

I Have Read,
Understand,
and Agree.

→ 4. I stipulate there is a **factual basis** for my plea(s) [and admission(s)] and I further stipulate the Court may take facts from probation reports, police reports or other sources as deemed necessary to establish the factual basis.

5. I understand that a plea of no contest is the same as a plea of guilty in the criminal case and for all purposes has the same consequence as a plea of guilty.

6. I am pleading guilty because, in truth and in fact, I am guilty.

→ 7. I have **not been induced** to enter the above plea(s) [and admission(s)] by any promise or representation of any kind, except (briefly state any negotiated settlement with the District Attorney): _____

8. I understand that my "county lid" or "no immediate State/County Prison" (NISP) agreement is conditioned upon my obeying all laws, making an appointment to see a probation officer, keeping that appointment, and appearing in court on the date and time set by the Court for the hearing on my application for probation. I understand that should I fail to do any of these things, without an acceptable excuse, that my NISP agreement will be lost and my plea(s) [and admission(s)] of guilty/no contest would remain in effect without the NISP agreement. I understand that a NISP agreement does not preclude the Court from ordering a diagnostic evaluation of not more than 90 days pursuant to Penal Code section 1203.03, which would be conducted by the California Department of Corrections and Rehabilitation at a corrections facility. I further understand that if the sentencing judge honors the NISP agreement, and I am placed on probation, I could be thereafter sentenced to prison if I violate the terms of my probation.

NISP will be granted only if the sentencing judge finds this to be an unusual case (Prison Presumptive)

RECITAL AND WAIVER OF CONSTITUTIONAL AND APPELLATE RIGHTS

→ 9. I understand that as to any and all charged offense(s) and any and all prior conviction(s)/enhancement(s) alleged against me in this case, I have all the constitutional rights listed below.

→ 10. I understand that I have the right to be represented by a lawyer at all stages of the proceedings, including this one. I can hire my own lawyer, or the Court will appoint a lawyer for me if I cannot afford one.

I UNDERSTAND THAT I HAVE THE FOLLOWING CONSTITUTIONAL RIGHTS, WHICH I NOW GIVE UP IN ORDER TO PLEAD GUILTY OR NO CONTEST:

I Understand
This Right

I Give Up
This Right

→ 11. The right to a preliminary hearing in this court.

→ 12. The right to be tried by a jury in a speedy public trial.

→ 13. The right to confront and cross-examine all witnesses against me, whether at a preliminary hearing or a trial.

→ 14. The right to present evidence and to have witnesses subpoenaed to testify on my behalf at no cost to me, whether at a preliminary hearing or a trial.

→ 15. The right to remain silent during any stage of the proceedings (unless I choose to testify on my own behalf).

→ 16. I understand as a term and condition of this plea that I waive any direct appeal I may have, absent any appeal to sentencing error.

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CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST [AND ADMISSION OF ENHANCEMENT(S) / PRIOR CONVICTION(S)]

