

Plea deal could be in works for New York Giants' Plaxico Burress as court appearance arrives

Posted by [mjfensom](#) March 30, 2009 17:09PM



[John O'Boyle](#)/The

Star-Ledger Plaxico Burress' lawyer said Monday that his client's court appearance on Tuesday will result in an adjournment.

Plaxico Burress' hearing in a Manhattan courtroom Tuesday morning -- his first appearance in front of a judge since December, when he was charged with two counts of illegal gun possession -- will not resolve his legal situation, his attorney said Monday.

"He will be there but it will be an adjournment only," Burress' lawyer, Benjamin Brafman, wrote in an e-mail.

But that doesn't mean the case isn't progressing for the Giants wide receiver. New York's speedy trial laws require the prosecution to be prepared for a trial within six months of an arrest, but the clock isn't always continuous and the defendant can consent to an adjournment -- often in hope of finalizing a plea bargain. Brafman declined to provide specifics on any plea-agreement discussions.

If convicted of either Class C felony, which used to be a lesser charge of Class D before New York toughened its gun laws in 2006, Burress will face 3 1/2 to 15 years in prison.

The New York Times reported Monday a plea agreement for Burress would likely include jail time. But how much?

In Burress' case, the evidence appears to be stacked against him. It will be difficult for Brafman to

convince a jury his client wasn't in possession of a gun because it left a bullet hole in his leg when it accidentally fired. Plus, the Nov. 28 incident occurred in a busy nightclub and the criminal complaint cites an informant who witnessed the self-shooting.

Jeremy Saland, a criminal defense attorney and a former prosecutor for the Manhattan district attorney's office, said the evidence against Burress could force Brafman to settle for a solid plea deal instead of fighting for a dismissal or attempting to win the case in court.

"Sometimes, being creative is more important than being aggressive," Saland said.

New York's gun laws and mayor Michael Bloomberg's firm public stance in regard to the case have led to a perception Burress will either go to jail and miss several NFL seasons or will avoid time behind bars and not miss a down on the field.

But according to Saland and Michael Discioarro, also a New York criminal defense attorney and a former prosecutor, there's a chance Burress could do both with a "creative" plea deal that could satisfy the district attorney, Bloomberg and the Burress camp. Among the options:

A split sentence that would include six months of jail time and five years of probation on a felony conviction.

An "alternate plea" in which Burress would plead guilty to the felony but receive a suspended sentence while he completes community service. Once he completes the service, the original plea would be withdrawn and Burress would then likely plead to a lesser charge with a reduced sentence. If the time frame is carefully constructed, he could complete the service during the season while serving his jail time in the offseason.

A suspension from the league would then be the only thing threatening Burress' time on the field, as the Giants' players and general manager Jerry Reese have repeatedly said they'd welcome Burress back if his legal situation works out.

A misdemeanor charge that would carry up to a year in prison. In this case, Burress would miss this upcoming season, but he wouldn't run the risk of missing 2010 and beyond.

Of course, there's still a chance Brafman, who got rapper Sean "P. Diddy" Combs acquitted of gun charges in 1999, could score a plea deal to a misdemeanor charge with only probation, but Discioarro believes that's an unlikely scenario.

"All of the options are possible with the consent of the prosecutor and the judge," said Discioarro, who attended Rutgers Law School. "But they're not automatons. Some judges are fiercely independent and they're not going to take too kindly to an athlete getting preferential treatment. We're not talking about tax fraud or something like that."

There's also the reality of Burress' celebrity and Bloomberg's stance that he should be prosecuted "to the fullest extent of the law." Discioarro believes Burress' high profile could work for and against him, as he cited the recent plea deal for rapper T.I. in a federal gun-possession case. T.I., whose real name

is Clifford Harris, received only one year in prison -- on charges that could have netted a 20-year sentence -- after serving 1,000 hours of community service.

"Because of who he is and what he'd do as far as community service, he could get a pretty good deal," Discioarro said of Burress.

Added Brian Neary, a criminal attorney who practices in New Jersey and New York: "If Plaxico Burress says, 'Don't carry guns. Look how much trouble it caused me,' that might carry a lot of weight with a kid who's thinking about" using a gun.

But if the courts want to make an example of Burress, "that's a problem for him," Neary said.

