

THE STATE OF TEXAS

VS

§ IN THE COUNTY COURT

§

§ AT LAW NO. 2 OF

§

§ HUNT COUNTY, TEXAS

ADMONISHMENTS, VOLUNTARY STATEMENTS, WAIVERS, STIPULATION(S), JUDICIAL CONFESSION(S) & PLEA BARGAIN AGREEMENT

On this day, this cause was called for trial. The Defendant personally appeared pro se or was represented by the attorney of record; the State was represented by its County Attorney. In open Court, the Defendant waived the reading of the information; the information was stated in substance; and the Defendant entered a plea of guilty to the offense(s) of:

I. **ADMONISHMENTS, ART. 26.13, C.C.P.:** The Defendant is hereby admonished in writing that, if convicted, the Defendant may be sentenced within the punishment range as marked below:

a. **Punishment Range:**

- CLASS A MISDEMEANOR: Confinement in jail for a term not to exceed one year, a fine not to exceed \$4,000.00, or both fine and confinement.
- CLASS B MISDEMEANOR: Confinement in jail for a term not to exceed 180 days, a fine not to exceed \$2,000.00, or both fine and confinement.
- OTHER: _____

Traffic Fine for Conviction of Certain Intoxicated Driver Offenses (§709.001 TTC)

In addition to the fine prescribed for the specific offense, a person who has been finally convicted of an offense relating to the operating of a motor vehicle while intoxicated shall pay a fine of:

- (1) \$3,000 for the first conviction within a 36-month period;*
- (2) \$4,500 for a second or subsequent conviction within a 36-month period; and*
- (3) \$6,000 for a first or subsequent conviction if it is shown on the trial of the offense that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.15 or more at the time the analysis was performed.*

- b. **Plea Bargains:** The County Attorney’s punishment recommendation is not binding on the Court. If a plea bargain agreement exists, the Court will inform you in open court before making a finding on your plea whether it will follow the plea bargain. Should the Court reject the plea bargain agreement, you may be permitted to withdraw your plea. If you enter a plea in absentia pursuant to a plea bargain agreement and the Court rejects the plea bargain agreement, you may be permitted to withdraw your plea. Should the Court reject a plea bargain agreement, the County Attorney shall be allowed to withdraw her consent to the plea bargain agreement, including her consent to waiver of jury trial.
- c. **Negotiated Plea & Appeal:** If the punishment assessed does not exceed the punishment recommended by the prosecutor and agreed to by you and your attorney, if you are represented, you must receive the Court’s permission before you may appeal any matter in the case, except those matters raised by written motions filed and ruled upon before trial.
- d. **Non-negotiated (Open) Plea & Appeal:** If there is no plea bargain agreement, then all non-jurisdictional defects are waived, and you have **NO RIGHT TO APPEAL** except for jurisdictional matters.
- e. **Citizenship:** If you are not a citizen of the United States of America, a plea of Guilty may result in your deportation, your exclusion from admission to this country and/or your denial of naturalization under federal law.
- f. **Potential Release from Penalties and Disabilities:** If placed on community supervision, after

satisfactorily fulfilling the conditions of community supervision and on expiration of the period of community supervision, the Court is authorized to release the Defendant from the penalties and disabilities resulting from the offense as provided by Article 42A.701(f).