- ⇒ 17. I understand that I may serve this maximum sentence as a result of my plea: _____ years in State/County Prison, \$_____ fine, plus victim restitution and a restitution fine of a minimum of \$300.00 or a maximum of \$10,000.00. I understand that if I am sentenced to imprisonment to State Prison, upon release I will be subject to a period of 3 years State Parole/Post-Release Community Supervision with up to one year return to prison for every parole violation. If I should receive probation, I understand that I may be given up to a year in local custody, plus fine, plus full victim restitution and/or a restitution fine, and any other conditions deemed reasonable by the Court. I understand that if I violate any terms or conditions of probation, I can be sent to State/County Prison for the maximum term stated above.
- ⇒ 18. I understand that if I have previously been convicted of one or more felonies, whether in California or any other jurisdiction, either of the following could apply:
- (a) If I have suffered a prior conviction of a serious or violent felony as defined in Penal Code §§ 1192.7, 1192.8 or 667.5(c), I will be statutorily ineligible for probation under the three strikes law of California.
 - (b) If I have suffered two or more felony convictions involving offenses other than serious or violent felonies, I will not receive probation unless the Court finds my present case to be an unusual case pursuant to Penal Code § 1203(e) and Rule of Court 4.413.
- ⇒ 19. My attorney has explained to me that other possible consequences of my plea(s) [and admission(s)] may be (check applicable consequences):
- (a) Consecutive sentences
 - (b) Loss of driving privileges
 - (c) Commitment to the youth authority
 - (d) Registration as an arsonist, sex offender, narcotics offender, or street gang terrorist
 - (e) Statutorily ineligible for probation
 - (f) Probation will be granted only if the sentencing judge finds this to be an unusual case (Prison Presumptive)
 - (g) The offense to which I have pled may be alleged as a sentencing enhancement in any future felony prosecution as (check if applicable):
 - (1) A serious or violent felony prior
 - (2) A "strike" under the three strikes law of California
 - (3) A prior prison term
 - (4) A drug or narcotics prior per Health & Safety Code § 11370.2.
 - (h) California Rehabilitation Center commitment
 - (i) Additional fines
 - (j) 90 day diagnostic evaluation at State Prison
 - (k) Participation in a substance abuse treatment program, batterer's program, or other program(s) as a condition of probation wherein I might be required to waive credits.
 - (l) Other: _____
- ⇒ 20. I understand that by entering this **felony** plea, for the balance of my life I cannot own, possess, purchase or have under my control any firearm, ammunition, and ammunition feeding device, including an ammunition magazine. I also understand that it is a crime to possess such items. Further, I understand that as a result of my plea, I must timely turn over such items to the proper authorities, and that failure to do so may subject me to a compliance search and criminal penalties.
- ⇒ 21. I understand that by entering this qualifying **misdemeanor** plea, I cannot own, possess, purchase or have under my control any firearm, ammunition, and ammunition feeding device, including an ammunition magazine, for the next ten years, under state law. I also understand that it is a crime to possess such items. Further, I understand that as a result of my plea, I must timely turn over such items to the proper authorities, and that failure to do so may subject me to a compliance search and criminal penalties.

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→ 22. If I am not a citizen, I am hereby advised that conviction of the offense for which I have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. I am also aware that some violations will result in mandatory deportation, exclusion from the United States, or denial of naturalization pursuant to the laws of the United States. By signing this form, I acknowledge that, if it applies to me, I am aware of this potential consequence, have discussed it with my attorney (if I have one,) and am entering this plea with full knowledge of the potential immigration consequences.

→ 23. I understand that my plea of guilty/no contest in this case could result in revocation of my probation or Parole/Post-Release Community Supervision in other cases, whether in Butte County or any other jurisdiction.

OTHER POTENTIAL CONSEQUENCES (IF APPLICABLE)

24. I understand that by pleading guilty/no contest in this case and having been previously convicted of one or more strikes, the credits for time served that I may gain in custody as to this offense cannot exceed one-fifth of the total term of imprisonment. That is, I must actually serve 80% of any sentence imposed before I become eligible for Parole/Post-Release Community Supervision.

25. I understand that by pleading guilty/no contest to a felony offense listed in Penal Code § 667.5(c) [violent felony] the credits for time-served I may gain in custody as to said offense cannot exceed 15% of the total term of imprisonment including local confinement; that is, I must actually serve 85% of any sentence imposed before I will be eligible for Parole/Post-Release Community Supervision.

26. CONDUCT CONSTITUTING DOMESTIC VIOLENCE – CHILD CUSTODY: I acknowledge that my plea is based upon an act defined by law as an act of domestic violence. I further acknowledge my awareness of Family Code § 3044 which is the event of a child custody dispute between myself and the other parent of my child or children, creates a rebuttable presumption that I am unfit to have sole or joint custody of my minor children. (A copy of the statute is on page six of this form).

27. I hereby stipulate and agree that the weapon(s) associated with this case, _____, can be declared a nuisance and disposed of pursuant to Penal Code §§ 12028, 12028.5, and 12029.

SENTENCING

→ 28. I do understand that the matter of probation and sentencing is to be determined solely by the Superior Court Judge.

