

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

Case No. _____

vs.

WAIVER OF CONSTITUTIONAL RIGHTS
AND DECLARATION IN SUPPORT OF
DEFENDANT'S MOTION TO CHANGE PLEA
(Felony)

Defendant.

I am the defendant in this action. I am represented by: Public Defender Alternate Public Defender

I have fully discussed the facts, merits, and possible defenses of this case with my attorney.

I wish to change my previously-entered plea of "not guilty" to Count(s) _____

and enter a new and different plea of _____ to Count(s) _____

I also admit the truth of the following enhancements or special allegations: _____

I understand that before the Court can accept this plea, I must show that I have been advised of, understand, and waive (that is, give up) certain constitutional rights.

FOR THE PURPOSE OF THIS CHANGE OF PLEA, I UNDERSTAND:

Def't's
Initials

1. I have the right to a preliminary hearing within 10 court days and 60 calendar days of my arraignment. I understand at the preliminary hearing that the prosecution would be required to produce sufficient evidence to convince the judge that a crime has been committed and there is reasonable cause to believe I committed that crime. If the prosecution produced insufficient evidence, the case would be dismissed.

I give up my right to a preliminary hearing.

1. _____

2. I have a right to a speedy and public trial, either by court or by jury. I give up this right. I further understand that the jury would be composed of 12 persons from the community, and that I could not be found guilty unless all 12 jurors agreed that I was guilty. I understand that their determination must be based upon a finding that the evidence proved my guilt beyond a reasonable doubt.

I give up my right to a speedy and public trial by court or by jury.

2. _____

3. I have the right to confront the witnesses against me (that is, I have the right to see and hear the witnesses who testify against me). The witnesses may be asked questions on my behalf. This questioning of witnesses on my behalf is called "cross-examination."

I give up my right to confront the witnesses who may testify against me.

3. _____

4. I have the right to subpoena witnesses or evidence to any trial or preliminary hearing. A subpoena is a court order which compels the attendance of witnesses in court or the bringing of evidence to court. The subpoena makes it possible for me to present witnesses and evidence on my behalf.

I give up my right to subpoena witnesses and evidence into court on my behalf.

4. _____

5. I have a right against self-incrimination (that is, the right to remain silent). This means that at any trial or preliminary hearing I cannot be compelled to testify against myself. This right includes not being called to the witness stand during any trial or preliminary hearing. I understand that by entry of a plea of guilty or no contest, I am incriminating myself.

I give up my right against self-incrimination.

5. _____

6. Even though I will be convicted in this case as a result of my plea, I have the right to appeal the judgment and rulings of the court (e.g.: Penal Code Section 1538.5(m)).

I give up my right of appeal

7. The maximum punishment which the court may impose based upon this plea is _____

8. I am of sound mind and am not now under the influence of alcohol, narcotics, drugs, or any other substance that would impair my judgment, and I understand the nature of these proceedings.

8. _____

I further understand:

a) A conviction for this offense may increase the punishment I receive for any future convictions, and affect my ability to obtain a certificate of rehabilitation or to withdraw my plea pursuant to Penal Code Sections 1203.4 or 1203.41.

b) If I am sentenced to state prison, I would be subject to parole supervision for a period of _____, or postrelease community supervision for a period of up to three years. If I am released on postrelease community supervision or parole, and I violate the terms of that supervision or parole, I could be incarcerated in county jail for up to 180 days per violation, subject to certain exceptions, or returned to state prison for 1 year or longer if applicable. If I abscond or the court tolls my supervision, the total time of parole or postrelease community supervision can be extended.

c) If I am sentenced to county jail pursuant to Penal Code Section 1170(h) and a concluding portion of my sentence is suspended, I will be subject to mandatory supervision by the probation department for the remainder of my term. If I violate the terms or condition of that supervision, I could be returned to county jail to serve the remainder of my sentence.

d) If I am not a citizen of the United States, a conviction of this offense to which I am now entering a plea may, **and with certain offenses will**, result in my deportation from this country, exclusion from admission to the United States, and/or a denial of naturalization pursuant to the laws of the United States. If represented by an attorney, I have discussed this with my attorney and I know whether or not conviction for this offense requires mandatory deportation and exclusion.

e) No threats have been made against me or any member of my family or close friends in order to induce me to make this plea.

f) If I am on parole, probation, postrelease supervision, mandatory supervision, or deferred entry of judgment for another offense, by entering this plea I could be found in violation of that parole, probation, postrelease supervision, mandatory supervision, or deferred entry of judgment.

g) Unless limited or changed by the promises in paragraph 10, my plea is an open plea, and whether or not I get probation is to be determined solely by the court, and any sentence I receive is solely within the discretion of the court.

h) A plea of no contest (nolo contendere) will have the same legal effect as a plea of guilty. If I plead no contest the Court will find me guilty based on my no contest plea.

i) In addition to other penalties that may be ordered by the Court, I will be subjected to fines, fees and/or assessments that may vary in amount from \$10.00 to \$20,000.00 or more, and may be required to complete one or more specific programs (e.g.: 52 week domestic violence program, child abuse prevention program, theft class, weapons class, DUI program, etc.)

j) If I am pleading guilty or no contest to a violation of Vehicle Code Section 23103.5, 23152 or 23153, I am hereby advised pursuant to 23593 VC that being under the influence of alcohol or drugs, or both, impairs my ability to safely operate a motor vehicle. Therefore, 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 that driving, someone is killed, I can be charged with murder.

