

FILED IN THE COMBINED COURTS OF TELLER COUNTY, COLORADO	
DISTRICT COURT, Teller County, Colorado Court Address: 101 West Bennett Avenue Cripple Creek, Colorado 80813	DATE FILED: February 8, 2019 FEB 08 2019
PEOPLE OF THE STATE OF COLORADO v. Krystal Lee Kenney, Defendant	SHEILA GRIFFIN CLERK OF COURT COURT USE ONLY
Deputy District Attorney: Jennifer Viehman Attorney Registration #: 33163 Add.: 105 E. Vermijo Colorado Springs, CO. 80903 Phone Number: 520-6000 District Attorney: Daniel H. May, # 11379	Case No. 19CR17 Div: 11 Ctrm:
PLEA AGREEMENT	

1. I am the defendant. My name is Krystal Lee Kenney.
2. I wish to plead guilty to the following: Tampering with Physical Evidence, a Class 6 felony.
3. I understand the nature of the charge(s) and the elements of each offense to which I am pleading and the effect of my plea.
4. The elements of the offense(s) to which I am pleading guilty are:
 - 1) That the defendant,
 - 2) in the State of Colorado, at or about the date and place charged,
 - 3) believing that an official proceeding was pending or about to be instituted, and acting without legal right or authority,
 - 4) unlawfully and feloniously destroyed, mutilated, concealed, removed, or altered physical evidence
 - 5) with intent to impair its verity or availability in the pending or prospective official proceeding
5. ~~I agree that I was on N/A for a felony crime, at the time I committed this crime, in the following case(s):~~
6. ~~I understand that the District Attorney will move to dismiss the following charge(s) in the following specified Count(s), and/or the following cases, if applicable: N/A~~
7. As to sentencing, I agree:

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Defendant's Initials

- 1) The potential sentence would be a sentence to the Colorado Department of Corrections (DOC) in the range of 1 year to 18 months or up to 3 years in the aggravated range, community corrections or probation. The actual sentence will be open to the Court.
- 2) Sentencing for the Defendant shall not occur until the trial against the co-defendant Patrick Frazee, or any other person or persons charged concerning the homicide of Kelsey Berreth, have been completed. The Defendant agrees to testify truthfully at any trial or proceeding concerning the death of Kelsey Berreth.
- 3) The Defendant acknowledges and accepts all terms and conditions for this plea agreement outlined in the plea and cooperation letter between the Defendant and the District Attorney's Office, dated December 20, 2018. A copy of this letter is attached as Attachment A to this plea agreement.
- 4) The Defendant shall pay felony court costs, restitution, and all surcharges that apply as ordered by the court. The Defendant stipulates to causation for restitution purposes.
- 5) If the Defendant fails to comply with the terms of this plea agreement as outlined above or outlined in Attachment A, the People may withdraw from this agreement and file additional charges as well as prosecute the original charge to which I am pleading.

If Part "7" above states a sentencing agreement, I understand that any sentence imposed by the judge must conform to that agreement. If, after I plead guilty, the judge decides not to accept the sentence recommendation or limitation, I will have the right to withdraw my guilty plea and have a trial. I also understand that if the court changes the terms of the written plea agreement, without the consent of both the prosecution and myself, the defendant, it is a material and substantial breach of the agreement and either the prosecution or I, the defendant, may withdraw from the agreement.

8. I speak, read and understand the English language.
9. I am not under the influence of any alcohol, medication or drugs. My physical and mental health is satisfactory. I am 32 years of age. My date of birth is 4/4/86. I have gone to school up to and including Bachelor's Degree
10. I have consulted with my lawyer concerning this matter and I am satisfied with what my lawyer has done for me.
11. I have been advised and understand that:
 - a. I do not need to make any statement. Any statement I make may be used against me;