New York state records show that in 2007 fewer than 10 percent of the 986 people arrested for the same charge as Burress pleaded guilty. According to The Associated Press, 184 of the 1,248 people arrested in New York City on second-degree criminal weapons possession last year were convicted of the charge. Pleading to a lower felony would bring as much as two years behind bars, while a misdemeanor can bring anywhere from no jail time to one year in prison.

If the case is presented to the grand jury, any pre-indictment plea offers would be taken off the table. Post-indictment plea restrictions also make a deal much more difficult to complete.

"Because the facts appear to be very compelling against Burress, it is likely his attorney is not being overly bullish and trying to force the prosecution's hand," Saland, who also maintains a New York criminal court blog, wrote in an e-mail. "While it is always extremely important to zealously advocate for your client, zealously advocating does not always equate to being overly aggressive where the facts are less than favorable for your client."

Sometimes, it means being creative.

NOTES

The Giants will open the preseason on Monday, Aug. 17, against the Panthers in a nationally televised home game on ESPN and will then face the Bears, Jets and Patriots, the team announced Monday.

The Giants will travel to Chicago in the second week of the preseason in what will be their first preseason meeting with the Bears since 2000. They will face the Jets in Week 3 before traveling to New England for the final preseason game. The exact dates and times of those games have yet to be determined.

The Giants will open the preseason 10 days later than last year when they traveled to Detroit on Aug. 7. That's partly because the NFL season opens six days later this year. The later start will also push the beginning of training camp into August, as the collective bargaining agreement states that no veterans will be required to report to camp earlier than 15 days before the first preseason game.

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Comments

rememberYA says...

wow I'm so surprised...

Posted on 03/30/09 at 6:17PM

RichSighBurt says...

This thing is going to drag on for ever.

Posted on 03/30/09 at 6:24PM

Spyder7777 says...

Yea I'm not suprised. But I will say this, the longer this takes the more likely Burress walks. If the DA planed on shooting down any deals they would be getting this thing over with.

Posted on 03/30/09 at 6:41PM

jerzeerj56 says...

"Yea I'm not suprised. But I will say this, the longer this takes the more likely Burress walks. If the DA planed on shooting down any deals they would be getting this thing over with."

Actually, from what I've heard, it's the exact opposite. If they haven't worked out a deal yet, it's because the DA is playing hardball. He probably refuses to let Burress walk without serving some time behind bars.

Posted on 03/30/09 at 6:53PM

geeeemen says...

I knew it "all" wouldn't boil down to Tuesday...

On an unrelated note, Kiwanuka changed his number from 97 to 94 for a "fresh start". He wore #94 at BC.

MG - are you gonna be going to this adjournment? Sounds like it'll be a ball.

Posted on 03/30/09 at 7:30PM

Spyder7777 says...

Um ok jerzeerj56 who did you hear this from? And if you read some of the other sites articles they say sources close to Burress say a deal is imminant. And according to his lawyer the delay is to give them more time to reach a deal. And lets not forget that New York has a speedy trial law so they have to have a reason to delay the trial. And that reason is not because they are going to throw the book at him. Not to mention if one side is unwilling to make a deal then the discussions are over. If the DA had said no then that would be it the DA calls all the shots at this point.

Posted on 03/30/09 at 7:32PM

Spyder7777 says...

Oh great another one of my jersey's is useless. Man I got to stop buying jersey's everyone I get the guy retires. I mean I'll still wear the thing its just anyoning because i got Kiwi's jersey because I figured he would be around for a long time. Oh well.

Posted on 03/30/09 at 7:34PM

piercenasty says...

i beat all of you to the punch about kiwis number 3 threads ago.

get updated.

Posted on 03/30/09 at 8:07PM

murderhill says...

Why is "wide receiver" such a difficult slot to fill? I'm watching the college basketball tournament and all these guys that are 6'7" and taller, they're fast as hell, got good moves and most of them will be scratching their asses when the NBA doesn't pick em in the draft. I just don't understand why there isn't more interest on the part of this bunch to try their luck in the NFL. They have to have fingers that are 8" to 10" long, they can wear those flypaper gloves like Plaxico does. As far as I can tell, they will be going up against guys that are 6" to 8" shorter than them and they can jump high enough to smash dunk a basketball. It just doesn't make any sense. Yeah I know that they have to learn to catch a football and run routes and memorize plays but that's what practice is for. It's hard to believe that these athletes couldn't learn whatever they need to learn and become wide receivers. NFL scouts! your missing the boat.

