

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

UNITED STATES OF AMERICA,	:	Docket No. 19-00254
	:	
Plaintiff,	:	
vs.	:	November 1, 2019
	:	
GILVIN P. AUCOIN, JR.,	:	
	:	
Defendant.	:	Lafayette, Louisiana

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REPORTER'S OFFICIAL TRANSCRIPT OF THE PLEA AND SENTENCING  
HEARING BEFORE THE HONORABLE CAROL B. WHITEHURST  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE PLAINTIFF: JOSEPH DANIEL SIEFKER, JR.  
United States Attorney's Office  
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Lafayette, LA 70501

FOR THE DEFENDANT: JAMES LORNE KLOCK  
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## P R O C E E D I N G S

(Call to order of the court.)

THE COURT: All right. Good morning.

The first matter we have is *United States of America vs. Gilvin P. Aucoin, Jr.*, and it's Criminal Action Number 19-254.

It looks like we have Daniel Siefker here for the government, and we have James Klock here for Mr. Aucoin.

Is everyone ready to proceed?

MR. SIEFKER: The government is ready to proceed, Your Honor.

MR. KLOCK: Yes, Your Honor.

THE COURT: And I do see that we have quite a few people in the audience today. I would just ask that everybody be respectful of the proceeding today as we go through this.

We're here for a change of plea and a sentencing.

So if you'd come forward, Mr. Klock, with Mr. Aucoin.

Mr. Aucoin, I'm going to ask you to raise your right hand and be sworn.

THE COURTROOM DEPUTY: Do you solemnly swear that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE DEFENDANT: I do.

THE COURT: Mr. Aucoin, do you understand now that you've been sworn, your answers to my questions will subject you

1 to the penalty of perjury or of making a false statement if you  
2 don't answer truthfully?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Do you also understand that I'm a  
5 United States Magistrate Judge and I'm not a district judge?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Because this is a Class B misdemeanor, as a  
8 magistrate judge, I am empowered to accept a guilty plea in this  
9 case and to sentence you on the basis of your plea.

10 Do you understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: And, Mr. Klock, how does Mr. Aucoin intend  
13 to plead?

14 MR. KLOCK: He wishes to withdraw the plea of not  
15 guilty and enter a plea of guilty to the one count in the  
16 indictment.

17 THE COURT: All right. Is that correct, Mr. Aucoin?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: So you're pleading guilty to the single  
20 count of the Bill of Information pending which charges you with  
21 unlawful killing of a migratory bird in violation of  
22 16 U.S.C. 703 and 707(a)?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. Mr. Aucoin, before accepting  
25 your guilty plea, there are a number of questions I need to ask

1 you to assure myself that you're entering a valid plea. So if  
2 you don't understand my questions or if at any time you need to  
3 take a minute to confer with Mr. Aucoin, just let me know and  
4 I'll give you that chance -- I mean Mr. Klock -- I'll give you  
5 that chance to do so because it's essential to a valid plea that  
6 you do understand each question before you answer.

7 All right?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: How old are you?

10 THE DEFENDANT: Fifty-three.

11 THE COURT: And how far did you go in school?

12 THE DEFENDANT: Sixth grade.

13 THE COURT: Can you read and write and understand the  
14 English language?

15 THE DEFENDANT: Pretty much, yes, ma'am.

16 THE COURT: Okay. And have you taken any drugs or any  
17 medicines or any pills of any kind?

18 THE DEFENDANT: No, ma'am. Just my regular medication.

19 THE COURT: Okay. And what's that?

20 THE DEFENDANT: I take pain meds and blood pressure  
21 meds.

22 THE COURT: Okay. Did you take those this morning?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Is there anything with those medications  
25 that affects your ability to understand?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: All right. And have you had any alcoholic  
3 beverages within the last 24 hours?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: All right. The reason I ask you these  
6 questions is, like I said, it's very imperative to a valid plea  
7 that you understand everything. So if there's anything that  
8 you've taken or anything affecting your ability to understand  
9 these proceedings, you'd need to let me know that.

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Okay. So you do understand everything  
12 that's going on today?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: All right. And can you tell me in your own  
15 words what you're doing here today?