9. _____

WAIVER OF RIGHTS IN SUPPORT OF CHANGE OF PLEA (Felony)

10. Other than the promises listed below, no promises have been made to me or my family to induce me to enter this plea. I have been promised:

- 1. _____
- 2. _____
- 3. _____
- 4. _____

If the court withdraws approval of these promises before judgment and sentence, I have the right to withdraw my plea(s). *Penal Code Section 1192.5*

I UNDERSTAND AND AGREE THAT IF I FAIL TO APPEAR ON THE DATE SET FOR SURRENDER OR SENTENCING WITHOUT A LEGAL EXCUSE, COMMIT A NEW CRIME, OR VIOLATE ANY TERMS OF MY RELEASE BEFORE JUDGMENT AND SENTENCE, MY PLEA WILL BECOME AN "OPEN PLEA" TO THE COURT, I WILL NOT BE ALLOWED TO WITHDRAW MY PLEA, AND I MAY BE SENTENCED UP TO THE MAXIMUM TERM OF IMPRISONMENT OR INCARCERATION SPECIFIED IN PART 7.

I UNDERSTAND THAT IF I AM PLACED ON PROBATION, AND VIOLATE ANY TERM OR CONDITION OF THAT PROBATION, I CAN BE SENTENCED TO THE MAXIMUM TERM OF IMPRISONMENT OR INCARCERATION SPECIFIED IN PART 7.

10. _____

11. The facts upon which this change of plea are based are:

- those contained in the preliminary transcript.
- those contained in the police report (# _____).
- stipulated.
- _____

11. _____

12. ADDITIONAL MATTERS: (e.g., Probation ineligibility; Harvey waiver; 11590 H&S, 457.1 PC, 290 PC or 186.32 PC registration; restitution; 1202.4 PC restitution fine; revocation fees; firearms restrictions; driver's license suspension or revocation; etc.)

- _____
- _____
- _____
- _____

12. _____

13. I declare that my attorney has reviewed and explained this document to me, and I hereby freely and voluntarily, having full knowledge and understanding of the rights that I am giving up and the possible consequences which may result from my plea, do hereby request the Court to accept my new and different plea(s).

13. _____

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

Defendant

WAIVER OF RIGHTS IN SUPPORT OF CHANGE OF PLEA (Felony)

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Judge

Dated:

I find that the defendant has been fully informed of his/her constitutional rights and the consequences of his/her plea in this case and understands them. I further find that the defendant has knowingly, intelligently, and voluntarily waived his/her rights and that there is a factual basis for the defendant's plea and any applicable admissions. IT IS ORDERED that the defendant's plea and any applicable admissions be accepted and be entered in the minutes of this Court. This executed waiver of rights form is filed in the records of this Court and incorporated in the above-numbered case by reference.

ORDER AND FINDING

Deputy District Attorney / Attorney General

Dated:

I have reviewed this form and understand the terms of the plea agreement. I agree that a factual basis exists for the plea. I agree do not agree with the terms of the plea and the indicated sentence.

PROSECUTOR'S STATEMENT (if applicable)

Interpreter

Dated:

I, _____, truly translated this waiver of rights form to the defendant, through his/her attorney, in the _____ language. I then asked the defendant, through his/her attorney, if the defendant understood what the form said, and if (s)he did understand, to sign the form if, and only if, (s)he still intended to plead guilty or no contest to the charge(s), and admit the truth of any enhancements or special allegations.

INTERPRETER'S STATEMENT (if applicable)

Attorney for defendant

Dated:

I, _____, do hereby declare that: I am the attorney for the defendant in this action; I have reviewed and explained the foregoing document to my client and I have adequately researched and advised the defendant as to the immigration consequences of this plea; after I reviewed and explained said document, (s)he signed his/her name thereto in my presence; based upon my conversation with the defendant, I am satisfied that his/her plea of guilty or no contest is freely and voluntarily made; (s)he understands the consequences of his/her plea; his/her decision to plead guilty or no contest was made only after a full discussion with me of the facts and the law of this case; the possible defenses, and the consequences of the plea; I join in the waiver of court and jury trial. I declare under penalty of perjury that the foregoing is true and correct.

ATTORNEY'S STATEMENT