Posted on 03/30/09 at 8:58PM

giants72 says...

Sal Palantonio on ESPN reported that the DA wants Plaxico behind bars for at least a year. ESPN always gets stuff wrong/makes it up - so who knows.

Posted on 03/30/09 at 9:10PM

Giants4ever says...

Ive always felt that the Giants position on Plax is NOT plan A but plan B. They will move on in FA and draft. If he is still around after all the legal matters and the suspension,so be it.

I find it very difficult to respect a player who repeatedly disrespects his teammates, the Giants ownership and the NFL.

Perhaps some jail time and his separation from society may give him an opportunity to understand that "his way" doesnt work. Will he then be more prepared for life after football?

Time will tell on Plax. The Giants have shown patience with him and hold all the cards. It should be an interesting draft.

Posted on 03/30/09 at 9:36PM

75stone says...

Let's hope they reschedule the court date for after the NFL season.

Posted on 03/30/09 at 11:15PM

thetruth4427 says...

savrep, again, this is just getting sad man. If you're wondering who is the one who knows more about football, and about life in general, you need see no more than the progression of this argument here:

Posted by savrep on 03/29/09 at 2:32PM

thetruth

Three thinggs.

- 1) Drop the Officer Powell thing. On a badness scale of 0-10, what he did was a two. You act as if the guy is a serial killer.You must have led a sheltered life to get all revved up about Powell.
- 2) "The Chiefs have the potential to win right now"??? Do you mean win three games right now? Are you kidding?
- 3) "The Giants would be better served finding a big time wide receiver"??? Yeah, and I'd be better served if I won the Mega Millions.

Inappropriate? Alert us. Post a comment

Posted by thetruth4427 on 03/29/09 at 2:54PM

savrep -

Dude...what?

- 1) I have obviously disagreed with you from the beginning about the severity of Officer Powell's

act(s). Unlike you probably, I know the effect that these kind of unfair brushes with the law can have on a person. Seriously, it can be very life-scarring. This is by no means a minor act, man, I find it kind of inhumane of you to say otherwise. Aren't you the same guy who called the stop outside the hospital a simple "delay?" And way to use a serial killer as an example. Best one you could've chosen (SARCASM)

2) Yeah, they have the POTENTIAL to win right now. They certainly do. I'm baffled you're really arguing that. Will they win the Super Bowl? No. Will they make the playoffs? Most likely not. But think about their division...they can't do better than Denver and Oakland? You realize how many players they drafted last season and how young their team was/is?

Haha, that's two points you've been ridiculous on so far, and...

3) GREAT, GREAT CONTRIBUTION DUDE. What the hell are you talking about?

Thanks for challenging me. You proved what an intelligent guy you are with all 3 of those "points" (again, SARCASM).

Inappropriate? Alert us. Post a comment
Posted by thetruth4427 on 03/29/09 at 3:07PM

And just so you know, about 4 years ago or so the Saints ended the season with a 3-13 record despite being in a ton of close games. Then they traded for Drew Brees, got a new coach, and went to the conference championship game the next season.

Let's go back to last year even...Miami Dolphins finish the season at 1-15 despite being in a ton of close games. Get a new coach, trade for Chad Pennington, and they win the division and make the playoffs.

Now, take a look at the Chiefs, genius. Finished the season 3-13 despite being in a ton of close games, got a new coach, traded for Matt Cassell. But you're saying they only have the potential to win 3 games again. Right.

NAILED IT!!

I want to resort to name calling again because there really are a lot of names for you here...but again man, this is just disturbing and really not fun anymore. I'm actually praying you stop here, and believe me, it's not because you're hurting my feelings. This is seriously kind of scary and weird to see a person act like this. If the moderators are out there, honestly, look at this... am I wrong here?

Posted on 03/30/09 at 11:44PM

thetruth4427 says...

Whoops posted that on the wrong article.

Listen, savrep, I really don't want to keep on doing this but I don't know what it's going to take for you to see that I have annihilated you with every post that I have made and that this fight you are trying to continue with me is really becoming quite scary. I honestly don't want to keep on insulting you because of the different frequencies we are on here, and I'm not trying to be mean. I have a hard enough time with guys like jerzeer and Carbo...but you and I just weren't meant to argue with each other man, and to be quite honest, I don't know if you were meant to argue with anyone. It will probably be impossible for you to accept the fact that I'm no longer really trying to be mean about this, but it's the truth..this is just getting ridiculous man. I'm not going to insult you anymore, trust me, but I think you really need to stop this for yourself.