16 THE DEFENDANT: I'm here for a mistake I made,  
17 Your Honor. I was out taking care of my buddy's property, and we  
18 kind of -- you know, it's a I help him, he helps me kind of  
19 thing, and I shot a few times at white birds in the field not  
20 knowing it was a whooping crane, Your Honor. Had I known, I  
21 wouldn't have shot it because I've never been in trouble, and I  
22 sincerely apologize for that and us being here today because of  
23 my mistake I made, but --

24 THE COURT: And you're here today to accept  
25 responsibility for that mistake?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: And to plead guilty to this offense?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right. Mr. Klock, do you have any  
5 doubts as to Mr. Aucoin's competency to proceed?

6 MR. KLOCK: I do not, Your Honor.

7 THE COURT: And, Mr. Siefker, I'm not sure if you've  
8 had any interactions with Mr. Aucoin, but to the extent that you  
9 have, do you have any doubts as to his competency?

10 MR. SIEFKER: No doubts from the government,  
11 Your Honor.

12 THE COURT: All right. Based on my interactions with  
13 Mr. Aucoin today and in previous proceedings, based on his  
14 answers to my questions and the representations of counsel, I do  
15 find that Mr. Aucoin is competent to enter a plea in this matter.

16 And, Mr. Klock, have you had ample opportunity to  
17 discuss the case with Mr. Aucoin?

18 MR. KLOCK: I have, Your Honor.

19 THE COURT: Mr. Aucoin, are you satisfied with  
20 Mr. Klock's representation?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And has he been furnished with a copy of  
23 the Bill of Information?

24 MR. KLOCK: He has, Your Honor.

25 THE COURT: And does he waive the formal reading of the

1 Bill of Information?

2 MR. KLOCK: Yes, Your Honor.

3 THE COURT: Mr. Aucoin, have any threats or promises  
4 been made to you to induce you to -- I'm sorry. Let's get back  
5 to that in a minute.

6 All right. I'm going to go through your constitutional  
7 rights right now that you're waiving by pleading guilty.

8 Do you understand that under the Constitution you have  
9 a public right to a trial by a magistrate judge?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you understand that you have the right  
12 to plead not guilty and a right to persist in your plea of not  
13 guilty?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Do you understand that at trial you would  
16 be presumed to be innocent and the government would have to  
17 overcome that presumption and prove you guilty by competent  
18 evidence and beyond a reasonable doubt and that you would not  
19 have to prove that you were innocent?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you understand that in the course of the  
22 trial, the witnesses for the government would have to come to  
23 court and testify in your presence, and Mr. Klock could  
24 cross-examine those witnesses for the government, he could object  
25 to evidence offered by the government, and he could offer

1 evidence on your behalf?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And do you understand also at trial, while  
4 you would have the right to testify if you chose to do so, you'd  
5 also have the right not to be compelled to incriminate yourself  
6 and you'd have the right not to testify?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And do you understand that at trial you'd  
9 have the right to summon or call witnesses to testify on your  
10 behalf?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: If I accept your guilty plea, do you  
13 understand that you will waive your right to trial and all the  
14 other rights I've discussed with you, there will be no further  
15 trial, and there will simply be entered a judgment of guilty and  
16 you'll be sentenced on the basis of your guilty plea?

17 Do you understand that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: In pleading guilty, do you also understand  
20 that you'll waive your right not to incriminate yourself because  
21 I will necessarily have to ask you questions about what you did  
22 in order to satisfy myself that you are in fact guilty as  
23 charged?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And are you willing to waive your right to



1 remain silent and your right not to incriminate yourself in order  
2 to enter a guilty plea?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right. And are you willing to waive  
5 the right to trial and all the other rights I've discussed with  
6 you?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Mr. Aucoin, you've been charged in the  
9 Bill of Information with unlawful killing of a migratory bird in  
10 violation of 18 U.S.C. 703 and 707(a) and I'm required to explain  
11 this offense to you.

12 If you were to proceed to trial on this charge, the  
13 government would have the burden of proving each of the following  
14 elements beyond a reasonable doubt:

15 First, that on or about July 24<sup>th</sup>, 2018, you did  
16 hunt, pursue, take, or kill, or attempt to hunt, pursue,  
17 take, or kill a whooping crane, which is a migratory bird under  
18 50 C.F.R. 10.13; and

19 Second, that you were not legally authorized to take  
20 the migratory bird in question in that there was no season for  
21 the whooping crane and you had not obtained a permit authorizing  
22 the taking.

