

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION - MISDEMEANOR BRANCH**

UNITED STATES OF AMERICA)	Case No. 2014-CMD-118262
)	
v.)	Senior Judges
)	
)	Status Hearing: February 19, 2015
<u>BERNARD FREUNDEL</u>)	


NOTICE OF FILING

The government requests that the attached letter, dated February 18, 2015, be made part of the record in this case.

Respectfully submitted,

RONALD C. MACHEN, JR.
United States Attorney

KELLY HIGASHI
Assistant United States Attorney
Chief, Sex Offense and Domestic Violence Section

By: 
AMY H. ZUBRENSKY
REBEKAH HOLMAN
Assistant United States Attorneys
U.S. Attorney's Office
Room 10-842
555 4th Street, N.W.
Washington, D.C. 20530
(202) 252-7076

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing Notice of filing and attached Discovery Letter has been served by email upon counsel for defendant Bernard Freundel, Jeffrey Harris, jharrisesq@gmail.com, this 18th day of February, 2015.


AMY H. ZUBRENSKY



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

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

February 18, 2015

Jeffrey Harris, Esq.

Re: *United States v. Bernard Freundel*, *Crim. No. 2014-CMD-18262*

Dear Counsel:

I am writing to extend a plea offer to your client. This plea offer will expire on **February 19, 2015**. 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, **please have your client execute three copies of this document in the spaces provided**. 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.

1. Your client agrees to plead guilty to fifty-two counts of Voyeurism, in violation of 22 D.C. Code § 3531(b) and (c). Your client understands that each count carries a potential penalty of one year imprisonment, a fine of \$2,500 (for counts numbered one through 30), a fine of \$1,000 (for counts numbered 30 through 52), or both.

2. Your client understands that the government will: decline to indict any additional charges arising out of the conduct described in the attached Factual Proffer; reserve its right to allocute as to whether your client should be incarcerated pending sentencing¹; waive any enhancement papers that might apply; and reserve its right to allocute at the time of sentencing.

3. The parties further agree that your client, after taking an oath to tell the truth, shall agree to the attached Factual Proffer in Support of Guilty Plea, which both you and he will have

¹ If released, and your client later fails to appear for any proceeding, fails to obey any condition of release, or is re-arrested following the entry of a guilty plea, the government will reserve its right to request that your client be incarcerated pending sentencing.

signed.

4. Your client agrees that this letter is binding on the United States Attorney's Office for the District of Columbia and your client, but not binding on the Court, and that he cannot withdraw this plea at a later date because of the harshness of any sentence imposed by the Court.

5. Your client acknowledges and has been made aware that pursuant to the Innocence Protection Act, that there may be physical evidence which was seized from the victims, crime scene or from your client or from some other source that can be tied to your client that could contain probative biological material. Your client understands and agrees that in order to plead guilty in this case, your client must waive and give up DNA testing in this case and must execute the attached written waiver of DNA testing. Your client further understands that should he waive and give up DNA testing now, it is unlikely that he will have another opportunity to request DNA testing in this case.

6. 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 offenses 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.

7. Your client agrees to waive being indicted on the fifty-two counts of Voyeurism.

8. Your client also agrees that if any 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 contraband by any law enforcement agency involved in the seizure of these items. After the conclusion of the criminal case, the government will release to your client the five desktop computers and seven laptop computers that were seized in connection with search warrants in this case, excluding their hard drives, which will be retained by the government as evidence. All other media that contains digital evidence will also be retained by the government.

9. Your client agrees to waive the right to appeal the sentence in this case, including any term of imprisonment, fine, forfeiture, authority of the Court to set conditions of release, and the manner in which the sentence was determined, except to the extent the Court sentences your client above the statutory maximum determined by the Court, in which case your client would have the right to appeal the illegal sentence, but not to raise on appeal other issues regarding the sentencing. In agreeing to this waiver, your client is aware that your client's sentence has yet to be determined by the Court. Realizing the uncertainty in estimating what sentence the Court ultimately will impose, your client knowingly and willingly waives your client's right to appeal the sentence, to the extent noted above, in exchange for the concessions made by the Government in this Agreement.


10. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the United States Attorney's Office for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this Office and your client.

Should you have any questions, please feel free to contact me at (202) 252-7076.

Respectfully submitted,

RONALD C. MACHEN JR.
UNITED STATES ATTORNEY
D.C. Bar No. 447-889

BY:


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DEFENDANT'S ACCEPTANCE

I have read this plea agreement and factual proffer and have discussed it with my attorney, Jeffrey Harris, Esq. 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 fully understand this agreement. 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.

2/19/15
Date



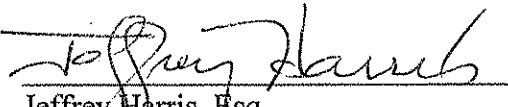
BERNARD FREUNDEL
Defendant

DEFENSE COUNSEL'S ACKNOWLEDGMENT

I have read each of the pages constituting this plea agreement, reviewed them with my client, Bernard Freundel, and fully discussed the provisions of the agreement with my client.

These pages accurately and completely set forth the entire plea agreement.

2/15/15
Date



Jeffrey Harris, Esq.
Counsel for Defendant Bernard Freundel

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
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FACTUAL PROFFER IN SUPPORT OF GUILTY PLEA

If case 2014-CMD-18262 had gone to trial, the government's evidence would have shown beyond a reasonable doubt that between early 2009 and October, 2014, the defendant, Bernard Freundel, was the sole Rabbi of Keshet Israel congregation, located at 2801 N Street, NW, Washington, D.C. In 2005, a Jewish ritual bath (known as a "mikvah") opened at 1308 28th Street, NW, Washington, D.C. Known as the National Capital Mikvah, the building is located across a courtyard from, and is affiliated with, Keshet Israel. A mikvah is used primarily by Orthodox Jewish women for monthly spiritual purification and by other individuals as the final step in the Orthodox Jewish conversion process. The National Capital Mikvah has two changing/showering rooms connected to the room with the ritual bath. On numerous occasions between early 2009, and October 12, 2014, the defendant installed and maintained electronic devices in the larger of the two changing/showering rooms for the sole purpose of secretly and surreptitiously recording women who were using the bathroom and totally and partially undressed before and/or after showering. The women recorded did not know that they were being recorded and did not consent to being recorded.

