

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

UNITED STATES OF AMERICA            )  
  )  
  )            Case No. 3:09-CR-00080-RLM  
  )  
  )  
ASHTON LUNDEBY                        )

**PETITION TO ENTER A GUILTY PLEA**

The defendant above named respectfully represents to the Court as follows:

1. My true name is Ashton Lundeby, and I request that all proceedings against me be had in the name which I here declare to be my true name.
2. I was born in the United States of America. I have attended school and I have the ability to read, write and speak the English language.
3. I am represented by counsel and my lawyers' names are Nick Thiros and Alison Benjamin.
4. I have received a copy of the three-count Indictment and have read and discussed it with my lawyers, and believe and feel that I understand every accusation made against me in this case.
5. I have told my lawyers the facts and surrounding circumstances as known to me concerning the matters mentioned in the Indictment and believe and feel that my lawyers are fully informed as to all such matters. My lawyers have since informed me and have counseled and advised with me as to the nature and cause of every accusation against me and as to any

possible defenses I might have in this case.

6. I understand that I am entitled to have all of my rights which may be involved in this matter explained to me, and that I have the right to have any questions I may have answered for me.

7. I understand that I have a right to plead NOT GUILTY to any offense charged against me, and that under a plea of NOT GUILTY the Constitution guarantees me:

(a) the right to a speedy and public trial by a twelve-person jury of my peers, selected according to law, in the Northern District of Indiana which must return a unanimous verdict of GUILTY before I can be convicted;

(b) the right to be released on reasonable bail until my trial occurs;

(c) the right to see, hear and cross-examine all the witnesses against me at my trial;

(d) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses, in my favor at my trial;

(e) the right to the assistance of counsel at every stage of the proceedings, including upon an appeal if need be;

(f) the right not to testify without prejudice; and,

(g) that in the event that I should be found GUILTY of the charge against me, I would have the right to appeal my conviction on such charge to a higher court.

8. I understand, also, that if I plead GUILTY, I waive the right to trial by jury in any and all proceedings in this case and all of the other rights mentioned above.

9. Notwithstanding the above, I have, with the assistance of counsel, entered into

an agreement with the United States Attorney's Office for the Northern District of Indiana as follows:

(a) I have agreed to plead guilty to Count One (1) of the Indictment. Count One (1) charges me with Conspiracy in violation of Title 18, United States Code, Section 371. I agree to plead guilty to Count One (1) contained in the Indictment because I am in fact guilty of the offense.

(b) I understand that in order for the Court to accept my guilty plea, the Court must receive what is called a factual basis. I agree that the following facts are true and that they shall form the factual basis for my guilty plea:

(1) Beginning in about the middle of 2008 through the date of my arrest on March 6, 2009, I along with other people who I knew from the Internet worked together and agreed to place several hoax bomb threat telephone calls. Although I did not know the true names of most of these other people, I did know their pseudonyms such as "J.T.," "Vaultackie," "Britfag," "Does Not Afraid," and "Delicious Cake." I used the online pseudonym of "Tyrone." At all times relevant to these charges, I resided in North Carolina. Several of the hoax bomb threat telephone calls which we did were placed to locations in the Northern District of Indiana, although other calls were placed to locations in other districts. The hoax bomb threat calls were placed willfully and included making threats and maliciously conveying false information over the Internet and through interstate telephone lines concerning attempts to unlawfully damage or destroy buildings by means of explosions;

(2) In about July of 2008, I used an email account named xslowpokesx@yahoo.com. I also opened an online bank account using that email account. Around the same time, I also created an account with a telecommunications service company which provides telephone service using the Internet, a technology commonly referred to as Voice Over Internet Protocol or "VoIP." I also owned a telephone number spoofing account with Spoofcard, which allowed placing telephone calls over landlines and causing the 'caller i.d.' display to reflect a false, or "spoofed," caller identification number. We also had a ventrillo account which allowed us to share audio, text chatting, and other information over the internet with as many as 300 online observers of the hoax bomb threat calls. During the course of the conspiracy, the bank account was used to accept donations from people who observed the hoax bomb threat calls. I also used the online bank account to pay for the ventrillo service, my VoIP account, and my Spoofcard account;

