

BRETT L. TOLMAN, United States Attorney (#8821)
RICHARD N.W. LAMBERT, Assistant United States Attorney (#3971)
Attorneys for the United States of America
185 South State Street, Suite 300
Salt Lake City, Utah 84111
Telephone: (801) 524-5682

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

NOV 17 2009

BY: *[Signature]*
D. MARK JONES, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Case No. 2:08cr00125 DAK
Plaintiff,	:	STATEMENT BY DEFENDANT IN
vs.	:	ADVANCE OF PLEA OF GUILTY
WANDA BARZEE,	:	Honorable Dale A. Kimball
Defendant.	:	

I hereby acknowledge and certify that I have been advised of and that I understand the following facts and rights, and that I have had the assistance of counsel in reviewing, explaining, and completing this form:

1. As part of this agreement with the United States, I intend to plead guilty to Count I of the Indictment, 18 U.S.C. § 1201(a)(1) Kidnaping, and Count II, 18 U.S.C. § 2423(a), Unlawful Transportation of a Minor. My attorney has explained the nature of the charges against me, and I have had an opportunity to discuss the nature of the charges with my attorney. I understand the charges and what the government is required to prove in order to convict me. The elements of Count I are: A) I, knowingly acting contrary to law, kidnaped a person described in the Indictment by seizing, confining and inveigling her, B) I kidnaped the person for some purpose or benefit, C) I willfully transported the person kidnaped, D) the transportation was in interstate commerce, and E) I aided and abetted in the commission of the offense. The elements of Count II are: A) I knowingly

transported a person from one state to another state, B) I did this with the intent that the person engage in unlawful sexual activity for which any person could be charged with a criminal offense, C) the individual transported was under the age of 18 at the time, and D) I aided and abetted in the commission of the offense.

2. I know that the maximum possible penalty provided by law for Count I of the Indictment, 18 U.S.C. § 1201(a)(1) Kidnaping, any term of years up to life imprisonment, and Count II, 18 U.S.C. § 2423(a), Unlawful Transportation of a Minor, a maximum of 15 years imprisonment, with a fine of \$250,000 for each count, and a term of supervised release after imprisonment of up to 5 years. I understand that if the supervised release term is violated, I can be returned to prison for the length of time provided in 18 U.S.C. § 3583(e)(3). Additionally, I know the court is required to impose an assessment in the amount of \$100 for each offense of conviction, pursuant to 18 U.S.C. § 3013. Furthermore, restitution to the victims of my offense shall be ordered pursuant statute.

3. I know that I can be represented by an attorney at every stage of the proceeding, and I know that if I cannot afford an attorney, one will be appointed to represent me.

4. I know that I have a right to plead "Not Guilty," and I know that if I do plead "Not Guilty," I can have a trial.

5. I know that I have a right to a trial by jury, and I know that if I stand trial by a jury:

(a) I have a right to the assistance of counsel at every stage of the proceeding.

(b) I have a right to see and observe the witnesses who testify against me.

(c) My attorney can cross-examine all witnesses who testify against me.

(d) I can call witnesses to testify at trial, and I can obtain subpoenas to require the attendance and testimony of those witnesses. If I cannot afford to pay for the appearance of a witness and mileage fees, the government will pay them.

(e) I cannot be forced to incriminate myself, and I do not have to testify at any trial.

(f) If I do not want to testify, the jury will be told that no inference adverse to me may be drawn from my election not to testify.

(g) The government must prove each and every element of the offense charged against me beyond a reasonable doubt.

(h) It requires a unanimous verdict of a jury to convict me.

(I) If I were to be convicted, I could appeal, and if I could not afford to appeal, the government would pay the costs of the appeal, including the services of appointed counsel.

6. If I plead guilty, I will not have a trial of any kind.

7. I know that 18 U.S.C. § 3742(a) sets forth the circumstances under which I may appeal my sentence.

8. I know that the United States may only appeal if the acceptance of the plea and sentence is contrary to terms of the plea agreement entered pursuant to Rule 11(c)(1)(C) and that 18 U.S.C. § 3742(b) otherwise sets forth the circumstances under which the United States may appeal my sentence.

9. I know that under a plea of guilty the judge may ask me questions under oath about the offense. The questions, if asked on the record and in the presence of counsel, must be answered truthfully and, if I give false answers, I can be prosecuted for perjury.

10. I stipulate and agree that the following facts accurately describe my conduct. These facts provide a basis for the Court to accept my guilty plea and for calculating the sentence in my case:

Prior to June 5, 2002, Brian David Mitchell and I planned the kidnaping of Elizabeth Smart from her home in Salt Lake City, Utah. On June 5, 2002, I encouraged Mitchell to carry out the planned taking of Elizabeth Smart. When Mitchell returned to our camp with Elizabeth Smart early in the morning of June 5, 2002, I aided and abetted

Mitchell in the confinement, control and sexual assault of Elizabeth Smart. I further knowingly aided and abetted the transportation of Elizabeth Smart, whom I knew to be under 18 years of age, to California from Utah in October 2002 and from California to Utah in March 2003 with the intent that she engage in sexual activity for which any person can be charged with a criminal offense.