On October 12, 2014, the defendant entered the larger changing/showering room with a

clock radio that contained a hidden recording device. The defendant placed the clock radio on the countertop of the sink. He plugged in the clock radio, set the time so that it was accurate, and positioned the recording element so that it faced the shower area. The defendant had engaged in similar activity on numerous occasions starting in 2009. After the defendant plugged in the device, he exited the changing room. Shortly thereafter, the clock radio was taken by an individual associated with the Mikvah and turned over to officers with the Metropolitan Police Department (MPD).

Later that same day, MPD detectives applied for, and obtained, an emergency D.C. Superior Court search warrant to examine the contents of the clock radio. Upon execution of the search warrant, investigators learned that this clock radio contained a recording device ("Recording Device"), and contained six (6) video files, each of which depicted a woman totally or partially undressed before and/or after taking a shower. At least one of the videos depicts the defendant setting up the clock radio and shows the defendant's face as he sets the time. As is evident in these video files, none of the six women knew that they were being recorded and none consented to such recording.

On October 14, 2014, a D.C. Superior Court Search Warrant was executed at the defendant's residence at 3026 O Street, NW, Washington, D.C. At that time, the defendant was also arrested. Numerous items were seized from the defendant's home, including five desktop computers, seven laptop computers, six external hard drives, 20 memory cards, 11 flash drives, a manual for the Recording Device, and another manual for a different surreptitious digital recording device disguised as a fan.

On October 21, 2014, law enforcement personnel executed a search warrant at the

defendant's office at Towson University. During that search, investigators seized one laptop computer, a freezer bag containing multiple Secure Digital ("SD") cards, multiple remote controls, multiple instruction pamphlets, two external hard drives, two memory stick hard drives, a Securemate tissue box camera, a Securemate clock camera, a receipt/purchase order for a hidden camera, a Securemate computer charger hidden camera, an empty box for an "808" car key microcamera, and other items.

Computer forensic examinations of all of the electronic devices and digital media storage devices seized from the defendant's home and office revealed recordings made by the defendant of at least 52 women who were totally or partially undressed in the large showering/changing room of the National Capital Mikvah between February 19, 2012, and September 19, 2014, each of whom was recorded undressing separately. These 52 women are the subjects of the Information in this case. None of the 52 women had knowledge of, or consented to, being recorded by the defendant. In some instances, the defendant utilized up to three recording devices at the same time to obtain different angles of each woman being recorded. The defendant set up and utilized additional hidden recording devices concealed in a tabletop fan and a tissue box holder. Each of the recordings the defendant made depicts the recorded woman totally or partially undressed before and/or after taking a shower. The defendant periodically installed and removed the recording device. The defendant saved each digital recording separately and named each file by using the recorded woman's name or initials.


In addition to the 52 recordings that are the subject of the Information, computer forensic examinations also revealed that the defendant secretly and surreptitiously recorded approximately 100 additional women totally or partially undressed before and/or after showering in the large

bathroom at the National Capital Mikvah between 2009 and September, 2014. These additional women did not know that they were being recorded and did not consent to being recorded.

DEFENDANT'S ACCEPTANCE

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

2/19/15
Date


Bernard Freundel
Defendant

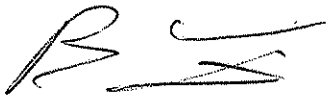
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DEFENDANT'S AGREEMENT TO WAIVE DNA TESTING

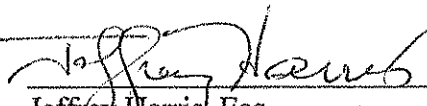
My attorney has discussed the contents of this plea agreement with me, including the fact that I may request or waive DNA testing. I understand the conditions of the plea and agree to them. I knowingly, intentionally, and voluntarily waive and give up DNA testing of any biological materials in this case. I further state that I am fully satisfied with the services my attorney has provided to me and am fully satisfied with the explanation my attorney has provided me concerning the terms of the plea offer, the potential evidentiary value of DNA evidence in this case, and the consequences of waiving and giving up DNA testing in this case and pleading guilty.

2/19/15
Date



BERNARD FREUNDEL
Defendant

2/19/15
Date



Jeffrey Harris, Esq.
Counsel for Defendant Bernard Freundel

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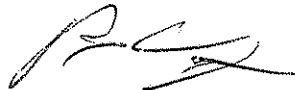
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WAIVER OF INDICTMENT

I, Bernard Freundel, the above-named defendant accused of fifty-two counts of Voyeurism, being advised of the nature of the charges and of my rights, hereby waive in open court prosecution by indictment, and consent that the proceeding may be by information instead of indictment.

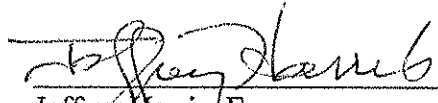
I have consulted with my attorney and have decided to voluntarily waive my right to be prosecuted for these offenses only after a grand jury votes to indict me. This waiver is being made voluntarily and intelligently and without duress or compulsion.

Date: 2/19/15



Bernard Freundel
Defendant

Date: 2/19/15



Jeffrey Harris, Esq.
Attorney for the Defendant