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Defendant's Initials

- b. I have a right to a lawyer. If I cannot afford a lawyer the Court will appoint one for me;
 - c. Any plea I make must be voluntary and must not be the result of any undue influence, coercion, or force by anyone;
 - d. I have a right to bail if the offense is bailable, and have been told the amount of my bail;
 - e. I have been advised of the nature of the charges against me and of my right to a preliminary hearing and a jury trial.
 - f. I have the right to plead "Not Guilty" to any offense charged against me. If I choose to plead "Not Guilty" the Constitution guarantees me:
 - 1. the right to a speedy and public jury trial;
 - 2. the right to representation by a lawyer before trial and at trial;
 - 3. the right to see, hear and face in open court all witnesses called to testify against me and to cross examine them;
 - 4. the right to have the prosecution prove each element of each offense charged in this matter beyond a reasonable doubt;
 - 5. the right to remain silent;
 - 6. the right not to testify;
 - 7. the right to testify if I want to;
 - 8. the right to the presumption of innocence;
 - 9. the right to subpoena and call witnesses on my behalf;
 - 10. the right to legal defenses and to an alibi defense if one exists;
 - 11. the right to appeal any conviction;
 - 12. I understand that if I tender a plea of guilty I give up all of these rights.
12. My plea is voluntary and is not the result of any promises or representations from anyone, including my lawyer, or of undue influence or coercion or force by anyone.
13. I expressly waive my right to trial by jury on all issues.
14. I fully understand that if the Court accepts my plea:
 - a. The possible penalties for the charge(s) to which I am pleading guilty include a sentence to the Department of Corrections for a definite term of between 1 year and eighteen months and a fine from \$1000 to \$100,000.

- b. If the Court finds extraordinary aggravating circumstances apply, other than those listed in paragraphs 14.f. and 14.g., the possible penalties include a sentence to the Department of Corrections for a term greater than the presumptive range in 14.a. to double the maximum term, making a term as long as 3 years.
- c. If the Court finds extraordinary mitigating circumstances then it may sentence me to a term as short as 6 months on a class 6 felony. The Defendant agrees that the minimum sentence in her case is 1 year.
- d. A mandatory period of parole of 1 year will be added to any sentence I receive, and will begin immediately upon my discharge from imprisonment in the Department of Corrections.
- e. If I was on parole or probation for a felony, or if I was in confinement or in any correctional institution for a felony, or was an escapee from any correctional institution for a felony, or if I was on an appeal bond following a conviction for a previous felony, at the time of the commission of the offense(s) in this case, or if I am pleading guilty to a crime of violence under §18-1.3-406, C.R.S., the Court must, if it sentences me to the Department of Corrections, sentence me to a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range.
- f. If at the time of the commission of this felony, I was charged with or was on bond for a felony in a previous case and I was convicted of any felony in the previous case, or if I was on bond for having pled guilty to a lesser offense when the original offense charged was a felony, or if I was under a deferred judgment and sentence for another felony at the time of the commission of the felony, or if I was on parole for having been adjudicated a delinquent child for an offense which would be a felony if committed by an adult, the Court must, if it sentences me to the Department of Corrections, sentence me to at least the minimum in the presumptive range but not more than twice the maximum term authorized in the presumptive range.
- g. I understand that that if I have been convicted of two or more felonies in the State of Colorado, any other state, and/or the United States (i.e. federal or military charges) I will not be eligible for probation without the consent of the district attorney if one of my prior felony convictions or the crime to which I am pleading guilty to is: First Degree Murder, Second Degree Murder, Manslaughter, First Degree Assault, Second Degree Assault, First Degree Kidnapping, Second Degree Kidnapping, a felony sex offense other than failure to register as a sex offender, First Degree Arson, First Degree Burglary, Second Degree Burglary, Robbery, Aggravated Robbery, Theft from the Person of another, or a felony offense committed against a child. This includes any crimes involving the attempt to commit one of the listed crimes or conspiracy to commit any of the listed crimes.
- j. If I am granted probation, the possible penalties include, as a condition of probation, a sentence of up to 90 days in the county jail or up to two years in the work release facility for a felony, up to 60 days in the county jail or up to two years in the work release facility for a misdemeanor, (or up to

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Defendant's Initials

the maximum sentence that could be imposed for that misdemeanor, whichever is less) and up to 30 days for a petty offense.

