

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO
Plaintiff,

v.

Defendant.

Case No. _____

Guilty Plea Advisory

Idaho Criminal Rule 11(e)

TO BE FILLED OUT BY THE DEFENDANT

Defendant's Name: _____ Signature: _____

Date: _____

Age: _____ Date of Birth: _____

STATEMENT OF CONSTITUTIONAL RIGHTS
(Please initial each response)

1. You have the right to remain silent. You do not have to say anything about the crime(s) you are accused of committing. If you elect to have a trial, the State may not call you as a witness or ask you any questions. If you do decide to testify the State will be permitted to ask you questions and anything you say can be used as evidence against you in court.

I understand that by pleading guilty I am waiving my right to remain silent as to the elements of the crime(s) to which I am entering this plea. _____

2. The waiver of your right to remain silent applies to your plea of guilty to the crime(s) in this case. Unless otherwise stated in your plea agreement, even after pleading guilty, you still have the right to refuse to answer any question or to provide any information that might tend to show you committed some other crime(s). Unless otherwise stated in your plea agreement, you can also refuse to answer or provide any information that might tend to increase the punishment for the crime(s) to which you are pleading guilty.

I understand that by pleading guilty to the crime(s) in this case, I still have the right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence. _____

I understand that as a term of my plea agreement, I have waived my right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence. _____

3. You have the right to be represented by an attorney. If you want an attorney and cannot pay for one, you can ask the Judge for an attorney. You may be required to reimburse the county for the cost of this representation. _____
4. You are presumed to be innocent. You will be found guilty if: 1) you plead guilty in front of the Judge; or 2) you are found guilty at a jury trial. I understand that by pleading guilty I am waiving my right to be presumed innocent. _____
5. You have the right to a speedy and public jury trial before twelve persons. A jury trial is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense. You are not required to do so, however. The State must convince all of the jurors of your guilt beyond a reasonable doubt.

I understand that by pleading guilty I am **waiving** my right to a speedy and public jury trial.

6. You have the right to question (confront) the witnesses testifying against you. This occurs during a jury trial. At trial, the State must prove its case by calling witnesses to testify under oath in front of you, the jury, and your attorney. Your attorney could then cross-examine (question) each witness. You could also call witnesses of your choosing to testify on your behalf. If you do not have the funds to bring those witnesses to court, the State will pay the cost of bringing your witnesses to court and will compel their attendance by the use of the subpoena power of the court.

I understand that by pleading guilty I am waiving my right to question (confront) the witnesses against me, and present witnesses and evidence in my defense. _____

7. The State has the burden of proving you guilty beyond a reasonable doubt.
I understand that by pleading guilty, I am waiving my right to require the State to prove my guilt beyond a reasonable doubt. _____

QUESTIONS REGARDING ABILITY TO ENTER PLEA

(Please answer every question. If you do not understand a question, consult your attorney before answering.) Please check the correct answer

1. Do you read and write the English language? YES___ NO___
If not, have you been provided with an interpreter to help you fill out this form? YES___ NO___
Do you want an Interpreter? YES___ NO___
2. What is your true and legal name? _____
3. What was the highest grade of school you completed? _____
4. If you did not complete high school, have you received either a general education diploma or high school equivalency diploma? YES___ NO___
5. Are you currently under the care of a mental health professional? YES___ NO___
6. Have you ever been diagnosed with a mental health disorder? YES___ NO___
If so, what was the diagnosis and when was it made?

7. Are you currently prescribed any medication? YES___ NO___
If yes, what medications are you taking at this time?

If you answered "yes," have you taken your prescription medication during the past twenty-four (24) hours? YES___ NO___
8. In the last forty-eight (48) hours, have you taken any medication or drugs, including over the counter, or have you consumed any alcoholic beverages which you believe affect your ability to understand these questions or to make a reasoned and informed decision in this case? YES___ NO___
9. Are you under the influence of any alcohol, drugs, or other medication at this time? YES___ NO___
10. Are you capable of understanding these proceedings? YES___ NO___
11. Do you claim that you are mentally incapable of understanding these proceedings or what it means to plead guilty to a crime? YES___ NO___
12. Is there anything going on in your life that affects your ability to enter a voluntary guilty plea? YES___ NO___
13. Are you having any difficulty in understanding what you are doing by filling out this form? YES___ NO___
14. Is there any other reason that you cannot make a reasoned and informed decision in this case? YES___ NO___
If yes, what is the reason?

