

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ

701 Ocean Street, Room 120
 Santa Cruz, CA 95060
 Santa Cruz Branch

PEOPLE OF THE STATE OF CALIFORNIA**vs.****DEFENDANT:****CASE NUMBER:****ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM - FELONY****INSTRUCTIONS**

Fill out this form if you want to plead guilty or no contest to charges against you. Read this form carefully. For each item, if you understand and agree with what you read, check the appropriate box to the left of the item, and put your initials in the box to the right of the item. For any item that does not apply or that you do not understand, leave the box blank. Sign and date the form at the end. If you have questions about your case, any plea agreement, or this form, ask your attorney or the judge.

1. **My true full name is:** _____
2. **PLEA:** I am pleading ☐ **GUILTY** or ☐ **NO CONTEST** to the following charges and am admitting the following conduct enhancements/allegations (for prior convictions, see section 3 below):

Count	Code Section	Crime	Conduct Enhancement(s)	Felony or Misd.	Strike Indicate SFO or VFO	Initials

3. **PRIOR CONVICTIONS:** I am admitting the following Status Enhancements / Allegations:

Enhancement/ Allegation	Prior Conviction (Code Section and Crime)	Date of Prior Conviction	County and Case # of Prior Conviction	Initials

4. AGGRAVATING FACTORS: I am admitting the following aggravating factors:

California Rules of Court	Count (If applicable)	Initials
☐ 4.421(a)(1): The crime involved great violence, great bodily harm, threat of great bodily harm, or other acts disclosing a high degree of cruelty, viciousness, or callousness.		
☐ 4.421(a)(2): The defendant was armed with or used a weapon at the time of the commission of the crime.		
☐ 4.421(a)(3): The victim was particularly vulnerable.		
☐ 4.421(a)(4): The defendant induced others to participate in the commission of the crime or occupied a position of leadership or dominance of other participants in its commission.		
☐ 4.421(a)(5): The defendant induced a minor to commit or assist in the commission of the crime.		
☐ 4.421(a)(6): The defendant threatened witnesses, unlawfully prevented or dissuaded witnesses from testifying, suborned perjury, or in any other way illegally interfered with the judicial process.		
☐ 4.421(a)(7): The defendant was convicted of other crimes for which consecutive sentences could have been imposed but for which concurrent sentences are being imposed.		
☐ 4.421(a)(8): The manner in which the crime was carried out indicates planning, sophistication, or professionalism.		
☐ 4.421(a)(9): The crime involved an attempted or actual taking or damage of great monetary value.		
☐ 4.421(a)(10): The crime involved a large quantity of contraband.		
☐ 4.421(a)(11): The defendant took advantage of a position of trust or confidence to commit the offense.		
☐ 4.421(a)(12): The crime constitutes a hate crime under § 422.55 and no hate crime enhancements under § 422.75 are imposed and the crime is not subject to sentencing under § 1170.8.		
☐ 4.421(b)(1): The defendant has engaged in violent conduct that indicates a serious danger to society.		
☐ 4.421(b)(2): The defendant's prior convictions as an adult or sustained petitions in juvenile delinquency proceedings are numerous or of increasing seriousness.		
☐ 4.421(b)(3): The defendant has served a prior term in prison or county jail under § 1170(h).		
☐ 4.421(b)(4): The defendant was on probation, mandatory supervision, postrelease community supervision, or parole when the crime was committed.		
☐ 4.421(b)(5): The defendant's prior performance on probation, mandatory supervision, postrelease community supervision, or parole was unsatisfactory.		

Aggravating Factors per Statute (Code Section and Description)	Count (If applicable)	Initials
☐		
☐		
☐		

5. MAXIMUM SENTENCE: I understand the maximum sentence for the charges to which I am pleading guilty or no contest is:

				Initials
year(s)	months	☐ State Prison	☐ County Jail P.C. § 1170(h)	

6. **STIPULATED SENTENCE: I enter this plea on the following conditions:**

Initials

☐ (ISS): I will receive felony probation with up to one year in the county jail as a condition of probation. If I violate probation, the court can sentence me up to the maximum sentence under the law.	
☐ (ESS): The court will impose and suspend the execution of ____ year(s) and ____ months in ☐ state prison or ☐ county jail and place me on felony probation with up to one year in the county jail as a condition of probation. If I violate probation and am not reinstated on probation, I will serve the suspended term. A state prison sentence will be followed by a minimum period of parole or postrelease supervision.	
☐ (Split Sentence P.C. § 1170(h)): I will receive a total term of _____, consisting of _____ to be served in the county jail, followed by a term of _____ to be served on mandatory supervision.	
☐ (Straight Sentence P.C. § 1170(h)): I will receive ____ year(s) and ____ months in the county jail.	
☐ (Prison Sentence): I will receive ____ year(s) and ____ months in state prison, followed by a minimum period of parole or postrelease community supervision.	
☐ (Other): _____ _____ _____ _____	

