

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	<i>FOR COURT USE ONLY</i>
PEOPLE vs. Defendant	
PLEA OF GUILTY/NO CONTEST – MISDEMEANOR DOMESTIC VIOLENCE	Case # _____ DA/CA/ # _____

INSTRUCTIONS: Fill out this form if you wish to plead guilty or no contest to charges against you. Initial each applicable item only if you understand it. If you have any questions about the possible sentence, or the information on this form, ask your attorney or the judge.

I, the defendant in the above-entitled case, personally and/or by my attorney, declare as follows:

1. I am sober, my judgment is not impaired, and I have not consumed any alcohol or other drug within the past 24 hours. 1.
2. I am entering a plea freely and voluntarily, without threat or fear to me or anyone closely related to me. 2.
3. I understand that a plea of No Contest is, for all purposes, the same as a plea of Guilty. 3.
4. **PLEA.** Of those charges now filed against me in this case, I plead _____ to the following offenses and admit the prior convictions as follows: 4.
(GUILTY/NO CONTEST)

COUNT	LIO	CHARGE

<u>PRIORS</u>		
Date of Conviction	Charge	Case Number

5. **FACTUAL BASIS.** I admit that on the dates charged, I (describe facts as to each charge and allegation) 5.

- 6a. **AGREEMENT.** I have not been induced to enter the above plea by any promise or representation of any kind, except: 6a.

- SENTENCE TO COURT.** People dismiss balance. Other: _____
- DENY PROBATION.** SENTENCE: _____ days Releasable to Work Furlough/ _____
 Concurrent / Consecutive to case/counts _____
- GRANT PROBATION.** Imposition of sentence suspended for 3 / _____ years on the following terms: VNL and
 Execution of sentence suspended for 3 / _____ years on the following terms: VNL and
CUSTODY: SERVE _____ days CTS STAYED on condition that _____
 Book and release Releasable to: Work Furlough / Residential treatment program
 Concurrent / Consecutive to case/counts _____
- FINES/FEES:** PAY \$ _____ including the following:
 \$ _____ Court Ops. Assessment (PC1465.8) (\$40 per count) \$ _____ Criminal Conviction Assessment (GC70373) (\$30 per count)
 \$ _____ Restitution Fund Fine (PC1202.4(b)(1)) (\$150-\$1,000) \$ _____ Crim. Justice Admin. Fee (GC29550 et seq) (\$154 if booked)
 \$ _____ Domestic Violence Fund Fee (PC1203.097) (Min. \$500)
 PAYMENT STAYED until DVRP completed.
 \$ _____ Prob. Rev. Rest. Fine, suspend per PC1202.44. Reimburse County for appointed attorney if/when able.
- RESTITUTION:** PAY restitution to (Victim / VCGCB) . Hearing to be set if and when determined.
- FOURTH AMENDMENT WAIVER:** Submit person, vehicle, place of residence, property, personal effects, _____ to search at any time with or without a warrant, and with or without reasonable cause, when required by a Probation Officer or other law enforcement officer (to expire _____).
- PUBLIC SERVICE:** PERFORM: _____ days PSP _____ hours Volunteer Work. STAYED until DVRP completed.
- ATTEND AND COMPLETE:** Substance Abuse Assessment _____ Parenting Classes _____ Elder Abuse Classes
 52-week DV Recovery Program: Standard Integrated DV/SA Dual Track DV/SA Non-Spousal Family Violence
 52-week Child Abuser's Treatment Program Individual Counseling _____ weeks/months Stalking Treatment (STOP)
 Residential/Outpatient treatment alcohol/drug STAYED: _____

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- Comply with Cal/Fed Firearms Prohibition on controlling, possessing, or having access to any firearm.
 Comply with terms of Protective Order including "stay away" terms.
 DRIVER LICENSE Suspended Delayed for _____mos./years Surrender to court.
 Other: _____

6b. **FIREARMS.** I do do not own, possess, or have access to any firearm. 6b.

RIGHT TO AN ATTORNEY

7a. I understand that I have the Constitutional **right to be represented by an attorney** at all stages of the proceedings including sentencing. I can hire my own attorney or the court will appoint an attorney for me if I cannot afford one. 7a.

7b. I understand that I have the right to be present in court to enter my plea and for sentencing. I expressly authorize my attorney to enter this plea on my behalf, in my absence. **I understand that I must be personally present at the time of sentencing.** 7b.

CERTAIN CONSTITUTIONAL RIGHTS WHICH I GIVE UP

I understand that as to all charges, allegations and prior convictions filed against me I also have the following Constitutional rights, which I now give up to enter my plea of **Guilty/No Contest**.