Posted on 03/30/09 at 11:55PM

thetruth4427 says...

Haha, also love the irony of the statement "You must have led a sheltered life to get all revved up about Powell."

I mean, somebody, to help confirm my faith in God and in this blog (even you MG), tell me how hilarious that statement is. Please.

Posted on 03/31/09 at 12:11AM

thetruth4427 says...

Ok that last post was mean, but come on...I just had to point that out.

Posted on 03/31/09 at 12:20AM

thetruth4427 says...

Ok that last post was mean, but come on...I just had to point that out.

Posted on 03/31/09 at 12:23AM

thetruth4427 says...

Ok that last post was mean, but come on...I just had to point that out.

Posted on 03/31/09 at 12:24AM

thetruth4427 says...

Jesus I hate when it overposts like that..moderators please clean that up if you can.

Posted on 03/31/09 at 12:26AM

MdGeeMan says...

Mike,

You did a great job on the NFL Network. It's good to see you on TV. You belong. Great information and it sound's like you think it's Hakeem Nicks. I can deal with that.

Posted on 03/31/09 at 1:07AM

jerzeerj56 says...

The quality of this blog decreased significantly when thetruth started posting 20 times a day.

Posted on 03/31/09 at 3:41AM

jostitch says...

What time and days are the Giants off season voluntary workouts? How long are the workouts? 2 hours? They are not at Hudson County park.

Posted on 03/31/09 at 8:20AM

BigBlueinME says...

Carbo-Maybe you mentioned it a while back, I'm not sure. Did you offer your services to Plax pro-bono? If not, why didn't you?

Posted on 03/31/09 at 8:25AM

dhulk says...

truth - get over yourself.

Posted on 03/31/09 at 8:47AM

jostitch says...

Does anyone know what day and times the giants partake in the voluntary workouts? Are fans allowed like at training camp?

Posted on 03/31/09 at 8:52AM

Spyder7777 says...

Case adjourned to June 15th according to ESPN.

dhulk get over yourself. Seriously everyone complains about people not adding quality to this blog then three post latter they make some one sentence pot shot at someone. Really if you want to disagree with someone then bring some sort of argument anyone can just throw out one-line insults. Or and here is a mind blowing idea, just ignore them and they will stop posting. Carbo used to post twenty times a day and then people started ignoring him and now he post maybe two times in every other thread.

Posted on 03/31/09 at 9:31AM

thetruth4427 says...

Oh shut the hell up. I am beginning to seriously lose faith in this blog again. It overposted there as you see...I am getting called out by way too many silly people right now.

Posted on 03/31/09 at 9:45AM

thetruth4427 says...

Thank you, spyder, my goodness....

It is really starting to get ridiculous around here. I'm beginning to think that intelligent posters make up a very, very small percentage of this blog. It's really getting annoying having to argue with these people every time I say something....it's like I just stumbled on a party for 6 year olds and they have to throw a tantrum every time I rear my head to let me know I wasn't invited.

Posted on 03/31/09 at 9:50AM

tuck91 says...

Lombardi,

Laughing very hard at your posts right now but I'm beginning to realize that you know waaay too much about this medieval duel stuff.

Posted on 03/31/09 at 9:53AM

thetruth4427 says...

And if you've noticed...I post in spurts. I'll go weeks without making a post...then I'll go to making 15 posts a day for a week. It's called vacation time, so if you're not the biggest fan of mine, don't worry, the posts will die down come friday most likely.

Seriously though, this blog really needs a different perspective...there are some sheltered crazies on here honestly (the last type of people you should come to get an opinion from). So I guess it really shouldn't surprise me that these are the same people calling me out every time I make a post, even when it's football related, for ruining what they already had: a blog where their opinions were

considered the most important ones and nobody was smart enough to point out how hilarious that was.

Posted on 03/31/09 at 10:06AM

dhulk says...

spyder - give me a break. Make a comment and talk Giants football. For some reason people feel this blog is a soapbox.

Posted on 03/31/09 at 10:16AM

Spyder7777 says...

Say's the guy who has yet to post a single comment on Giants football in this thread. Maybe you should follow your own advice.

