

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF Linn

DEC 14 2010

AT _____ O'CLOCK _____ M

STATE OF OREGON,)
)
 Plaintiff,)
)
 v.)
)
 RAND OVERTON)
 Defendant.)

Case No. 10 BY 660

Citation No. _____

PETITION TO PLEAD GUILTY/
NO CONTEST/CONDITIONAL
GUILTY PLEA

I am the defendant in this case, and my initials and signature below indicate that I have read or have had read to me, understand, and affirm all of the following:

1. My full true name is RAND OVERTON, but I also am known as _____.
2. I am 55 years old. I have gone to school through SD. Within the past 2 days, I (have taken) (have not taken) alcohol, medication, or a drug (whether prescribed for me, over-the-counter, or illegal) that could affect my ability to make decisions. My ability to make decisions is not affected by injury, illness, or disability.
3. My lawyer's name is BROCK M. SCUMM I choose not to have a lawyer (see Waiver of Counsel).
4. I have told my lawyer everything I know about the charge(s) against me. My lawyer has talked with me about the charge(s), possible defenses, and legal challenges I may have in this case. I am satisfied with the advice and help my lawyer gave me.
5. I know I have the following rights at trial: (1) to have a jury trial or, if I choose not to have a jury trial, the right to have a trial by a judge; (2) to see, hear, and question all people who testify against me; (3) to remain silent about all facts of the case; (4) to call witnesses and enter evidence; (5) to testify; (6) to have the jury told, if I do not testify, that it cannot hold that decision against me; and (7) to require the district attorney to prove my guilt and all sentence enhancement facts to a jury or court beyond a reasonable doubt.
6. I understand that I give up all of the rights listed in paragraph #5 above when I plead either "Guilty" or "No Contest." I understand that I also give up: (1) any defenses I may have to the charge(s); (2) objections to the consideration of evidence concerning my guilt; and (3) challenges to the accusatory instrument.
7. I understand that a plea of "Guilty" or "No Contest" will result in a final conviction for the charge(s) listed in paragraph #8 below. I understand that if I plead "Guilty" or "No Contest," the judge may impose the same punishment as if I pleaded "Not Guilty," had a trial, and was convicted.
8. I want to plead:

Guilty No Contest
Count # 1: Official Misdemeanor, Violation / Misdemeanor / Felony, Grid Block: _____,
Presumptive Sentence: _____, Post-Prison Supervision: _____, Maximum Sentence: 1YR,
Maximum Fine: \$6250, Minimum Sentence: _____, Mandatory Fine: _____.

Guilty No Contest
Count # 3: Official Misdemeanor, Violation / Misdemeanor / Felony, Grid Block: _____,
Presumptive Sentence: _____, Post-Prison Supervision: _____, Maximum Sentence: 1YR,
Maximum Fine: \$6250, Minimum Sentence: _____, Mandatory Fine: _____.

Guilty No Contest
Count # _____: _____, Violation / Misdemeanor / Felony, Grid Block: _____,
Presumptive Sentence: _____, Post-Prison Supervision: _____, Maximum Sentence: _____,
Maximum Fine: _____, Minimum Sentence: _____, Mandatory Fine: _____.

Initials RO

Guilty No Contest

Count # _____, Violation / Misdemeanor / Felony, Grid Block: _____,
Presumptive Sentence: _____, Post-Prison Supervision: _____, Maximum Sentence: _____,
Maximum Fine: _____, Minimum Sentence: _____, Mandatory Fine: _____.

See attached sheet for additional counts.

If there are multiple charges or I am already serving a sentence, I understand that the judge may order me to serve the sentences at the same time (concurrently) or one after the other (consecutively) unless prohibited by ORS 137.123(5).

9. I agree that my criminal history is accurately reflected on the attached sheet provided by the district attorney. I have noted any convictions with which I disagree on that form. I understand that the judge may use this information to determine and/or enhance my sentence.

10. I understand that, in addition to other fines, the judge may order me to pay restitution or a compensatory fine to the victim totaling \$ 0, or an amount to be determined by the judge.

11. I understand that any sentence imposed in this case can be added to any other prison or jail sentence that I have not finished serving.

12. I understand that the conviction(s) for these charges will result in special sentencing provisions marked on Attachment #1.