8. I have the right to a **speedy and public trial by jury**. I now give up this right. 8.

9. I have the right to **confront and cross-examine all the witnesses** against me. I now give up this right. 9.

10. I have the right to **remain silent** (unless I choose to testify on my own behalf). I now give up this right. 10.

11. I have the right to **present evidence in my behalf** and to have the court subpoena my witnesses at no cost to me. I now give up this right. 11.

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

12. I understand the possible consequences of entering a plea of Guilty or No Contest include a maximum sentence of up to _____ months/years(s) in jail and fine(s) of up to _____ plus additional consequences specified in any attached addendum, and any other reasonable conditions of probation, which could be for a maximum of 3 / 5 years. 12.

13. My attorney has explained to me that other possible consequences of this plea may be (circle appropriate consequences): (a) lifetime registration as a sex offender; (b) registration as a narcotics offender; (c) limited local custody credits (290/serious/prior); (d) qualified for sentencing under PC § 1170(h)(3) in future cases. 13.

14. I understand that in addition to any fine imposed, the law requires the court to add penalty assessments which will substantially increase the amount I must pay. In addition, I understand that I may be ordered to make restitution to the victim, if the offense involved a victim, or to a restitution fund. I understand that I shall be ordered to pay a mandatory restitution fine and a probation revocation restitution fine of the same amount if probation is revoked and not reinstated. I understand I must file a revised financial declaration if there is any balance unpaid on a restitution order or fine 120 days prior to release from probation. 14.

15. **Immigration consequences:** (1) I understand that if I am not a U.S. citizen, this plea of Guilty/No Contest may, and for certain offenses **will** (see page 5), have the consequences of removal/deportation, exclusion from admission to the United States, and/or denial of naturalization pursuant to the laws of the U.S.; (2) I understand I have the right to request additional time to consider my plea in light of the advisement in this paragraph; (3) I have discussed my immigration status with my attorney and have had sufficient time to consider and discuss the immigration consequences of my plea with him/her or an immigration attorney. 15.

16. I understand that my plea of Guilty or No Contest in this case could result in revocation of my probation, mandatory supervision, post-release supervision, or parole in other cases and the imposition of consecutive sentences. 16.

17. I understand and agree that probation terms concerning substance abuse treatment may be modified without a probation violation occurring. 17.

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OTHER WAIVERS

18. **(Time for Sentence)** I understand that I may not be sentenced earlier than six (6) hours, nor later than five (5) days after my plea. I give up this right, waive arraignment, and agree to be sentenced at this time. 18.
19. **(Certain Appeal Rights)** I give up my right to appeal the following: (a) denial of my PC1538.5 motion, and (b) any sentence stipulated herein. 19.
20. **(Harvey Waiver)** 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. 20.
21. **(Arbuckle Waiver)** I give up my right to be sentenced by the judge who accepts this plea. 21.
22. **(Judicial Officer)** I agree that a duly appointed Commissioner or Temporary Judge may act as a Judge, accept this plea, impose sentence, and conduct any other post-conviction proceedings. 22.
23. **(Evidence disposal)** I give up my interest in all non-biological property/evidence impounded during the investigation of this case except _____ and acknowledge that if I listed any property here, I must also file a claim with the impounding agency within 60 days after pronouncement of judgment or my ability to make a claim will expire. 23.

I DECLARE UNDER PENALTY OF PERJURY, under the laws of the State of California, that: (a) I have read, understood, and initialed each applicable item above and any attached addendum; and (b) everything on the form and any attached addendum is true and correct.

Date: _____ Defendant's Signature: _____

Defendant's Address: _____
Street City State Zip Code

Defendant's Telephone No.: (_____) _____

ATTORNEY'S STATEMENT

I, the attorney for the defendant in the above-entitled case, personally read and explained to the defendant the entire contents of this plea form and any addendum thereto. I discussed all charges and possible defenses with the defendant, and the consequences of this plea. **I have asked the defendant about his/her immigration status, advised defendant of the immigration consequences of this plea to the best of my ability, and advised defendant of the right to additional time to discuss this matter with an immigration attorney.** I personally observed the defendant fill in and initial each item, or read and initial each item to acknowledge his/her understanding and waivers. I observed the defendant date and sign this form and any addendum. I concur in the defendant's plea and waiver of constitutional rights.

Date: _____
(Print Name) Attorney for Defendant (Signature)
 (Circle one: PD / APD / OAC / RETAINED)

INTERPRETER'S STATEMENT

I, the interpreter in this proceeding, having been duly sworn, truly translated this form, and any attached addendum, and all the questions therein to the defendant in the _____ language. The defendant indicated understanding of the contents of the form and then initialed and signed the form and any attached addendum.

Date: _____
(Print Name) Court Interpreter (Signature)

PROSECUTOR'S STATEMENT

The People of the State of California, plaintiff in the above-entitled criminal case, by and through its attorney concurs with the defendant's plea of Guilty/No Contest as set forth above.

Date: _____
(Print Name) Deputy District Attorney/Deputy City Attorney (Signature)

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COURT'S FINDING AND ORDER

The court, having questioned the defendant/defendant's attorney concerning the defendant's plea of Guilty/No Contest and admissions of the prior convictions and allegations, if any, finds that: the defendant understands and voluntarily and intelligently waives his/her constitutional rights; the defendant's plea and admissions are freely and voluntarily made; the defendant understands the nature of the charges and the consequences of the plea and admissions; and there is a factual basis for same. The court accepts the defendant's plea and admissions, and the defendant is convicted thereby.

Date: _____

Judge/Commissioner of the Superior Court

IMMIGRATION CONSEQUENCES

If you are not a U.S. citizen, you should consult your attorney or an immigration attorney about the immigration consequences of your plea, particularly if your offense might qualify as an "aggravated felony," crime of moral turpitude, controlled substance offense, firearm offense, or domestic violence offense (see below). It is your attorney's obligation to provide you with accurate and affirmative advice about the immigration consequences of your plea, and you have the right to additional time to evaluate those immigration consequences. By entering a plea, you are indicating to the court you know of and understand the specific immigration consequences that will result from your conviction.

Immigration consequences are a matter of federal law. Whether an offense qualifies as one of the "aggravated felonies" listed below is determined by federal statutes and case law. (See *Esquivel-Quintana v. Sessions* (2017) __ U.S. __, 137 S.Ct. 1562, 198 L.Ed.2d 22.) **Certain offenses defined as misdemeanors under State law may be considered "aggravated felonies" under federal law.**

Any conviction of a non-citizen for an "aggravated felony" **will** result in removal/deportation, exclusion, and/or denial of naturalization. (See 8 U.S.C. § 1227(a)(2)(A)(iii).) "Aggravated felonies" (see 8 U.S.C. § 1101(a)(43)) include but are not limited to:

- (1) Murder; rape; or sexual abuse of a minor;
- (2) A crime of violence, as defined in 18 U.S.C. § 16, but not including a purely political offense;*
- (3) Trafficking of a controlled substance, firearms, destructive devices or explosive materials;
- (4) Money laundering if the amount exceeds \$10,000;
- (5) An explosive materials offense;
- (6) A firearms offense;
- (7) A theft offense, including receipt of stolen property, or burglary offense;*
- (8) Child pornography;
- (9) Pimping, Pandering, or operating a prostitution business;
- (10) Human trafficking;
- (11) Fraud or deceit in which the loss to the victim or victims exceeds \$10,000;
- (12) Failure to appear by a defendant for service of a sentence if the underlying offense is punishable by imprisonment for a term of 5 years or more, or failure to appear to answer or resolve a felony for which a sentence of 2 years' imprisonment or more may be imposed;
- (13) Commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered;*
- (14) Obstruction of justice, perjury or subornation of perjury, or bribery of a witness;*
- (15) An attempt or conspiracy to commit any of the above offenses.

*If the term of imprisonment is at least one year.

Other crimes (*as defined by federal law*) that may result in removal/deportation, exclusion, and/or denial of naturalization or other severe immigration consequences include, but are not limited to:

- (1) A crime of moral turpitude (see 8 U.S.C. §§ 1182(a)(2)(A)(i), 1227(a)(2)(A)(i));
- (2) A controlled substance offense (see 8 U.S.C. §§ 1182(a)(2)(A)(i), 1182(a)(2)(C), 1227(a)(2)(B));
- (3) A firearm or destructive device offense (see 8 U.S.C. § 1227(a)(2)(C));
- (4) A domestic violence, stalking, or child abuse offense (see 8 U.S.C. § 1227(a)(2)(E)(i));
- (5) Violation of a protective order (see 8 U.S.C. § 1227(a)(2)(E)(ii));
- (6) A human trafficking offense (see 8 U.S.C. §§ 1182(a)(2)(H), 1227(a)(2)(F));
- (7) Multiple criminal convictions with an aggregate sentence of 5 years or more (see 8 U.S.C. § 1182(a)(2)(B));
- (8) A prostitution offense (see 8 U.S.C. § 1182(a)(2)(D));
- (9) A "serious criminal offense," which includes any felony, a crime of violence, and reckless driving or DUI with injury (see 8 U.S.C. § 1182(a)(2)(E)).