

CRIMINAL PROCEEDINGS - Change of Plea and Sentencing

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Magistrate Judge Mikel H. Williams  
Deputy Clerk: Anne Lawron  
Recorder: Pam Fulwyler

Date: 04/19/07  
Time: 1 hr 30 min

UNITED STATES OF AMERICA vs TIMOTHY SUNDLES

Case No. CR05-223E-MHW

Counsel for United States : Mike Fica  
Defendant(s): David Nevin  
Interpreter:

( ) Interpreter sworn

(X ) Defendant sworn

( ) Defendant WAIVES appearance before a District Judge for entry of Plea. Waiver entered. A report and Recommendation will be made to the District Judge regarding this defendants plea and the plea agreement.

(X ) Dft found competent to enter plea following inquiry by the Court.

(X ) Defendant is satisfied with representation by counsel.

(X ) Defendant advises he wishes to enter a plea of GUILTY to Count(s) One of the Information

(X ) Copy of Plea agreement and charging document furnished to defendant(s). Explained by Court Defendant understands the charges and maximum penalties. Plea agreement explained to the defendant. Sentencing guidelines explained. Dft advised he understands his rights and the rights he will waive by pleading guilty. Defendant understands the plea agreement.

(X ) The Court finds a factual basis for the plea of Guilty

(X ) Defendant withdraw previous plea of NOT GUILTY, and enters a GUILTY plea to Count One of the indictment/superseding indictment/information pursuant to the plea agreement. Court finds plea of guilty knowing and voluntary and will accept guilty plea and plea agreement.

SENTENCING

(X ) Governments Motion to Dismiss Count 2 is granted.

Witnesses:

Government

1. SA Scott A. Bragonier

Exhibits:

Government - 1, 2,3, 4, 5

All parties have received the PSR, objections were incorporated in the final report. There are no further objections from the defendant. The Government has filed a sentencing memorandum.

Argument by counsel. Defendant addressed the Court. Brief Recess.

It is the Judgment of this court the defendant, Timothy Sundles, having plead guilty to Count One of the information is sentenced as follows: Dft shall be placed on probation for a term of 2 years. It is ordered that the defendant shall pay a fine in the amount of \$1,500 which shall be due and payable within 90 days of judgment. It is further ordered that the defendant shall pay to the United States a special assessment of \$10 which is due immediately. Defendant shall pay restitution of \$128.90. Payments may be forwarded to the Clerk of the US District Court, 550 W. Fort St., MSC

039, Boise, ID 83724. Drug testing is waived. Defendant shall abide by the standard conditions of probation and the following special conditions: The defendant is prohibited from entering any federal public lands, to include National Forest areas during the period of probation for business, hunting or recreational purposes. The defendant shall be sentenced to 6 days of intermittent confinement, consisting of 2 days confinement on 3 separate weekends. The intermittent confinement shall be served within the first 90 days of probation.

Dft advised of his appeal rights.

## UNITED STATES DISTRICT COURT

District of IDAHO

UNITED STATES OF AMERICA

V.

## JUDGMENT IN A CRIMINAL CASE

TIMOTHY B. SUNDLES

Case Number: CR05-223E-MHW

USM Number: 10661-023

David Nevin

Defendant's Attorney

## THE DEFENDANT:

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

The defendant is adjudicated guilty of these offenses:

| Title & Section        | Nature of Offense                       | Offense Ended | Count |
|------------------------|-----------------------------------------|---------------|-------|
| 16 USC § 1538(a)(1)(G) | Violation of the Endangered Species Act | 02/19/2004    | 1     |

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) \_\_\_\_\_☒ Count(s) Two X is ☐ are dismissed on the motion of the United States.

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

04/19/2007

Date of Imposition of Judgment



Signature of Judge

Mikel H. Williams, United States Magistrate Judge

Name and Title of Judge

4/26/2007

Date

DEFENDANT: Timothy B. Sundles  
CASE NUMBER: CR05-223E-MHW

### PROBATION

The defendant is hereby sentenced to probation for a term of : Two Years.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and to periodic drug tests thereafter not to exceed a maximum of five per month as directed by the Probation Officer.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☐ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

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

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Timothy B. Sundles  
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### **ADDITIONAL PROBATION TERMS**

Defendant shall comply with the standard conditions of probation and the following additional conditions:

The defendant is prohibited from entering any federal public lands to include National Forest areas during the period of probation for business, hunting or recreational purposes.

The defendant shall be sentenced to six days of intermittent confinement, consisting of two days confinement on three separate weekends. The intermittent confinement shall be served within the first 90 days of probation.

As a term of the defendants probation he shall pay a fine in the amount of \$1,500 which shall be due and payable within 90 days. Defendant shall also pay a special assessment to the United States of \$10 which is due and payable immediately.

The defendant shall pay restitution of \$128.90. Payments may be forwarded to the Clerk of the US District Court, 550 W. Fort St., MSC 039, Boise, ID 83724.

DEFENDANT: Timothy B. Sundles  
CASE NUMBER: CR05-223E-MHW

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

|               | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------|--------------------|
| <b>TOTALS</b> | \$ 10.00          | \$ 1,500    | \$ 128.90          |

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

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

| <u>Name of Payee</u> | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|----------------------|--------------------|----------------------------|-------------------------------|
| Toby Friedman        | 80.00              | 80.00                      |                               |
| Tom McFarland        | 48.90              | 48.90                      |                               |

|               |          |          |
|---------------|----------|----------|
| <b>TOTALS</b> | \$ 128.9 | \$ 128.9 |
|---------------|----------|----------|

☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

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

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### SCHEDULE OF PAYMENTS

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

- A ☐ Lump sum payment of \$ \_\_\_\_\_ due immediately, balance due
- ☐ not later than \_\_\_\_\_, or
- ☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
Defendant shall pay all fines, special assessments, and restitution ordered within 90 days of entry of judgment.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

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

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

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