

State v Sidney Powell
Oct 19th 2023

[00:05:29] Judge. The case has been accused under 23 SC 190370. Count one being conspiracy to commit intentional interference with performance of election duties and counts two through six being conspiracy to commit intentional interference with performance of election duties. Each of these charges being misdemeanor charges. The state's recommendation on those charges on one through six is 12 months to be served on probation. Each one of those counts to run consecutive to one another for a total of six years of probation, conditions of probation is a \$6,000 fine. Restitution in the amount of \$2,700 to the state of Georgia. An apology letter to the State of Georgia. The citizens of the State of Georgia testified truthfully at all hearings in trials involving co-defendants in this matter. No communication with co-defendants, witnesses or media until all cases have been closed as a special condition of probation. That the defendant must provide a recorded proffer, which I will tell the court that was done last night. So we do have that and that has been satisfied. And also to provide any requested documents or evidence subject to any lawful privileges asserted in good faith prior to entering this plea. We did have that discussion with Miss Powell and her attorney, and they do understand that they are to turn over documents to us, and they agreed to do such. Those are the conditions of the probation probated sentence, judge.

[00:06:54] And is this is there expected to be a request here to apply the first offender Act?

[00:07:00] Yes, yes there is. Your negotiation was first offender treatment. The fines as set forth by the government along with restitution. The letter of apology which has already also been provided along with the recorded proffer. The only other issue which I discussed with the government this morning is a similar issue that came up with Mr. Hall concerning the question of whether or not these offenses constitute crimes of moral turpitude. We would be requesting the same treatment as Mr. Hall received. I understand the government can really can't really make those sorts of determinations, but we'll take no position with respect to whether any of these offenses, which are all misdemeanors, constitute crimes of moral turpitude.

[00:07:40] Well, as I recall, Mr. Hall's final disposition for him, we included express wording to that effect at the request of both parties. Is that essentially what we're asking for here? Yes. Okay.

[00:07:50] The states leaving it up to the court, your honor, we're really not taking a position on that.

[00:07:54] Okay. With the first offender, Mr. Rafferty, requesting immediate sealing. Yes, yes, Your Honor, and you'll have to remind me, this being a misdemeanor first offender, do we need to impose a behavioral incentive date? And if so, what would that be? Or is that not necessary?

[00:08:15] It does not apply to misdemeanor probation, judge.

[00:08:17] Understood.

[00:08:22] And are there any issues here? Is this a is this an Alford plea or a null of any kind? No, Your.

[00:08:29] Honor.

[00:08:30] Okay. Ms.. Young, you can proceed.

[00:08:32] Ms.. Powell, can you please raise your right hand? Do you swear or affirm the testimony you shall give in this matter currently before the court shall be the truth and the whole truth and nothing but the truth.

[00:08:42] I do.

[00:08:44] Oh, can you please state your true and correct legal name?

[00:08:46] Sydney Catherine Powell.

[00:08:48] And are you the Sydney Catherine Catherine Powell named in accusation? 2319037 O.

[00:08:55] A.m..

[00:08:56] And are you currently taking any medication or under the influence of any drugs or alcohol at this time?

[00:09:01] No I'm not.

[00:09:02] Is there any medication that you should be taking that you have not taken that may affect your ability to understand these proceedings today? No. How old are you, ma'am?

[00:09:10] Oh, gosh.

[00:09:13] 68. Despite my astonishingly youthful countenance.

[00:09:18] And what is the highest level of education that you have completed?

[00:09:21] I have a Juris Doctorate degree.

[00:09:24] Are you able to read, write and understand the English language?

[00:09:26] Yes.

[00:09:27] And, Mr. Rafferty, have you had a chance to go over the guilty plea form with Miss Powell? I have, and did you, when you went over those the form with her? Do you believe that she fully understand each and every aspect of that form?

[00:09:39] I do.

[00:09:40] Miss Powell, do you understand the charges that are against you here today?

[00:09:45] I do. And, Mr..

[00:09:46] Young, let me pause you there. Since we're on that subject, if we could tender the plea form now as well. Of course.

[00:09:51] Have you just want to make sure. And, Mr. Rafferty, you signed this along with your attorney, with your counsel? Sorry. Your client? Yes.

