

# Guilty Plea Advisory Form for use in Judge Bail's Court

Defendant's Name: \_\_\_\_\_

Date: \_\_\_\_\_, 2014.

Case Number: \_\_\_\_\_

Sentence range on charges for which a guilty plea is being entered:

\_\_\_\_\_ Minimum & Maximum Possible Penalty: \_\_\_\_\_

## **STATEMENT OF RIGHTS & EXPLANATION OF WAIVERS BY PLEA OF GUILTY**

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 elected to have a trial, the state could not call you as a witness or ask you any questions. However, anything you do say can be used as evidence against you in court.

I understand that by pleading guilty I am waiving my right to remain silent about the charge I am pleading guilty to both before and after trial. \_\_\_\_\_

2. The waiver of your right to remain silent only applies to your plea of guilty to the crime(s) in this case unless you are waiving your rights under *Estrada v. State*. Unless you waive your rights under *Estrada*, even after pleading guilty, you will 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). 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. If you do waive your rights under *Estrada*, you do not have the right to refuse to answer any question or provide any information that might tend to show you committed some other crime(s). \_\_\_\_\_

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 unless I waive my rights under *Estrada*, in which case, I understand that I must talk freely and openly with the presentence investigator and with any evaluators regardless of whether it may tend to incriminate me in some other crime(s). \_\_\_\_\_

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 who will be paid by the county.\_\_\_\_\_

4. You are presumed to be innocent. You would 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. A jury trial is a proceeding to determine whether you are guilty of the charge(s) brought against you. You are presumed to be innocent of having committed any crime until and unless the State proves you are guilty beyond a reasonable doubt. In a jury trial, all evidence is submitted to members of this community who serve as jurors. You and your attorney will have a role in choosing the people who sit on your jury. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense if you want to although the decision to testify is entirely up to you. No one can force you to testify at your trial. The State must convince each and every one 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 confront the witnesses against you. This means that the witnesses who testify against you in your jury trial will be placed under oath and will testify in your presence and be subject to questioning by your attorney. You also have the right to call witnesses of your choosing to testify on your behalf. You have the right to compel the attendance of witnesses who will testify for you and, if you cannot afford to bring those witnesses to court, they will be paid for at public expense.

I understand that by pleading guilty I am waiving my right to confront and cross examine the witnesses against me, and to present witnesses and evidence in my defense.\_\_\_\_\_

**QUESTIONS REGARDING PLEA**

**(Please answer every question. If you do not understand a question consult your attorney before answering.)**      PLEASE CIRCLE ONE

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

2. What is your age? \_\_\_\_\_

3. What is your true legal name? \_\_\_\_\_

4. How far did you go in school? \_\_\_\_\_  
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 so, have you taken your prescription medication  
during the past 24 hours? YES NO

8. In the last 24 hours, have you taken any medications or drugs, or drank any  
alcoholic beverages which you believe affect your ability to make a reasoned  
and informed decision in this case? YES NO

9. Is there any other reason that you would be unable to make a reasoned and  
informed decision in this case? YES NO

10. Is your guilty plea the result of a plea agreement? YES NO  
If so, what are the terms of that plea agreement?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. I understand that my plea agreement is a non-binding plea agreement. This means that the judge is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, up to the maximum sentence for any offense. Because 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.\_\_\_\_\_

12. As a term of your plea agreement, are you pleading guilty to more than one crime? YES NO

If so, 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

13. Is this a conditional guilty plea in which you are reserving your right to appeal any pre-trial issues? YES NO

If so, what issue are you reserving the right to appeal?\_\_\_\_\_

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14. Have you waived your right to appeal your judgment of conviction and sentence as part of your plea agreement? YES NO

15. Have any other promises been made to you which have influenced your decision to plead guilty? YES NO

If so, what are those promises?\_\_\_\_\_

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16. Do you feel you have had sufficient time to discuss your case with your attorney? YES NO

17. Have you told your attorney everything you know about the crime? YES NO

18. Is there anything you have requested your attorney to do that has not been done? YES NO

If yes, please explain.\_\_\_\_\_

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19. Your attorney can get 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 reviewed the evidence provided to your attorney during discovery? YES NO

20. Have you told your attorney about any witnesses who would show your innocence? YES NO

21. Do you understand that by pleading guilty you will waive any defenses, both factual and legal, that you believe you may have in this case? YES NO

22. Are there any motions or other requests for relief that you believe should still be filed in this case? YES NO

If so, what motions or requests?

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23. Do you understand that if you enter an unconditional guilty plea in this case you will not be able to challenge any rulings that came before the guilty plea including: 1) any searches or seizures that occurred in your case, 2) any issues concerning the method or manner of your arrest, and 3) any issues about any statements you may have made to law enforcement? YES NO

24. Do you understand that when you plead guilty, you are admitting the truth of each and every allegation contained in the charge(s) to which you plead guilty? YES NO

25. 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? YES NO

26. 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, or denial of an application for United States citizenship? YES NO

27. Are you required by the crime to which you will plead guilty to register as a sex offender? (I.C. § 18-8304) YES NO

28. Are you aware that if you plead guilty you may be required to pay restitution to the victims in this case? (I.C. §19-5304) YES NO

29. Have you agreed to pay restitution to any other party as a condition of your plea agreement? YES NO

If so, to whom? \_\_\_\_\_

30. Is there a mandatory driver's license suspension as a result of a guilty plea in this case? YES NO

If so, for how long must your license be suspended? \_\_\_\_\_

31. Are you pleading guilty to a crime for which a mandatory domestic violence, substance abuse, or psychosexual evaluation is required?

(I.C. §§ 18- 918(7)(a),-8005(9),-8317) 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. § 37-2732A(K)) YES NO

33. Are you pleading guilty to a crime for which you will be required to submit a DNA sample to the state? (I.C. § 19-5506) YES NO

34. Are you pleading guilty to a crime for which the court could impose a fine for a crime of violence of up to \$5,000, payable to the victim of the crime?

(I.C. § 19-5307) YES NO

35. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to vote in Idaho?

(ID. CONST. art. 6, §3) YES NO

36. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to hold public office in Idaho?

(ID.CONST. art. 6, § 3) YES NO

37. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to perform jury service in Idaho?

(ID.CONST. art. 6, § 3) YES NO

38. Do you understand that if you plead guilty to a felony you will lose your right to purchase, possess, or carry firearms? (I.C. § 18-310) YES NO

39. Do you understand that no one, including your attorney, can force you to plead guilty in this case? YES NO

40. Are you entering your plea freely and voluntarily? YES NO

41. Are you pleading guilty because you did commit the acts alleged in the information or indictment? YES NO

42. If you were provided with an interpreter to help you fill out this form, have you had any trouble understanding your interpreter? YES NO

43. Have you had any trouble answering any of the questions in this form which you could not resolve by discussing the issue with your attorney? YES NO

**I have answered the questions on each page of this Guilty Plea Advisory form truthfully, I understand all of the questions and answers in this form, and I have discussed each question and answer with my attorney, and have completed this form freely and voluntarily. Furthermore, no one has threatened me to do so.**

**Dated: \_\_\_\_\_, 2014.**

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**DEFENDANT**

**I hereby acknowledge that I have discussed, in detail, the foregoing questions and answers with my client.**

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**DEFENDANT'S ATTORNEY**