7. **OPEN PLEA OR OPEN WITH LIMITATIONS: I enter this plea with the following understanding:**

Initials

☐ (Probation Open with Prison Maximum): The court will impose no more than ____ year(s) and ____ months in state prison, followed by a minimum period of parole or postrelease supervision. The court has discretion to grant me felony probation.	
☐ (Probation Open with County Jail P.C. § 1170(h) Maximum): The court will impose no more than ____ year(s) and ____ months in county jail per § 1170(h). The court has discretion to impose a split sentence per P.C. § 1170(h) or grant me felony probation.	
☐ (Prison Maximum/Minimum with No Probation): The court will impose no more than ____ year(s) and ____ months, and no less than ____ year(s) and ____ months, in the state prison, followed by a minimum period of parole or postrelease supervision. The court will not grant me felony probation.	
☐ (County Jail P.C. § 1170(h) Maximum/Minimum with No Probation): The court will impose no more than ____ year(s) and ____ months, and no less than ____ year(s) and ____ months, in the county jail. The court will not impose a split sentence or grant me felony probation.	
☐ (Open): There are no promises or agreements about what sentence the court will impose, and the court may impose any sentence up to the legal maximum.	
☐ (Other): _____ _____ _____ _____	

8. **FACTUAL BASIS:** I agree there is a factual basis for the plea and that I am responsible for committing each element of each crime to which I plead guilty or no contest and of each enhancement and allegation I admit. I agree that the following constitutes a sufficient factual basis:

	Initials
☐ Police Report (<i>agency and report number</i>):	
☐ Preliminary Hearing Transcript.	
☐ Court Documents (<i>describe</i>):	
☐ Other (<i>describe</i>): _____ _____ _____ _____	

9. **SPECIFIED WAIVERS:**

	Initials
☐ (Appeal Waiver): I hereby waive and give up all rights regarding state and federal writs and appeals. This includes, but is not limited to, the right to appeal my conviction, the judgment and any other orders previously issued by this court. I agree not to file any collateral attacks on my conviction or sentence at any time in the future. I further agree not to ask the court to withdraw my plea for any reason after it is entered.	
☐ (Appeal Waiver for Non-Stipulated Sentence): I hereby waive and give up all rights to appeal, writ, litigate, challenge or contest any order issued by this court made <i>before</i> the date of this plea. I waive and give up the same rights concerning all contents of this waiver of rights form. I further agree not to ask the court to withdraw my plea for any reason after it is entered.	
☐ (Time for Sentencing Hearing): I waive and give up my right to be sentenced within 20 judicial days of entering my plea.	
☐ (Harvey Waiver): I agree that the sentencing judge may consider the entire factual background of the case, including any unfilled, dismissed, or stricken charges or allegations or cases when granting probation, ordering restitution, or imposing sentence.	
☐ (Arbuckle Waiver): I give up my right to be sentenced by the judge who accepts my plea.	
☐ (Cruz Waiver): I understand that if, without good cause, I fail to show up for court at the time and date set for sentencing or, if I commit a new crime between now and the sentencing date, my plea will remain and the judge who sentences me will <i>not</i> be bound by any sentencing agreements or limitations and may sentence me up to the maximum permitted by law.	
☐ (Enhancements): I understand that the application of P.C. § 1385(c) may result in some or all of my enhancements being dismissed, but to receive the benefit of this plea agreement, I am knowingly, voluntarily, and intelligently waiving the application of P.C. § 1385(c) to my case and understand that the court may impose punishment for any and all enhancements to which I have admitted.	
☐ (Lower Term Presumption): I understand that the application of P.C. § 1170(b)(6) may require the court to impose the lower term on any count to which I am pleading guilty or no contest to, but to receive the benefit of this plea agreement, I am knowingly, voluntarily, and intelligently waiving the application of P.C. § 1170(b)(6) to my case and understand that the court will not presume that the lower term should be imposed.	

10. CONSTITUTIONAL AND STATUTORY RIGHTS: I understand that as to all charges, allegations, and enhancements filed against me in this case, I have the following constitutional rights which I now give up in order to enter my plea of guilty or no contest:

	Initials
☐ I understand and give up my right to a speedy and public trial by jury or court;	
☐ I understand and give up my right to confront the witnesses against me;	
☐ I understand and give up my right to present evidence on my own behalf and have witnesses compelled to testify on my behalf; and	
☐ I understand and give up my right to remain silent.	

