

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MADERA STREET ADDRESS: 200 SOUTH G STREET MAILING ADDRESS: 200 SOUTH G STREET CITY AND ZIP CODE: MADERA 93637	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA V. DEFENDANT:	
FELONY PLEA AND WAIVER OF RIGHTS FORM	CASE NUMBER:

INSTRUCTIONS:

- (1) Fill out this form only if you want to plead guilty or no contest.
- (2) Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- (3) On page 7, sign and date the form under "DEFENDANT'S STATEMENT."
- (4) Keep in mind that the court cannot give legal advice. If you have any questions about anything in this form, ask your attorney.

1. **CHARGES AND MAXIMUM TERM.** I want to plead guilty or no contest ("nolo contendere") to the following charges and admit the following prior convictions, enhancements, allegations, and circumstances in aggravation listed below. I understand that the minimum and maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

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COUNT	DESCRIPTION OF THE CHARGE (CODE SECTION & DESCRIPTION)	SENTENCING RANGE	ENHANCEMENTS, ALLEGATIONS & CIRCUMSTANCES IN AGGRAVATION (PC OR ROC SECTION & DESCRIPTION)	SENTENCING RANGE ENHANCEMENTS & ALLEGATIONS	TOTAL MAXIMUM TIME
AGGREGATE MAXIMUM TIME OF IMPRISONMENT					

PRIOR (SECTION NO.)	CONVICTION DATE	COUNTY	CASE NO.	CHARGE(S)

2. **PLEA AGREEMENT.** I understand that I must tell the court on this form about any promises anyone has made to me about the sentence I will receive or the sentence recommendations that will be made to the court. My attorney has explained to me that if I plead guilty or no contest to the charges and admit the prior convictions, enhancements, allegations, and circumstances in aggravation listed above, the court will sentence me as follows:

a. Check one: **State Prison** for **County Jail** per Penal Code section 1170(h) for

(a) _____ years and _____ months or

(b) not less than _____ years and _____ months and/or not more than _____ years and _____ months.

(c) Other (*specify*):

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b. Probation for _____ years under conditions to be set by the court, including

_____ days in the **county jail** or

up to _____ days in the **county jail**.

I understand that the violation of any of the conditions of probation, including failure to complete a drug education or treatment program, if ordered by the court, may cause the court to sentence me to **county jail or state prison** for up to the "**Aggregate Maximum Time of Imprisonment**" specified in item 1, which may include a period of mandatory supervision under Penal Code section 1170(h)(5)(B) if the court sentences me to county jail.

c. **Split Sentence (1170(h)(5)(B)):** _____ years and _____ days in the county jail and _____ years and _____ days on mandatory supervision under conditions set by the court. I understand that if I violate any of the terms or conditions of mandatory supervision, I may be remanded into custody for the entire unserved portion of the sentence.

d. **Open Plea**

(1) I understand the maximum and minimum sentences for the charges, enhancements, and allegations stated on page 1. No one has made any other promises to me about what sentence the court may order.

(2) I understand that I am not eligible for probation.

(3) I understand that I will not be granted probation unless the court finds at the time of sentencing that this is an unusual case where the interests of justice would be best served by granting probation.

e. **Restitution – Victim**

I understand that as a result of my plea, I will be ordered to pay restitution to the victim(s) for any injuries, damages, or losses I caused.

f. **Restitution Fines, Statutory Fees, and Assessments**

I understand that the court may order me to pay fines and appropriate assessments and ancillary costs including a fine up to \$_____. Additionally, at the time of sentencing, the court will order me to pay a restitution fine of no less than \$300 and up to \$10,000.

g. **Fines for Revocation of Parole, Postrelease Community Supervision, Mandatory Supervision, or Probation**

I also understand that if I am granted probation or mandatory supervision, the court **will** impose a probation revocation fine or mandatory supervision revocation fine of no less than \$300 and up to \$10,000, which will be collected only if my probation or mandatory supervision is later revoked. If I am sentenced to **state prison**, I understand the court **will** impose a parole revocation fine or a postrelease community supervision revocation fine of no less than \$300 and up to \$10,000, which will be collected only if my parole or postrelease community supervision is later revoked.

h. **Dismissal of Other Counts**

I understand that as part of the plea agreement, the following counts and charges will be dismissed after sentencing:

i. **Harvey Waiver**

I understand that although count(s) _____ will be dismissed. I am agreeing that at the time of sentencing, the Judge may nevertheless consider the underlying facts of the dismissed counts for the purpose of determining restitution and for deciding my sentence on the count(s) I am pleading guilty.

j. **Other Terms (specify):**

3. **CONSEQUENCES OF MY PLEA**

a. **No Contest ("Nolo Contendere") Plea**

I understand that a no contest plea is the same as pleading guilty and that if I plead no contest, I will be convicted and my no contest plea could be used against me in a civil case.