(3) On about January 31, 2009, using my Spoofcard account and VoIP telephone service, I placed a telephone call to the Indiana University Purdue University Fort Wayne (IPFW) police department located in Fort Wayne, Indiana, which is in the Northern District of Indiana. During that call, I falsely claimed that bombs had been placed at locations on the campus and that they would detonate;

(4) On about February 15, 2009, using my VoIP account, I and others working together placed several telephone calls to the Purdue University Police Department located in West Lafayette, Indiana, which is also in the Northern District of Indiana. During one or more of the calls, I falsely claimed that bombs had been placed at locations on the campus and that they would detonate;

(5) On other dates, between the IPFW call on January 31, 2009, and my arrest on about March 6, 2009, I and the others with whom I was working placed hoax bomb threat calls to other locations such as the University of North Carolina, Clemson University, Florida State University, Boston College, Hamden High School, West Hempfield Middle School, and two FBI offices (Monroe, Louisiana and Pueblo, Colorado).

(c) I further understand that the maximum possible penalty for a violation of Title 18, United States Code, Section 371 as charged in the Indictment and to which I am pleading guilty is a maximum term of imprisonment of five (5) years followed by a term of supervised release and a fine of up to \$250,000.00. Additionally, I understand that the court must impose a special assessment in the amount of \$100.00 for each count of conviction which I agree will be paid at the time of sentencing.

(d) I understand that under the U.S. Sentencing Guidelines, the Court, in light of an investigation by the United States Probation Office, will determine the applicable sentencing guideline range, and that the Court will determine all matters, whether factual or legal, relevant to the application of the sentencing guidelines including, but not limited to, the adjusted offense level, the relevant circumstances in the case, the criminal history points and category, relevant conduct, the grouping of offenses, victim-related adjustments, role in the offense adjustments, career offender status, criminal livelihood and acceptance of responsibility as well as possible departures from the application of the U.S. Sentencing Guidelines. I understand that the U.S. Sentencing Guidelines are advisory only, and that the specific sentence to be imposed upon me will be determined by the judge after a consideration of a pre-sentence investigation report, input from counsel, from the government, and from me.

(e) I understand that the law gives a convicted person the right to appeal the conviction and the sentence imposed; I also understand that no one can predict the precise sentence that will be imposed, and that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for my offense(s) as set forth in this plea agreement; with this understanding and in consideration of the government's entry into this plea agreement, I expressly waive my right to appeal or to contest my conviction, my sentence, and any restitution order imposed by the Court or the manner in which my conviction, my sentence or the restitution order was determined or imposed, to any Court on any ground, including any claim of ineffective assistance of counsel unless the claimed ineffective assistance of counsel relates directly to this waiver or its negotiation, including any appeal under Title 18, United States Code, Section 3742 or any post-conviction proceeding, including but not limited to, a proceeding under Title 28, United States Code, Section 2255.

(f) I agree to prepare a complete and truthful financial statement under oath, on a form provided by the United States Attorney's Office, and to return the statement to the United States Attorney's Office within ten (10) days of entering a plea of guilty. This statement will be used by the Financial Litigation Unit of the United States Attorney's Office to enforce the court's sentence.

(g) In further consideration for my plea of guilty to Count One of the Indictment, the government, pursuant to the Federal Rules of Criminal Procedure 11(c) agrees to make the following non-binding recommendations:

(1) To make, pursuant to the Federal Rules of Criminal Procedure 11(c), a recommendation that I receive a two (2) level reduction for acceptance of responsibility pursuant to § 3E1.1(a). The government further agrees to make a motion under § 3E1.1(b) for an additional one (1) level reduction for acceptance of responsibility in the event defendant's applicable offense level is found to be a Level 16 or greater. I understand that the government's obligation to recommend acceptance of responsibility pursuant to this plea agreement is contingent upon my continuing manifestation of acceptance of responsibility. Should I deny my involvement, give conflicting statements of my involvement, or engage in additional criminal conduct such as the personal use of controlled substances, I further understand that the government shall not be bound to recommend the reduction based upon acceptance of responsibility;

(2) A non-binding recommendation that any sentence imposed not be greater than the low end of the guideline range found to be applicable to this case;

(3) The above-mentioned agreement to recommend the maximum reduction in offense level for acceptance of responsibility, a sentence no greater than the low end of the applicable guideline range, are non-binding recommendations pursuant to Rule 11 (c). The Court is not bound by these recommendations, and the defendant is not entitled to withdraw this plea if the Court decides not to accept these recommendations.