PLEA AGREEMENT

15. Is your guilty plea the result of a plea agreement? YES___ NO___

If so, what are the terms of that plea agreement? (If available, a written plea agreement must be attached hereto as "Addendum 'A'")

16. If a written plea agreement was done, have you read the plea agreement? YES___ NO___

17. Do you understand your plea agreement? YES___ NO___

18. There are two types of plea agreements. Please initial the one paragraph below which describes the type of plea agreement:

a. I understand that my plea agreement is a non-binding plea agreement. This means that the Court is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, up to the maximum sentence. The Court is not bound by the agreement, if the District Court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. I understand I do not have the right to withdraw my guilty plea if the Court chooses not to follow the agreement. _____

b. I understand that my plea agreement is a binding plea agreement. This means that, I will be allowed to withdraw my plea of guilty and proceed to a jury trial. _____

19. Has your attorney or anyone else forced or coerced you in any way into accepting this plea agreement? YES___ NO___

20. Have any other promises been made to you that have influenced your decision to plead guilty? YES___ NO___

21. Has anyone told you what your sentence will be? YES___ NO___

If so, what have you been promised?

22. Is this a conditional guilty plea in which you are reserving your right to appeal any specified adverse ruling? YES___ NO___

23. Have you waived your right to appeal your sentence as part of your plea agreement? YES___ NO___

Under what condition can you appeal your sentence?

24. Do you understand that by pleading guilty you will waive (or give up) any defenses, both factual and legal, that you believe you

may have in this case?

- 25. Have you discussed the elements of the offense(s) for which you are charged with your attorney? YES ___ NO ___

POTENTIAL SENTENCE

I am charged with the crime(s) of:

I understand the Minimum & Maximum - Fine and Imprisonment:

- 26. If you plead guilty to more than one crime do you understand that your sentences for each crime could be ordered to be served either **concurrently** (at the same time) or **consecutively** (one after the other)? YES ___ NO ___
- 27. Do you understand that if you plead guilty and you commit crimes in the future, this conviction could be considered in the future case and could cause more severe penalty in the future case? YES ___ NO ___

ADDITIONAL CONSEQUENCES OF A GUILTY PLEA

- 28. Are you currently on probation or parole? YES ___ NO ___

If so, do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole (**WHICH MEANS THAT ANY SUSPENDED SENTENCE COULD BE IMPOSED AND ANY PAROLE REVOKED**)? YES ___ NO ___

- 29. Are you aware that if you are not a citizen of the United States, the entry of a plea or making of factual admissions could have consequences of deportation or removal, inability to obtain legal status in the United States, and/or denial of an application for United States citizenship? YES ___ NO ___
- 30. Does the crime to which you will plead guilty require you to register as a **sex offender**? I.C. § 18-8304. YES ___ NO ___
- 31. Are you aware that if you plead guilty you may be required to pay **restitution** in this case? I.C. §19-5304. YES ___ NO ___
- 32. Are you pleading guilty to a crime for which you may be required to pay the **costs of prosecution and investigation**? I.C. § 37-2732 (k), I.C.R. 33(d)(2). YES ___ NO ___

If so, have you and the State agreed upon the amount of this reimbursement? YES ___ NO ___

If you have, what is the amount? _____

- 33. Have you agreed to pay restitution as a condition of your plea YES ___ NO ___

agreement?

34. Do you understand that you cannot withdraw your guilty plea even if the restitution amount is determined to be higher than you thought it might be or should be? YES ___ NO ___
35. Is a license suspension required as a result of a guilty plea in this case? YES ___ NO ___
36. Do you understand that if you plead guilty you will be required to submit a DNA sample and right thumbprint impression to the State? I.C. § 19-5506. YES ___ NO ___
37. Are you pleading guilty to a crime for which the Court could impose a civil penalty for a crime of violence of up to \$5,000, payable to the victim of the crime? I.C. § 19-5307. YES ___ NO ___
38. Do you understand that if you plead guilty to a felony, you will lose your right to **vote** in Idaho during the period of your sentence? Id. Const. art. 6, §3. YES ___ NO ___
39. Do you understand that if you plead guilty to a felony, you will lose your right to **hold public office** in Idaho during the period of your sentence? Id. Const. art. 6, §3. YES ___ NO ___
40. Do you understand that if you plead guilty to a felony, you will lose your right to **perform jury service** in Idaho during the period of your sentence? Id. Const. art. 6, §3. YES ___ NO ___
41. Do you understand that if you plead guilty to a felony and or to a misdemeanor crime of domestic violence you will lose your right to purchase, possess, or carry **firearms**? I.C. § 18-310, 18 U.S.C. § 922(g)(9). YES ___ NO ___
42. Do you understand that by pleading guilty to a felony, you run the risk that if you have new felony charges in the future, you could be charged as a Persistent Violator? I.C. §§ 19-2514, 37-2739. YES ___ NO ___

RELATIONSHIP WITH YOUR ATTORNEY

43. Have you had sufficient time to discuss your case with your attorney? YES ___ NO ___
44. Have you had adequate time to fill out this form? YES ___ NO ___
45. Have you had adequate access to your attorney's assistance in filling out this form? YES ___ NO ___
46. Your attorney can obtain various items from the prosecutor relating to your case. This may include police reports, witness statements, tape recordings, photographs, reports of scientific testing, etc. This is called "discovery." Have you had the opportunity to review the discovery provided by your attorney? YES ___ NO ___
47. Do you want your attorney to take any further action in this case? YES ___ NO ___
48. If you are not a citizen of the United States, have you talked to YES ___ NO ___

your attorney about the impact of your guilty plea on deportation, on your legal status in the United States and on obtaining United States citizenship?