11. The only terms and conditions pertaining to this plea agreement between the defendant and the United States are as follows:

A. The defendant agrees:

(1)(a) I agree to plead guilty to Counts I and II of the indictment.

(1)(b) I agree to fully cooperate with the United States of America and the State of Utah in the prosecutions of Brian David Mitchell for offenses pending against him in State and Federal courts by providing truthful information and testimony.

(1)(c) If the Court rejects the plea agreement and determines that the sentence should be less than 180 months, the United States may move to vacate this agreement and the terms of this agreement, including the plea, will become null and void.

(1)(d) I agree pursuant to Fed. R. Crim. P. 11(c)(1)(C) that I will be sentenced to a term of 180 months in the custody of the Bureau of Prisons for the offenses to which I will plead guilty.

(1)(e) I further agree that my sentencing may be continued at the request of the Government to allow for my continued cooperation with the Government. If I fail to cooperate fully, the United States may move to withdraw this plea agreement at any time prior to my sentencing. I understand that this agreement is conditioned on my continuing to cooperate until the prosecutions of Brian David Mitchell are completed.

(1)(f) I also agree to enter a plea of guilty in *The State of Utah v. Wanda Eileen Barzee*, No. 031901886, to Conspiracy to Commit Aggravated Kidnaping.

B. The United States agrees:

(1)(a) Pursuant to 11(c)(1)(C) that the defendant shall be sentenced to 180 months in the custody of the Bureau of Prisons in exchange for the defendant's full and truthful cooperation with the United States and the State of Utah in the prosecutions of Brian David Mitchell for offenses pending against him in State and Federal Court. Further, that the defendant should be given credit for the time she has served in State custody since her arrest on March 12, 2003, pursuant to Title 18 U.S.C. § 3585(b).

(1)(b) That this plea is being entered pursuant to Fed. R. Crim. P. 11(c)(1)(C) and that the Government and the Defendant have agreed to a specific sentence which agreement will be binding on this Court if accepted by the Court. Further, if the Court does not accept this agreement the defendant will be allowed to withdraw her plea.

* * * *

I make the following representations to the Court:

1. I am 64 years of age. My education consists of High School. I [can/cannot] read and understand English.
2. This Statement in Advance contains all terms of the agreements between me and the government; if there are exceptions, the Court will be specifically advised, on the record, at the time of my guilty plea of the additional terms. I understand the government and I cannot have terms of this plea agreements that are not disclosed to the Court.
3. No one has made threats, promises, or representations to me that have caused me to plead guilty.
4. Neither my attorney nor the government has represented to me that I would receive probation or any other form of leniency because of my plea.
5. I have discussed this case and this plea with my lawyer as much as I wish, and I have no additional questions.

6. I am satisfied with my lawyer.

7. My decision to enter this plea was made after full and careful thought; with the advice of counsel; and with a full understanding of my rights, the facts and circumstances of the case and the consequences of the plea. I was not under the influence of any drugs, medication, or intoxicants when I made the decision to enter the plea was made, and I am not now under the influence of any drugs, medication, or intoxicants, other than physician prescribed medication, which have enhanced my ability to understand the proceedings and the consequences of my plea.

8. I have no mental reservations concerning the plea.

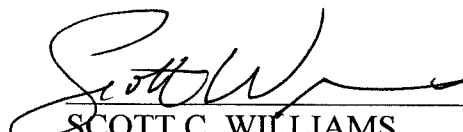
9. I understand and agree to all of the above. I know that I am free to change or delete anything contained in this statement. I do not wish to make changes to this agreement because I agree with the terms and all of the statements are correct.

DATED this 17 day of November, 2009.


WANDA BARZEE
Defendant

I certify that I have discussed this statement with the defendant, that I have fully explained his rights to him, and I have assisted him in completing this form. I believe that he is knowingly and voluntarily entering the plea with full knowledge of his legal rights and that there is a factual basis for the plea.

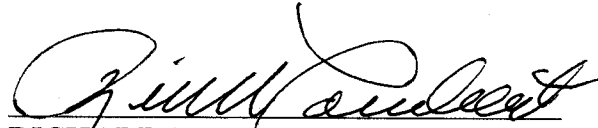
DATED this 17 day of November, 2009.


SCOTT C. WILLIAMS
Attorney for Defendant

I represent that all terms of the plea agreement between the defendant and the government have been, or will be at the plea hearing, disclosed to the Court, and there are no off-the-record agreements between the defendant and the United States.

DATED this 17th day of November, 2009.

BRETT L. TOLMAN
United States Attorney



RICHARD N.W. LAMBERT
Assistant United States Attorney