[00:10:00] Your honor, of course.

[00:10:03] All right. Thank you. And, Miss Powell, I've been handed a document that's titled A Plea of Guilty form. Is this your signature as well? On the second page?

[00:10:11] Yes, sir.

[00:10:12] Thank you. Ma'am.

[00:10:13] Ma'am, do you understand that this is a negotiated plea, which means that your attorney and I have reached an agreement, or the state has reached an agreement as to the proposed sentence that will be made to the court, I do. Do you understand that the recommendation being made to the court as to this accusation on counts one through six, that you be sentenced to 12 months of probation to run consecutive with one another? Do you understand that the state is asking that a \$6,000 fine be imposed? A restitution of two \$2,700 be paid to the state of Georgia? An apology letter be written to the citizens of the state of Georgia that you truthfully testify at all hearings and proceedings and trials involving the co-defendants in this matter, and that you have no communication with co-defendants, media or witnesses until this case has been completely closed against all defendants. Do and do you understand as a special condition of this sentence that you were to provide, which you've already done, a proffer, a recorded proffer to the state, and provide any documents and evidence subject to any lawful privileges asserted in a good faith prior prior to entering this plea. I do. And judge, at this time the state will enter into evidence what's been marked as state's exhibit one, which is the apology letter that Ms.. Powell has already.

[00:11:29] And, Miss Powell, do you understand that this court does not have to follow the state's recommendation in this case? I do, and do you understand? If the court chooses not to follow the state's recommendation, then you can withdraw your guilty plea and move forward with the trial on the original indictment. I do.

[00:11:46] And do you understand that if you are currently on probation or parole, your probation or parole may be revoked based on entering this guilty plea?

[00:11:55] Yes.

[00:11:57] And do you understand that if you are placed on probation of any kind, you cannot violate the law in any way, or the government or any special conditions of your probation that was subject to your probation, to being revoked for the balance that is remaining?

[00:12:10] I understand.

[00:12:11] And do you understand that you are not allowed to possess any firearms while you're on probation?

[00:12:35] I.

[00:12:50] Miss Young, are you confident that that's accurate? Is this being a misdemeanor plea that doesn't involve domestic violence or.

[00:12:59] I'm not aware of a prohibition under Georgia law that would prevent her from possessing a firearm while on misdemeanor probation.

[00:13:06] Right and.

[00:13:07] Judge Will. I will candidly say I am not certain. All right, well, how.

[00:13:11] About we alter that to say that this plea may affect your ability to possess a firearm?

[00:13:16] I'm fine with that.

[00:13:18] Okay.

[00:13:19] Do you understand that, Miss Powell? That this this plea to misdemeanor probation may affect your ability to possess firearms? Yes. I'm gonna just back up a little bit. Mr. Rafferty, have you had an opportunity to go over the accusation with your client?

[00:13:31] I have.

[00:13:32] And have you both signed this accusation?

[00:13:35] You have.

[00:13:36] And do you waive any defects that may be contained within this accusation? And have you advised Ms.. Powell of the minimum maximums for each of the charges within the accusation I have? And Ms.. Powell, you understand that the maximum that you could receive is 12, 12, 12 months to serve on each of the charges in the accusation. Yes.

[00:14:11] Such.

[00:14:15] And it's my understanding that you're asking the court to sentence you under the First Offender Act.

[00:14:21] Correct.

[00:14:23] And have you pled guilty or nolo to or ever been convicted of any felonies or misdemeanor in the state of Georgia or any other jurisdiction? No.

[00:14:37] And do you understand that if you are sentenced under the First Offender Act, has your attorney gone over what that means and what that entitles?

[00:14:46] Yes.

[00:14:47] And do you understand that if you violate the terms of your first offender sentence or commit a new offense while on probation, your first offender status could be revoked. You could be adjudicated guilty, and you could be resentenced up to the maximum sentence for each charge in the accusation.

[00:15:01] Yes.

[00:15:02] Do you understand that if you successfully complete your probation, the First Offender Act and you are discharged, you can honestly say that you have never been convicted of these charges?

[00:15:10] Yes.

[00:15:11] Do you understand that you waive any and all defenses, including mental health defenses, by entering this guilty plea?

[00:15:17] Yes.