(h) Pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure and in exchange for my guilty plea, the government agrees to move to dismiss Counts 2 and 3 of the Indictment at the time of sentencing.

(i) I also agree to waive all rights, whether asserted directly or through a representative, to, after sentencing, request or receive from the United States any further records, reports, or documents pertaining to the investigation or prosecution of this matter; this waiver includes, but is not limited to, rights conferred by the Freedom of Information Act and the Privacy Act of 1974.

(j) As part of this agreement, I agree to make restitution to the victims of my offense in an amount to be determined by the sentencing court; I understand that in determining the appropriate amount of restitution to be paid by me, the Court is not limited to the conduct detailed in the count to which I am pleading guilty, but may also consider the total loss sustained by the victims of my offense conduct.

(k) I have agreed to cooperate with the government and the government has made agreements with me about that cooperation:

(1) As part of this agreement, I agree to cooperate fully, truthfully, and candidly with the United States Attorney or his designated representatives as to my knowledge of or involvement in, any violation of federal or state law; I understand that the nature of my cooperation herein shall be defined by the United States Attorney; this cooperation may include, but not be limited to, my agreement, if requested to do so, to discuss fully, truthfully, and candidly my knowledge of all criminal activities with representatives of the United States Attorney including designated law enforcement agencies, and to testify truthfully and completely before any grand jury, and at any hearings, trials, or other judicial proceedings;

(2) I understand that at the time of sentencing, the United States Attorney will advise the Court of the nature, extent and value of my cooperation;

(3) The United States Attorney and I agree that self-incriminating information I provide as part of my cooperation agreement will not be used in determining the sentencing guideline range applicable to me; I understand this agreement does not apply to information known to the government prior to my entering into my cooperation agreement, information regarding my prior record, a prosecution for perjury or giving a false statement, determining whether or to what extent a downward departure from the guidelines pursuant to a government motion is warranted, or in the event of a breach of my cooperation agreement;

(4) The United States Attorney further agrees to recommend to state authorities that I not be prosecuted for any offenses I have committed and have disclosed to the government during proffers; in this regard, however, I understand that the United States Attorney cannot bind any state authority; and,

(5) Provided I fulfill the terms of this agreement, and do not perform any act or engage in conduct that is inconsistent with my agreement to cooperate or with my acceptance of responsibility for my conduct, the government agrees to file a Motion for a Downward Departure from the sentencing guideline range at sentencing pursuant to Section 5K of the guidelines; I understand that the decision regarding whether to grant a departure, or the extent of any departure lies within the discretion of the Court, and that this agreement does not constitute a promise that the judge will grant a departure, or that the judge will impose any particular sentence;

(l) The government acknowledges that there are good faith arguments for a sentence below the recommended guideline sentencing range (variance) based on factors contained in Title 18, United States Code, Section 3553(a).

10. I am prepared to state to the Court my reasons based on the facts in this matter that cause me to believe that I am GUILTY as charged.

11. I believe and feel that my lawyer has done all that anyone could do to counsel and assist me, and that I now understand the proceedings in this case against me.

12. I declare that I offer my plea of GUILTY freely and voluntarily and of my own accord, and no promises have been made to me other than those contained in this petition, nor have I been threatened in any way by anyone to cause me to plead GUILTY in accordance

with this petition.

13. I understand and acknowledge that this petition, once filed with the Court, is a public document and available for public viewing.

*/s/ Ashton Lundeby*

Ashton Lundeby  
Defendant

*/s/ Nick Thiros*

Nick Thiros  
Attorney for Defendant

*/s/ Alison Benjamin*

Alison Benjamin  
Attorney for Defendant

APPROVED:

DAVID CAPP  
UNITED STATES ATTORNEY

By: */s/ Kenneth M. Hays*  
Kenneth M. Hays  
Assistant United States Attorney