

1 CRIMINAL COURT OF THE CITY OF NEW YORK
2 COUNTY OF NEW YORK: PART F

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3 THE PEOPLE OF THE STATE OF NEW YORK, DOCKET NO.
4 -against- CR-025840-23NY
5 ALEX DEVAJARAN, PLEA AGREEMENT
6 Defendant.

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8 100 Centre Street
9 New York, New York
May 13, 2024

10 B E F O R E:

11 THE HONORABLE MELISSA LEWIS

12 A P P E A R A N C E S:

13 FOR THE PEOPLE:

14 ALVIN BRAGG, JR.
15 District Attorney, New York County
16 One Hogan Place
New York, New York 10013

17 BY: KRISTEN FREDA, ESQ.

18 FOR THE DEFENDANT:

19 DRATEL & LEWIS
20 29 Broadway
New York, New York 10006

21 BY: LINDSAY LEWIS, ESQ.

22

23 FRANCINE SKY
24 OFFICIAL COURT REPORTER

25

1 COURT OFFICER: Docket ending 840-23NY, Alex
2 Devajaran

3 THE COURT: Good morning.

4 MS. LEWIS: Good morning, Your Honor,
5 Lindsay Lewis, 29 Broadway, Suite 1412, New York, New York
6 10006, on behalf of Alex Devajaran.

7 THE COURT: Good morning, Ms. Lewis, it's nice to
8 see you, and good morning, Mr. Devajaran. People?

9 MS. FREDA: ADA Kristen Freda, K-R-I-S-T-E-N,
10 F-R-E-D-A.

11 THE COURT: Good morning, Ms. Freda. What are we
12 on for?

13 MS. FREDA: So we actually have come to a written
14 plea agreement that I will be handing a copy to the Court
15 right now. I believe they're preparing to enter a plea
16 today. It will be a repleader.

17 THE COURT: Thank you. Counsel, are you in agreement
18 with this?

19 MS. LEWIS: Yes, Your Honor.

20 THE COURT: You have reviewed the written plea
21 agreement with your client?

22 MS. LEWIS: Yes, I have.

23 THE COURT: Your client is in agreement as well?

24 MS. LEWIS: Yes, Your Honor.

25 THE COURT: People, your application to modify the

1 felony complaint.

2 MS. FREDA: I believe the misdemeanor, Penal Law
3 130.55 is already on the felony complaint, and we would move
4 to add the disorderly conduct 240.20 as well.

5 THE COURT: Regarding the felony on the complaint?

6 MS. FREDA: The People would move to dismiss count
7 one, Penal Law 130.65 Subsection (2), Sex Abuse in the First
8 Degree for the purposes of disposition.

9 People are not seeking jail time, and defendant is
10 willing to take responsibility.

11 THE COURT: On application of the People, count one
12 of the felony complaint is dismissed.

13 MS. FREDA: And, I apologize, and in the interest of
14 justice.

15 THE COURT: In the interest of justice.

16 We're adding one count of disorderly conduct?

17 MS. FREDA: That's correct.

18 THE COURT: I have marked that on the felony
19 complaint. I'm crossing out felony and writing in
20 misdemeanor.

21 Counsel, you may enter your plea to both counts on
22 behalf of your client.

23 MS. LEWIS: Your Honor, my client, Alex Devajaran,
24 wishes to withdraw his plea of not guilty, and enter a plea,
25 pursuant to a repleader, to Sexual Abuse in the Third

1 Degree, in violation of Penal Law 130.55, and to Disorderly
2 Conduct, in violation of Penal Law 240.20, with the
3 understanding that upon completion of a counseling program
4 for a period of six months, he will be permitted to withdraw
5 his plea of guilty to Penal Law 130.55 and be sentenced on
6 disorderly conduct, which is not a crime.

7 THE COURT: What will the sentence on the disorderly
8 conduct be, if successful, People?

9 MS. FREDA: Sorry?

10 THE COURT: What will the sentence on the disorderly
11 conduct be if successful?

12 MS. FREDA: It will be time served and a full and
13 final order of protection, and conditional discharge if no
14 new arrests during the --

15 THE COURT: Let's go through this. Today we
16 anticipate the defendant pleading guilty -- well, I'll ask
17 questions in the interim.

