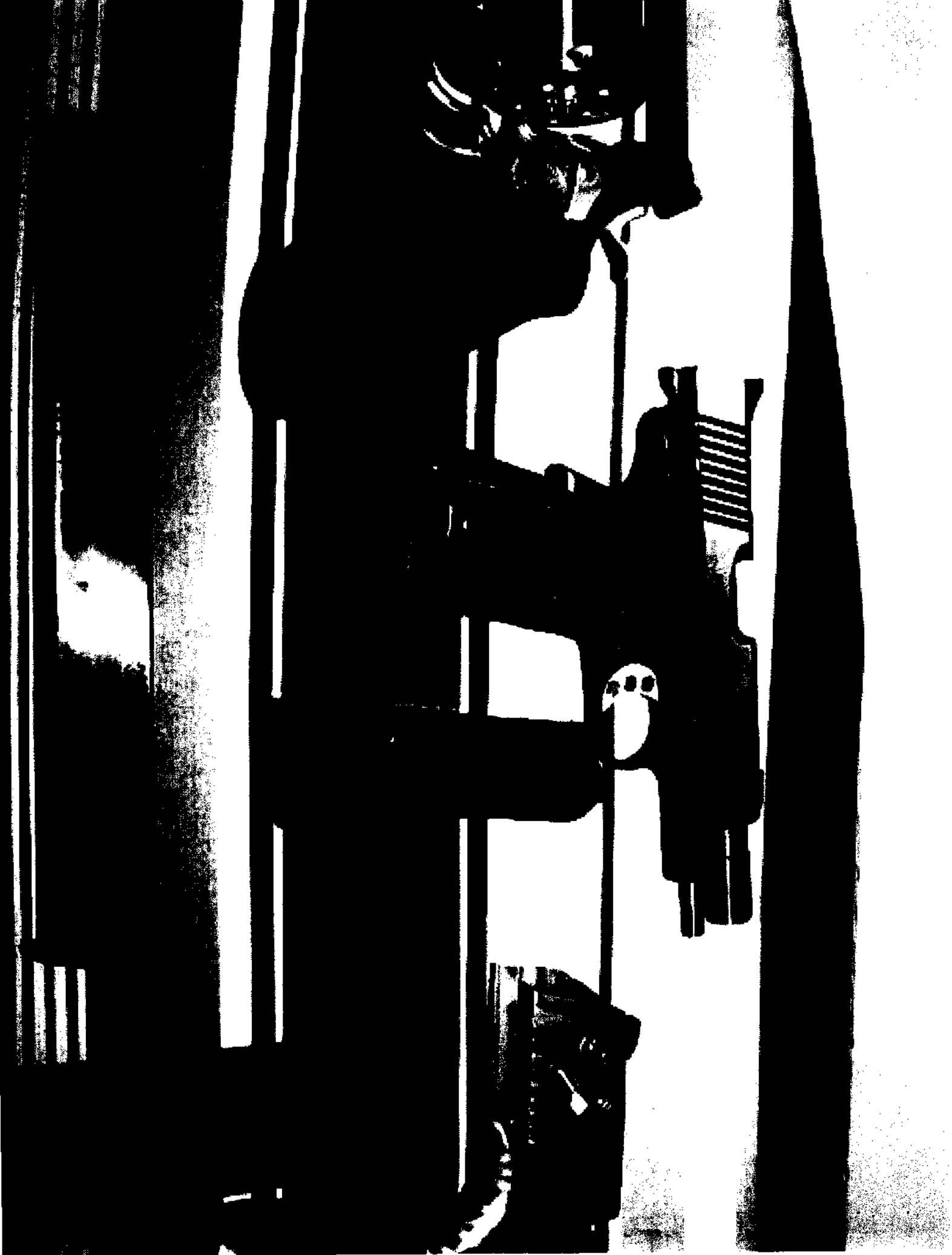
1/25/10

Date

EXHIBIT B







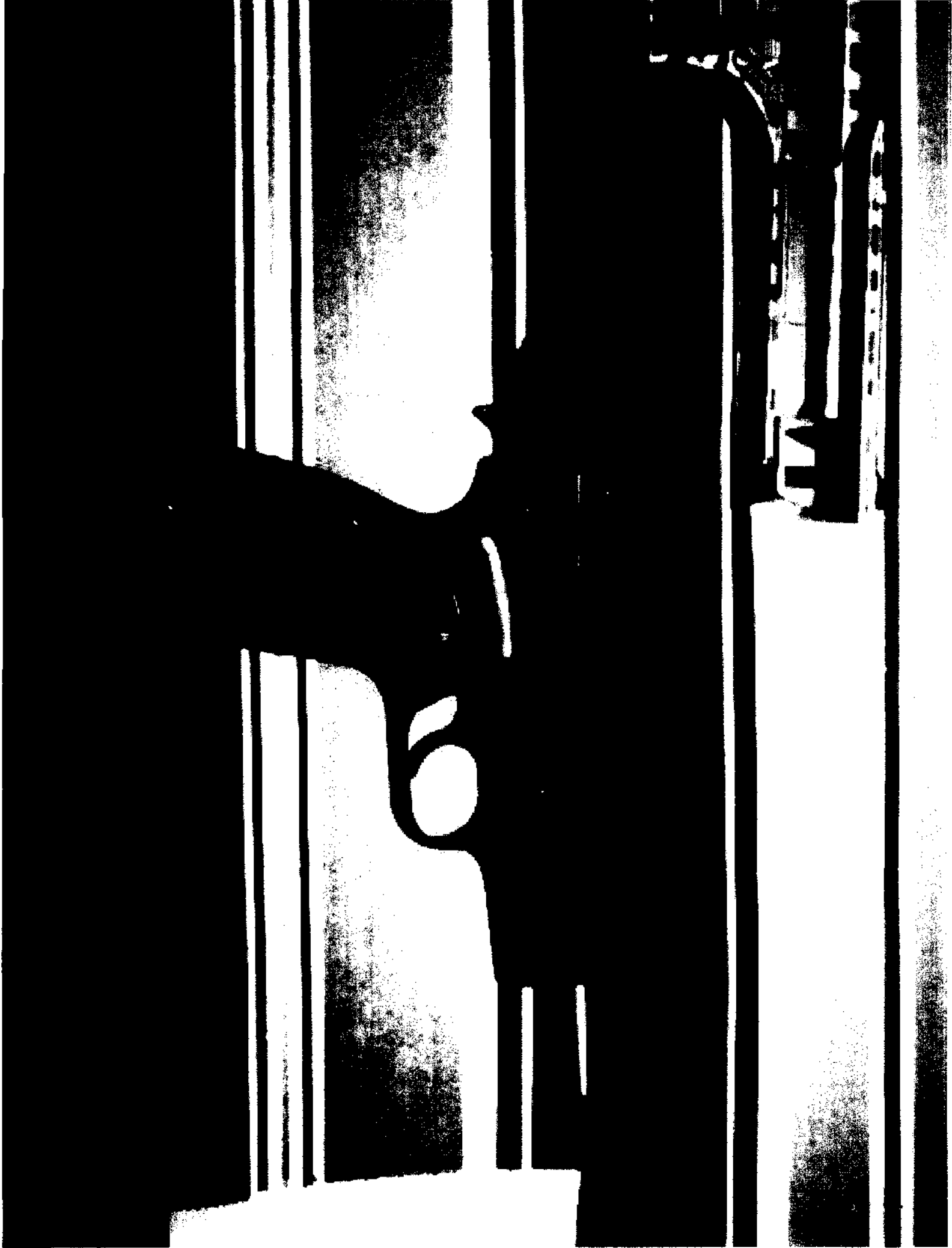




EXHIBIT C



U.S. Department of Justice
United States Attorney
District of Columbia

Judiciary Center
555 Fourth St. N.W.
Washington, D.C. 20530

January 15, 2010

VIA EMAIL

Kenneth Wainstein
O'Melveny & Myers LLP
1625 Eye Street NW
Washington, D.C. 20006
kwainstein@omm.com