Posted on 03/31/09 at 10:23AM

thetruth4427 says...

I'm beginning to learn it's just child's play, spyder...

These guys are either helpless or are really sick and just get a kick out of playing these kinds of games on the internet. If we can just make them look foolish when talking about football as opposed to politics, maybe we won't have to put up with this (I highly doubt it).

Posted on 03/31/09 at 10:43AM

dhulk says...

You got me there. I heard that Danny Ware has a blister on his pinky. Do you think he'll be OK for the season opener?

Posted on 03/31/09 at 10:47AM

thetruth4427 says...

Adding dhulk to my list of children left unsupervised on the internet.

Posted on 03/31/09 at 11:07AM

savrep says...

dhulk I agree with you. THETRUTH is a windbag with nothing interesting to say. I've never seen so

many posts with so few ideas.

He and his boyfriends are just wastes.

Posted on 03/31/09 at 11:14AM

thetruth4427 says...

savrep...

Dude...are you a cartoon character? Honestly. Give it a rest.

Posted on 03/31/09 at 11:18AM

savrep says...

thetruth

"give it a rest" You are the one who clogs this blog with your constant stream of nonsense. No one (but your boyfriends) wants to read your garbage constantly. You are like a rash on this blog. Go away.

Posted on 03/31/09 at 11:38AM

thetruth4427 says...

This is just so unbelievable....

Honestly savrep, if I knew you I would seriously be concerned for you. I have absolutely no idea as to how you're going to progress as a human being when everything, and I mean EVERYTHING, is lost on you. This is truly, truly unbelievable.

And as for your obsession with me...I'm going to start calling you Elmer or Wile E. Amazingly, I think that will even be lost on you.

Posted on 03/31/09 at 11:54AM

thetruth4427 says...

By the way, I probably shouldn't have to point this out, but I feel like I do with you (actually I know I do)...

Way to call ME the guy who clogs this blog with nonsense when the only posts you make are ones where you come out of nowhere to insult me for something that confuses me every single time.

I told you, I don't want to do this anymore. I have insulted you so many times, put you in your place

so many times, that it is really pointless to continue to do so since nothing seems to sink into that brain of yours whatsoever (and it's scary how little sinks in, it really is). I keep telling you that I am no longer doing this with you, yet you keep coming back, Elmer. Please, please, please, I want to talk about football. So my politics upset you....well, I'm guessing that a lot of people's politics upset you. Just let it go man. If I'm done with this, you should seriously be jumping for joy to be done with this. Peace (in both forms of the word).

Posted on 03/31/09 at 12:40PM

TV19 says...

Posted by jerzeerj56 on 03/31/09 at 3:41AM

The quality of this blog decreased significantly when thetruth started posting 20 times a day.

Or from a more objective viewpoint, the quality of this blog decreases significantly when ANYONE starts posting 20 times a day.

There is nothing more frustrating than to see this blog hijacked by certain people (yes, including you Jerz) to discuss bizarre and non-football related topics all in an attempt to win an argument and/or hurl insults at another who disagrees with you. Going on and on ad nauseum about DUI and vehicular manslaughter - what was all that about? There are some who enjoy name calling, and the threats of violence to another. All this crap significantly decreases the quality of this blog.

I think that I am typical of many here on this site. I read MG's blog often, and only provide comment on occasion. Give us all a break, PLEASE. Recognizing right to free speech (and print), post what you may. But understand that after several back and forth exchanges, if the issue isn't resolved it likely never will be. It's just boring and frustrating to the rest of us who want to follow Giants Football. So to all that are tempted to digress, consider limiting your posts on this site, and that feeling you get when you when you stop hitting your head against the brick wall may actually feel good.

Spyder, good comments.

TV

Posted on 03/31/09 at 2:37PM

thetruth4427 says...

TV -

You're so right man, and I apologize...

The problem is that I, for some reason, feel the need to defend myself from these people, and in doing so, my 4 posts become 20 posts and all of a sudden the crazies who were calling me out for being

stupid are now calling me out for posting too much. I know that I'm still at fault here...but come on, how ridiculous is that?

Posted on 03/31/09 at 3:59PM

TV19 says...

Agreed Truth -

You are in a catch 22. Say nothing and it seems as though the crazies are right, say too much and... well you know.

Posted on 04/01/09 at 9:08AM

Footer