

Example of essay on plea bargaining

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A plea bargaining is an agreement reached upon by a prosecutor and defendant in a criminal case where a defendant pleads guilty to a particular charge for some concession from the prosecutor. It can also be understood as the defendant pleading guilty to one of several charges or to a less serious charge, in return for the dismissing of other charges. A plea bargain is advantageous as it allows both parties to avoid long criminal trial and makes criminal defendants avoid the risk of being convicted on a more serious charge (Packer, 1968). Plea bargaining, however, has been criticized for its close relation with threats, rewards and coercion putting at jeopardy the legal outcome. For example coercion in plea bargaining has been critiqued as it infringes an individual's rights. It also projects the prisoner's dilemma in cases where an innocent person is accused.

Plea bargaining undermines the system of law in many ways. It wrongfully misrepresents justice by putting pressure on defendants into pleading guilty to cases. It offers undisputable ultimatum that misrepresent the true administration of justice. This is mainly pegged to the many defendants being unable to make bail due to economic constraints. In the US criminal justice system, for example, has 78% misdemeanor cases where 95% of the defendants end up pleading guilty due to economic burdens that come with bail. This sets stage for plea bargaining (Siegel, 2010).

The plea bargaining also has psychological implications to a defendant due to the pressure exerted on him or her. This is illustrated by the prisoner's theory where two defendants plead guilty in anticipation of getting lesser penalty on providing information against the other defendant. This psychological pressure has an effect on the mental condition of the

defendant prompting him to unwillingly confess guilt. The psychological effect is evident as it pits a defendant in a wagering or gambling state of mind. This implies that many people have a natural inclination to take a plea bargain rather than risk being convicted in court. Pressure is further exerted on the prosecution and defenders to coerce their clients. In this scenario, the pressure originates from the yearning to realize monetary gain from clients by defense lawyers and desire to work on huge workloads by prosecutors quickly. The psychological pressure and confusion fuels the defendant's want to plea bargain. In *US v. Ruiz*, the constitution was outlined by the Supreme Court that it demands that prosecutors inform defendants in the course of plea bargaining discussions of evidence that may result into the prosecution's witness impeachment (Pollock, 2012). This means that, for example, if a witness was intoxicated at the crime time the defendant making the plea pact wouldn't know it. The fear and confusion brought about by not comprehending a case in totality against somebody would push a defendant into a plea bargain instead of risking a harsher sentence. Plea bargaining hinders the fundamental importance of equity of the justice system. It is worth noting that place more value on the defendant's worth and the quality rather than the fundamental value of equity. A scenario calling for fact bargaining ends up with the defendant's pleading guilty to a less grave charge trading it for the provision of information on other defendants. This brings observable disparities between small misdemeanor defendants and the defendants of a high profile (Lippke, 2011). The monetary benefits and workload of a case are the main motivating factors for a lawyer's decision to go for plea bargaining. Many prosecutors propose

less favorable appeals in high-profile cases compared to less notable cases in order to reap wins from convictions that are highly publicized. These situations set the stage for inequality compromising the fundamental value of equity of the criminal justice system. Just punishment being major tenet of the justice system is also weakened by such pleas. The act of bargaining (fact and charge bargaining) alters the facts embedded in a case to generate suitable justice (Kramp, 2009).

There are many incentives that push many defendants to opt for plea bargaining. Many defendants have a chance to negotiate a plea bargain, in part reason being criminal courts are overcrowded and hence different stakeholders in the justice system are pressurized to move cases quickly. Trials can take months while the pleas can be arranged in minutes. It is in this light that most defendants choose plea bargaining due to the principle benefit of acquiring a lighter sentence or charge than might result from the case going to full trial and losing.

The first incentive is centered on the monetary constraints that come with plea bargaining. If the defendant plea bargains, he or she is able to save money. This occurs when a he or she is being represented by a private counsel. The defendant also prevents an imminent loss of money on attorney's fee by accepting the plea bargain. The financial costs that come with the effort of bringing a case to trial are at times relatively huge. For this reason, the plea bargaining becomes a suitable and viable option to a defendant

The next incentive is the desire to get out of jail by a defendant. Defendants held in custody either lack the right to bail or cannot foot the cost of bail may

get out of jail following an acceptance of a plea by a judge. The defendant may get out altogether, on probation, with or without community service requirements depending on the offense. This may happen if he or she opts for plea bargaining.

A lot of the defendants desire to resolve their legal issues quickly. A plea bargain provides a sure resolution to stress that comes with being charged with a crime. Going to full trial is a stressful and lengthy process which makes the plea bargaining the best option for a defendant. Desire to have a clean record or fewer or less-grave offenses on one's record is another notable incentive. An example is the DUI (Driving under Influence); a first-time offender may bargain unlike a case of a second time offender who might serve jail time.

Having on one's record a less social stigmatizing offense is another factor that motivates opting of the plea bargain. Some offences such as rape may be bargained to assault in order to curb stigma that a defendant may face from the public. A rape case may have a serious strain in relationship between the defendant and his or her family and friends. Other incentives such as avoidance of hassles and publicity are other factors that might influence a defendant into plea bargaining.

Incentives for prosecutors and judges to negotiate plea bargains are few and mostly centered on the legal calendar and workload. Most judges lack time to try every case presented to them hence plea bargaining comes to their aid in reducing the load. Overcrowding of jails also prompts judges to release some of the convicted people. Judges reason often that plea bargains will

ease the congestion problem by processing out offenders who might have less jail time.

Sources

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