[00:15:19] And do you understand that you would have 12 months from today's date in order to file a habeas corpus? Yes. And do you understand that unless counsel is substituted or permitted to withdraw, he will represent you until either the end of the term of court or 30 days from today's date, whichever is later.

[00:15:39] That's fine. Yes.

[00:15:40] And do you understand that you have, until the last day of the current term of court, to file a motion to withdraw your guilty plea? Yes. And you understand that that term ends on November 5th of 2023? Yes. And do you understand that any of the filings you we just discussed must be filed by your counsel, unless you are representing yourself?

[00:15:58] Yes.

[00:16:06] Do you understand that by pleading guilty, you are giving up the right to a trial by jury?

[00:16:11] Yes.

[00:16:11] Do you understand that by pleading guilty, you're giving up the right to remain silent and not to incriminate yourself?

[00:16:16] Yes.

[00:16:17] Do you understand that by pleading guilty, you're giving up the right to confront witnesses that the state may bring to testify against you? Yes. Do you understand that by pleading guilty, you're giving up the right to assistance of counsel hired by you or to a court appointed counsel if you cannot afford one at trial? Yes. Do you understand that by pleading guilty, you are giving up the right of the presumption of innocence?

[00:16:37] Yes.

[00:16:40] Do you understand that by pleading guilty, you are giving up the right to testify on your own behalf and to present other evidence? Yes. Do you understand that by pleading guilty, you're giving up the right to subpoena witnesses and compel the production of evidence? Yes. Do you understand that by pleading guilty, you're giving up the right to have the charges against you proven beyond a reasonable doubt?

[00:16:58] Yes.

[00:16:58] Do you understand that by pleading guilty, you're giving up the right to appeal if convicted of these charges after trial? Yes. Has anyone forced, threatened or promise you anything in order to enter into this guilty plea.

[00:17:09] Other than what is recited in the documents? No.

[00:17:12] How do you plead to five counts of conspiracy to commit an intentional interference with performance of election duties, and one count of conspiracy to commit criminal?

[00:17:23] To commit criminal.

[00:17:24] Trespass.

[00:17:26] It's my approach for a second.

[00:17:29] We changed, the trespass count was changed. So it's six counts. It's six counts of the first.

[00:17:35] Okay. Thank you.

[00:17:37] I apologize, how do you plead to the six counts of conspiracy to commit intentional interference with performance of election duties?

[00:17:44] Guilty.

[00:17:46] Do you understand that you may have a limited right to appeal, which. I've gone over with you.

[00:17:50] Yes.

[00:18:02] Probably go.

[00:18:10] Judge is this case had gone to trial. The state would have shown that on between the dates of December 1st of 2020 and January 7th of 2021, the defendant, Sidney Powell, along with several coconspirators, entered into a conspiracy to intervene with the performance of election duties of codefendant Misty Hampton, also known as Emily Misty Hayes, at all times relevant to the conspiracy. Misty Hampton was the elections director for Coffee County, Georgia, and was subject to all duties imposed by chapter two of title 21 of OCGA. The purpose of the conspiracy was to use Misty Hampton's position to unlawfully access secure elections machines in Coffee County, Georgia. The conspiracy included the following objectives one. To willfully tamper with electronic ballot markers and tabulating machines. Two to cause certain members of the conspiracy who were not officers charged by law with the care of ballots and who were not persons entrusted by any such officer with the care of ballots for the. For a purpose required by law to possess official ballots outside of the polling place. Three to use a computer with knowledge that such use was without authority, and with the intention of taking and appropriating information, data and software. The property of Dominion Voting Systems Corporation. Four to use a computer with knowledge that such use was without authority and with the intention of removing voting data, and Dominion Voting Systems Corporation data from said computer. Five to use a computer with the intention of examining personal voter data with knowledge that such examination was without authority. Each of these constituted attempts to interfere with, hinder and delay Misty Hampton in the performance of her election duties. In furtherance of these conspiracies, the defendant entered into a contract with Sullivan Strickler, LLC in Fulton County, Georgia, and delivered a payment to Sullivan Strickler, LLC in Fulton County, Georgia, and cause employees of Sullivan Strickler, LLC to travel from Fulton County, Georgia to Coffee County, Georgia, for the purpose of accomplishing the objectives of this conspiracy. These were overt acts to affect the object of the conspiracy. The data, taken from Coffee County, Georgia, was distributed to members of the conspiracy and unknown persons in Georgia and elsewhere. That would be the factual basis for the charges in this case. The court the state has looked at Miss Powell background. She does not have any prior convictions being misdemeanors or felonies.