11. CONSEQUENCES OF THE PLEA:

	Initials
☐ (Immigration Consequences): If I am not a citizen of the United States, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.	
☐ (Plea Constitutes Violation): I understand if I am on probation, mandatory supervision, postrelease community supervision, or parole in any other case, my plea of guilty or no contest in this case will be a violation in that case.	
☐ (P.C. § 296): I understand I must provide identification samples for law enforcement analysis.	
☐ (State Restitution Fine): I understand I will be ordered to pay a state restitution fine based on the date of the offense, not more than \$10,000, and may have the same amount suspended.	
☐ (Victim Restitution): I understand I will be ordered to pay full restitution to any victim(s) for their losses. I understand that I have a right to a court hearing to challenge a restitution request.	
☐ (Firearm/Firearm Parts/Ammunition/Body Armor Prohibition): I understand I am prohibited from possessing firearms, firearm parts, ammunition, and body armor for life.	
☐ (Priors): I understand I am pleading guilty or no contest to a crime which can be used against me, if convicted of a crime in the future, to increase my punishment, prevent me from receiving a grant of probation, or require that a sentence be served in state prison.	
☐ (Strike Consequences): I understand I am pleading to one or more serious or violent felonies and each qualifies as a 'strike,' and I am aware of the consequences.	
☐ (Registration): I understand I will be required to register with the local police agency or sheriff's department in the city or county where I reside as a/an: ☐ Arson offender ☐ Gang member ☐ Sex offender	
☐ (SVPA/Tellez): I understand that at the end of my sentence for this offense, I may be subject to screening by the State Department of State Hospitals to determine whether I qualify for trial as a sexually violent predator, which could result in an indefinite commitment to a secure medical facility.	
☐ My attorney discussed the possibility of a disposition involving a plea to a non-sexually violent offense, but such a disposition could not be reached.	

12. SPECIFIED ADVISEMENTS:

Initials

☐ **(V.C. § 23593 – Watson Advisement):** I understand that if I am charged with violating Vehicle Code section 23103, as specified in Vehicle Code section 23103.5, or Vehicle Code section 23152 or 23153, the following 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.

☐ **(H.S. § 11369 – Hard Drug Advisement):** I understand that if I am charged with violating Health and Safety Code section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, or 11379.6 involving a hard drug, the following warning applies:

You are hereby advised that it is extremely dangerous and deadly to human life to illicitly manufacture, distribute, sell, furnish, administer, or give away any drugs in any form, including real or counterfeit drugs or pills. You can kill someone by engaging in this conduct. All drugs and counterfeit pills are dangerous to human life. The substances alone, or mixed, kill human beings in very small doses. If you illicitly manufacture, distribute, sell, furnish, administer, or give away any real or counterfeit drugs or pills, and that conduct results in the death of a human being, you could be charged with homicide, up to and including the crime of murder, within the meaning of section 187 of the Penal Code.

13. DEFENDANT'S STATEMENT:

I offer my plea of guilty or no contest freely and voluntarily and of my own accord. No one has made any threats; used any force against me, my family or loved ones; or made any promises, except as listed in this form, in order to convince me to plead guilty or no contest. I further understand that a plea of no contest is the same as a plea of guilty for all purposes.

I have read, or have had read to me, this form and have initialed each of the items that applies to my case. 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, enhancements, and special allegations have been explained to me. I understand each of the rights outlined above and I give up each of them to enter my plea.

Date: _____ Signed: _____ DOB: _____
(Defendant)

14. 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; any enhancements, allegations, circumstances in aggravation, or prior convictions; possible defenses; and consequences of this plea with the defendant. **I have asked the defendant about their 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: _____ Signed: _____
(Attorney)

15. INTERPRETER'S STATEMENT:

I, _____, the interpreter in this proceeding, having been duly sworn, certify that I truly translated the entire contents of this form for the defendant in the following language: _____ . The defendant stated that they understood the contents of the form, and then initialed and signed the form.

Date: _____ Signed: _____
(Interpreter)

16. PROSECUTOR'S STATEMENT:

I have reviewed this form and it correctly sets forth the terms of the defendant's plea and the defendant has initialed the appropriate boxes. The maximum sentence is correctly calculated and stated on this form. The specified waivers, consequences, and advisements are correctly stated on this form. I agree there is a factual basis for the plea and admissions.

Date: _____ Signed: _____
(Prosecutor)

17. COURT'S FINDING AND ORDER:

The court, having questioned the defendant and the defendant's attorney concerning the defendant's plea of guilty or no contest and admissions to enhancements or special allegations, if any, finds that: the defendant knowingly, voluntarily, and intelligently waives their constitutional and statutory rights; the defendant's plea, admissions, and waiver of rights 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 the same. The court accepts the defendant's plea and admissions, and the defendant is hereby convicted.

Date: _____ Signed: _____
(Judge)