Re: United States v. Gilbert Arenas
Case No. 2010 CF2 904

Dear Counsel:

I am writing to extend the below pre-arrest plea offer to your client. The government reserves the right to revoke this plea offer at any time before your client enters a guilty plea in this case. If your client accepts the terms and conditions set forth below, have your client execute this document in the space provided below and return the executed document. Upon receipt of the executed document, this letter will become the plea agreement between your client and the Office of the United States Attorney for the District of Columbia. The terms of the offer are as follows:

1. Your client agrees to admit guilt and enter a plea of guilty to one count of Carrying a Pistol without a License, in violation of 22 D.C. Code § 4504 (2001), the maximum possible penalty for which is five years and a \$5,000 fine.
2. Your client understands that the government will not request that your client should be incarcerated pending sentencing; will waive its right to file enhancement papers; and will reserve its right to allocute at the time of sentencing.¹ However, to the extent the government requests incarceration, the government will not ask for any term of incarceration greater than the **bottom** of your client's applicable guideline range.

¹ The government reserves the right to request that your client be detained pending sentencing in the event that your client is re-arrested or violates any condition of release.

3. Your client understands that the government will not seek indictment on any greater or remaining charges arising from the facts and circumstances surrounding the above-referenced case and subsequent investigation.
4. The parties further agree that your client, after taking an oath to tell the truth, shall, in open court on the date of the plea, agree to his conduct as described in the attached factual proffer.
5. Your client understands that the Court may utilize the District of Columbia Sentencing Commission's Voluntary Sentencing Guidelines in imposing the sentence in this case. The government and your client agree that neither party will seek an upward or downward departure outside of your client's applicable guideline range, which will be determined by the Court at the time of sentencing, but that the government calculates to be between 6 and 24 months, with probation, a split-sentence, or incarceration permissible.
6. Your client agrees that this letter is binding on the government, but not binding on the Court, and that your client cannot withdraw this plea at a later date, because of the harshness of any sentence imposed by the Court. The government understands that your client is not bound by the government's allocution, and may request a lesser sentence within your client's applicable guideline range.
7. Your client also agrees that if any firearms or illegal contraband were seized by any law enforcement agency from the possession of or the direct or indirect control of your client, then your client consents to the administrative forfeiture, official use and/or destruction of said firearms or contraband by any law enforcement agency involved in the seizure of those items.
8. In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute. In particular, your client knowingly and voluntarily waives or gives up his right against self-incrimination with respect to the offense(s) to which your client is pleading guilty before the Court which accepts your client's plea. Your client also understands that by pleading guilty, your client is waiving or giving up your client's right to be tried by a jury or by a judge sitting without a jury, the right to be assisted by an attorney at trial, and the right to confront and cross-examine witnesses.
9. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the Office of the United States Attorney for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this office and your client.

If you have any questions, please do not hesitate to contact me at (202) 514-7418.

Respectfully Submitted,

CHANNING D. PHILLIPS
United States Attorney

By:




CHRIS KAVANAUGH
Assistant United States Attorney
United States Attorney's Office
555 Fourth Street, N.W., Room 3126
Washington, D.C. 20530
Phone: (202) 514-7418
Fax: (202) 514-8786

DEFENDANT'S ACCEPTANCE

I have read this plea agreement and attached factual proffer and have discussed it with my attorney, Kenneth Wainstein, Esquire. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me, nor am I under the influence of anything that could impede my ability to understand this agreement fully. I am pleading guilty because I am in fact guilty of the offenses set forth herein.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

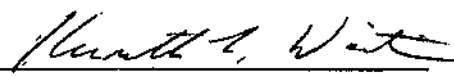


Gilbert Arenas
Defendant

1/15/10
Date

ATTORNEY'S ACKNOWLEDGMENT

I have read each of the preceding three pages constituting this plea agreement, reviewed them with my client, Gilbert Arenas, and discussed the provisions of the agreement with my client, fully. These pages accurately and completely set forth the entire plea agreement.