15. I understand that the Court will not be bound by any representations or promises made to me concerning penalties to be imposed or the granting or denial of probation, no matter who made them, unless written down as part of this plea agreement.
16. I agree that there is a factual basis for the plea of guilty to the crime charged in this matter and I will lay a full factual basis on the record upon entry of this plea agreement. I have prepared my own statement telling what happened, stating the basic facts which make me think I am guilty. This statement is part of Attachment B. The events I refer to in this statement occurred in Teller County, Colorado, at the approximate time charged in the Information.
17. I expressly agree to waive any rights I have under C.R.S. 18-1-1101 through 1108 concerning the preservation, retention, disposal, or destruction of any evidence in this case, including evidence that may contain relevant DNA evidence. I expressly agree to waive any requirements to notice, a right to objection, or the ability to request for hearing. I waive these rights concerning any evidentiary items taken into evidence on the case I am being prosecuted for, and for any of my cases being disposed of or dismissed as part of a plea agreement. I waive any right to review a formal evidence list/summary of said evidence in all cases. I have reviewed with my counsel the discovery in the cases subject to this waiver, including a description of all evidence held in the cases subject to this waiver. The discovery will constitute a written list describing all evidence that is subject to this waiver. I agree to allow the District Attorney and/or the Custodian of Evidence to make all decisions regarding retention and/or destruction of evidence in this case. Any exceptions to this waiver will be listed out explicitly in the plea agreement.
18. I expressly agree to waive and give up any right I may have, now or in the future, to request that any records related to this case be sealed, or to have the Court order such sealing, whether provided by §24-72-702, §24-72-702.5, §24-72-704, §24-72-705, §24-72-706, §24-72-707, §24-72-708, §24-72-709, C.R.S., or any other provision of law. This waiver also applies to the sealing of any of my cases that have been disposed of or dismissed as part of this plea agreement.

I may only petition the court to have my records sealed if, and only if, I am pleading guilty as part of a stipulation for deferred judgment and sentence and this plea agreement expressly states in another provision that the District Attorney has agreed to permit me to petition to seal my records in the future. In that circumstance, I may only petition if I have successfully completed each and every condition or term of the deferred sentence, and this entire case is thereafter dismissed upon my full and complete compliance with this deferred sentence. Under those limited circumstances, the District Attorney agrees to allow me to pursue any right I may have to request that any records related to this case be sealed, or to have the Court order such sealing, pursuant to §24-72-702, §24-72-702.5, §24-72-704, §24-72-705, §24-72-706, §24-72-707, §24-72-708, or §24-72-709, C.R.S. The District Attorney reserves the right to appear and object at any hearing regarding sealing of this matter.

19. If I was 18 or 19 years of age when the crime was committed and under 21 years of age when sentenced, I expressly agree to waive and give up any right I may

have to be eligible for a sentence to Youth Offender Services, pursuant to C.R.S. 18-1.3-407.5.

20. I agree to the following regarding probation, supervision by the probation department or deferred sentencing:
- 1) I agree that if I am being considered for probation or a deferred judgment and sentence that includes supervision by the probation department under the terms and conditions of this plea agreement, including probation or deferred judgment and sentence that is transferred to another jurisdiction, that I shall undergo a substance abuse assessment and that I must comply with the recommendations of that substance abuse assessment as a condition of my probation, deferred sentence or sentence.
 - 2) If the court determines, based on any material evidence, that a prohibition against possession or use of medical marijuana is necessary and appropriate to accomplish the goals of sentencing then I shall be prohibited from possessing or using medical marijuana during the period of probation or deferred judgment and sentence.
 - 3) I agree that if I am sentenced to probation (supervised or unsupervised) for conviction of a crime under Article 43.3 of Title 12, or if I receive a deferred judgment and sentence for such crime, that I shall be prohibited from possessing or using medical marijuana during the period of probation or deferred judgment and sentence.
 - 4) I agree that during my probation (supervised or unsupervised) or deferred judgment and sentence I shall be prohibited from acting as an assigned caregiver to any medical marijuana patient and I shall be prohibited from operating or working in any capacity at a medical marijuana dispensary.
 - 5) I agree that during my probation (supervised or unsupervised) or deferred judgment and sentence I shall be prohibited from consuming alcohol to excess or at all as ordered by the Court.
 - 6) I agree that during my probation (supervised or unsupervised) or deferred judgment and sentence I shall be prohibited from using recreational marijuana, using controlled substances, and using any dangerous or abusable drug without a prescription.
21. I agree that if I commit any new crime between now and the time of sentencing or if I fail to appear for sentencing, unless it is unavoidable (to be determined by the judge), then any sentencing recommendation or restriction in Paragraph 7 shall not apply, and sentencing shall be left completely open to the discretion of the judge on all counts to which I have pled guilty. I agree that I will not be allowed to withdraw my pleas(s) and that the district attorney may, in addition, file any applicable bond jump charges.
22. I am a citizen of the United States, or if I am not a citizen of the United States, I understand that conviction of a crime may result in deportation, exclusion from admission to the United States, or denial of naturalization. I certify that my attorney has advised me that my guilty plea may carry a risk of adverse immigration consequences, which may include deportation, a denial of naturalization, and other consequences, and in some cases, depending on the crime to which I am pleading guilty, that deportation is a certainty.
23. I understand that if my guilty plea is accepted by this Court for any of the crimes listed below, no bail is allowed:

- (a) Murder;
- (b) Felony sexual assault involving the use of a deadly weapon;
- (c) Felony sexual assault committed against a child under 15 years of age;
- (d) A crime of violence;
- (e) A felony involving the use of a firearm.

24. I understand that upon entry of a plea of guilty to, or the receipt of a deferred judgment and sentence for any drug offense in Article 18 of Title 18, C.R.S., or any attempt to commit such offense, the Court shall require the payment of a surcharge to the Clerk of the Court in the following amounts:

For each class 2 felony, \$4,500.00
 For each class 3 felony, \$3,000.00.
 For each class 4 felony, \$2,000.00.
 For each class 5 felony, \$1,500.00.
 For each class 6 felony, \$1,250.00.
 For each class 1 misdemeanor, \$1,000.00.
 For each class 2 misdemeanor, \$600.00.
 For each class 3 misdemeanor, \$300.00.
 For each class 2 petty offense pursuant to §18-18-406(1), \$200.00.

25. I understand that upon entry of a plea of guilty to, or the receipt of a deferred judgment and sentence for any crime against an at-risk adult or an at-risk juvenile, or identity theft pursuant to 18-5-902, or any attempt to commit such offense, the Court shall require the payment of a surcharge to the Clerk of the Court in the following amounts:

For each class 2 felony, \$1,500.00
 For each class 3 felony, \$1,000.00
 For each class 4 felony, \$500.00
 For each class 5 felony, \$375.00
 For each class 6 felony, \$250.00
 For each class 1 misdemeanor, \$200.00
 For each class 2 misdemeanor, \$150.00
 For each class 3 misdemeanor, \$75.00

26. I agree to forfeit all weapons, magazines and ammunition held as evidence in this case, or held as evidence in any case disposed of or dismissed as part of this plea agreement, and further I agree to allow the law enforcement agency in possession of these items to dispose of them at their discretion. I agree to forfeit all drugs, drug paraphernalia, or drug-related items (e.g., scales, baggies, etc.) held as evidence in this case, or held as evidence in any case disposed of or dismissed as part of this plea agreement, and further I agree to allow the law enforcement agency in possession of these items to dispose of them at their discretion.

27. I agree to pay all restitution within the term of my original sentence. I agree to pay restitution for all counts and cases governed by this plea agreement, including counts and/or cases dismissed as part of this plea agreement. I further stipulate to causation for restitution purposes in this case and in any case(s) dismissed as part of this agreement. The restitution amount will include all losses pursuant to statute and case law, including 8% interest from the date of loss and simple interest from the date of the entry of the order at the rate of 8%

per annum. Restitution shall be payable jointly and severally with any convicted co-defendants. The District Attorney's Office will act in good faith to provide correct information establishing the amount of restitution within 91 days of sentencing. I understand that court ordered restitution is a condition of my sentence and failure to pay court ordered restitution could result in revocation or lead to the institution of other future proceedings against me. Pursuant to C.R.S. §16-18.5-105, if the court finds I failed to pay restitution when I had the ability to pay, the court may revoke my probation and impose any other sentence permitted by law, impose jail with a recommendation that I participate in a work release program, extend the period of my probation, and/or find me in contempt of court and impose any authorized penalties for contempt.