23 Do you understand the elements of the offense?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: If the case were to proceed to trial, the

1 government would also have the burden of proving proper venue,  
2 that is, the government would have to prove by a preponderance of  
3 the evidence that the offense was begun, continued, or completed  
4 in one of the parishes that make up the Western District of  
5 Louisiana.

6 Do you understand that?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And it's my understanding, based on the  
9 Stipulated Factual Basis, that this offense took place in  
10 Evangeline Parish?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: And that is within the Western District.

13 Do you know the maximum penalty and the fine that the  
14 Court might impose on the charge in the Bill of Information?

15 I'm going to go through that with you at this time.

16 The maximum penalty for Count 1 of the Bill of  
17 Information is a term of imprisonment of not more than six  
18 months, a fine of not more than \$15,000, or both; a term of  
19 probation of up to five years, which could also include special  
20 conditions such as required hours of community service or  
21 suspension of your right to hunt for a year or more; a term of  
22 supervised release of not more than one year, and that would be  
23 in addition to any term of imprisonment imposed by the Court; and  
24 a one hundred dollar -- I'm sorry, a ten-dollar special  
25 assessment fee and there is also a thirty-dollar processing fee.

1 Do you understand the maximum penalties?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And do you understand that if you're given  
4 a term of supervised release, while on supervised release you  
5 would be required to abide by any conditions specified by the  
6 Court and that supervised release might be revoked if you violate  
7 any of those conditions?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And do you understand that if supervised  
10 release is revoked for any reason, you may be imprisoned for the  
11 full term of supervised release without credit for time spent on  
12 post-release supervision?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Do you also understand that the combined  
15 time spent in prison under a sentence of imprisonment and a  
16 subsequent revocation of supervised release might exceed the  
17 statutory maximum?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Mr. Aucoin, has anyone threatened you or  
20 leaned on you or forced you to plead guilty, or told you if you  
21 didn't plead guilty, other charges would be brought against you  
22 or any other adverse action would be taken against you?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: And I understand that there is a written  
25 plea agreement that has been entered into between you and your

1 counsel and counsel for the government?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And do you understand that plea agreements  
4 are permissible and that you and all counsel have the duty to  
5 disclose the existence and the terms of such agreements?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Mr. Siefker, can you state the terms of the  
8 plea agreement, please.

9 MR. SIEFKER: Sure, Your Honor.

10 For the Court's reference, I'm looking at the plea  
11 agreement under subpart B.

12 The defendant has agreed to appear in court and plead  
13 guilty to Count 1 of the Bill of information, as he is doing here  
14 today, and the government has agreed that it will not prosecute  
15 Mr. Aucoin for any other offense known to the U.S. Attorney's  
16 Office based on the investigation which forms the basis of the  
17 Bill of Information.

18 THE COURT: All right. Mr. Klock, do you agree with  
19 the substance of the plea agreement as outlined by Mr. Siefker?

20 MR. KLOCK: I do, Your Honor.

21 THE COURT: And, Mr. Aucoin, do you agree with the  
22 terms of the plea agreement?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And has anyone made any promises, other  
25 than the promises contained in the plea agreement, that induced

1 you to plead guilty?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: And do you understand that any  
4 recommendation of sentence by your counsel or by counsel for the  
5 U.S. Attorney's Office is not binding and that you might, on the  
6 basis of your guilty plea, receive a more severe sentence than  
7 requested or recommended, and if I don't accept the sentencing  
8 recommendations, you won't have the right to withdraw your plea  
9 and you'd still be bound by it?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And has anyone made any prediction or  
12 prophecy or promise to you as to what your sentence might be?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: And, again, do you understand that if the  
15 sentence is more severe than you expect, you'll still be bound by  
16 your plea and you won't have the right to withdraw it?

17 THE DEFENDANT: Yes, ma'am, I understand that.

18 THE COURT: Okay. And do you also understand that  
19 under some circumstances you or the government may have a right  
20 to appeal any sentence that's imposed?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And do you understand that if you were  
23 going to appeal, you would have to file a notice of appeal with  
24 the Clerk of Court within 14 days?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: All right. Mr. Aucoin, do you have any  
2 questions?