- g. **Community Supervision:** If the Court finds you guilty or defers the adjudication of your guilt and places you on community supervision, the Judge of the Court having jurisdiction of the case shall determine the terms and conditions of your community supervision unless they are otherwise negotiated as part of this plea bargain agreement. The Judge may, at any time during the period of community supervision, alter or modify those terms and conditions. The Judge may impose any reasonable condition that is designed to protect or restore the community, protect or restore the victim, or punish, reform, or rehabilitate you. On violation of one or more of the imposed terms and conditions of community supervision, you may be arrested and detained. You will then be entitled to a hearing limited to a determination by the Court, by a preponderance of the evidence, of whether or not you violated the terms and conditions of your community supervision as alleged. If the Court finds you have violated the terms and conditions of your community supervision and you have already been found guilty, the Court may sentence you within the range of punishment up to the term of imprisonment that was originally suspended in your case. If the Court finds you have violated the terms and conditions of your community supervision and the adjudication of your guilt was previously deferred, the Court may proceed with an adjudication of your guilt on the original charge. After the adjudication of your guilt, all proceedings continue as if adjudication of your guilt had not been deferred and the Court may assess your punishment at any term of years and any fine within the original range of punishment available for the offense you pled guilty to.
- h. **Driver's License Suspension:** You understand that if the offense charged involves the manufacture, possession, transportation, or use of an alcoholic beverage, or the manufacture, delivery, possession, transportation, or use of a controlled substance, if you are under 21 years of age at the time of the offense, your Texas driver's license or privilege to obtain a license in Texas will be automatically suspended for one year; or if you are 21 years of age or older, your Texas driver's license or privilege to obtain a license in Texas will be automatically suspended for 180 days; and the suspension will continue in effect until such time as you attend and successfully complete a drug or alcohol education program as prescribed by law.
- i. **Driver's License Suspension DWI:** You understand that if the offense charged is driving while intoxicated and your Texas driver's license or privilege to obtain a license will be suspended, cancelled, revoked or denied as a result of your plea, the suspension, cancellation, revocation or denial will, at the conclusion of the original suspension period, continue for an additional 24 month period, until you complete a program under article 42A.406, Texas Code of Criminal Procedure, and the Texas Department of Public Safety receives proof of completion under §521.344, Texas Transportation Code.
- j. **Under 21 DWI Driver's License Suspension and Ignition Interlock Device.** If you are under 21 and placed on community supervision, your driver's license will be suspended for 90 days from the date you are placed on community supervision and your vehicle must be equipped with an ignition interlock device as provided by article 42A.408, Texas Code of Criminal Procedure.
- k. **DWI Ignition Interlock Device.** If you are convicted of an offense described by article 42A.408 (c), Texas Code of Criminal Procedure, and placed on community supervision, your vehicle must be equipped with an ignition interlock device as provided by article 42A.408. If you are placed on deferred adjudication for an offense under Section 49.04 or 49.06 of the Texas Penal Code, your vehicle must be equipped with an ignition interlock device as described by article 42A.408, Texas Code of Criminal Procedure.
- l. **Probation and Parole:** You understand that if you are currently on probation or parole, a plea of guilty may result in the revocation of probation or parole and further confinement.
- m. **Enhancement:** You understand that if you are found guilty, this offense may be used to enhance the punishment in subsequent offenses.
- n. **Family Violence Offense:** If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.
- o. **Nature of the Agreement.** This written plea bargain agreement sets out the full agreement of the parties. There are no promises or agreements outside of those established in this written document.
- p. **Procedure to Amend.** By necessity, one or more party to this plea bargain agreement will sign it prior to the other party or the Court. Therefore, once this plea bargain agreement is signed by a party, it shall not

be altered or amended without the express consent of the party who has already signed the agreement. The express agreement of such party shall be evidenced on the record and shall be demonstrated by the initials of said party approving any alteration or amendment. Any attempt to alter or amend this written plea bargain agreement outside of this procedure shall be void and the written plea bargain agreement shall be enforced as originally written without such alteration or amendment.

II. VOLUNTARY STATEMENTS – NOW COMES the Defendant in open court in the above-entitled and numbered cause, and makes the following voluntary statements:

- a. “I represent that I am the person named in the Information or Complaint; I have agreed to the terms of this Plea Agreement and the signature hereon is my true and correct signature.”
- b. “I have consulted with my attorney if I have an attorney or one has been appointed to represent me; otherwise, these statements are made after review by me representing myself.”
- c. “I was sane at the time of the offense and am presently competent to stand trial.”
- d. “I understand the nature of the charge(s) contained in the information in this cause.”
- e. “The Court has admonished me orally or in writing of the consequences of a plea of guilty. I understand the minimum and maximum punishment provided by law for this offense.”
- f. “I understand that I have the right to a trial by jury.”
- g. “If I am representing myself, I state to the Court that: (i) I can afford an attorney, I am not indigent, and I have, on my own desire, chosen to represent myself; OR (ii) I am indigent and I understand that the Court will appoint an attorney to represent me, however, I freely, intelligently and voluntarily **WAIVE** the right to appointed counsel.”
- h. “I have the right to remain silent but if I choose not to remain silent, anything I say can be used against me.”
- i. “I have the right to subpoena witnesses to testify on my behalf.”
- j. “I have the right to be confronted by the witnesses against me whether I have a trial before the Court or the jury.”
- k. “This plea is made pursuant to a plea bargain.”
- l. “I have viewed the Court’s Video Admonishment and understand the Admonishment contained therein.”
- m. “I am am not a citizen of the United States of America.”