49. Do you understand that no one, including your attorney, can force you to plead guilty in this case? YES___ NO___
50. Are you satisfied with your attorney's representation? YES___ NO___

If not, please state why you are dissatisfied?

IF YOUR GUILTY PLEA IS THE RESULT OF A PLEA AGREEMENT REACHED THROUGH MEDIATION:

51. Did you voluntarily enter mediation? YES___ NO___
52. Did anyone force you, or coerce you, to enter into the plea agreement in the mediation? YES___ NO___
53. Were you satisfied with the conduct of the mediation? YES___ NO___

ENTRY OF PLEA

54. Are the answers throughout this form your own answers? YES___ NO___
55. Are you entering your plea freely and voluntarily? YES___ NO___
56. Are you admitting to all the elements of the crime(s) to which you are pleading guilty? YES___ NO___
57. Or are you pleading guilty because you are entering an Alford Plea? YES___ NO___
58. If you are entering an Alford Plea, do you understand that the Court will consider you just as guilty as if you enter a non-Alford plea? YES___ NO___
59. Have you had any trouble answering any of the questions in this form which you could not resolve by discussing the issue(s) with your attorney? YES___ NO___
60. If you were provided with an interpreter to help you fill out this form, have you had any trouble understanding your interpreter? YES___ NO___
61. Do you need any additional time before you enter your guilty plea(s)? YES___ NO___
62. Do you understand that if the Court accepts your guilty plea(s) that you may not be able to withdraw your plea(s) at a later date? YES___ NO___
63. Is there anything else you want to tell the court about why you are pleading guilty? YES___ NO___

I have answered the questions on pages 1-7 of this Guilty Plea Advisory Form truthfully, I understand all of the questions and answers herein, I have had the opportunity to discuss each question and answer with my attorney, and I have completed this form freely and voluntarily **WITH A COMPLETE UNDERSTANDING OF THE CHARGE(S) TO WHICH I AM PLEADING GUILTY AND WITH KNOWLEDGE OF THE POTENTIAL CONSEQUENCES OF THIS PLEA.** Furthermore, no one has forced me or threatened me to plead guilty.

Dated

Signature of Defendant

Typed/Printed Name

I have reviewed this form with the Defendant.

Dated

Signature of Attorney

POST PLEA RIGHTS

A presentence investigation will be ordered by the Court unless both you and the State waive that report and the Court approves that waiver. If waived, you will not be eligible for probation. The Court may order evaluations as part of this investigation **AND THESE REPORTS WILL BE USED TO DETERMINE YOUR SENTENCE. Unless you have waived the right to remain silent as part of your plea agreement, you have the right to remain silent during all proceedings and interviews from now until sentencing WHICH INCLUDES THE PRESENTENCE INVESTIGATION AND ANY COURT ORDERED EVALUATIONS.**

The information in the presentence interview and any evaluations (which will include any statements you make in these processes) will be used by the Court in determining your sentence. In particular if you are ordered to undergo a psychosexual evaluation (which can include a polygraph examination), a domestic violence evaluation, a substance abuse evaluation or a mental health examination (which can include a psychological or psychiatric examination) you will be asked extensive questions and your answers to those questions may be used against you during sentencing.

- 1. Have you discussed the right to remain silent with your attorney? YES ___ NO ___
- 2. Do you understand the nature of this right? YES ___ NO ___
- 3. Do you understand that you may waive this right? YES ___ NO ___
- 4. Have you waived any of this right in your plea agreement? YES ___ NO ___
- 5. Do you have any questions concerning either this right or the waiver of these rights? YES ___ NO ___
- 6. Have you discussed with your attorney your rights regarding your attorney's attendance and presence during the presentence investigation or these various evaluations? YES ___ NO ___
- 7. Do you want the Court to order any particular evaluations to assist the Court in determining your sentence in this case? YES ___ NO ___

If yes, which evaluations and why?

I ACKNOWLEDGE THE FOREGOING POST PLEA RIGHTS.

Dated

Signature of Defendant

Typed/Printed Name