- a. As part of my plea agreement with the People, I am agreeing to pay restitution in the other cases and counts that the People have agreed to dismiss. I understand that I engaged in misconduct in the other cases which caused a loss to victims in those cases and that it would be helpful to me in my rehabilitation to be required to make those victims whole. In order to obtain the benefit of the plea offer presented to me by the People I am agreeing to pay restitution in case(s) N/A and the remaining counts in the current case. I understand that the restitution ordered will become a condition of the sentence the court imposes on the case to which I am entering a plea of guilty and my failure to pay that restitution could lead to revocation proceedings instituted against me in the future.

28. I understand that I may be ordered to make payments of a monetary amount as part of my sentence. I understand that if I am granted probation and I am ordered to pay a monetary amount, the payment of the monetary amount will be a condition of my probation.

- a. The court will have a designated official which shall report any failure to pay a monetary amount to the court. If my sentence is to unsupervised probation, the designated official is the division staff for the division to which my case is assigned. If my sentence is any other sentence, the designated official is the collections supervisor.
- b. I understand that if at any time I am unable to pay the monetary amount due that I must contact the court's designated official or appear before the court to explain why I am unable to pay the monetary amount.
- c. I understand that if I have the ability to pay the monetary amount as directed by the court or the court's designee but I willfully fail to pay, I may be imprisoned for failure to comply with the court's order to pay.
- d. I understand that if I willfully fail to pay a monetary amount due, the court may impose part or all of a suspended sentence, may revoke my probation or may hold me in contempt of court.
- e. I understand that if I fail to appear at a hearing to impose a suspended sentence or to revoke probation or a contempt hearing that a warrant may be issued for my arrest.
- f. I understand that if I am found to be in contempt of court for willful failure to pay, I may be imprisoned for a period not to exceed:
 - i. For a felony, one year.

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- ii. For a misdemeanor, one-third of the maximum term of imprisonment authorized for the misdemeanor.
- iii. For a petty offense or a traffic violation punishable by a possible jail sentence, fifteen days.

g. I understand that if I receive a sentence of imprisonment and then am found to be in contempt of court for willful failure to pay, the total period of time I am ordered to be imprisoned will not exceed the maximum term of imprisonment authorized for the offense(s) to which I am pleading guilty.

29. I agree that my plea will be final. Only the judge will have the power to reject this agreement later. Once I plead guilty in court, I will not be allowed to change my mind.

30. I have read and understand this entire document. I have discussed the document and my plea fully with my lawyer.

Signed by me in the presence
of my attorney on:

2/7/19
Date

[Signature]
Defendant's Signature

2/8/19
Date

[Signature]
Jennifer Viehman
Deputy District Attorney, #33163

Defendant's Address

City, State, Zip

2/7/19
Date

[Signature]
Attorney for Defendant, # 28775

3200 Cherry Creek So. Drive
Denver, Co 80210

Attorney's Address

Attorney's Phone No. 720-440-8155



OFFICE OF THE DISTRICT ATTORNEY

4th JUDICIAL DISTRICT

Daniel H. May
District Attorney

Kim L. Kitchen
Assistant District Attorney

December 20, 2018

Dru Nielsen
3200 Cherry Creek South
Suite 700
Denver, CO 80209
(Sent via email to dru@eytan-nielsen.com)

Re: Krystal Lee

Dear Ms. Nielsen:

I understand that you represent Krystal Lee concerning her involvement in cover-up and evidence destruction in the homicide of Kelsey Berreth that occurred on or about November 22nd of 2018. We have discussed your client agreeing to cooperate in the investigation into the murder of Kelsey Berreth and testify in any prosecution resulting from this investigation. You have indicated that your client was solicited to kill Kelsey Berreth which she ultimately abandoned and did not follow through in the murder of Kelsey Berreth. You have indicated she aided in the cover up of the murder. Based upon these representations, your client could be charged with accessory to first degree murder, a class four (4) felony in the State of Colorado as well as multiple charges of tampering with evidence, class six (6) felonies.