III. WAIVERS – NOW COMES the Defendant in writing and in open court in the above-entitled and numbered cause, represented by his/her attorney with whom he/she has previously consulted or proceeding *pro se*, after having been fully admonished as to the dangers of *pro se* representation and having fully waived my right to be represented by counsel, and having carefully and thoroughly reviewed this document, I freely, voluntarily, intelligently, and knowingly:

- a. **WAIVE** reading of the indictment or information.
- b. **WAIVE**, if applicable, service of the indictment or information; the waiting period for arraignment, arraignment; the right to file additional motions or pleadings; additional time to respond to the amended indictment or information; time from my waiver of my right to hire an attorney until time of trial; and additional time for my court appointed attorney, if I have one, to prepare for trial.
- c. **WAIVE** the right to trial by jury and request the consent and approval of the Court and of the attorney for the State to such waiver.
- d. **WAIVE** the appearance of and right to confront and cross-examine the witnesses against me at both the guilt/innocence and punishment phases of this matter. This waiver also includes, but is not limited to, any and all statements contained in any pre-sentence investigation report(s) reviewed by the Court in deciding the sentence to be imposed in this matter.
- e. **CONSENT** to the introduction of evidence by live testimony, affidavits, written statements of witnesses or any other documentary evidence sufficient to establish my guilt and/or punishment. This **CONSENT** is valid as to the Guilt/Innocence phase of this matter as well as to the Punishment phase of this matter.
- f. **WAIVE** the right to subpoena witnesses to testify for me.
- g. **WAIVE** my right to remain silent and not to incriminate myself.
- h. **WAIVE** any right which I may have to the preparation of a Pre-sentence Investigation Report.
- i. **WAIVE** my right to have the Court inquire about and request a copy of the victim impact statement, if any; waive my right to read, comment upon, and/or introduce testimony related to such statement, if any; and waive any right I may have for the Court to consider, before sentencing, the contents of such victim impact statement, if any.

- j. **WAIVE** the right to file a motion for new trial.
- k. I understand my right to appeal, but having entered into a plea agreement with the State and as part of that agreement before sentencing, I **WAIVE** my right to appeal from the judgment and sentence or probated sentence agreed upon.
- l. I understand my rights to seek relief pursuant to a post conviction writ of habeas corpus under Article 11.072 of the Texas Code of Criminal Procedure but, having entered into a plea agreement with the State and as part of that agreement before sentencing, I knowingly, intelligently, and voluntarily **WAIVE** my right to see relief pursuant to a post conviction writ of habeas corpus under Article 11.072 of the Texas Code of Criminal Procedure based on any claim that is known or reasonably should have been known to me at the time of my plea of guilty.
- m. **AGREES** that the Court may accept his/her plea by broadcast by closed-circuit video teleconferencing and **WAIVES** the right to have sentence pronounced in his/her presence if the plea is by video teleconference.
- n. **WAIVES** the right to a risk and needs assessment to be conducted before the Court determines the conditions of community supervision
- o. **WAIVES** and gives up my right to have a court reporter make a record of these proceedings as provided by Rule 13.1 of the Texas Rules of Appellate Procedure.

IV. STIPULATION AND JUDICIAL CONFESSION – Now comes the Defendant in writing and in open court in the above entitled and numbered caused represented by his/her attorney and with whom he/she has previously consulted or representing him/herself *pro se* and makes the following judicial confession(s) and stipulation(s).

