

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

PEOPLE v. _____

CASE NO.: _____

MISDEMEANOR ADVISEMENT OF RIGHTS, WAIVER AND PLEA FORM

INSTRUCTIONS: Fill out this form if you wish to plead guilty or no contest to the charge(s) against you. **Initial each item** in the boxes to the right if you fully understand and agree with the corresponding statement. If you have any questions about the rights you are giving up or the possible consequences of a conviction, ask your attorney or the judge.

CONSTITUTIONAL RIGHTS AND WAIVERS

- 1. **Right to an attorney:** I understand I have the right to be represented by an attorney throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me at public expense. I understand that there are dangers and disadvantages to giving up my right to an attorney, and that it is almost always unwise to represent myself. 1
- 1a. I give up my right to an attorney, and I choose to represent myself. *(Does not apply if you have an attorney.)* 1a
- 2. **Right to a jury trial:** I understand I have the right to a speedy, public jury trial. At the trial, I would be presumed innocent, and could not be convicted unless 12 impartial jurors were convinced of my guilt beyond a reasonable doubt. 2
- 2a. I give up the right to a jury trial. 2a
- 3. **Right to confront witnesses:** I understand I have the right to confront and cross-examine all witnesses testifying against me. 3
- 3a. I give up the right to confront and cross-examine witnesses. 3a
- 4. **Right against self-incrimination:** I understand I have the right to remain silent and not incriminate myself, but that by pleading guilty or no contest, or admitting prior convictions or probation violations, I am incriminating myself. 4
- 4a. I give up the right against self-incrimination. 4a
- 5. **Right to produce evidence:** I understand I have the right to present evidence in my own defense at trial, and to have the court issue subpoenas to bring into court witnesses and evidence favorable to me. 5
- 5a. I give up the right to present evidence in my own defense. 5a
- 6. *(If applicable)* I give up my right to be sentenced and treated pursuant to Proposition 36. 6
- 7. **Right to appeal:** I give up my right to appeal from this conviction, including an appeal from the denial of any pretrial motions. 7
- 8. **Prior convictions, enhancements and probation violations:** *(If applicable)* I understand I have all the rights listed above for all the charges against me, including any charged prior convictions and probation violations. However, for a charge of violating probation, I do not have the right to a jury trial, although I do have the right to a hearing before a judge. 8

PLEA

9. I understand I am pleading guilty or no contest and admitting the following offenses, prior convictions, and special punishment allegations, with the maximum punishment indicated below. Accordingly, I plead guilty no contest to these charges and allegations. (Use page 3 if more space is needed)

9

Count	Charge	Priors/Allegations	Maximum Sentence – Jail/ Fines

10. I understand I am also charged with violating my probation in Case No.(s): _____ and I freely and voluntarily admit the probation violation(s). (Use page 3 if more space is needed)

10

CONSEQUENCES OF PLEA

11. I understand I will receive the following sentence: (Use page 3 if more space is needed)

11

Probation: _____
 County Jail: _____
 Fines: _____
 Restitution: _____
 Counseling, Classes, and Programs: _____
 Protective Orders: _____
 Volunteer Work: _____
 Driver's License Restriction, Suspension, or Revocation: _____
 Driving Under the Influence Program: _____
 Other Consequences: _____
 No other promises have been made to me.

12. I understand if I am not a citizen of the United States, this conviction may result in deportation, exclusion from admission to the United States, or denial of naturalization as a United States citizen.

12

13. I understand a plea entered in this case may be grounds for revocation of probation or parole which has been previously imposed on me in any other case(s).

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14. I understand the conviction resulting from this plea can be used to increase future charges and sentences.

14

15. I understand that I may not receive, purchase, own or possess firearms for 10 years. If I now own or possess a firearm, I must transfer or dispose of that firearm within 30 days. Failure to comply with this section may result in either a fine or imprisonment in the county jail or state prison, or both.

15

16. I have discussed the charge(s), facts, and possible defenses with my attorney.

16

17. I agree the Court can impose lawful restitution attributable to any counts dismissed pursuant to this plea bargain.

17

18. I understand I have the right to be sentenced not less than 6 hours nor more than 5 days after my plea. I give up this right and agree to be sentenced at this time.


18

19. I understand I have the right to enter my plea before and to be sentenced by a judge. I give up this right and agree to enter my plea before and be sentenced by the following commissioner or temporary judge:

19


I HAVE PERSONALLY INITIALED EACH OF THE FOREGOING BOXES AND UNDERSTAND EACH AND EVERY ONE OF THE RIGHTS AND CONSEQUENCES

My true and correct name is: *(please print)* _____

Date: _____  _____
(SIGNATURE OF DEFENDANT)


WAIVER AND PLEA IN MY ABSENCE (IF APPLICABLE)

1. I specifically waive my right to personally enter my plea. I waive my right to be personally present when sentence is imposed. I waive my right to personally address the court in mitigation of any sentence which might be imposed.
2. I hereby authorize and direct my attorney, _____, to enter a plea of guilty no contest in my absence. My attorney is further authorized and directed to waive time for sentencing, and to receive the sentence, including probation, on my behalf and in my absence.

Date: _____  _____
(SIGNATURE OF DEFENDANT)

ATTORNEY'S STATEMENT


I am the attorney of record for the defendant. I have gone over this form with my client, explained his or her rights, and answered all of my client's questions regarding this plea. I have discussed the facts of this case with my client, including the elements of the offense(s) charged and any possible defenses and consequences of a plea of guilty or no contest, including immigration consequences if applicable. I concur in my client's decision to waive his or her rights and enter this plea, and believe that my client is doing so knowingly, intelligently, and voluntarily.

Date: _____  _____
(SIGNATURE OF ATTORNEY)

INTERPRETER'S STATEMENT (IF APPLICABLE)

I, _____, having been duly sworn or having a written oath on file, certify that I truly translated this form (*check if applicable*) and all other attachments, to the defendant in the language noted below. The defendant initialed and signed the form(s).

Language: Spanish Other (*specify*): _____

Date: _____  _____
(SIGNATURE OF INTERPRETER)

COURT'S FINDINGS AND ORDER

The court, having reviewed this form and any attachment, and having questioned the defendant concerning the defendant's constitutional rights and admission of prior conviction(s), enhancements and probation violation(s), if any, finds that the defendant has expressly, knowingly and intelligently waived his or her constitutional rights. The court finds that the defendant's plea(s) 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(s). The court accepts the defendant's plea(s), the defendant's admission of the prior conviction(s), enhancements and probation violation(s), if any, and orders them entered in the record and this form filed in the case noted above.

Date: _____  _____
(SIGNATURE OF:) Judge of the Superior Court
 Commissioner Temporary Judge