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b. Parole and Postrelease Community Supervision

I understand that if I am sentenced to state prison

- (1) I will be placed on parole or postrelease community supervision.
(2) if I abscond or the court tolls my supervision, the total time of parole or postrelease community supervision can be extended.
(3) if I violate any of the terms or conditions of my parole, I can be sentenced to county jail for up to 180 days for each violation, or if I am convicted of a crime that is subject to parole under Penal Code section 3000(b)(4) or 3000.1, I could be returned to state prison.

Empty box for initials

c. Effect of Conviction on Other Cases

I understand that if I was on probation, parole or supervision at the time of this offense, my plea of guilty in this case could cause me to be in violation of that probation, parole or supervision and that I may receive additional punishment as a result of that violation.

Empty box for initials

d. Registration

I understand that I will be required to register with the local police agency or sheriff's department in the city or county in which I reside as

- (a) an arson offender (3) a sex offender (this registration is a lifelong requirement)
(b) a gang member (4) Other (specify):

Empty box for initials

and that if I fail to register or to keep my registration current for any reason, new criminal charges may be filed against me.

e. Fingerprints and DNA Samples

I understand that I must provide biological samples and fingerprints for identification purposes—including buccal (mouth) swab samples, right thumb prints, palm prints of each hand, and blood specimens or other biological samples required by law—and that failure to do so constitutes a new criminal offense.

Empty box for initials

f. Serious or Violent Felony

- (a) I understand that by pleading guilty or no contest to a serious or violent felony ("strike"), the penalty for any future felony conviction will be increased as a result of my conviction in this case, depending on the number of strikes I have, up to a mandatory prison sentence of double the term otherwise provided or a term of at least 25 years to life.
(b) I understand that if I am convicted of a violent felony, jail or prison conduct/work-time credit I may accrue will not exceed 15 percent.
(c) I understand that if I am admitting a prior strike conviction, prison work-time credit that I may accrue will not exceed 20 percent of the total term of imprisonment.
(d) I understand that if I am convicted of murder or a third felony conviction of certain offenses, I am ineligible to receive work-time credits. Count _____ is such an offense.

Empty box for initials

g. Prior Prison Term for Sexually Violent Offense

I understand that if I am sentenced to serve a state prison term for this sexually violent offense, as defined in Welfare and Institutions Code section 6600(b), the penalty for any future felony conviction may be increased as a result of my incarceration in this case.

Empty box for initials

h. Sexually Violent Predator Civil Commitment – Tellez Advisement

I understand that I am being convicted (or previously have been convicted) of a sexually violent offense and if I am committed to the custody of the California Department of Corrections and Rehabilitation, I may at the conclusion of that prison term be screened by the Department of State Hospitals to determine whether I meet the criteria for indeterminate commitment as a sexually violent predator and, potentially, be made subject to civil commitment proceedings.

Empty box for initials

I also understand that my attorney and the district attorney assigned to this case have discussed and considered the possibility of a disposition involving a plea to an offense that is not a sexually violent offense.

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i. **Driver's License and Vehicle Forfeiture**

I understand that my privilege to drive a motor vehicle may be revoked or suspended by the court or the California Department of Motor Vehicles and my vehicle may be ordered forfeited if it was involved in the offense. I understand that if I am convicted of assault with a deadly weapon and I used a vehicle as the deadly weapon, my privilege to drive will be revoked and I will not be issued a valid driver's license for the rest of my life.

j. **Immigration Consequences**

I understand that if I am not a citizen of the United States, my guilty plea today will result in my deportation from the United States, which means I will be removed from this country and I will be excluded from admission to the United States, which means I will never be allowed back into this country; and I will be denied naturalization as a United States citizen, which means I will never be allowed to be a citizen of this country. I have discussed these immigration consequences with my attorney.

k. **Firearms (Guns), Firearm Parts, and Ammunition Prohibition and Relinquishment**

I understand that under federal and state law a conviction in this case prohibits me from possessing, owning, using, purchasing, receiving, or having under my custody or control firearms (guns), firearm parts, ammunition, reloaded ammunition, and ammunition feeding devices, including but not limited to magazines, for life. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). I must relinquish any firearms and firearm parts I own, possess, or have under my custody or control (see Penal Code section 29810).

