

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
ADVISEMENT AND WAIVER OF RIGHTS FOR A FELONY GUILTY PLEA

For Court Use Only

CASE NO. _____ PEOPLE vs. _____

1. _____ My true full name is _____
I am represented by _____
2. _____ I understand that I am pleading guilty, and admitting the following offenses, special punishment allegations, and prior convictions, carrying the possible penalties as follows:

Ct.	Charge	Sentencing Range	Enhancements	Yrs.	Term for Priors	Yrs.	Total Penalty Years
Maximum Total Punishment							

Additional pleading page(s) attached

3. _____ On People's motion, remaining count(s), enhancement(s) and/or prior(s) are dismissed.
4. _____ In addition to time in custody, I understand the court may also order me to pay a fine as follows: up to \$10,000 for most felonies (Penal Code 672); up to \$20,000 for selected drug offenses (Health and Safety Code 11372); up to \$50,000 for selected drug offenses (Health and Safety Code 11352.5); or other:
5. _____ I understand it is absolutely necessary that all plea agreements, promises of a particular sentence, and sentence recommendations be completely disclosed to the court on this form.
6. _____ **Right to an Attorney:** I understand I have the right to be represented by an attorney at all stages of the proceedings until my case is completed. If I cannot afford an attorney, one will be appointed for me free of charge.
7. _____ **Right to a Preliminary Hearing:** I understand I have the right to a preliminary hearing at which a judicial officer will determine if there is sufficient evidence to justify setting my case for trial. At this hearing, I have the right to be represented by an attorney as described in paragraph 6 above, the right to confront and cross-examine witnesses against me, the right to present evidence on my behalf, and the right to remain silent and not testify; but I may testify if I want to. I waive and give up my right to a preliminary hearing.
8. _____ **Jury Trial Rights:** I understand I have the right to a speedy and public trial by a jury. I waive and give up these rights.
9. _____ **Right to Confront and Cross-Examine Witnesses:** I understand I have the right to confront the witnesses against me and to cross-examine them myself or have my attorney cross-examine them. I waive and give up these rights.
10. _____ **Right to testify or remain silent:** I understand I have the right to testify on my behalf. I also understand I have the right to remain silent, and I cannot be compelled to testify against my will. I waive and give up these rights.
11. _____ **Right to present evidence:** I understand I have the right to present evidence and to call witnesses to testify on my behalf. I further understand I have the right to invoke the compulsory process of the court to subpoena evidence and witnesses at no cost to me. I waive and give up these rights.
12. _____ **Immigration consequences:** I understand if I am not a citizen of the United States, conviction or sentence for the offense(s) charged may have the consequence of deportation, exclusion from admission to the United States, and denial of naturalization pursuant to the laws of the United States.

13. _____ **Fourth Amendment Waiver:** I understand under the Fourth and Fourteenth Amendments to the United States Constitution, I have a right to be free from unreasonable searches and seizures. I waive and give up this right, and further agree that for the period during which I am on probation or mandatory supervision I will submit my person and property, including any residence, premises, container or vehicle under my control which may include electronic devices, to search and seizure at any time of the day or night by any law enforcement officer, probation officer, post-release community supervision officer, or parole officer with or without a warrant, probable cause or reasonable suspicion.
14. _____ **Blakely/Cunningham Waiver:** I understand I may have the right to a jury or court trial as to certain factors that can be used to increase my sentence on any count, sentencing enhancement, or allegation, to the upper or maximum term provided by law. I waive and give up the right to a jury or court trial on all of these factors. I agree the judge will determine the existence of any of these factors, within the judge's discretion, as allowed by law. I agree this waiver shall apply to any future sentence imposed following a probation revocation.
15. _____ **Appeal Waiver:** I understand I have the right to appeal from decisions and orders of the Superior Court. I waive and give up my right to appeal from any and all decisions and orders made in my case, including motions to suppress evidence brought pursuant to Penal Code 1538.5. I waive and give up my right to appeal from my guilty plea. 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.
16. _____ **Cruz Waiver:** I understand that if pending sentencing, I am arrested for or commit another crime, violate any condition of my release, or willfully fail to appear for my probation interview or my sentencing hearing, the sentence portion of this agreement will be canceled. I will be sentenced unconditionally, and I will not be allowed to withdraw my guilty plea(s).
17. _____ **Arbuckle Waiver:** I understand I have the right to be sentenced by the judge who accepts this plea. I waive and give up that right.
18. _____ **Harvey waiver:** I understand I will pay restitution on count(s) _____ and dismissed count(s) _____ pursuant to a Harvey waiver as part of the plea agreement.
19. _____ **Watson Advisement:** I understand that if I am charged with violating Vehicle Code section 23103, as specified in Vehicle Code section 23103.5, or Vehicle Code sections 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.
20. _____ **License Revocation:** I understand that if I used a motor vehicle in the commission of an offense, my privilege to drive may be revoked by the Department of Motor Vehicles.
21. _____ **Probation Report Waiver:** I understand I have the right to a full probation report before sentencing. I waive and give up that right.
22. _____ **Mandatory Supervision Waiver:** I understand that I will be on mandatory supervision (Penal Code 1170(h)(5)) for the period of time and subject to the terms and conditions specified in this plea agreement. I understand if I violate any term or condition of mandatory supervision I could be sent to county jail for the remainder of my sentence as set forth on page 7, less any credit for time served.
23. _____ **Post-Release Community Supervision:** I understand that upon release from state prison I may be placed on post-release community supervision for a period of time not to exceed three years, supervised by county officers. I further understand I could be sent to the county jail for up to ten days on the order of the post-release community supervision authority without a court hearing.
24. _____ **Post-Release Community Supervision Revocation:** I understand that, following a court hearing, if I am found in violation of any of the terms or conditions of post-release community supervision, I could be sent to the county jail for up to 180 days each time I am found in violation.

