

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF EL DORADO**

People of the State of California
Plaintiff

vs

Defendant

Case No.: _____

PLEA AND WAIVER (FELONY)

TO THE DEFENDANT: Please read each statement carefully. If you agree with the statement, place your initials in the blank space to the left of each numbered statement. If an alternative is given in the statement (e.g., guilty/nolo contendere, do/do not) please **strike out the choice which does not apply to you.**

**Defendant's
Initials.**

- ____ 1. My true full name is _____
- ____ 2. I have been known by the following other names (if none, so state): _____

- ____ 3. I am able/not able to read and understand English.
- ____ 4. The highest level of schooling I have completed is: _____
- ____ 5. At the time I make this declaration, I am not under the influence of alcohol, any drug, or medication that would affect my ability to understand my entry of this plea.
- ____ 6. I would like to change my plea of not guilty to guilty/no contest.
- ____ 7. I understand that the legal effect of a no contest plea to a crime punishable as a felony is the same as that of a guilty plea.
- ____ 8. I understand that I am pleading guilty/no contest to the following offenses and I understand the nature of these offenses: _____

- ____ 9. I understand that I am admitting the following prior convictions and special punishment allegations (if none, so state) _____

- ____ 10. I understand that the sentence I will receive is (if no agreed sentence, so state): _____

_____ 11. I understand that the sentence range for the offense(s) to which I am pleading guilty or nolo contendere is/are:

<u>Count</u>	<u>Charge</u>	<u>Sentence</u>	<u>Enhancement/Priors</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

_____ 12. I understand the Court can consider the facts in count(s) _____ that will be dismissed, for purposes of determining my sentence.

_____ 13. I understand if the Court determines at any time before I am sentenced that the negotiated plea is not in the interests of justice, the Court can cancel my plea, re-enter my not guilty plea and set this case for trial.

PRELIMINARY EXAMINATION ADVISEMENT AND WAIVER

_____ 14. Because the offense charged is a felony, I understand that I would have the right to a preliminary hearing. At the preliminary hearing, the People would have to establish by sufficient evidence that a crime was committed and that I committed the offense. My attorney could cross-examine the People’s witnesses, I could present evidence, and testify at the preliminary hearing. If I waive and give up my right to the preliminary hearing, my case will proceed with entry of plea. Once preliminary examination is waived, that right is gone.

_____ 15. I understand my right to a preliminary hearing and I waive and give up this right. Counsel joins in the waiver of preliminary examination and hearing.

_____ Defendant’s Counsel _____ People’s Counsel

ADVISEMENT OF TRIAL RIGHTS

_____ 16. I understand I have a right to a speedy and public jury trial. At that trial, I will be presumed innocent, and I could not be convicted unless 12 impartial jurors were unanimously convinced of my guilt beyond a reasonable doubt.

_____ 17. I understand I have a right to a speedy and public court trial by a judge sitting without a jury. At that trial, I would be presumed innocent and could not be convicted unless the judge was convinced of my guilt beyond a reasonable doubt.

_____ 18. I understand I have a right to see, hear, confront, and cross-examine all witnesses testifying against me.

_____ 19. I understand I have the right to remain silent and not incriminate myself and I cannot be forced to testify at my trial. I realize that by pleading guilty/no contest and admitting any prior convictions or special allegations, I am incriminating myself.

_____ 20. I understand I have the right to present evidence on my own behalf in my defense of the charges against me.

_____ 21. I understand I have the right to use the subpoena powers of the Court to compel the appearance and attendance of witnesses on my behalf, and to compel those witnesses to bring with them to court evidence or documents favorable to me.

_____ 22. I understand I have the right to have a jury determine the sentencing factors that may be used by a judge to increase my sentence on any charge, sentencing enhancement, or allegation to the upper or maximum term provided by law.

ADDITIONAL CONSEQUENCES OF PLEA

_____ 23. I understand that the Court may impose a general fine in this case of not less than \$ _____ nor more than \$ _____, plus penalties and assessments.

_____ 24. I understand I may be required to pay restitution in this case in an amount to be ordered by the Court. The Court reserves the jurisdiction to hold a hearing to determine if restitution is appropriate and the amount.

_____ 25. I understand that in addition to restitution and a fine, the Court is required to impose a separate and additional restitution fine of from \$300.00 to \$10,000.00 for each felony count and from \$150.00 to \$1000.00 for each misdemeanor count (PC 1202.4/1202.5). If granted probation, a fine of \$300.00 to \$10,000.00 (equal to the total restitution fine) will be imposed, but stayed pending successful completion of probation (PC1202.44). If sentenced to prison, a second fine of \$300.00 to \$10,000.00 (equal to the total restitution fine) will be imposed, but stayed pending successful completion of parole or post release community supervision (PC 1202.45).

_____ 26. I understand that if the Court grants my application for probation, I could be on probation for up to 5 years with the Court also imposing certain conditions, such as, obey all laws. Should I violate any of the terms or conditions of my probation, my probation could be revoked and I could be sent to prison or incarcerated in the County Jail for up to the maximum term previously set forth.