l. **Body Armor Prohibition and Relinquishment**

I understand that a conviction in this case prohibits me from purchasing, owning, or possessing body armor (defined in Penal Code section 16288). I must relinquish any body armor I have in my possession (see Penal Code section 31360).

m. **Appeals Waiver**

I understand I have the right to appeal decisions and orders made by the Superior Court. I waive and give up my right to appeal from any and all decisions made by the court in this case, including motions to suppress evidence brought pursuant to Penal Code § 1538.5. I also waive my right to appeal from a guilty plea. Similarly, I waive and give up my right to appeal from any legally authorized sentence the court imposes which is within the terms and limits of this plea agreement.

n. **Other Consequences** (specify):

4. **RIGHT TO AN ATTORNEY**

I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me.

I hereby give up my right to be represented by an attorney.

5. **OTHER CONSTITUTIONAL RIGHTS**

I understand that I am entitled to each of the following rights as to the charges, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1):

a. **Right to a Jury Trial**

I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were unanimously convinced beyond a reasonable doubt that I am guilty. I have a right, through my counsel, to participate in jury selection.

b. **Right to a Court Trial**

I understand that, as an alternative to a jury trial, if the prosecutor agrees, I may give up a jury trial and have a court trial in which the judge alone, without a jury, hears the evidence. I still could not be convicted unless, after hearing all of the evidence, the judge was convinced beyond a reasonable doubt that I am guilty.

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c. Right to Confront and Cross-Examine Witnesses

I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court, they must testify under oath in my presence, and my attorney may question them.

d. Right to Remain Silent and Not to Incriminate Myself

I understand that I have the right to remain silent, and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself, and I cannot be forced to testify.

e. Right to Produce Evidence and to Present a Defense

I understand that I have a right to present evidence and to have the court issue subpoenas to bring to court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.

6. STATUTORY RIGHT TO A PRELIMINARY HEARING

I understand that before I have a trial, the law gives me the right to a speedy preliminary hearing at which the prosecution would produce evidence and the court must find reasonable cause to believe I committed the crimes with which I have been charged. I understand that I have all of the above constitutional rights at the preliminary hearing, except for the right to a jury trial.

I give up my right to a preliminary hearing and the constitutional rights listed in item 5 (on page 4).

7. BEFORE THE PLEA

a. Discussion With My Attorney

Before entering this plea, I have had a full opportunity to discuss the following with my attorney:

- (1) The facts of my case;
- (2) The elements of the charged offenses, prior convictions, enhancements, allegations, and circumstances in aggravation;
- (3) Any defenses that I may have;
- (4) My constitutional and statutory rights and waiver of those rights;
- (5) The consequences of this plea, including the immigration consequences;
- (6) Anything else I think is important to my case.

b. Questions

I have no further questions of the court or of my attorney with regard to my plea and admissions in this case, any of the rights, or anything else on this form.

c. Medications or Controlled Substances

I am not taking any medication that affects my ability to understand this form and the consequences of my plea; nor have I recently consumed any alcohol, drugs, medication or any other substance that would affect my ability to think clearly and understand the rights I am giving up in order to resolve my case(s) and the consequences of my plea.

d. Court Approval of Plea Agreement

I understand that the plea agreement I am now entering into is an agreement between myself, my attorney and the District Attorney. I understand that this agreement is not binding on the court. If at the time of sentencing in this matter, the court does not accept this agreement and reject this plea agreement, I will be permitted to withdraw my plea and I will have a right to have a preliminary hearing conducted and have a jury trial.

8. WAIVER OF CONSTITUTIONAL AND STATUTORY RIGHTS

I give up, for each of the charges, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1), my right to a jury trial, my right to a court trial, my right to confront and cross-examine witnesses, my right to remain silent and not to incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf. I understand that I am, in fact, incriminating myself with my plea.

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9. THE PLEA

I plead GUILTY NO CONTEST to the charges listed in item 1 (on page 1) and admit the prior convictions, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1), understanding that this plea and admission will lead to the penalties listed in item 2 (on pages 1 and 2).

a. I offer my plea of guilty or no contest freely and voluntarily and with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or my loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

b. I understand that the court is required to find a factual basis for my plea to make sure that I am entering a plea to the proper offenses under the facts of the case.