18 Mr. Devajaran, sir, did you hear everything that's
19 been said so far?

20 MR. DEVAJARAN: Yes, Your Honor.

21 THE COURT: Your lawyer and the People have drafted
22 a plea agreement. It's my understanding that based on your
23 review of the plea agreement, and your conversations with
24 your attorney, today you want to plead guilty to one count
25 of Penal Law Section 130.55, Sex Abuse in the Third Degree.

1 Sir, that is a crime. It will give you a criminal record, if
2 you don't have one; it will add to your criminal record, if
3 you do have one.

4 You're also pleading guilty today to one count of
5 Penal Law Section 240.20, disorderly conduct. That's a
6 violation, that is not a crime. That will not give you a
7 criminal record if you don't have one, and it will not add
8 to your criminal record if you do have one.

9 You would enter both of those pleas today, but we
10 will be adjourning your case for many months, at least six
11 months, and you'll have to come back for regular updates.

12 MS. LEWIS: Your Honor, it's for a period of six
13 months, upon which time he will be permitted to withdraw his
14 plea and to be sentenced to a conditional discharge.

15 THE COURT: Right. He'll have to come back for
16 updates over the course of six months. So it is your
17 responsibility and obligation to engage in the treatment and
18 counseling with the specified provider that has been
19 discussed by your attorney and the People.

20 You're required to attend all court appearances and
21 all treatment sessions, you're required to lead a
22 law-abiding life, you must abide by the order of protection
23 that is in effect. If you do not abide by any of those
24 requirements that we have just discussed, you can
25 immediately be sentenced, and there is a 90-day jail

1 alternative; is that right?

2 MS. LEWIS: I believe it would be up to.

3 THE COURT: You face up to 90 days in jail if you
4 violate any of the conditions that I just outlined; do you
5 understand that, sir?

6 MR. DEVAJARAN: Yes, Your Honor.

7 THE COURT: However, we don't expect that. We
8 expect that you will not get re-arrested, that you will
9 abide by the order of protection, that you will attend all
10 of your court dates, and successfully engage in, and
11 complete the treatment program that you have agreed to.

12 If you're successful, and you do all of those
13 things, when you come back to court you will be permitted to
14 vacate the plea of guilty to the crime of Sexual Abuse, and
15 only the disorderly conduct violation will remain.

16 At that time you will be sentenced to time already
17 served, any mandatory surcharges, and a full stay away order
18 of protection will be issued. Do you understand all of
19 this, sir?

20 MR. DEVAJARAN: Yes, Your Honor.

21 THE COURT: Is that what you want to do?

22 MR. DEVAJARAN: Yes.

23 THE COURT: Have you had enough time to speak with
24 your lawyer?

25 MR. DEVAJARAN: Yes.

1 THE COURT: And are you pleading guilty today freely
2 and voluntarily?

3 MR. DEVAJARAN: Yes.

4 THE COURT: Is anyone forcing you to plead guilty?

5 MR. DEVAJARAN: No.

6 THE COURT: Sir, by pleading guilty you're waiving
7 your right to a trial by jury. At that trial you'd have the
8 right to testify on your own behalf, or remain silent, your
9 attorney can cross-examine any witnesses that the People
10 call, and could call witnesses on your behalf, and the
11 People would have to prove this case against you beyond a
12 reasonable doubt, but by pleading guilty here today you're
13 giving up those rights; is that what you want to do,

14 MR. DEVAJARAN: Yes.

15 THE COURT: Now, sir, I'm not asking you what your
16 immigration status is, but I want you to know this guilty
17 plea may have negative immigration consequences for you if
18 you're not a US citizen, such as denial of citizenship or
19 deportation; knowing that information, do you want to go
20 forward with this plea?