- a. “I do admit and judicially confess that I committed each and every element of the offense(s) as alleged in the information in this cause and that I am in fact GUILTY of the offense alleged or, if this is a plea bargain for a plea of guilty to a lesser- included offense of the offense alleged in the information in this cause, I do admit and judicially confess that I committed each and every element of the lesser-included offense and that I am in fact GUILTY of the lesser-included offense.”
- b. “I hereby consent and stipulate in writing, in open court to an oral stipulation of the evidence and testimony or the introduction of testimony by affidavits, written statements of witnesses, and any other documentary evidence in support of the judgment of the Court.”
- c. “I voluntarily enter my plea of GUILTY to said offense, and my plea is not influenced by any considerations or fear or any persuasion or any delusive hope of pardon. In making my plea of guilty I am not relying on any advice, information or agreement not made to the Court at this time.”
- d. “I have read this entire document and discussed it fully with my attorney or proceeding *pro se*, after having fully waived my right to be represented by counsel, I have carefully and thoroughly reviewed this document, understand this document completely, am aware of the consequence(s) of my plea, and (if represented by counsel) am satisfied that I have been effectively represented.”
- e. “If I am not a citizen of the United States, I have inquired into, understand, and accepted the immigration consequences of this plea bargain agreement.”
- f. “If this punishment recommendation is for deferred adjudication or community supervision, I have inquired into, understand, and accept the possible ranges of conditions of community supervision, including those that may require my confinement in a facility.”

V. PLEA AGREEMENT AND PUNISHMENT RECOMMENDATION – In consideration of the Defendant’s plea, the Defendant agrees:

- a. To plea “Guilty” to and be found guilty of the offense(s) of:

- b. To judicially confess as specified in paragraph IV, above,
- c. To waive his/her rights as specified in paragraph III, above,
- d. To, if placed on deferred adjudication or community supervision, participate in any and all conditions of community supervision, including those conditions that may require my confinement in a facility,
- e. That the fine and community service restitution hours imposed in this cause shall run consecutive to and be cumulated with the fine and community service restitution hours imposed in any other cause, whether before this Court or any other court, unless otherwise specified in this plea bargain agreement.

f. The State and the Defendant agree to the following plea bargain agreement:

i. **Open Plea:** Waive a jury trial, pled GUILTY and allow the Court to decide punishment.

ii. **Plea Recommendation:**

- ___ DAYS HUNT COUNTY JAIL (PROBATED FOR ___ MONTHS)
- ___ MONTHS DEFERRED COMMUNITY SUPERVISION
- ___ COMMUNITY SERVICE HOURS
- ___ DAYS IN JAIL AS CONDITION OF COMMUNITY SUPERVISION

iii. The following cases will be rejected/dismissed: NA

iv. Other:

iv. Fines Imposed Include: (check each fine and enter each amount as pronounced by the Court):

- | | | | |
|-----|-------------------------------------|---|------------|
| 1. | <input checked="" type="checkbox"/> | General Fine (§12.21 and 12.22 Penal Code, or any other Code) (not to exceed \$4,000) | \$ |
| 2. | <input type="checkbox"/> | Additional Monthly Fine for Certain Sex Offenders (CCP, art. 42A.653)
\$5.00 per month of community supervision | \$ |
| 3. | <input type="checkbox"/> | EMS, Trauma Fine (For Intoxication Convictions) (CCP, Art. 102.0185) | \$100.00 |
| 4. | <input type="checkbox"/> | Family Violence Fine to Women in Need (CCP, art. 42A.504(b)) | \$100.00 |
| 5. | <input type="checkbox"/> | Juvenile Delinquency Prevention Fine (CCP, Art. 102.0171(a)) | \$50.00 |
| 6. | <input type="checkbox"/> | Local Traffic Fine (Transportation Code § 542.403) (All offenses listed in TC §541 thru 600) | \$3.00 |
| 7. | <input type="checkbox"/> | State Traffic Fine (Transportation Code § 542.4031) (All offenses listed in TC §541 thru 600) | \$50.00 |
| 8. | <input type="checkbox"/> | Repayment of Reward Fine to Hunt County Crime Stoppers (CCP, art. 42A.301(b)(20))
(Not to exceed \$50.00) | \$25.00 |
| 9. | <input type="checkbox"/> | DWI 1st (Transportation Code § 709.001) | \$3,000.00 |
| 10. | <input type="checkbox"/> | DWI 2nd (Transportation Code § 709.001) | \$4,500.00 |
| 11. | <input type="checkbox"/> | DWI with BAC >.15 (Transportation Code § 709.001) | \$6,000.00 |
| 12. | <input type="checkbox"/> | Judge finds Defendant indigent and waives all fines and costs imposed under Transportation Code § 709.001. | |