Kenneth Wainstein, Esq.
Attorney for Gilbert Arenas

1/15/10
Date

PROFFER OF FACTS

Had the case of United States v. Gilbert Arenas proceeded to trial, the government would have established, by proof beyond a reasonable doubt, that among other things:

On December 19, 2009, into the early morning hours of December 20, 2009, the Washington Wizards (a professional basketball team) chartered a flight to Washington, D.C. from Phoenix, Arizona, where they had just played a game. On that flight, the Defendant, Gilbert Arenas ("Arenas"), and another player for the Washington Wizards ("The Other Player") got into an argument over a card game. In the heated exchange, The Other Player suggested they have a fistfight. Arenas declined, saying that he was too old to fistfight and instead that that he would "burn" The Other Player's vehicle or shoot him in the face. The Other Player told Arenas that he would "shoot the f--k" out of Arenas and that he would shoot Arenas in his knee. Arenas later told members of the Wizards organization that his statements were made in jest.

On December 21, 2009, at approximately 9:30 a.m., Arenas arrived at the Verizon Center, 601 F Street N.W., Washington, D.C., to attend practice. When Arenas entered the Washington Wizards locker room, he was wearing a black backpack with two shoulder straps. Arenas wore the backpack "backwards," that is, with the backpack in the front of his body, rather than on his back. At the time that Arenas arrived and entered the Verizon Center on that day, he was knowingly carrying at least one firearm – a 500 magnum, silver Smith and Wesson revolver – inside the backpack. Once Arenas entered the locker room, he walked over to his locker. Shortly thereafter, he walked over to the locker used by The Other Player. Arenas opened the backpack and placed four (4) firearms on the chair located directly in front of The Other Player's locker. Arenas wrote the message "PICK 1" on a piece of paper, and placed it on The Other Player's chair near the firearms. Arenas remained in the locker room. Arenas later claimed to members of the Wizards organization that he did this as part of a practical joke and that his firearms were unloaded.

Moments later, The Other Player walked into the locker room and approached his locker. The Other Player stated words to the effect of "What is this?" Arenas stated to The Other Player words to the effect of: "You said you were going to shoot me, so pick one." The Other Player stated that he did not need Arenas's guns, and that he had his own. The Other Player picked up one of the firearms from his chair and threw it across the locker room. Arenas observed The Other Player display what appeared to Arenas to be a silver-colored semi-automatic handgun.

After this incident, Arenas collected his pistols, placed them inside his locker, and subsequently transferred them to a suitcase. He gave that suitcase to another Washington Wizards teammate and told him to take it down to the garage and place it in Arenas's car. There is no evidence at this time that the teammate knew the bag contained any firearms. The teammate went to the secure area of the garage but could not identify which vehicle belonged to Arenas. The teammate then decided to leave the bag in the secure area of the parking garage. Soon thereafter, Washington Wizards team management learned of the presence of firearms in the locker room. In a meeting with team management, Arenas admitted that he brought firearms from his home into Washington, D.C., and he told team management that The Other Player also had a firearm. Team management directed Washington Wizards security personnel to secure

Arenas's firearms and remove them from the premises. Arenas led a member of the security staff to the parking garage and directed him to the suitcase that had been left in the garage area. A member of the security staff then transported the weapons out of the District of Columbia into Virginia. Attorneys for the Wizards organization and an attorney for Arenas notified the Office of the United States Attorney on December 24, 2009 that Arenas had possessed and carried firearms in the locker room on December 21.