21 MR. DEVAJARAN: Yes.

22 THE COURT: Also, sir, in all criminal cases the
23 People must give you what's known as discovery material.
24 That means they have to give you everything associated with
25 your case. Because you're pleading guilty here today, your

1 case is going to end, so you're not going to receive anymore
2 discovery material; have you discussed that with your
3 lawyer?

4 MR. DEVAJARAN: Yes.

5 THE COURT: Is that okay with you, sir?

6 MR. DEVAJARAN: Yes.

7 THE COURT: People, did you condition this on a
8 waiver of discovery?

9 MS. FREDA: No.

10 THE COURT: Sir, as part of this plea agreement
11 you're agreeing to waive your right to appeal --

12 COURT OFFICER: Silence those cell phones, please.

13 THE COURT: Is that your understanding, sir?

14 MR. DEVAJARAN: Yes.

15 THE COURT: Counsel, that's your understanding as
16 well?

17 MS. LEWIS: Yes.

18 THE COURT: Ordinarily, sir, a person retains their
19 right to appeal even after pleading guilty. Thus, a waiver
20 of the right to appeal is separate and distinct from the
21 waiver of a trial, and other rights of a plea of guilty. In
22 this case, however, as a condition of the plea agreement,
23 you're being asked to waive your right to appeal. An appeal
24 is a proceeding before a higher court, an Appellate Court.
25 If the defendant cannot afford the cost of an appeal or a

1 lawyer, the state will bear those costs.

2 On an appeal, a defendant may normally, through
3 their lawyer, argue that an error took place in this Court,
4 which requires a modification or reversal of the conviction.
5 A reversal would require either new proceedings in this
6 Court or a dismissal; do you understand?

7 MR. DEVAJARAN: Yes, Your Honor.

8 THE COURT: By waiving your right to appeal, you do
9 not give up your right to take an appeal by filing a notice
10 of appeal with this Court, and the district attorney, within
11 30 days of the sentence. If you take an appeal you are, by
12 this waiver, giving up the right to have an Appellate Court
13 consider most claims of error, and to consider whether the
14 sentence imposed, whatever it may be, is excessive and
15 should be modified.

16 As a result of the conviction, by this plea and
17 sentence, will normally be final; do you understand?

18 MR. DEVAJARAN: Yes.

19 THE COURT: Among the limited number of claims that
20 will survive the waiver of the right to appeal are: The
21 voluntariness of this plea; the validity and the
22 voluntariness of this waiver, the legality of the sentence,
23 and the jurisdiction of this Court; do you understand all of
24 that?

25 MR. DEVAJARAN: Yes, Your Honor.

1 THE COURT: Have you spoken with your lawyer about
2 waiving your right to appeal?

3 MR. DEVAJARAN: Yes.

4 THE COURT: Are you willing to do so in return for
5 the plea and sentence agreement?

6 MR. DEVAJARAN: Yes.

7 THE COURT: Do you waive your right to appeal
8 voluntarily, of your own free will and choice?

9 MR. DEVAJARAN: Yes.

10 THE COURT: Then, sir, by your guilty plea, do you
11 admit that on or about April 17, 2023, in the County and
12 State of New York, specifically inside of 50 East 98 Street,
13 apartment 5G, you subjected another person [REDACTED] to
14 sexual contact without her consent; did you do that, sir?

15 MR. DEVAJARAN: Yes.

16 THE COURT: On that same date, in the County and
17 State of New York, did you engage in disorderly conduct?

18 MR. DEVAJARAN: Yes.

19 THE COURT: People, are those allocutions
20 acceptable?

21 MS. FREDA: Yes, Your Honor.

22 THE COURT: So, Mr. Devajaran, your guilty pleas
23 have been entered. I'm now going to give you a date for an
24 update in Part D of this building. Also, sir, I'm going to
25 be signing a full stay away order of protection. As part of

1 that order of protection, you may not own or possess a gun
2 or a firearm, if you have one, you must immediately
3 surrender it at a local precinct. If you're found to be in
4 possession of a gun or a firearm, in addition to any charges
5 that can be brought against you, you also can be charged
6 with violating the order of protection; do you understand
7 that?

8 MR. DEVAJARAN: Yes.

9 THE COURT: Sir, you must stay away from the person
10 whose name appears in the order of protection. You may not
11 go near where they live, where they work, where they go to
12 school. You may not have another person contact them on
13 your behalf, and you may not contact them electronically.
14 So no calls, no texts, no e-mails, no messages on any form
15 of social media. You must stay away from this person in all
16 respects. If you violate the order of protection, not only
17 will you be re-arrested and charged with new crimes, it will
18 be considered a violation of the conditions of this plea
19 agreement, and you may not be permitted to withdraw your
20 plea of guilty, and you could face up to 90 days in jail; do
21 you understand all of that?

22 MR. DEVAJARAN: Yes.

23 THE COURT: Let's have a date in Part D, please.

24 MS. LEWIS: Your Honor, can we have November 13th,
25 please?

1 THE COURT: No. No. We're not going out six months.

2 MS. LEWIS: I apologize.

3 THE COURT: That's okay. I may not have been clear.
4 Whenever I do an update, we go about six weeks just to make
5 sure that he's enrolled and doing everything he's supposed
6 to do.

7 As long as there are no issues, you can then
8 request a longer adjournment, maybe to mid-to-late July. How
9 about a Tuesday or Thursday is best, we have a resource
10 coordinator there if there are any issues, maybe July 18th,
11 July 23rd.

12 MS. LEWIS: Your Honor, if we could have July 23rd,
13 please.

14 THE COURT: Sir, we're going to adjourn your case to
15 Part D, in this building, for July 23rd. You must appear in
16 court, in person each time your case is on the calendar. If
17 you don't appear, there can be a warrant for your arrest,
18 and you can be deemed to have waived your right to be
19 present at any hearing, trial or sentence; do you understand
20 all of that?

21 MR. DEVAJARAN: Yes.

22 THE COURT: Sir, I just want to remind you, please
23 make sure you remember all of your obligations. You want to
24 make sure that you don't end up with that misdemeanor on
25 your record, and I'm sure you certainly don't want to be

1 facing jail time.

2 You cannot miss your court dates. You must abide
3 by the order of protection and lead a law-abiding life and
4 you must -- whatever the treatment is that's been agreed to,
5 you have to engage in and successfully complete it. Please
6 understand, if you miss sessions or you're uncooperative,
7 and they kick you out, you may not get another opportunity.
8 Please make sure you keep that in mind.

9 Do you have any questions about it?

10 MR. DEVAJARAN: No.

11 THE COURT: Okay, sir, we wish you good luck and
12 we'll see you on July 23rd.

13 MS. LEWIS: Before we adjourn, at one point you may
14 have misspoken and said that he'd be sentenced to time
15 served versus a conditional discharge, I want to clarify the
16 record.

17 THE COURT: The People told me time served, so
18 that's what I wrote.

19 MS. FREDA: I apologize. Conditional discharge of
20 abiding by the full and final order of protection and
21 leading a law-abiding life.

22 THE COURT: Wait, that's if he's successful?

23 MS. FREDA: Yes.

24 THE COURT: If you are successful, you'll be
25 sentenced to a conditional discharge, which means that you

1 must lead a law-abiding life, and not get re-arrested for a
 2 period of one year, which would also mean that you have to
 3 continue abiding by the full stay away order of protection,
 4 that's what you're working towards; do you understand all of
 5 that?

6 MR. DEVAJARAN: Yes, Your Honor.

7 THE COURT: Does that change anything about your
 8 plea today or your voluntariness in taking that plea?

9 MR. DEVAJARAN: No.

10 THE COURT: Had you already discussed all this with
 11 your lawyer?

12 MR. DEVAJARAN: Yes.

13 THE COURT: Very good. Sir, we wish you good luck.
 14 I hope you get something out of the program and we will see
 15 you on the next court date. Thank you.

16
 17 * * * * *
 18 REPORTER'S CERTIFICATION

19 Certified to be a true and accurate transcript of the original
 20 stenographic notes.

21 *Francine Sky*
 22 _____
 23 Francine Sky
 24 Official Court Reporter
 25