TOTAL FINES	\$
COURT COSTS	\$ 270.00
REIMBURSEMENT FEES (shall be determined by Court)	\$
RESTITUTION	\$

****Defendant understands that the conditions of community supervision are the authority of the Court and the Court may impose any conditions it believes necessary.***

****The above terms constitute our agreement, and there are no agreements not set forth above. The Defendant and (if applicable) Counsel request the Court to follow the plea bargain agreement.***

MARK ONE OF THE FOLLOWING:

Represented by Counsel –

“I can read and write the English language and I have read this entire document or I understand the English language and this document has been read to me. Additionally, if I am unable to read, write, or understand the English language, an interpreter has aided me in reading this document and reviewing it with my attorney. I have discussed this document fully with my attorney and I understand this document completely. My attorney has discussed the law and facts applicable to this case with me, and I am satisfied that I have been effectively represented. Furthermore, I am mentally competent, I understand the admonishments in paragraph I above, and I am aware of the consequences of my plea. With full understanding of the law and the facts and evidence involved in this case, I am freely, knowingly, intelligently, and voluntarily entering my plea of guilty; I am waiving my rights as specified in paragraph III above; I stipulate to the evidence; and I judicially confess as stated in paragraph IV above.”

Proceeding Pro Se –

“I can read and write the English language and I have read this entire document or I understand the English language and this document has been read to me. Additionally, if I am unable to read, write, or understand the English language, an interpreter has aided me in reading this document. After having been fully admonished as to the dangers of pro se representation, I have fully waived my right to be represented by counsel. I have carefully and thoroughly reviewed this document and I understand this document completely. Furthermore, I am mentally competent, I understand the admonishments in paragraph I above, and I am aware of the consequences of my plea. With full understanding of the law and the facts and evidence involved in this case, I am freely, knowingly, intelligently, and voluntarily entering my plea of guilty; I am waiving my rights as specified in paragraph III above; I stipulate to the evidence; and I judicially confess as stated in paragraph IV above.”

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DEFENDANT

Sworn to and subscribed to before me on the following date: _____ .

**DEPUTY COUNTY CLERK
HUNT COUNTY, TX**

I hereby join, consent to, and approve of the waiver of jury trial pursuant to Art. 1.13, C.C.P. and the stipulations of evidence. In addition, I hereby advise the Court that I have fully consulted with the Defendant and have carefully reviewed with him/her this entire document. I believe he/she is mentally competent, understands the admonishments, is aware of the consequences of the plea, and is freely, voluntarily, knowingly, and intelligently entering his/her plea of guilty, waiver, stipulation and judicial confession.

COUNSEL FOR DEFENDANT

I hereby join, consent to, and approve of (1) the stipulations of evidence, and (2) the waiver of jury trial pursuant to Article 1.13, C.C.P., conditioned on the Court accepting this plea agreement and sentencing the Defendant in accordance with this Plea Agreement.

PROSECUTOR

ORDER OF THE COURT

The Court hereby **FINDS** that:

- (1) the Defendant was sane when the alleged offense was committed, is mentally competent, is represented by competent counsel/is not represented by counsel and is not indigent, understands the nature of the charges against him/her and the consequences of a plea of guilty, including the minimum and maximum punishment provided by law;
- (2) the attorney for the Defendant, or the Defendant Pro Se, and the State consent and approve the waiver of trial by jury and agree to stipulate the evidence in this case; and
- (3) the Defendant's plea of guilty, statements, waiver, stipulations, and judicial confession were freely, voluntarily, knowingly and intelligently made. The Court further agrees to the Defendant's request that a Pre-Sentence Investigation Report not be made and **FINDS** that there is sufficient information in the record to permit the meaningful exercise of sentencing discretion.

All stipulations, waivers, and pleas are hereby approved and accepted along with all findings as set out above.

IT IS SO ORDERED on the following date: _____.

JUDGE PRESIDING