In this regard we are sending a formal offer letter with regard to your client's willingness to come forward and provide information and cooperation to law enforcement for a negotiated plea agreement.

After discussions with the law enforcement agencies involved and considering your client's decision to assist in the investigation and prosecution of the above, the District Attorney's Office is willing to make your client a plea offer. The plea offer is being extended in exchange for her knowledge of the death of Kelsey Berreth as well as any actions she may have taken after her death to assist Patrick Frazee or others in the concealment, destruction or alteration of any physical evidence that would have led to the discovery of this crime.

As you are aware from our discussions, it is our desire to obtain the truth about what happened to Kelsey Berreth and we believe your client can provide details of the events before and after her death. You have provided the following information to us regarding your client's involvement prior to, during and/or after the homicide:

- We are aware your client was contacted by Patrick Frazee several weeks prior to Kelsey Berreth's death and Patrick solicited your client to murder Kelsey Berreth.
- You have informed us that:
 - Your client was aware that Patrick Frazee wanted Kelsey Berreth dead.
 - Your client was solicited by Patrick Frazee to kill Kelsey Berreth, she came to Colorado and met Kelsey Berreth at Patrick's direction, she ultimately abandoned and did not follow through in the murder of Kelsey Berreth.
 - Kelsey Berreth was murdered on or about November 22, 2018. Your client had previous to that abandoned any efforts to murder Kelsey Berreth and did not aid, plan or participate in the murder that did take place on or about November 22, 2018.



OFFICE OF THE DISTRICT ATTORNEY

4th JUDICIAL DISTRICT

Daniel H. May
District Attorney

Kim L. Kitchen
Assistant District Attorney

- Ms. Lee did not know that Mr. Frazee was going to kill Ms. Berreth on November 22, 2018, nor did she participate in her murder.
- When Ms. Lee discovered that Ms. Berreth had been killed, she assisted Mr. Frazee in attempting to conceal the crime, including destroying evidence.

It is our understanding and belief, based on all available information at this point, that the information provided above is truthful and accurate and does not implicate your client in the actual murder of Kelsey Berreth. If we are to learn that your client took additional actions to assist Mr. Frazee in Ms. Berreth's murder on or about November 22, 2018, or participated in the homicide, this agreement will be null and void and further, any information, statements made by your client or evidence collected in this process could be used against her in a subsequent prosecution.

It is the desire of investigators to get a full and complete understanding of what happened to Kelsey Berreth as well as information about who was involved in this homicide or the cover up. We are not interested in your client merely giving self-serving statements and minimizing her involvement. We are interested in the truth. To that end, this office expects you will have a candid conversation with your client concerning the need for her to truthfully and fully provide information and truthfully testify if necessary concerning Ms. Berreth's murder.

Provided that we are satisfied that your client has provided truthful information and full cooperation, we are willing to make the following offer to your client. Ms. Lee would plead guilty to Tampering with Physical Evidence, C.R.S. § 18-8-110, a Class Six (6) felony. We would agree not to file charges of Accessory to a Crime, C.R.S. § 18-8-105 or additional Tampering with Physical Evidence charges. The potential sentence would be a sentence to the Colorado Department of Corrections (DOC) in the range of 1 year to 18 months or up to 3 years in the aggravated range, community corrections or probation. The actual sentence would be up to the Court.

Your client would initially plead guilty and await sentencing until after she has testified in all trials that may result from this investigation unless otherwise ordered by the Court. Under this agreement, no further charges would be brought against your client regarding the homicide of Kelsey Berreth.