29. Harvey Waiver: I stipulate the sentencing judge may consider my prior criminal history and the entire factual background of the case, including any unfiled, dismissed or stricken charges or allegations or cases when granting probation, ordering restitution or imposing sentence.

30. Arbuckle Waiver: I hereby waive my right to be sentenced by the judge who accepted this plea and agree I can be sentenced by any judge assigned to my case.

MANDATORY ADVISEMENT

31. I understand that if I am charged with violating Vehicle Code § 23103, as specified in Vehicle Code § 23103.5, or Vehicle Code §§ 23152 or 23153, the following advisement 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.

DEFENDANT'S STATEMENT

I declare under penalty of perjury, under the laws of the State of California, that I have read, understood, and initialed each item above, and everything on the form is true and correct.

DATE

DEFENDANT'S SIGNATURE

ATTORNEY'S STATEMENT

I am the attorney for the defendant. I reviewed this form with my client and have explained each of the defendant's rights to him/her and answered all his/her questions with regard to his/her plea. Further, I have discussed with my client the content, substance, and meaning of all items and paragraphs initialed by him/her. I have discussed the facts of the defendant's case with him/her and explained the consequences of his/her plea, the elements of the offense, and the possible defenses. I concur in the plea and the defendant's decision to waive constitutional rights.

DATE

ATTORNEY'S SIGNATURE

INTERPRETER'S STATEMENT

(IF APPLICABLE)

I, the interpreter in the proceeding, having been duly sworn, truly translated this form and all the questions therein to defendant in the _____ language. The defendant indicated that he/she understood the contents of the form and he/she then initialed and signed the form.

DATE

INTERPRETER'S SIGNATURE

DISTRICT ATTORNEY'S STATEMENT

The People of the State of California, plaintiff in the above-entitled criminal action, by and through its attorney, Michael L. Ramsey, District Attorney, having reviewed this completed plea form, concurs in the defendant's plea(s) of guilty/no contest [and admission(s) of any enhancement(s) or prior conviction(s)], as set forth above.

DATE

DISTRICT ATTORNEY'S SIGNATURE

COURT'S FINDING AND ORDER

The Court, having reviewed this completed plea form, and having questioned the defendant concerning the defendant's constitutional rights, finds that defendant has voluntarily, expressly, explicitly, knowingly, understandingly, and intelligently waived his/her constitutional rights. The Court finds that defendant's plea(s) [and admission(s)] are freely and voluntarily made, that defendant understands the nature of the charges and the consequences of the plea(s) [and admission(s)], and that there is a factual basis for the plea(s) [and admission(s)], and the defendant is hereby convicted based thereon.

DATE

JUDGE'S SIGNATURE

PRESUMPTION BASED ON VIOLENCE
CALIFORNIA FAMILY CODE SECTION 3044

- (a)** Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence against the other party seeking custody of the child or against the child or the child's siblings within the previous five years, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Section 3011. This presumption may only be rebutted by a preponderance of the evidence.
- (b)** In determining whether the presumption set forth in subdivision (a) has been overcome, the court shall consider all of the following factors:
- (1)** Whether the perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.
 - (2)** Whether the perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.
 - (3)** Whether the perpetrator has successfully completed a program of alcohol or drug abuse counseling if the court determines that counseling is appropriate.
 - (4)** Whether the perpetrator has successfully completed a parenting class if the court determines the class to be appropriate.
 - (5)** Whether the perpetrator is on probation or parole, and whether he or she has complied with the terms and conditions of probation or parole.
 - (6)** Whether the perpetrator is restrained by a protective order or restraining order, and whether he or she has complied with its terms and conditions.
 - (7)** Whether the perpetrator of domestic violence has committed any further acts of domestic violence.
- (c)** For purposes of this section, a person has "perpetrated domestic violence" when he or she is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in any behavior involving, but not limited to, threatening, striking, harassing, destroying personal property or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.
- (d)** **(1)** For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of any crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.
- (2)** The requirement of a finding by the court shall also be satisfied if any court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.
- (e)** When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.
- (f)** In any custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to any custody mediation in the case.