13. In addition to the sentence imposed, I understand that there may be other significant consequences if I enter a "Guilty" or "No Contest" plea, including, but not limited to:

- Deportation/removal, exclusion from future entry into the United States, or denial of naturalization, if I am not a United States citizen;
- Revocation of my probation or parole, which may require me to serve any sentence(s) imposed or executed in any such case(s) consecutively to the sentence that is imposed in this case;
- Registration and reporting as a sex offender;
- Providing a DNA sample;
- Suspension, revocation, or permanent loss of my driving privileges (see Attachment #1);
- Test for HIV or other communicable diseases;
- Prohibition from leaving the state without first requesting transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision;
- Forfeiture of any firearm or deadly weapon that was possessed, used, or available for use during the crime;
- Loss of my right to possess, receive, ship, or transport any firearm or firearm ammunition if I am convicted of an offense involving domestic violence, as defined by ORS 135.230. This conviction may negatively affect my ability to be employed in law enforcement or serve in the Armed Forces of the United States.

14. Other than what is contained in this plea petition, I affirm that no one has promised me anything to enter my plea of "Guilty" or "No Contest." I also affirm that no one has threatened me or forced me to enter this plea.

15. I understand that the district attorney agrees to make the following recommendation to the court about my sentence and/or other pending charges: See Attached Exhibit A.

I understand that the court is not bound by any plea agreement I have made with the district attorney unless made pursuant to ORS 135.432(2) (court approved plea agreement). This recommendation (is) (is not) made pursuant to ORS 135.432(2). This recommendation (is) (is not) made pursuant to ORS 135.405(5) (early disposition program). I understand that if this agreement includes recommendations to be made at

sentencing, these recommendations may depend upon my true criminal history. I understand that the district attorney will not be bound by this agreement if I willfully fail to appear for sentencing. *I acknowledge that everything that has been agreed to is included in this document or incorporated by reference.*

16. I understand that I may be asked to relate the circumstances surrounding the criminal activity that is the subject of this plea to a pre-sentence investigation writer.

17. I PLEAD "GUILTY" because in LINCOLN County, Oregon, I did the following: between 5/22 and November 18, 2009, on 2 separate occasions I unlawfully and with intent to obtain a benefit, to-wit: sexual gratification, knowingly performed an act constituting an unauthorized exercise in official duties, contrary to statute and against the peace and dignity of the state of Oregon.

18. I PLEAD "NO CONTEST" because I understand that a jury or judge could find me guilty of the charge(s). I prefer to accept the plea offer or plead to the charge.

19. I am entering a **CONDITIONAL PLEA** pursuant to ORS 135.335(3) and reserve for appeal the following pretrial rulings: _____

20. **APPEAL RIGHTS:** Unless this is a conditional plea, I understand the right to appeal my conviction is limited and that I may appeal only if I can make a colorable showing that the sentence exceeds the maximum allowed by law or is unconstitutionally cruel and unusual. If I am financially eligible for court appointed counsel, I may apply to the court to appoint an attorney to represent me on appeal, to request a transcript of this proceeding, and to have my trial attorney give the Office of Public Defense Services the information necessary to pursue my appeal. I know that I must serve and file the notice of appeal not later than **30 days** after the judgment of conviction is entered in the register, and I may ask my attorney to help me do this. Copies of the notice of appeal must be served on the district attorney, the trial court transcript coordinator (if a transcript is required), and the clerk of the trial court. The original notice and proof of its service must be filed with the clerk of the court to which I am appealing.

21. I agree that if a court later vacates or sets aside my plea of "Guilty" or "No Contest" in this case, the court will reinstate any charge(s) that were dismissed in return for my plea and the district attorney no longer will be bound by any promises made to me in exchange for my plea.

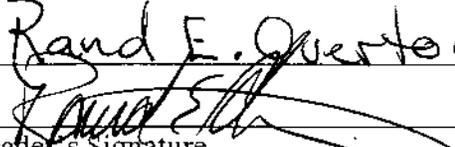
22. I am signing this plea petition and entering this plea voluntarily, intelligently, and knowingly with full understanding of all matters set forth in the charging instrument and in this petition.

23. I declare that:

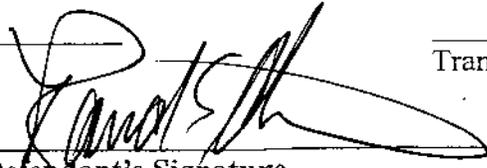
I can read, speak, and understand English.

This form was read to me by (print name): _____

13 Dec 10
Date

Rand E. Overton

Reader's Signature

This form was sight translated to me by (print name): _____

Date  Translator's Signature

Defendant's Signature

13 Dec 10
Date

257 NE Golf Course DR., Newport, OR 97365
Mailing Address City State Zip

Probation

Defendant is sentenced to Bench Probation for a period of 24 month(s).

