

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

**FILED**  
AT ALBUQUERQUE NM

MAR 11 2002

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ARNOLD BEGAY, )  
 )  
 Defendant. )

ROBERT M. MARCH  
CLERK

CRIMINAL NO. 00-1393 LH

**PLEA AGREEMENT**

Pursuant to Federal Rule of Criminal Procedure 11(e)(2), the parties hereby notify the Court of the following agreement between the United States Attorney for the District of New Mexico, the defendant, ARNOLD BEGAY, and the defendant's counsel, Troy Prichard:

**REPRESENTATION BY COUNSEL**

1. The defendant understands his right to be represented by an attorney and is so represented. The defendant has thoroughly reviewed all aspects of this case with his attorney and is fully satisfied with that attorney's legal representation.

**RIGHTS OF THE DEFENDANT**

2. The defendant further understands his rights:
- a. to plead not guilty;
  - b. to have a trial by jury;
  - c. to confront and cross-examine witnesses and to call witnesses in his defense; and
  - d. against compelled self-incrimination.

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**WAIVER OF RIGHTS AND PLEA OF GUILTY**

3. The defendant hereby agrees to waive these rights and to plead guilty to the superseding indictment filed in this case charging violation of 18 U.S.C. §§ 1153, 2241(c), and 2246(2)(D), that being aggravated sexual abuse of a child in Indian Country.

**SENTENCING**

4. The defendant understands that the maximum penalty the Court can impose is:
- a. life imprisonment (because of the defendant's prior child sexual abuse conviction, he faces a statutory mandatory term of life imprisonment);
  - b. a fine not to exceed \$250,000;
  - c. a mandatory term of supervised release of not more than five (5) years. (If the defendant serves a term of imprisonment, is then released on supervised release, and violates the conditions of supervised release, the defendant's supervised release could be revoked--even on the last day of the term--and the defendant could then be returned to another period of incarceration and a new term of supervised release.);
  - d. a mandatory special penalty assessment of \$100.00; and
  - e. restitution as may be ordered by the Court.

5. The parties are aware that the Court may accept or reject this plea agreement, or may defer its decision as to acceptance or rejection until there has been an opportunity to consider the presentence report. Pursuant to Federal Rule of Criminal Procedure 11(e)(4), if the Court rejects this plea agreement, the defendant shall have the right to withdraw his plea of guilty.

6. The United States hereby expressly reserves the right to make known to the United States Probation Office, for inclusion in the presentence report prepared pursuant to Federal Rule of Criminal Procedure 32(b), any information the United States believes may be helpful to the Court.

STIPULATIONS

7. The parties stipulate as follows:

a. Pursuant to Federal Rule of Criminal Procedure 11(e)(1)(C), the parties stipulate that a term of imprisonment of one hundred eighty (180) months, in addition to a five (5) year period of supervised release, a \$100.00 special penalty assessment, and restitution to the victim is the appropriate disposition of this case.

b. This plea agreement, and the penalty agreed upon pursuant to Federal Rule of Criminal Procedure 11(e)(1)(C), is contingent upon the defendant providing an appropriate oral and written statement to the United States Probation Officer who prepares the presentence report in this case in which the defendant clearly establishes his acceptance of responsibility.

c. The defendant recognizes that this plea agreement already has conferred a benefit upon him and that no downward departure from the sentence agreed upon pursuant to Federal Rule of Criminal Procedure 11(e)(1)(C) is appropriate. The defendant further recognizes that if the Court accepts this plea agreement, then the Court is not permitted to depart downward from the sentence agreed upon pursuant to Federal Rule of Criminal Procedure 11(e)(1)(C). In return for the benefit conferred on the defendant by entering into this plea agreement, the defendant agrees that the defense will not seek a downward departure from the sentence agreed upon pursuant to Federal Rule of Criminal Procedure 11(e)(1)(C). If the defense, in violation of this paragraph, should nevertheless seek a downward departure, the United States reserves the right, in its sole discretion, to withdraw this plea agreement.

**DEFENDANT'S ADDITIONAL OBLIGATIONS**

8. The defendant and the defendant's counsel understand the defendant's obligation to provide the United States Probation Office with truthful, accurate, and complete information. The defendant and the defendant's counsel hereby represent that the defendant has complied with and will continue to comply with this obligation. The defendant and the defendant's counsel understand that any withholding or misrepresentation with respect to the above obligation may, in the sole discretion of the United States, be considered a breach of this plea agreement.

**WAIVER OF APPEAL RIGHTS**

9. The defendant is aware that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. Acknowledging that, the defendant knowingly waives the right to appeal the sentence imposed in this case, provided that it is consistent with the sentence agreed to by the parties under Federal Rule of Criminal Procedure 11(e)(1)(C). In other words, the defendant waives the right to appeal the sentence imposed in this case except to the extent, if any, that the Court may impose a sentence that differs from that agreed to by the parties under Federal Rule of Criminal Procedure 11(e)(1)(C).

**UNITED STATES' AGREEMENT**

10. Provided that the defendant fulfills his obligations as set out above, the United States agrees that it will not bring additional charges against the defendant arising out of the defendant's conduct now known to the United States Attorney's Office for the District of New Mexico.

11. This agreement is limited to the United States Attorney's Office for the District of New Mexico and does not bind any other federal, state, or local agencies or prosecuting authorities.

**VOLUNTARY PLEA**

12. The defendant agrees and represents that this plea of guilty is freely and voluntarily made and not the result of force or threats or of promises apart from those set forth in this plea agreement.

**VIOLATION OF PLEA AGREEMENT**

13. The defendant understands and agrees that if he violates any provision of this plea agreement, the United States may declare this plea agreement null and void, and the defendant will thereafter be subject to prosecution for any criminal violation including, but not limited to, any crime(s) or offense(s) contained in or related to the superseding indictment filed in this case, as well as perjury, false statement, and obstruction of justice.

14. At the time of sentencing, the defendant will tender a money order or certified check payable to the order of the United States District Court, District of New Mexico, 333 Lomas Blvd NW, Albuquerque, New Mexico 87102, in the amount of \$100.00 in payment of the special penalty assessment described above.

**ENTIRETY OF AGREEMENT**

15. This document is a complete statement of the agreement in this case and may not be altered unless done so in writing and signed by all parties.

AGREED TO AND SIGNED this 11<sup>th</sup> day of March, 2002.

DAVID C. IGLESIAS  
United States Attorney




DEAN TUCKMAN  
Assistant U.S. Attorney  
P.O. Box 607  
Albuquerque, NM 87102  
(505) 346-7274

I have read this agreement and carefully reviewed every part of it with my attorney. I understand the agreement and voluntarily sign it.



ARNOLD BEGAY  
Defendant

TROY RICHARD  
Attorney for Defendant