On December 24, 2009, members of the Metropolitan Police Department responded to Virginia, where Arenas's four firearms were surrendered to the Metropolitan Police Department. These firearms consisted of:

- One .50-caliber Gold-Plated semi-automatic Desert Eagle with magazine
- One 500 magnum, silver Smith and Wesson revolver
- One .45 caliber, black semi-automatic Kimber Eclipse with magazine
- One 9 millimeter Browning with magazine (and extended magazine)

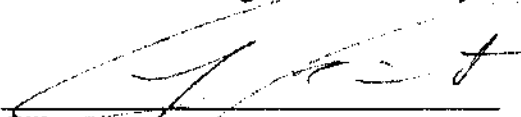
All four firearms were unloaded and no ammunition was recovered.

All of the above-referenced firearms were designed or intended to expel a projectile by means of an explosive, and all of the firearms have barrels of less than twelve inches. Mr. Gilbert Arenas does not have a license to carry a pistol in the District of Columbia. None of the firearms were registered in the District of Columbia.

WAIVER OF INDICTMENT

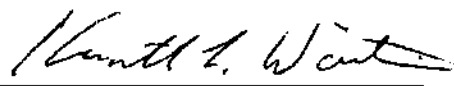
I, Gilbert Arenas, accused of Carrying a Pistol without a License, in violation of 22 D.C. Code § 4504 (2001), being advised of the nature of the charges and of my rights, hereby waive, in open court, prosecution by indictment, and consent that the proceedings may be by information instead of by indictment.

I have consulted with my attorney, Kenneth Wainstein, Esquire, and have decided to voluntarily waive my right to be prosecuted for this felony after a grand jury votes to indict me. This waiver is being made voluntarily and intelligently and without duress or compulsion.



Gilbert Arenas
Defendant

1/15/10
Date



Kenneth Wainstein, Esq.
Attorney for Gilbert Arenas

1/15/10
Date

EXHIBIT D

AT&T 30

2:33 PM

Messages (2)

Gilbert Arenas

Jan 6, 2010 2:35 PM

Ur new story. U were n
the training rm when u got
out there were 3 guns on
ur chair with a note. That
said pick one. Send that
to javaris ill take all the

Blame.he didn't hav a gun
he didn't do anything. Ill
come up with the story.
But that all he needs to
say. If we hav to talk to
the nba office

Jan 6, 2010 2:35 PM



Send

EXHIBIT E

Campbell responding to
its from Portis

was moving, and Zorn — never
before a coordinator, charged

... The head coach hadn't been

placed by the inevitability of his
ZORN CONTINUED ON D7

Mike Shanahan reaches agreement with the Redskins to
the team's head coach and vice president of football oper
He will be introduced Wednesday afternoon. Story, A1.

Personal foul



MIKE WISE

ar Gilbert,
u've really
wn it now

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'enas:
y 28th, Gil. Some great
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Superior Court grand
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ainst you for bringing
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1 and go from there.
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'to be tossed to them,
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1 to your 25th
ty at Love, the
ub where Sean



Arenas pretent
shoot teammates
104-97 win over

BY MICHAEL LI

PHILADELPHIA — The
meeting with law enforc
officials in the District, Gil
nas was back on the b
court, the place that has
him refuge throughout
But the moment Arenas
nounced before the Wa
Wizards played the Phil
76ers, he suddenly had
with a hostile environ
the Philadelphia fans bo
lustily.

Once famous for bein
and goofy, Arenas is
famous following a lock
dispute with teammate
Crittenton in which gu
displayed. Arenas explai
reason for handling the g
ing an argument with Cr
on Dec. 21 as "a misguid
to play a joke on a tea
Arenas has tried combat
mor this stressful situa
which could lead to serio
and NBA punishment
lating D.C. gun laws and
rules. And, as his tea
gathered in a circle bef
game, Arenas got in the
formed his hands into pist
acted as if he were shoot
teammates.

His teammates chuckl
the Wizards didn't find ar
humorous through the f
minutes against the 76ers

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served on counsel for the defendant, Kenneth Wainstein, this 22nd day of March, 2010



Assistant United States Attorney