(1) I admit that on the dates charged, I (describe the facts establishing all elements of the offense as to each count):

(2) I offer to the court as the basis for the plea of guilty or no contest and any admissions the following documents that are in the record or that are attached to this plea form to become part of the record:

- (a) Preliminary hearing transcript
- (b) Police report
- (c) Probation report
- (d) Welfare investigator's report
- (e) Court documents regarding any alleged prior offenses
- (f) Other (specify):
- (g) (Specify facts):

10. AFTER THE PLEA

a. Sentencing Court

I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea. I give up that right and agree that any judge of this Superior Court may sentence me.

b. Sentencing Date

I understand that I have the right to be sentenced within 20 court days. I give up that right and agree to be sentenced at a later date.

11. MANDATORY WARNING

a. I understand that if I am charged with violating Vehicle Code section 23103, as specified in Vehicle Code section 23103.5, or Vehicle Code section 23152 or 23153, the following warning applies:

You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your 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 you continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving someone is killed, you can be charged with murder.

b. I understand that if I am charged with violating Health and Safety Code section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, or 11379.6 involving a hard drug, the following warning applies:

You are hereby advised that it is extremely dangerous and deadly to human life to illicitly manufacture, distribute, sell, furnish, administer, or give away any drugs in any form, including real or counterfeit drugs or pills. You can kill someone by engaging in this conduct. All drugs and counterfeit pills are dangerous to human life. These substances alone, or mixed, kill human beings in very small doses. If you illicitly manufacture, distribute, sell, furnish, administer, or give away any real or counterfeit drugs or pills, and that conduct results in the death of a human being, you could be charged with homicide, up to and including the crime of murder, within the meaning of section 187 of the Penal Code.

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DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and effects of any prior convictions, enhancements, allegations, and circumstances in aggravation have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF DEFENDANT)
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ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of the defendant's questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge; any possible defenses to the charges; the effect of any prior convictions, enhancements, allegations, and circumstances in aggravation; and the consequences of the plea.

I concur in the plea and admissions and join in the waiver of the defendant's constitutional and statutory rights, and I hereby stipulate that there is a factual basis for the plea and refer the court to the following documents that are in the record or that are attached to this plea form to become part of the record:

- police report preliminary hearing transcript probation report
- other (*specify*):

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF ATTORNEY)
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ATTORNEY'S DECLARATION RE ADVISEMENT OF IMMIGRATION CONSEQUENCES

I am the attorney of record for the defendant. I hereby represent as follows:

1. I have advised defendant of the immigration consequences defendant faces as a result of this plea;
2. Before advising defendant of the immigration consequences of this negotiated plea, I researched these consequences;
3. I considered each of these immigration consequences faced by defendant in negotiating this plea with the district attorney;
4. I used my best efforts to negotiate a plea that did not include immigration consequences, including potential pleas that would result in an increase in defendant's custody exposure; and
5. I have answered all questions posed to me by defendant regarding the immigration consequences of this negotiated plea agreement.
6. I have explained the meanings of the terms "deportation," "exclusion from admission", and "denial of naturalization" to my client.
7. The foregoing is not intended to be, nor should it be construed as, an admission of my client's immigration status pursuant to Penal Code section 1016.5(d), nor is this a waiver of the attorney/client privilege

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF ATTORNEY)
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INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other (*specify*):

Date: _____ (CERTIFICATION NUMBER)

_____ (TYPE OR PRINT NAME)  _____ (SIGNATURE OF INTERPRETER)

DISTRICT ATTORNEY'S STATEMENT

I have read this form and understand the terms of the plea agreement.

I agree do not agree with the terms of the plea agreement and the indicated sentence.

Date: _____ (SIGNATURE OF DISTRICT ATTORNEY)

_____ (TYPE OR PRINT NAME) 

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COURT'S FINDINGS AND ORDER

The court, having reviewed this form (and any addenda), and having orally examined the defendant, finds as follows:

1. The initialed items in this form have been read by or read to the defendant, and the defendant understands each of them.
2. The defendant understands the nature of the crimes, prior convictions, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1) and the consequences of the plea and any admissions.
3. The defendant expressly, knowingly, understandingly, and intelligently waives the constitutional and statutory rights associated with this plea.
4. The defendant's plea, admissions, and waiver of rights are made freely and voluntarily.
5. A factual basis exists for the plea and admissions.
6. For convictions of a sexually violent offense, the parties discussed the possibility of a disposition involving a plea to an offense that is not a sexually violent offense.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Date:

(SIGNATURE OF JUDICIAL OFFICER)