_____ 27. I understand that if I am sentenced to state prison or a narcotics treatment facility:
a) I will be placed on parole or post release community supervision for up to _____ years after my release.
b) If I violate any of the terms or conditions of my parole, I can be returned to state prison for up to one year or sentenced to county jail for up to six months for each violation, up to a maximum of _____ years.
c) If I violate the terms of my post release community supervision, I can be sentenced to county jail for up to six months for each violation, up to a maximum of three years.
d) If I abscond from parole or post release community supervision, this can extend the total time of parole or post release community supervision.

_____ 28. I understand that if I am now on probation or parole, my plea of guilty or nolo contendere to the charge(s) in this case may constitute a violation of my probation or parole and result in a revocation of my probation or parole, and a sentence may be imposed.

_____ 29. I understand if I am not a citizen of the United States, my plea to the charges in this case may result in my deportation, exclusion from admission to the United States or denial of naturalization.

_____ 30. I understand that I will be required to submit to DNA testing pursuant to Penal Code section 296 et seq.

- _____ 31. Pursuant to Penal Code section 1203.35 In any case where the court grants probation or imposes a sentence that includes mandatory supervision, the county probation department is authorized to use flash incarceration for any violation of the conditions of probation or mandatory supervision if, at the time of granting probation or ordering mandatory supervision, the court obtains from the defendant a waiver to a court hearing prior to the imposition of a period of flash incarceration.
- _____ 32. I understand my rights pursuant to Penal Code section 1203.35 and make a voluntary waiver permitting flash incarceration by the probation officer, pursuant to Section 1203.35.

INELIGIBLE FOR PROBATION

- _____ 33. I understand that by pleading guilty/no contest and admitting to _____, I will be ineligible for probation. This means that I will receive a prison term and not be placed on formal probation.

DRUG CASE

- _____ 34. I understand that I am subject to a laboratory analysis fee of \$50 plus penalty assessment for each separate offense.
- _____ 35. I understand that I am subject to a drug program fee of \$150 plus penalty assessment for each separate offense.
- _____ 36. I understand that I will be required to register as a narcotic offender pursuant to Health and Safety Code §11590 for five years after discharge from prison, release from jail or termination of probation or parole.

SEX CASE

- _____ 37. I understand that I will be required to register as a sex offender pursuant to Penal Code §290 for the rest of my life.
- _____ 38. I understand that I will be required to submit to testing for AIDS pursuant to Penal Code §1202.1.
- _____ 39. I understand that if I am convicted of an offense specified in PC§ 290 (c), I will be required to pay a base fine of \$300 plus penalty assessments for the first conviction and a base fine of \$500 plus penalty assessments for the second and subsequent convictions unless the court determines that I do not have the ability to pay. (PC §290.3)
- _____ 40. I understand that the offenses I am pleading to may subject me to more severe criminal penalties in the future under California's "One Strike" law. PC § 667.61 provides that if I am convicted in the future of a sexual offense listed in that code section and my conviction(s) in this case are alleged and proven, I will be subject to a term in prison of either 15 years to life or 25 years to life.

ARSON CASE

- _____ 41. I understand that I will be required to register as an arson offender pursuant to Penal Code §457.1 for the rest of my life.

GANG CASE

- _____ 42. I understand I must register as a gang offender, pursuant to PC §186.30, until five years after the imposition of the registration requirement.

FELONY DRIVING UNDER THE INFLUENCE OR AT A 0.08% OR BLOOD ALCOHOL LEVEL

- _____ 43. I understand my driving privilege will be revoked for 4 years. This privilege will not be reinstated until I complete a program of 18 or 30 months as determined by the Department of Motor Vehicles and file proof of my ability to respond to damages.
- _____ 44. I understand that I will be designated as a habitual traffic offender for a period of 3 years pursuant to Vehicle Code §§13350(b) and 14601.3(e)(3).

WATSON ADVISEMENT

- _____ 45. I understand that being under the influence of alcohol or drugs, or both, impairs my ability to safely operate a motor vehicle, and it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If I continue to drive while under the influence of alcohol or drugs, or both, and as a result of my driving, someone is killed, I can be charged with murder.

FELONY DRIVING UNDER THE INFLUENCE OR AT A 0.08% OR BLOOD ALCOHOL LEVEL

WITH BODILY INJURY

- _____ 46. I understand that my driving privilege will be suspended for up to 10 years and will not be reinstated until I file proof of my ability to respond to damages.

CURRENT CRIME IS A "STRIKE"

- _____ 47. I understand that the crime I am pleading guilty to is a "serious" or "violent" felony, and as such is a "strike" under the Three Strikes Law.
- _____ 48. I understand that if I later commit any felony, I will be subject at that time to a mandatory state prison sentence of twice the term otherwise provided or, depending on the number of strikes I have and the new felony, a term of at least 25 years to life.
- _____ 49. I understand that because I am pleading guilty/no contest to a crime and have suffered a prior strike, I am subject to a mandatory state prison sentence of twice the term otherwise provided (state possible terms, including enhancements).
- _____ 50. I understand that when I am in state prison as a result of this conviction, I will receive only a maximum of 15% or 20% in conduct credits, depending on the nature of the offense.