25. _____ **Parole Waiver:** I understand that upon release from state prison I may be placed on parole for a period of time ranging from three years to life, supervised by the California Department of Corrections and Rehabilitation. I further understand that if I am found in violation of any of the terms or conditions of parole, I could be sent to the county jail for up to 180 days, except if my sentence was life, I could be sent back to state prison for up to a year.

26. _____ **Flash Incarceration Waiver:** I understand that I have the right to a hearing before a judicial officer to determine whether I violated the conditions of my court-ordered probation or mandatory supervision and to determine the appropriate sanction for the violations. I waive and give up this right for all violations for which the county probation department orders me to serve a "flash incarceration", which can be a period of one to ten consecutive days in the county jail. However, if I do not agree with the imposition of flash incarceration, I am preserving my right to demand a hearing. I understand the court may not deny me probation if I elect not to sign this waiver.

27. _____ **Mandatory Execution of Sentence:** I understand I am not eligible for probation and I will be sentenced to state prison or county jail pursuant to Penal Code 1170(h).

28. _____ **Firearms Advisement:** I am now prohibited from owning, purchasing, receiving, possessing, or having under my custody or control any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines. I am ordered to relinquish all firearms and complete a relinquishment form pursuant to Penal Code 29810.

29. _____ **Serious or violent felony:**

I understand that by pleading guilty 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.

I understand that if I am convicted of a violent felony, prison conduct/work-time credit I may accrue will not exceed 15%.

I understand that if I am admitting a prior strike conviction, prison work-time credit that I may accrue will not exceed 20% of the total term of imprisonment.

30. _____ **Proposed disposition:** I voluntarily agree and understand the court will: (Initial all that apply)

_____ (a) **State Prison:** Sentence me to state prison for a period of _____ year(s) and _____ months, credit for time served of _____ days actual custody and _____ days of good time/work time for a total credit of _____ days. I waive and give up my right to make an application for probation and request an immediate sentence.

_____ (b) **State Prison/County Jail Execution of Sentence Suspended:** Sentence me to State Prison/County Jail (Penal Code 1170(h)) for _____ year(s) and _____ months. Execution of this sentence is suspended. Placed on probation for _____ years. I understand that if I am found have violated any of the terms and conditions of probation, I may be remanded into custody to serve the entire suspended sentence.

_____ (c) **County Jail:** Sentence me to county jail, for a period of _____ year(s) and _____ months pursuant to Penal Code 1170(h), credit for time served of _____ days actual custody and _____ days of good time/work time for a total credit of _____ days. I waive and give up my right to make an application for probation and request an immediate sentence.

_____ (d) **County Jail with Mandatory Supervision:** Pronounce a divided sentence as follows: _____ year(s) and _____ months in the county jail and _____ year(s) and _____ months on mandatory supervision under conditions set forth on pages 1 and 2 of the Terms and Conditions of Felony and Mandatory Supervision form. 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.

_____ (e) **Probation:** Grant me probation under the terms and conditions set forth on the attached terms and conditions form that I have initialed and signed. I understand I have the right to reject probation and have the court impose a final sentence. However, I agree to accept probation on the terms and conditions set forth on the attached terms and conditions. I further understand that if I am found in violation of any of the terms or conditions of probation, the court may resentence me to (check one)

state prison county jail in this case for a maximum period of _____ year(s) and _____ months.

_____ (f) **Restitution:** Order me to pay restitution on count(s) _____ and dismissed count(s) _____ pursuant to a Harvey Waiver, as part of the plea agreement, in the amount of \$ _____, or in an amount to be determined by the Probation Department. If I disagree with the amount of restitution determined by the Probation Department, I may request a court hearing to determine the amount of restitution.

Defendant waives appearance for restitution hearing (if box checked).

The sentencing court retains jurisdiction over this case for restitution purposes (if box checked).

_____ (g) Order me to pay the mandatory state restitution fine between \$300 and \$10,000 (Penal Code 1202.4). A second restitution fine in the same amount will also be ordered if I receive a sentence that includes probation, a conditional sentence, mandatory supervision, post-release community supervision, or parole. This second fine will be suspended, and I will only have to pay it if the court later finds that I have violated the terms of my probation, conditional sentence, mandatory supervision, post-release community supervision, or parole (Penal Code 1202.44 & 1202.45).