3 I've asked you a lot of questions today.

4 Do you have any questions to ask or do you have any  
5 concerns?

6 THE DEFENDANT: No, ma'am.

7 Just like I said, I know we're all here for me and it  
8 was a bad mistake, Your Honor, and it's a mistake that won't  
9 happen again.

10 THE COURT: All right. Mr. Siefker, do you have any  
11 filings to make?

12 MR. SIEFKER: Yes, Your Honor.

13 If I may approach.

14 Are we going to go through the Stipulated Factual  
15 Basis, Your Honor?

16 THE COURT: Oh, I was just going to ask him -- I'm  
17 sorry.

18 The Stipulated Factual Basis at the end of your plea  
19 packet, Mr. Aucoin -- thanks for reminding me, Mr. Siefker.

20 There is a Stipulated Factual Basis for Guilty Plea  
21 contained in the plea packet. It's the last document. It's a  
22 two-page document.

23 Is that your signature on the second page of that  
24 document?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And did you sign this only after reviewing  
2 it thoroughly with Mr. Klock?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: And you agree to all the information  
5 contained in that Stipulated Factual Basis?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. Mr. Klock, that's your  
8 signature underneath his?

9 MR. KLOCK: It is, Your Honor.

10 THE COURT: And by signing that, are you representing  
11 to the Court that you did review this thoroughly with Mr. Aucoin  
12 and that he understood everything in this document and agreed to  
13 the information contained in that document?

14 MR. KLOCK: Yes, Your Honor.

15 THE COURT: All right.

16 MR. SIEFKER: Your Honor, if I may approach.

17 I'm presenting to the Court for filing the original  
18 executed versions of the Elements of the Offense, the Affidavit  
19 of Understanding of Maximum Penalty and Constitutional Rights,  
20 the Plea Agreement, and the Stipulated Factual Basis for Guilty  
21 Plea, along with a copy of the Bill of Information.

22 THE COURT: All right. Without objection, those will  
23 be admitted.

24 So, Mr. Aucoin, how do you plead to Count 1 of the Bill  
25 of Information, guilty or not guilty?

1 THE DEFENDANT: Guilty.

2 THE COURT: Since you acknowledge that you are in fact  
3 guilty as charged in Count 1 of the Bill of Information, since  
4 you know your right to trial, what the maximum possible  
5 punishment is, and since you're voluntarily pleading guilty, it's  
6 my finding that in the case of *United States of America vs.*  
7 *Gilvin P. Aucoin*, Criminal Action Number 19-254, that Mr. Aucoin  
8 is fully competent and capable of entering an informed plea and  
9 that his plea of guilty is knowing and voluntary and supported by  
10 an independent basis in fact containing each of the essential  
11 elements of the offense, and I will accept your guilty plea.

12 THE DEFENDANT: Thank you, Your Honor.

13 THE COURT: Does anyone have any objection to the  
14 imposition of sentencing at this time?

15 MR. KLOCK: No objection.

16 MR. SIEFKER: No objection from the government  
17 Your Honor.

18 THE COURT: And, Mr. Aucoin, I know you've said quite a  
19 bit, but do you have anything to add?

20 Your attorney has submitted a sentencing memorandum  
21 that I have read. I've also read the memorandum that has been  
22 submitted by the government. I've also received several letters  
23 from several organizations. I'm not sure if any representatives  
24 of those organizations are here in court today, but I want you to  
25 know that I have read every letter that has been submitted, every



1 report with statistics that have been submitted. I have read  
2 each and every one of those.

3 I believe we had a couple from the International Crane  
4 Foundation. We had letters from the National Audubon Society and  
5 the Louisiana Chapter of that Society. We've also had letters  
6 from the Orleans Audubon Society, and I have read each and every  
7 one, but at this time, Mr. Aucoin, I'll allow you to say anything  
8 you'd like to say to the Court before I impose sentence.

9 THE DEFENDANT: Thank you, Your Honor.

10 Again, like I said, I apologize for being here. I know  
11 what I done was wrong. In the future, I will make sure what I'm  
12 aiming at. We've kind of gone through rough times, Your Honor,  
13 with raising kids right now, and stuff can get stressful at the  
14 house in raising grandkids. I actually had to get a ride here  
15 today, Your Honor. But I plead for mercy from the Court, and,  
16 like I said, I've never been in trouble before, Your Honor, and I  
17 hope that y'all can help me out.

18 Thank you very much.

19 THE COURT: Mr. Aucoin, did you know that the cost for  
20 raising, releasing, and monitoring these cranes is about \$93,000  
21 per year?

22 THE DEFENDANT: No, ma'am, I did not.

23 THE COURT: Per bird, \$93,000.

24 Do you understand that now?

25 THE DEFENDANT: Yes, ma'am, I do.

1 THE COURT: Do you also understand that this particular  
2 crane -- first of all, the cranes mate for life. So they have  
3 one mate for life. This particular crane and his mate had bred  
4 for five years and produced 23 eggs.

5 Do you understand that?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: It's also been brought to my attention that  
8 when the mate of this crane returned to her nest alone, that  
9 someone observed her, and she was distressed, she was calling,  
10 she was flying around and behaving in a nervous manner because  
11 her mate didn't return with her.

12 THE DEFENDANT: Yes, ma'am, I understand that.

13 THE COURT: Do you understand that?

14 Do you understand the seriousness of what you did?

15 THE DEFENDANT: Yes, ma'am, I do, Your Honor. I sure  
16 do.

17 THE COURT: And this is never going to happen again?

18 THE DEFENDANT: That I promise you, Your Honor. Unless  
19 we see each other besides in here, this is it. I haven't been in  
20 trouble before, Your Honor, and, I mean, it's not worth the -- I  
21 mean, it was a mistake and I apologize. I am sorry.

22 THE COURT: All right. Mr. Klock, do you have anything  
23 you want to add?

24 And I did read the sentencing memo that you submitted.

25 MR. KLOCK: Yes, Your Honor.

1           As we represented in the sentencing memorandum,  
2 although we couldn't seem to locate any cases directly on point  
3 relative to a whooping crane, we were able to find other  
4 misdemeanor violations of the Migratory Bird Treaty Act here  
5 within Louisiana where individuals knowingly violated the  
6 statute. At least one individual had repeatedly knowingly  
7 violated and at least one of them had a prior criminal history.

8           Based on those cases and the nature and circumstances,  
9 we've made the recommendation of one year of probation and the  
10 hunter's education course. Mr. Aucoin hasn't had one before. We  
11 understand it's a maxim of a hunter that you don't shoot what you  
12 don't know, and we believe it's in line with the nature and  
13 circumstances of this that he be made to go through one of those  
14 courses and successfully complete it. Wildlife and Fisheries  
15 offers one at virtually no cost to the participants here in the  
16 state of Louisiana. We believe that that education will ensure  
17 that he doesn't repeat this behavior. As well as a ban on his  
18 hunting and fishing privileges. He is licensed to fish and it's  
19 a large part of his recreational life. We believe that would be  
20 both punitive and guarantee that during the course of probation,  
21 the public would be protected from similar acts.

22           Mr. Aucoin understands very much the severity of it.  
23 He hasn't had to stand before a court in the 53 years of his  
24 life. He's never been in trouble outside of maybe some traffic  
25 offenses in the past.

1           This is one of those situations where we understand the  
2 severity of it and we understand the Court has to punish the  
3 offense, but they also have to punish the person. Mr. Aucoin is  
4 somebody who again has no criminal history. He and his longtime  
5 girlfriend/colloquial wife are raising her two grandchildren on  
6 limited incomes. He has a disability. He helps a buddy with a  
7 farm in exchange for crawfish whenever the season opens up. He  
8 had to hitch a ride to get here today. The extra revenue outside  
9 of his own disability, which comes in, I believe, under a  
10 thousand dollars, that comes to his family is directly for the  
11 cost of raising those two grandchildren who are surviving the  
12 deaths of their parents.

13           This is somebody that if the Court is looking at both  
14 the person and the offense, we believe that the one-year  
15 probationary period with the restriction on his hunting and  
16 fishing privileges and the education course would satisfy the  
17 interest of justice in this matter.

18           THE COURT: All right. Mr. Siefker, does the  
19 government have anything to say with regard to sentencing?

20           MR. SIEFKER: For a few minutes, Your Honor, if the  
21 Court may indulge me, I have a couple of remarks to make on  
22 behalf of the government.

23           I'd also like, Your Honor, to offer into evidence some  
24 of the materials that were submitted to the Court. I'm not sure  
25 if Mr. Klock will have an objection, but they consist of the

1 October 25<sup>th</sup>, 2019, letter from the International Crane  
2 Foundation, along with the addenda, addendum one and two, to that  
3 document; the October 29<sup>th</sup>, 2019, letter from the  
4 Orleans Audubon Society; the October 29<sup>th</sup>, 2019, letter from  
5 the Louisiana Chapter of the National Audubon Society; and the  
6 October 29<sup>th</sup>, 2019, letter from the Louisiana Archaeological  
7 Society.

8 THE COURT: Any objection to the admission of those  
9 letters?

10 MR. KLOCK: Your Honor, we've already reviewed them, so  
11 no objection.

12 THE COURT: Those will be admitted.

13 MR. SIEFKER: And I'll try to be brief, Your Honor, and  
14 not rehash the information I provided to the Court in the  
15 sentencing memorandum, but we want the Court and the people here  
16 today to know that the federal government and the U.S. Attorney's  
17 Office takes crimes against the environment seriously. That's  
18 why we're in federal court today for the killing of a bird. And  
19 we want the people to know that there's been a substantial  
20 investment in this bird, in the whooping crane project in  
21 Louisiana and the protection of endangered species nationwide.

22 Decades ago the whooping crane population in the  
23 country was hunted to the brink of extinction. I think there  
24 were less than 30 birds remaining at one point in time according  
25 to one of the letters submitted to the Court. Today there's

1 about 650 of these birds in the wild, and Louisiana is home to a  
2 project which has a population of about 69 birds as we stand here  
3 today. Mr. Aucoin's actions in killing one of these birds in  
4 July, 2018, threatened the survival of the project which has  
5 faced difficulty from its beginning.

6 Whooping cranes live for decades as the Court indicated  
7 today. They take years to reach their reproductive age and even  
8 then their eggs and hatchlings face difficulty with survival.  
9 Also, these birds, for whatever reason, are the targets of  
10 illegal shootings, and as indicated by one of the documents  
11 submitted to the Court, Louisiana has the highest rate of these  
12 shootings. This is something that needs to change.

13 That brings us to July, 24<sup>th</sup>, 2018, when Mr. Aucoin  
14 was working on a farm and decided to shoot at one of these birds  
15 identified as L8-11 for no apparent reason other than for sport.  
16 We'll never know why, but we know that his actions were senseless  
17 and wasteful. When he pulled the trigger, he killed a  
18 93,000-dollar environmental and cultural investment. He didn't  
19 just kill a white bird, Your Honor. He killed a magnificent  
20 creature, one that stands nearly six feet tall and has a seven  
21 and a half foot wingspan.

22 As the Court mentioned, this bird, L8-11, was a member  
23 of the first pair to mate since the Louisiana's reintroduction  
24 program began in 2011. It was a bird that was valued by the  
25 project's members, and as the Court can see by the people here

1 today, it was also valued by members of the public.

2 That's why the government has recommended a sentence of  
3 three years probation, a two thousand dollar fine, 180 hours of  
4 community service preferably to be spent with an environmental  
5 group preferably focused on the conservation of these cranes, and  
6 the suspension of his hunting and fishing privileges for three  
7 years, along with the special assessment and processing fees  
8 mentioned by the Court. Jail time is also an option. The  
9 government wouldn't object to the Court imposing it.

10 Your Honor, just in closing, Mr. Aucoin's actions are  
11 upsetting and he deserves more than one year of probation as  
12 suggested by the defense. The Court's sentence must serve as a  
13 deterrence for others who may shoot and kill these endangered  
14 species, and it's time to ensure that the project's survival is a  
15 continued success in Louisiana. We need to send a message that  
16 killing whooping cranes in Louisiana carries consequences.