Defendant is subject to the following Conditions of Probation:

Defendant shall:

- VIOLATE NO LAW. The defendant is to report to the court IN WRITING every citation or arrest on any new crime or major traffic offense within 10 days after citation or arrest.
- Keep the Trial Court Administrator for this County advised of his/her current mailing and residential addresses, and throughout the probationary period.
- REFRAIN FROM KNOWINGLY HAVING ANY CONTACT with the victim SHELIA SNYDER, RUBY PEDERSEN OR KIM LANE BRITHAUER, THEIR RESIDENCES, OR PLACES OF EMPLOYMENT.
- Perform 40 hour(s) of community service as set forth and described in the Lincoln County community service packet. Community service shall be completed by 12/14/2011. It is the responsibility of Defendant to provide proof of completion to the court by the scheduled date. Failure to complete community service or provide such proof by the scheduled date is a violation of probation.
- Provide a written plan for completion of community service to the Court within thirty (30) days.
- Submit a letter of apology to the victims, to be received by the Department of Justice for review within fourteen (14) days of sentencing.
- Continue to comply with the mental health treatment he is currently undergoing. The defendant shall sign any waivers required for release of materials necessary for the Court to effectively administer probation. The defendant shall secure the agreement of the mental health professional who is administering treatment and/or the Oregon State Bar and/or the Oregon Attorney Assistance Program to notify the Court if the defendant fails to comply with the recommended mental health treatment.
- Not practice law as an attorney for any federal, state, local, or tribal government, including, but not limited to, criminal prosecution and child support enforcement, during the term of probation.
- All affirmative obligations of probation, including payment of financial obligations, community service, and mental health evaluation to be complete within one (1) year. This term does not limit any ongoing treatment obligations imposed that may extend beyond one (1) year.

Jail as a Condition of Probation

Be confined to the jail for 15 day(s). Defendant may receive credit for time served. The defendant may be considered by the supervisory authority for any form of alternative sanction authorized by ORS 137.750 - 137.752, and defendant shall pay any required per diem fees.

Monetary Terms

Defendant shall be required to pay the following amounts on this count:

Fees and Assessments: Payable to the Court.

Type	Amount	Modifier	Reduction	Actual Owed
Bench Probation Assessment	\$100.00			\$100.00
County Jail Asmt	\$54.00			\$54.00
Fine	\$500.00			\$500.00
Fine	\$1,500.00	Suspended	\$1,500.00	
LE Medical Asmt	\$5.00			\$5.00
Offense Surcharge	\$35.00			\$35.00
SC Facility Asmt	\$7.00			\$7.00
Unitary Assessment	\$67.00			\$67.00
Total	\$2,268.00		\$1,500.00	\$768.00

\$1,500.00 FINE SUSPENDED UPON SUCCESSFUL COMPLETION OF PROBATION

Count 3: Official Misconduct in the First Degree

Count number 3, Official Misconduct in the First Degree, ORS 162.415, a Class A Misdemeanor, committed on or about 06/03/2009.

Conviction is based upon a plea of Guilty on 12/14/2010.

Incarceration--Suspended Execution

Defendant is sentenced to the custody of Jail for a period of 180 day(s); however, the execution of 165 day(s) of this incarceration is hereby suspended and defendant is sentenced to probation. If defendant violates any of the following terms or conditions of probation, the court may execute this suspended sentence.

Probation

Defendant is sentenced to Bench Probation for a period of 24 month(s).

Defendant is subject to the following Conditions of Probation:

Defendant shall:

- VIOLATE NO LAW. The defendant is to report to the court IN WRITING every citation or arrest on any new crime or major traffic offense within 10 days after citation or arrest.
- Keep the Trial Court Administrator for this County advised of his/her current mailing and residential addresses, and throughout the probationary period.
- REFRAIN FROM KNOWINGLY HAVING ANY CONTACT with the victim SHELIA SNYDER, RUBY PEDERSEN OR KIM LANE BRITHAUER, THEIR RESIDENCES, OR PLACES OF EMPLOYMENT.
- Perform 40 hour(s) of community service as set forth and described in the Lincoln County community service packet. Community service shall be completed by 12/14/2011. It is the responsibility of Defendant to provide proof of completion to the court by the scheduled date. Failure to complete community service or provide such proof by the scheduled date is a violation of probation.
- Provide a written plan for completion of community service to the Court within thirty (30) days.
- Submit a letter of apology to the victims, to be received by the Department of Justice for review within fourteen (14) days of sentencing.
- Continue to comply with the mental health treatment he is currently undergoing. The defendant shall sign any waivers required for release of materials necessary for the Court to effectively administer probation. The defendant shall secure the agreement of the mental health professional who is administering treatment and/or the Oregon State Bar and/or the Oregon Attorney Assistance Program to notify the Court if the defendant fails to comply with the recommended mental health treatment.
- Not practice law as an attorney for any federal, state, local, or tribal government, including, but not limited to, criminal prosecution and child support enforcement, during the term of probation.
- All affirmative obligations of probation, including payment of financial obligations, community service, and mental health evaluation to be complete within one (1) year. This term does not limit any ongoing treatment obligations imposed that may extend beyond one (1) year.

Jail as a Condition of Probation

Be confined to the jail for 15 day(s). Defendant may receive credit for time served. The defendant may be considered by the supervisory authority for any form of alternative sanction authorized by ORS 137.750 - 137.752, and defendant shall pay any required per diem fees.

For the reasons stated on the record this sentence shall be consecutive to sentence(s) imposed herein on Count 1.

Monetary Terms

Defendant shall be required to pay the following amounts on this count:

Fees and Assessments: Payable to the Court.

Type	Amount	Modifier	Reduction	Actual Owed
County Jail Asmt	\$54.00			\$54.00
Fine	\$2,000.00	Suspended	\$2,000.00	
LE Medical Asmt	\$5.00			\$5.00
Offense Surcharge	\$35.00			\$35.00
SC Facility Asmt	\$7.00			\$7.00
Unitary Assessment	\$67.00			\$67.00
Total	\$2,168.00		\$2,000.00	\$168.00

\$2,000.00 FINE SUSPENDED UPON SUCCESSFULL COMPLETION OF PROBATION

COUNTS DISPOSED WITH NO CONVICTION

Count # 2, Official Misconduct in the First Degree, is Judgment Dismissal Criminal.

Count # 4, Official Misconduct in the First Degree, is Judgment Dismissal Criminal.

Count # 5, Attempt to Commit a Class C or an Unclassified Felony - Coercion, is Judgment Dismissal Criminal.

Count # 6, Attempt to Commit a Class C or an Unclassified Felony - Coercion, is Judgment Dismissal Criminal.

Count # 7, Official Misconduct in the First Degree, is Judgment Dismissal Criminal.

Count # 8, Official Misconduct in the First Degree, is Judgment Dismissal Criminal.

If convicted of a felony or a crime involving domestic violence, you may lose the right to buy, sell, transport, receive, or possess a firearm, ammunition, or other weapons in both personal and professional endeavors pursuant to ORS 166.250, ORS 166.291, ORS 166.300, and/or 18 USC 922(g).

MONEY AWARD

Judgment Creditor: State of Oregon

Judgment Debtor: Rand Eugene Overton

Defendant is ordered to pay the following monetary totals, including restitution or compensatory fine amounts stated above, which are listed in the Money Award portion of this document:

Type	Actual Owed
Bench Probation Assessment	\$100.00
County Jail Asmt	\$108.00
Fine	\$500.00
LE Medical Asmt	\$10.00
Offense Surcharge	\$70.00
SC Facility Asmt	\$14.00
Unitary Assessment	\$134.00
Total	\$936.00

Money Award total does not include reduced amounts of \$3,500.00 as stated in the individual counts.

The court may increase the total amount owed by adding collection fees and other assessments. These fees and assessments may be added without further notice to the defendant and without further court order.

Subject to amendment of a judgment under ORS 137.107, money required to be paid as a condition of probation remains payable after revocation of probation only if the amount is included in the money award portion of the judgment document, even if the amount is referred to in other parts of the judgment document.

Any financial obligation(s) for conviction(s) of a violation, which is included in the Money Award, creates a judgment lien.

Payment Schedule

Payment of the fines, fees, assessments, and/or attorney's fees noted in this and any subsequent Money Award shall be made as follows:

All financial obligations shall be paid in full on 12/14/2011.

Payable to:

**Office of Trial Court Administrator
225 W Olive St., Room 202, PO Box 100
Newport, OR 97365**

Dated the 14 day of December, 2010

Signed:  _____
Frank L. Bearden

PC/EC: DA JF LATTY
 JAM CCC CJC
 W/C S DMV