_____ (h) Order me to pay the following fees (check all that apply):

\$30 Criminal Conviction Assessment Fee (per convicted count) (Government Code 70373) \$ _____ Domestic Violence Discretionary Fee for all Orange County Domestic Violence Shelters (Penal Code 1203.097)

\$40 Court Operations Fee (per convicted count) (Penal Code 1465.8) \$ _____ Domestic Violence Prevention Fund (Penal Code 1203.097(a)(5))

\$50 Alcohol Abuse Education Fee (Vehicle Code 23645) \$10 Local Crime Prevention Fund Fee, plus penalty assessment (Penal Code 1202.5(a))

\$50 Alcohol Testing Penalty (Penal Code 1463.14) \$300 Sex Offense Fee (Penal Code 290.3)

\$100 Alcohol Assessment Fee (Vehicle Code 23649) \$500 Sex Offense Fee (2nd and subsequent) (Penal Code 290.3)

_____ (i) Order me to pay a mandatory Laboratory Analysis Fee of \$50.00 for each specified drug offense plus penalty assessment (Health and Safety Code 11372.5 & Penal Code 1464).

_____ (j) Order me to pay a mandatory Drug Program Fee of \$150.00 for each specified drug offense plus penalty assessment (Health and Safety Code 11372.7)

_____ (k) Order me to provide a state DNA sample and prints for the State DNA Database pursuant to Penal Code 296 and 296.1.

_____ (l) Order me to attend and complete an AIDS education program and submit to AIDS blood testing (Penal Code 1202.1).

_____ (m) Order me to register pursuant to the following: (Check all that apply)

Penal Code 186.30 (gang-related offense)

Penal Code 457.1 (arson-related offense): I understand I will have to register for the rest of my life.

Penal Code 290 (sex offense): I understand if I work, attend school, or reside in California, I will have to register for a minimum of 10 years a minimum of 20 years lifetime.

Penal Code 290.024 (sex offense): I understand I will have to register internet identifiers.

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

_____ (n) I understand that if I am convicted of certain offenses and ordered to complete a program, I may be subject to supervision under the Interstate Compact if residing outside the state of California.

_____ (o) I understand that I must reside in the state of California until approval is received from the Probation Department and the Interstate Compact Office.

_____ (p) Order that my driver's license or driving privilege be suspended or revoked for a period of _____

_____ (q) The court will order that monies paid will first be applied to restitution; and that the following restitution terms are also part of this plea:

_____ (r) Other: _____

31. _____ I acknowledge all other cases pending against me in Orange County and the proposed disposition:

32. _____ I understand a plea of guilty in this case may constitute an admission that I violated a previous grant of probation, mandatory supervision, post-release community supervision, or parole in other cases and may result in additional penalties imposed in these cases.

33. _____ I offer my plea of guilty freely and voluntarily, and with a full understanding of all matters set forth in the accusatory pleading and this advisement and waiver of rights form. No one has made any threats or used any force against me, my family, or anyone else I know, in order to convince me to plead guilty in this case. Further, all promises that have been made to me to convince me to plead guilty are on this advisement and waiver of rights form.

34. _____ I offer the following facts as the basis for my guilty plea:

In Orange County, California, on _____

_____ A motor vehicle was used in the commission of the crime.

35. _____ I understand each and every one of the rights set forth above in this advisement and waiver of rights form. I waive and give up each of those rights in order to enter my guilty plea. I am entering a guilty plea because I am in fact guilty and for no other reason. I declare under penalty of perjury I have read, understood, and personally initialed each numbered item above, and I have discussed them with my attorney. I understand the signing and filing of this form is conclusive evidence I have pled guilty to the charges listed on this advisement and waiver of rights form.

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

DATED: _____ SIGNED: _____
(Defendant)

36. _____ **DEFENSE ATTORNEY'S STATEMENT:** I am the attorney of record for the defendant. I have explained to defendant each of the rights set forth on this form. I have discussed the charges and the facts with the defendant. I have studied the possible defenses to the charges and discussed those possible defenses with the defendant. I have discussed the possible sentence ranges with the defendant. I have advised the defendant of immigration consequences and have complied with the requirements of California Penal Code section 1016.3(a). I also have discussed the contents of this form with the defendant. I concur with the defendant's decision to waive the rights set forth on this form and to plead guilty. No promises of a particular sentence or sentence recommendation have been made to the defendant by me, or to my knowledge by the prosecuting attorney or the court, which have not been fully disclosed on this form. I agree that this form may be received by the court as evidence of defendant's advisement and voluntary, intelligent, knowing, and express waiver of the rights set forth on this form.

DATED: _____ SIGNED: _____
(Attorney of Record)

37. _____ **INTERPRETER'S STATEMENT:** I, _____, having been duly sworn as a court certified/registered/provisionally qualified interpreter, state that I am fluent in the _____ language. I translated the contents of this form to defendant in that language.

DATED: _____ SIGNED: _____
(Court Interpreter)

38. _____ **FOR THE PEOPLE:** I am the prosecuting attorney in this case. I certify that I have complied with the requirements of California Penal Code section 1016.3(b).

DATED: _____ SIGNED: _____
(Deputy District Attorney)

Plea to the Court: