

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA

STREET ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

FOR COURT USE ONLY

PLAINTIFF: People of the State of California

DEFENDANT:

**ADVICEMENT OF RIGHTS, WAIVER AND PLEA FORM
(Misdemeanor)**

CASE NUMBER:

Instructions:

- Fill out this form only if you want to plead guilty or no contest.
- Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- Sign and date the form under "DEFENDANT'S STATEMENT" on page 3.
- Keep in mind that the court cannot give legal advice. If you have an attorney and have questions about anything in this form, ask your attorney.

1. **Charges and Maximum Penalties.** I want to plead guilty or no contest to the charges and allegations listed below. I understand that the maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

INITIALS

COUNT	CHARGES / ALLEGATIONS (SECTION & DESCRIPTION)	MAXIMUM PENALTY (FINE & JAIL)

2. **Prior Convictions.** I understand that I am also charged with a prior conviction in case number(s):

3. **Probation Violations.** I understand that I am also charged with a violation of probation in case number(s):

4. **Right to an Attorney** (Leave this box blank if you have an attorney). I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me. I hereby give up my right to be represented by an attorney.

5. **Other Constitutional Rights.** I understand that I am entitled to each of the following rights concerning the charges, allegations and prior convictions (if any) listed in items 1 and 2 (above):

- a. **Right to a Court or Jury Trial.** I understand that I have a right to a speedy and public court or jury trial. At the trial, I would be presumed to be innocent and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were convinced beyond a reasonable doubt that I am guilty.

- b. **Right to Confront and Cross-examine Witnesses.** I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witness in court to testify under oath in my presence and I or my attorney may question them.

- c. **Right to Remain Silent and Not Incriminate Myself.** I understand that I have the right to remain silent and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself and I cannot be forced to testify.

- d. **Right to Produce Evidence and to Present a Defense.** I understand that I have the right to produce evidence and to have the court issue subpoenas to bring to court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.

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6. **Rights for Probation Violations** (*Leave this box blank if you are not charged with a probation violation*). I understand that I have all the constitutional rights listed above for all probation violations charged against me, except that I do not have a right to a jury trial, only a court hearing before a judge.

7. **Consequences of My Plea**

a. **No Contest Plea.** I understand that a no contest plea has the same effect as a guilty plea except that it cannot be used against me in a civil case that derives from an act on which this prosecution is based unless the offense is punishable as a felony; however, it may be used to suspend or revoke any license to practice a business or profession.

b. **Effect of Conviction on Other Cases.** I understand that a conviction in this case may constitute a violation of any other current grant of parole, mandatory supervision, post release community supervision or probation, which may result in additional punishment.

c. **Immigration Consequences.** I understand that if I am not a citizen of the United States, my plea of guilty or no contest may or, with certain offenses, will result in my deportation, exclusion from admission and reentry to the United States, and denial of naturalization and amnesty, and that the appropriate consulate may be informed of my conviction.

d. **Vehicle Forfeiture.** I understand that a plea of guilty or no contest to section 12500(a), 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5 of the California Vehicle Code will result in the impoundment and forfeiture of my vehicle in the future if I drive it in violation of any of the above sections.

e. **Mandatory Minimum Conditions of Probation (Domestic Violence cases only).** I understand that if I am granted probation, the terms and conditions will include at least all of the following (see Penal Code, § 1203.097):

- (1) A minimum of either 36 months (3 years) or 48 months (4 years) of probation;
- (2) A criminal court protective order that may include residence exclusion or stay-away conditions;
- (3) Booking within 28 days of sentencing if I have not already been booked;
- (4) Several statutory fines, fees, and assessments, including a domestic violence fee, restitution fee, probation revocation fine (stayed), criminal conviction assessment, and court security fee;
- (5) Successful completion of an appropriate batterer's treatment program lasting at least 52 weeks;
- (6) Community service
- (7) Restitution to the victim (if applicable);
- (8) An order to not own, possess, purchase, or receive any firearms;
- (9) An order to relinquish any firearms in my possession or control.

f. **Firearm Prohibition.** I understand that upon conviction of certain specified misdemeanor charges I am prohibited from possessing firearms, ammunition, and ammunition feeding devices (including magazines).

8. **Before the Plea**

a. **Discussion with my attorney** (*Leave this box blank if you are not represented by an attorney*). Before entering this plea, I have had a full opportunity to discuss with my attorney the facts of the case, the elements of the charged offenses, allegations and prior convictions (if any), any defenses that I may have, my constitutional and statutory rights and waiver of those rights, the consequences of this plea, and anything else I think is important to my case.

b. **Questions.** I have no further questions for the court or for my attorney with regard to my plea and admissions in this case or any of my rights or anything else on this form.

c. **Stipulation to Commissioner.** I understand that I have the right to have a judge take my plea and sentence me. I give up this right and agree to have a commissioner, sitting as a temporary judge, take my plea and sentence me.

9. **Waiver of Constitutional Rights.** For each of the charges, allegations, prior convictions (if any), and probation violations (if any) listed in items 1, 2, and 3, I give up my right to a jury or court trial, my right to a court hearing, my right to confront and cross-examine witnesses, my right to produce evidence and to present a defense, and my right to remain silent and not to incriminate myself. I understand that I am, in fact, incriminating myself with my plea.

10. **The Plea** (*check one*). I freely and voluntarily plead GUILTY NO CONTEST to the charges, and admit allegations, listed in item 1. I offer my plea with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

11. **Mandatory Warning.** 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 follow 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.**

PEOPLE OF THE STATE OF CALIFORNIA v.
Defendant(s):

CASE NUMBER:

INITIALS

12. **Prior Convictions.** I freely and voluntarily admit to the prior convictions (if any) listed in item 2, and I understand that this admission may increase the penalties that are imposed on me.

13. **Probation Violations.** I freely and voluntarily admit the probation violations (if any) listed in item 3.

14. **Sentencing.** I understand that I have a right to delay my sentencing at least 6 hours and as long as 5 days after my plea. I give up this right and agree to be sentenced at this time.

15. **Sentencing Court.** I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea. I give up that right and agree that any judge or commissioner may sentence me.

DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and the effects of any prior convictions and probation violations have been explained to me. I understand each of the rights outlined above and I give up each of them to enter my plea.

Defendant's Signature

Date

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of his or her questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge, any possible defenses to the charges, the effect of any prior convictions and probation violations, and the consequences of the plea.

Attorney's Signature

Date

INTERPRETER'S STATEMENT

I _____, having been duly sworn or having a written oath on file, certify that I truly interpreted this form to the defendant in the language noted below. The defendant stated that he or she understood the contents on the form and then initialed and signed the form.

Language: Spanish Other (specify):_____

Interpreter's Signature

Date

COURT'S FINDINGS AND ORDER

The court, having reviewed this form and having orally examined the defendant, finds that (a) the defendant has read or been read and understands each of the initialed items on this form; (b) the defendant understands the nature of the crimes and allegations listed in items 1, 2, and 3 and the consequences of the plea and any admissions; (c) the defendant expressly, knowingly, understandingly, and intelligently waives his or her constitutional and statutory rights; and (d) the defendant's plea, admissions, and waiver of rights are made freely and voluntarily.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon. It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Signature of the Court

Date

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