PC §1170(H) ADVISEMENT AND WAIVER OF RIGHTS

- _____ 51. I understand that if I am sentenced to jail pursuant to PC §1170(h), at the discretion of the Court a portion of my sentence may be suspended and I would then be placed on mandatory supervision under PC §1170(h)(5)(B).
- _____ 52. I understand that I will be required to comply with reasonable terms and conditions of mandatory supervision as ordered by the Court.
- _____ 53. I understand that the court retains jurisdiction to modify the terms of my mandatory supervision.
- _____ 54. I understand that if the court sentences me to state prison, that the court will be without jurisdiction to modify my sentence after the expiration of 120 days (PC 1170(d)).
- _____ 55. I understand that after I have completed my commitment pursuant to PC 1170(h), if I meet the requirements of PC 1203.41, I may petition the Court for the relief that section allows and may also petition for a certificate of rehabilitation and pardon.

_____ 56. I have been advised and understand that my sentence includes a period of probation supervision by the El Dorado County Probation Department which may include the use of flash incarceration.

ACKNOWLEDGMENT OF RIGHTS, WAIVER, AND PLEA

_____ 57. I have discussed the charge(s), the facts of the case, the possible defenses, and the consequences of my plea with my lawyer. I further have discussed with my lawyer my constitutional rights as set forth in numbers 16 - 22 above and understand these rights. I have had enough time to discuss my case with my lawyer and have been truthful and stated all facts that are known to me about my case and I am satisfied with the services and advice of my attorney.

_____ 58. Understanding all of this, for all of the charges, prior convictions and special allegations:

- _____ a. I give up my right to a jury trial;
- _____ b. I give up my right to a court trial;
- _____ c. I give up my right to confront and cross-examine witnesses;
- _____ d. I give up my right to remain silent and not incriminate myself;
- _____ e. I give up my right to present a defense;
- _____ f. I give up my right to subpoena witnesses on my behalf;
- _____ g. I give up the right to a jury or court trial on any sentencing factors and consent to the judge determining the existence of any sentencing factors within the judge's discretion as allowed by existing statutes and Rules of Court. I also agree this waiver shall apply to any future sentence imposed following the revocation of probation.

_____ 59. I freely and voluntarily plead guilty/no contest to the charge(s) of: _____

_____ 60. I freely and voluntarily admit the prior conviction(s) of: _____

_____ 61. I freely and voluntarily admit the special allegations of: _____

_____ 62. No one has threatened me, or anyone near or dear to me, to get me to change my plea.

_____ 63. No one has made any promises or representations to me of a lesser sentence, probation, reward, immunity, or any other advantage of any kind, for myself or anyone else, other than what's stated in this declaration, in order to get me to plead guilty or no contest.

_____ 64. I freely and voluntarily waive my right to appeal.

DEFENDANT: I have personally placed my initials in the blanks to the left of each of the above statements. I declare under penalty of perjury that the foregoing is true and correct.

_____ **Date**

_____ **Defendant's Signature**

DEFENSE COUNSEL: I, _____, state I am the attorney for the defendant in the above-entitled case. I have personally observed the defendant initial, date, and sign the declaration. I have investigated the case and the possible defenses thereto, and I have discussed the charge(s), nature of the charge(s), facts, defenses, and possible consequences with the defendant. I concur in the defendant's plea of guilty or nolo contendere to the charge(s), as set forth by the defendant in the above declaration, and I stipulate that there is a factual basis for the plea, and I join the waiver of the defendant's constitutional rights.

Date

Attorney for the Defendant

FOR THE PEOPLE: The People of the State of California, by and through its attorney, concur in the entry of plea as stated in this document, and stipulate that there is a factual basis for the plea and that the People have complied with the requirements of Marsy's Law.

Date

Deputy-Assistant District Attorney

INTERPRETER'S STATEMENT (If Applicable)

I, _____, having been duly sworn, truly translated this document to the defendant in the _____ language. The defendant indicated that (s)he understood the contents of the document, and (s)he then initialed the document.

Date

Court Interpreter

COURT'S FINDING AND ORDER

The Court, having reviewed this document, and having questioned the defendant concerning his or her constitutional rights and understanding of this document, finds that the defendant has expressly, explicitly, knowingly, understandingly, and intelligently waived his or her constitutional rights. The Court finds that the defendant's plea and admission(s) are freely and voluntarily made with an understanding of the nature and consequences thereof, and that there is a factual basis for the plea and admission(s). The Court accepts the defendant's plea, and admission of other conviction(s) and special punishment allegation(s), if any, and finds the defendant is convicted on his or her plea.

The Court orders this document filed and incorporated in the docket, by reference, as though fully set forth therein.

Date

Judge of the Superior Court

END OF DOCUMENT