In return for this offer, your client would perform the following conditions:

1. Your client would agree to provide a complete and truthful statement as soon as possible to law enforcement regarding any and all information she has about the solicitation, murder, and cover up of the murder of Kelsey Berreth.
2. Your client agrees that the information given to law enforcement during her interview under this agreement will be complete and truthful and she agrees to testify truthfully and consistently with that statement against all persons and at all hearings as required by the District Attorney's Office and agrees to submit to a polygraph at law enforcement's discretion.
3. In her statement to law enforcement, your client agrees to describe where physical evidence is located and, if requested by law enforcement, physically take investigators to the location of any physical evidence for purposes of recovering evidence. This may include travel with law enforcement to all locations relevant to this investigation.
4. Your client agrees to assist law enforcement, should they request, in contacting Patrick Frazee or any other involved individuals.



OFFICE OF THE DISTRICT ATTORNEY

4th JUDICIAL DISTRICT

Daniel H. May
District Attorney

Kim L. Kitchen
Assistant District Attorney

5. Your client agrees to provide consent to law enforcement to search all digital evidence including but not limited to cellular telephones, computers and tablets. Additionally, your client agrees law enforcement can access her social media accounts as relevant to this investigation, including but not limited to Facebook, Twitter, Instagram and Snap Chat. Your client agrees to provide passwords or login codes for law enforcement to access all electronic media. Further, your client agrees to refrain from deleting any electronic information.
6. Your client would agree to testify truthfully in any hearing, trial or proceeding she is subpoenaed or requested to testify in, including any proceedings against Patrick Frazee and any other person or persons charged concerning the homicide of Kelsey Berreth.
7. Your client will agree to accept by either mail or email a subpoena to testify in any matter concerning the homicide of Kelsey Berreth, agree to waive extradition to Colorado and agree to honor every received subpoena.
8. Your client will make herself available for witness preparation for the prosecution or the defense upon reasonable notice provided to you. Your client also agrees to keep the District Attorney's Office updated with any change of address or information.
9. Your client will agree to additional interviews with law enforcement if necessary.
10. Your client agrees that she will not meet with nor be interviewed by a member of the press without prior approval of law enforcement or the District Attorney's Office.
11. Your client further understands that if she makes herself unavailable for or does not cooperate fully during interviews or testimony, or if she does not testify honestly, truthfully, completely and consistently with her statement in the prosecution of the above referenced case(s), that the District Attorney will be permitted to revoke this plea agreement and she will be prosecuted for any and all applicable charges that may apply.
12. Your client understands that should she commit perjury, or give false statements to any law enforcement officers or during her testimony at any motions hearing(s) or trial(s) in this matter, she will be prosecuted by the District Attorney's Office for perjury and the terms of this agreement will be revoked.
13. Your client understands that testimony includes testifying at trial, hearings or any other type of court proceedings, and post-conviction matters. Your client understands her testimony may be necessary at retrial(s) if a mistrial is declared or the case is reversed on appeal.

If at any point during the interview with investigators, or during testimony in the above-mentioned matters, if your client fails to make truthful statements, this offer is withdrawn and we shall proceed to fully prosecute your client under any and all applicable charges. A truthful statement is one that can be supported by other facts, physical evidence, prior statements or other corroboration. Investigators and this office will act in good faith in this matter.

Please contact me if you have questions.

Sincerely,

Jennifer Viehman
Senior Deputy District Attorney



OFFICE OF THE DISTRICT ATTORNEY
4th JUDICIAL DISTRICT

Daniel H. May
District Attorney

Kim L. Kitchen
Assistant District Attorney

I enter this agreement knowingly and voluntarily. No promises or representations have been to me except as stated herein. Reviewed, understood, and accepted:

Krystal Lee

Defendant

Date

Ms. Dru Nielsen

Attorney for Ms. Lee

Date

ATTACHMENT B: FACTS PROVIDED BY DEFENDANT

Name: Krystal Kenney


Date of Birth: 4/4/86

FACTS OF PRESENT CRIME(S)

In part III of my plea agreement, I am agreeing to plead guilty to a certain offense or offenses. I confess I committed the offense(s) as follows:

I learned that a crime had been committed
by Patrick Frazee. I knew that law enforcement
would be investigating that crime. I moved the
victim's cell phone with the intent to impair the
phones availability in the investigation. I had no
right to move the victim's cell phone.

2/7/19
Date:

 Lee
Defendant