17 Thank you, Your Honor.

18 THE COURT: Thank you.

19 MR. KLOCK: May I very briefly reply, Your Honor?

20 THE COURT: Sure.

21 MR. KLOCK: I very much appreciate everything that the  
22 government has stated today. So does Mr. Aucoin.

23 THE COURT: Mr. Klock, can you get closer to the mic a  
24 little bit.

25 MR. KLOCK: I apologize.

1           He understands the severity of the circumstances. He  
2 gets it.

3           Your Honor, this is a strict liability offense. Had he  
4 known of the severity of what he was doing at the time,  
5 Mr. Aucoin would not have engaged in those actions. He was open  
6 and honest as the investigating agent noted in their report, and  
7 he has been very cooperative from the very start of their  
8 investigation coming in contact with him.

9           He stated to them he was out there mowing the grass and  
10 saw birds in the pond. He shot at the birds to get them out. It  
11 wasn't just senseless. He wasn't trying to profit. This was an  
12 act that was common in what he was doing, tending to those ponds.  
13 He understands now again that he should not shoot what he does  
14 not see, and we believe that the education course and the  
15 restriction on hunting would do that, would satisfy the needs of  
16 justice.

17           THE COURT: All right. I've considered the evidence  
18 and the factors presented to me by both parties. As I've said,  
19 I've read all the letters submitted, I've read the sentencing  
20 memoranda that have been submitted, and I've considered the  
21 factors under 18 U.S.C. 3553(a), which I am required to consider  
22 in imposing sentencing.

23           Those factors include the nature and circumstances of  
24 the offense and the history and characteristics of the defendant;  
25 the need for the sentence imposed to reflect the seriousness of



1 the offense, to promote respect for the law, and to provide  
2 punishment for the offense; to afford adequate deterrence to  
3 criminal conduct; to protect the public from further crimes of  
4 the defendant; and to provide the defendant with needed  
5 educational or vocational training, medical care, or other  
6 correctional treatment in the most effective manner.

7 It also requires that I consider the kinds of sentences  
8 available; the sentencing range established for the offense; any  
9 pertinent policy statements issued by the Sentencing Commission;  
10 the need to avoid unwarranted sentencing disparities among  
11 defendants with similar records who have been found guilty of  
12 similar conduct; and the need to provide restitution to any  
13 victims of the offense.

14 With regard to the nature and circumstances of the  
15 offense, I note that this is a Class B misdemeanor. It's  
16 certainly not among the most serious offenses we deal with  
17 regularly here in federal court, but having said that, I do not  
18 in any way discount the seriousness of what you did, Mr. Aucoin.

19 Like it has been pointed out, there are many people  
20 here who take this offense very seriously, and that includes me.  
21 This is a serious issue that presents with respect to the  
22 conservation efforts regarding this once nearly extinct bird, and  
23 I've said -- I mean, it costs \$93,000 per bird. I think I said  
24 per year. I meant per bird. And a lot of people, you know, and  
25 a lot of organizations have invested in this. There's tremendous

1 effort and expense that has gone into repopulating the whooping  
2 crane since the 1940s, and the loss of even one of these birds to  
3 a shooting incident threatens the ongoing reintroduction efforts.

4 I do note your remorse, and with regard to your history  
5 and characteristics, I note that you have never been in trouble  
6 before. You've never had any prior violations.

7 THE DEFENDANT: No, ma'am.

8 THE COURT: I do think that an education course would  
9 be helpful to you and beneficial to you, but, again, you have no  
10 history of violations and you were cooperative with the agents  
11 when you were questioned by them and you readily provided a  
12 statement to them and accepted responsibility for your actions.

13 I also note that you're indigent and have been  
14 receiving Social Security benefits, and it appears that that's  
15 your source of income, and that you care for your young  
16 grandkids, which is admirable.

17 So considering the factors in 3553(a) and specifically  
18 the need for the incentives to be sufficient, but not greater  
19 than necessary to comply with the purposes of sentencing that's  
20 set forth in that statute, I'll impose the following sentence:  
21 Two years probation.

22 And I'll note, Mr. Aucoin, the only other case I've had  
23 like this involving a whooping crane, I did give jail time, but  
24 the circumstances of that case were different from your case.  
25 That individual had multiple offenses and other egregious

1 offenses that he pled to and also had some prior history of  
2 violations and criminal history and you do not.

