

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

GUILTY PLEA ADVISORY AND FORM (JUDGE SAMUEL A. HOAGLAND)

TO BE FILLED OUT BY THE DEFENDANT

Defendant's Name: _____ Signature _____

Date: _____ Case Number: _____

Age: _____ Date of Birth: _____

Nature of Charge(s): _____ 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 choose to have a trial, the State cannot require you to testify. If you do decide to testify, however, the State will be permitted to ask you questions on cross examination 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 before and during trial. _____.

2. The waiver of your right to remain silent only applies to your plea of guilty to the crime(s) in this case. 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.

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. _____.

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 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. 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 called against you. This occurs during a jury trial where 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 your own witnesses of your choosing to testify concerning your guilt or innocence. 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.

I understand that by pleading guilty, I am waiving my right to confront the witnesses against me, to present witnesses on my own behalf and to present 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 PLEA

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

PLEASE CHECK 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 true and legal name? _____.

3. What was the highest grade you completed? _____.

If you did not complete high school, have you received either a GED or HSE?

YES NO

4. Are you currently under the care of a mental health professional? YES NO

If you answered "yes," what is the mental health professional's name? _____

5. Have you ever been diagnosed with a mental health disorder? YES NO

If you answered "yes," what was the diagnosis and when was it made?

6. Are you currently prescribed any medication? YES NO

If you answered "yes," what medications are you taking at this time?

If you answered "yes," have you taken your prescription medication during the past 24 hours? YES NO

7. In the last 24 hours, have you taken any medications or drugs, *INCLUDING over the counter drugs*, or drunk any alcoholic beverages?

YES NO

If "yes," what have you taken? _____

Do you believe this affects your ability to understand these questions, and make a reasoned and informed decisions in this case? YES NO

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

If "yes," what is the reason? _____

9. Is your guilty plea the result of a plea agreement? YES NO

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

10. There are two types of plea agreements. Please initial the ONE paragraph below which describes the type of plea you are entering. **DO NOT INITIAL BOTH PARAGRAPHS:**

a. I understand that the Court is NOT bound by the plea agreement or any sentencing recommendations, and may impose any sentence authorized by law, including the maximum sentence stated above. 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. _____.

b. I understand that my plea agreement is a binding plea agreement. This means that if the district court does not impose the specific sentence as recommended by both parties, I will be allowed to withdraw my plea of guilty pursuant to Rule 11(d)(4) of the Idaho Criminal Rules and proceed to a jury trial. _____.

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

If you answered "yes," do you understand that your sentence for each crime could be ordered to be served either concurrently (at the same time) or consecutively (one after the other)?
YES NO

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

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

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

If you answered "yes," please explain. _____

15. 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

16. Are there any witnesses who could show you are innocent? YES NO

If you answered "yes," have you told your attorney who those witnesses are?
YES NO

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

If you answered "yes," what issue are you reserving the right to appeal?

18. 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

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

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

If you answered "yes," what are those promises?

21. Do you understand that by pleading guilty you waive or give up 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 you answered "yes," what motions or requests? _____

23. 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

24. Are you currently on probation or parole? YES NO

If you answered "yes", do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole and additional punishment?

YES NO

Do you also understand that this sentence can be served consecutively to any other sentence you are currently serving? YES NO

25. As a result of your plea in this case, have you been advised that you may be required pay restitution to any victim in this case pursuant to I.C. §19-5304?

YES NO

If "yes", to whom? _____

26. As a result of your plea in this case, have you been advised that you may be required to pay restitution to any other party as a condition of your plea agreement?

YES NO

If "yes", to whom? _____

27. As a result of your plea in this case, will you be required to pay the costs of prosecution and investigation? (I.C. § 37-2732(k))

YES NO

28. As a result of your plea in this case, do you understand you will be required to submit a DNA sample to the state and pay for any testing of that sample? (I.C. § 19-5506)

YES NO

29. As a result of your plea in this case, do you understand that the court can 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

30. As a result of your plea in this case, is there a **mandatory** driver's license suspension?

YES NO

If "yes", for how long *must* your license be suspended? _____.

31. As a result of your plea in this case, is there a mandatory domestic violence, substance abuse, or psychosexual evaluation? (I.C. §§ 18-918(7)(a),-8005(9),-8317)

YES NO

32. Have you discussed with your attorney the fact the Court will order a pre-sentence investigation, psychosexual evaluation, anger evaluation and/or domestic violence evaluation and that anything you say during any of those examinations may be used against you in sentencing?

YES NO

33. Has your attorney explained the fact that you have a constitutional right to remain silent during any of those examinations but that you may give up that right and voluntarily participate in those examinations?

YES NO

34. 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)

YES NO

Do you understand that if you are convicted as a Persistent Violator, the court in that new case could sentence you to an enhanced sentence which could include life imprisonment? YES NO

35. As a result of your plea in this case, will you be required to register as a sex offender? (I.C. § 18-8304) YES NO

If you answered “yes” to this question, do you understand that if you are found guilty or plead guilty to another charge that requires you to register as a sex offender in the future, you could be charged in the new crime under I.C. § 19-2520G requiring a mandatory sentence of fifteen (15) years to run consecutive to any other sentence imposed by the court? YES NO

36. 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

37. 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

38. 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

39. 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

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

41. Are you pleading guilty freely and voluntarily? YES NO

42. Are you pleading guilty because you committed the acts alleged in the information or indictment? YES NO

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

44. Has *any* person (including a law enforcement officer or police officer or your attorney) threatened you or done anything to make you enter this plea against your will? YES NO

If your answer is “yes,” what threats have been made and by whom?

45. Other than in the plea agreement, has any person promised you that you will receive any special sentence, reward, favorable treatment, or leniency with regard to the plea you are about to enter? YES NO

If your answer is “yes,” what promises have been made and by whom?

46. Do you understand that the only person who can promise what sentence you will actually receive is the Judge? YES NO

Has the Judge made any promises to you? YES NO

47. Are you satisfied with your attorney? YES NO

48. Have you answered all questions on this Questionnaire truthfully and of your own free will? YES NO

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

50. **IF YOU ARE NOT A CITIZEN OF THE UNITED STATES,** do you understand that by pleading guilty, or making factual admissions, this will trigger deportation or removal proceedings, meaning that you face being removed from the United States and returned to your country of origin, and the loss of your ability to obtain legal status in the United States, or denial of an application for United States citizenship? YES NO NA

Have you and your attorney discussed these issues?

YES NO NA

51. **Do you swear under penalty of perjury that your answers to these questions are true and correct?** YES NO

I have answered the questions on pages 1-8 of this Guilty Plea Advisory form truthfully. I understand all of the questions and answers herein, 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 this _____ day of _____, 20__.

DEFENDANT

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

DEFENDANT'S ATTORNEY