[00:20:41] And at this time the state will give to the court the an accusation.

[00:20:51] Anything else, Miss Young?

[00:20:56] And judge, I would just like to add the restitution will go to the Secretary of State for the cost that was incurred for having to replace the equipment in Coffey County. It will provide payment and will provide payment information to the to the probation office.

[00:21:15] All right. Thank you, Mr. Young. Mr. Rafferty.

[00:21:18] May be seated. Judge.

[00:21:24] Mr..

[00:21:24] Sir. Anything you wanted to add? No, Your Honor.

[00:21:27] Okay. Other than, you know, as I mentioned, I'm not sure if it was in the formal signed plea by Ms.. Powell, but reiterating what we've already discussed. She's pleading to misdemeanors. The indictment that was filed against her will be dismissed. She'll get first offender treatment, and we will have the language in there concerning crimes of moral turpitude.

[00:21:47] All right, Miss Powell. I just have a few questions for you. Do you understand the nature of the charges that have been re accused and that you would be pleading guilty to today? I do, sir, and you've heard all the rights that the state has gone through that you would waive by going forward with this plea. Do you still wish to waive those rights? I do. And are you pleading guilty today because you agree that there is a sufficient factual basis, that there are enough facts that support this plea of guilty? I do. Mr. Rafferty, are you satisfied? Your client is competent and understanding that the plea is voluntary, and that there is a sufficient factual basis for entering this plea?

[00:22:17] Yes, Your Honor.

[00:22:21] I agree and find that there is a sufficient factual basis, and I find this plea of guilty to being knowingly, voluntarily and intelligently entered. There's been a request that the sentence be entered under the First Offender Act, and the court will approve that request, withhold adjudication. But I must notify you, Miss Powell, that you are not allowed to withdraw your plea simply because you do not comply with the terms of the sentence, and the terms of that sentence would be as recommended by the parties on count one. Conspiracy to commit intentional interference with the performance of election duties. The sentence would be 12 months probation, and counts two through six would also be 12 months probation, consecutive to each other, and to count one for a total term of. Essentially six years probation, but we are going to translate that into months for the sentence sheet. Special conditions would include a \$6,000 fine with \$1,000 for each count, restitution to be paid in the amount of \$2,700 to the secretary. Georgia Secretary of State's office. You are to have written a letter which you've already satisfied. You're also to provide a recorded proffer with the state which you've already satisfied. You're to testify truthfully against any and all co-defendants in this matter at any upcoming proceedings. You are not to have any communication with any witness, any codefendant or any member of the media concerning the facts or circumstances of this case. And you to provide all documents to the District Attorney's Office as requested and relevant to this case. Again, Miss Young, I would ask if you could provide the state's recitation of the exact phrasing of these, and we'll make sure that's reflected in the final disposition form. In order to make this sentence consistent with Mr. Hall, I do believe it would be appropriate, and I'm willing to include the language involving moral turpitude, although that language being included on the sentence form may not ultimately have any effect on the entities responsible for actually determining that.

[00:24:30] Are there any other express conditions and special conditions, Miss Young, that you would like to see reflected on this sentence?

[00:24:38] I think you covered Your Honor. Okay.

[00:24:40] Mr. Rafferty, is there anything else that you think needs to be on the record today? Miss young, does the state have an announcement regarding the indictment in this case?

[00:24:51] Yes, Your Honor. The state will be entering an order on indictment number two three SC 188947 as it applies to Miss Powell.

[00:25:00] All right. Well, upon being provided a copy of that motion, I will sign it. And the charges in the indictment will be dismissed.

[00:25:09] All right. If there's nothing else, then we will conclude this and be off the record. Good luck, Miss Powell. Thank you.

[00:25:15] Thank you, thank you.

[00:25:16] Thank you all. Thank you. Judge.

[00:25:38] Excuse me. I'm sorry. Go ahead.

[00:25:39] It's going to be.