3           So I will impose two years probation. And I find that  
4 Mr. Aucoin does not have the ability to pay a fine, so I will not  
5 be imposing a fine in this case. However, Mr. Aucoin, you do  
6 have the ability to pay back society with your time.

7           So I'm going to order that while you are on probation,  
8 you complete 120 hours of community service, and I'll recommend  
9 that this community service be performed with a preference toward  
10 animal conservation or shelters. There's been some suggestion  
11 that the community service should be performed with a wildlife  
12 conservation group and preferably educating the public about the  
13 value of whooping cranes and what you've learned from this  
14 experience so that others won't do what you did mistakenly. We  
15 don't want these kind of mistakes to happen.

16           So to the extent that that can happen, I'll order that  
17 Wildlife and Fisheries coordinate with you to find opportunities  
18 for you to do some worthwhile community service, and I'll order  
19 that Wildlife and Fisheries will supervise and track your hours  
20 of community service performed.

21           I'm also going to order that you do complete that  
22 hunter's education course with the Louisiana Department of  
23 Wildlife and Fisheries and that your hunting and fishing  
24 privileges be revoked during the period of probation, for the  
25 two-year period.

1           Mr. Aucoin, if you complete the hunter's education  
2 course and all of your community service hours prior to the end  
3 of your two-year probation period, then your probation period may  
4 terminate early, but until you complete those community service  
5 hours and that education course, you're going to be on two years  
6 probation with your hunting and fishing privileges revoked.

7           And I think I have an order that I can sign.

8           This is a no hunt order. I'm adding that you're also  
9 restricted from fishing.

10          There's a signature line for you also.

11          MR. SIEFKER: Your Honor, if I may, just a point of  
12 clarification. I think a second ago the Court mentioned that his  
13 hours would be tracked and recorded by Fish and Wildlife.

14          THE COURT: I'm not sure how else to do it.

15          Any suggestions?

16          MR. SIEFKER: Well, that's fine, Your Honor.

17          I just wanted to make the point that the U.S. Fish and  
18 Wildlife Service is a federal entity and the Louisiana Department  
19 of Wildlife and Fisheries is a state entity. We assume the Court  
20 wanted the federal entity, the U.S. Fish and Wildlife Service, to  
21 monitor as the Court ordered.

22          THE COURT: Yes. That is correct.

23          All right. Is there anything else that needs to come  
24 before the Court?

25          MR. SIEFKER: Nothing further from the government,

1 Your Honor.

2 MR. KLOCK: Just to preserve everything, Your Honor,  
3 smart lawyers told me I need to -- just for the record, we'd like  
4 to object to the severity and substance of the judgment.

5 THE COURT: All right. Your objection is noted.

6 Again, Mr. Aucoin, if you'd like to appeal the  
7 sentence, you need to file a notice of appeal within 14 days.

8 THE DEFENDANT: Thank you, Your Honor.

9 MR. KLOCK: Thank you, Your Honor.

10 THE COURT: Oh. Wait. She's going to hand you the  
11 form for the payment of the -- and that is part of my order, too,  
12 that you pay the mandatory assessment and the thirty-dollar  
13 processing fee, which comes to a total of \$40.

14 MR. KLOCK: He's got the money order for the assessment  
15 today.

16 Is there a way that he can pay the processing fee just  
17 during that probationary period?

18 THE COURT: Yes.

19 Mr. Aucoin, how long will it take you to pay the  
20 processing fee of \$30?

21 THE DEFENDANT: I get my check today.

22 THE COURT: Okay. How about pay that processing fee --  
23 and you have an address, I think, there that it can be sent to --  
24 within two weeks.

25 MR. KLOCK: Thank you, Your Honor.

1 THE COURT: All right. Thank you.

2 Court is in recess until 11:00 o'clock.

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6  
7 Certificate

8 I hereby certify this 4<sup>th</sup> day of November, 2019, that the  
9 foregoing is, to the best of my ability and understanding, a true  
10 and correct transcript from the record of proceedings in the  
11 above-entitled matter.

12  
13 /s/ LaRae E. Bourque

14 Federal Official Court Reporter  
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