

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____**

STATE OF OREGON,)
)
 Plaintiff,)
)
 v.)
)
 _____,)
 Defendant.)

Case No. _____
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 _____, but I also am known as _____.
2. I am _____ years old. I have gone to school through _____. 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 _____. 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 # _____: _____, Violation / Misdemeanor / Felony, Grid Block: _____,
 Presumptive Sentence: _____, Post-Prison Supervision: _____, Maximum Sentence: _____,
 Maximum Fine: _____, 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: _____.

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

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 \$ _____, 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: _____

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 _____ County, Oregon, I did the following: _____

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): _____

Date

Reader's Signature

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

Date

Translator's Signature

Date

Defendant's Signature

Mailing Address

City

State

Zip

Additional Counts

(continued from paragraph #8 on Petition to Plead Guilty/No Contest)

I want to plead:

Guilty No Contest

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

Guilty No Contest

Count # _____: _____, Violation / Misdemeanor / Felony, Grid Block: _____,
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Guilty No Contest

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Presumptive Sentence: _____, Post-Prison Supervision: _____, Maximum Sentence: _____,
Maximum Fine: _____, Minimum Sentence: _____, Mandatory Fine: _____.

Guilty No Contest

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Maximum Fine: _____, 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: _____.

Attachment #1
Special Sentencing Provisions

I understand that the conviction(s) in this case will subject me to the special sentencing provisions identified below:

Count # _____ ORS 137.123(3) requires a consecutive sentence for conviction of any crime committed while incarcerated;

Count # _____ ORS 137.635 (Measure 4) requires a determinate sentence to be served without any form of reduction or early release;

Count # _____ ORS 137.700 (Measure 11) requires a minimum term of imprisonment of _____ months without any form of early release;

Count # _____ ORS 137.719 requires imposition of a sentence of life imprisonment without the possibility of release or parole unless the court makes findings to support a lesser term;

Count # _____ ORS 137.765 requires post-prison supervision for the rest of my life if I am found to be a sexually violent dangerous offender;

Count # _____ ORS 144.103 requires a term of post-prison supervision equal to the maximum statutory indeterminate sentence for the crime, minus any time served;

Count # _____ ORS 161.610 (use or threatened use of a firearm) requires a mandatory minimum sentence of months/years;

Count # _____ ORS 161.725 allows the court to increase each sentence to a maximum of 30 years with a minimum term of imprisonment of _____ months if I am found to be a dangerous offender;

Count # _____ ORS 163.105 requires imposition of a minimum sentence of life imprisonment with a 30-year minimum term;

Count # _____ ORS 163.115(5) requires imposition of a minimum sentence of life imprisonment with a 25-year minimum term;

Count # _____ ORS 163.165(2) requires imposition of a term of imprisonment;

Count # _____ ORS 163.208(3) requires imposition of a jail term of at least 7 or 14 days;

Count # _____ ORS 813.020(2) requires imposition of a jail term of at least 48 hours;

Count # _____ Suspension, revocation, permanent revocation of my driving privileges for _____ months/years;

Count # _____ Minimum fine of \$ _____;

Count # _____ Other: _____

Attachment #2
Certificate of Prosecuting Attorney

I am the prosecuting attorney in this proceeding and I certify that:

- Subject to the court's approval, this petition represents the complete agreement between the parties.
- The defendant is charged with a crime that is defined as a violent felony pursuant to ORS 135.406 and has a named victim. I affirm the following:
 - The victim has not requested notification or consultation regarding plea discussions.
 - The District Attorney's Office has notified the victim of the terms of the plea agreement.
 - The victim has not responded.
 - The victim (agrees) (disagrees) with the terms of the agreement for the following reasons:

- The victim has been informed of the prospective date of sentencing. I affirm the following:
 - The victim expressed a desire to attend the sentencing.
 - The prospective date of sentencing is convenient for the victim.
 - The victim does not wish to attend the sentencing.

Date

Attorney's Signature

OSB No.

Case No. _____

ADDENDUM "A" TO PLEA PETITION

WAIVER OF JURY AND PROOF BEYOND A REASONABLE DOUBT OF AGGRAVATING FACTORS AND CONSECUTIVE SENTENCE FACTS

AGGRAVATING FACTORS

I understand that my case involves one or more allegations of fact which, if proved, may increase the severity of my sentence. These facts are called "aggravating factors" for sentencing purposes. I understand that I have a right to have a jury decide whether the State can prove the existence of aggravating sentence factors beyond a reasonable doubt. I understand that if I admit that aggravating factors exist, I will give up my right to have a jury decide whether there is proof beyond a reasonable doubt that aggravating factors exist.

I give up my right to have a jury trial on aggravating factors by admitting the crime or crimes to which I am pleading guilty or no contest in the attached plea petition involve the following fact which I admit to be true:

- There was deliberate cruelty to the victim;
- The victim was vulnerable;
- There was a threat of actual violence made to the victim;
- I have persistently been involved in similar crimes unrelated to the current crime;
- This crime involved a violation of public or professional responsibility;
- There were multiple victims or incidents unrelated to the current crime;
- This crime was part of an organized criminal operation;
- The victim received permanent injury;
- The harm or loss resulting from this crime was significantly greater than typical for this crime;
- The crime was motivated entirely or in part by the victim's race, color, national origin or sexual orientation;
- Other: _____

CONSECUTIVE SENTENCE FACTS

I understand that, if I am sentenced for one or more crimes, sentences for different crimes may be served at the same time (concurrently) or be served one after the other (consecutively). If one or more sentence is served consecutively, my sentences will be longer than if those sentences were served at the same time.

I understand that my case involves one or more allegations of fact which, if proved, could cause one or more of my sentences to be served consecutively. I understand that I have a right to have a jury decide whether the State can prove the existence of consecutive sentencing facts are true, I will give up my right to have a jury decide whether there is proof beyond a reasonable doubt that consecutive sentencing facts exist.

I give up my right to have a jury trial on consecutive sentence facts by admitting the crime or crimes to which I am pleading guilty or no contest involve the following facts which I admit to be true:

- The crimes in this case do not arise from the same continuous and uninterrupted course of conduct;
- I have been previously sentenced by another court within the United States to a sentence which I have not yet completed;
- I am being sentenced for a crime committed while I was incarcerated, after sentencing for the commission of a previous crime;
- I am pleading guilty or no contest to more than one criminal offense arising out of a continuous and uninterrupted course of conduct and
 - The criminal offense (for which a consecutive sentence is contemplated) was not merely an incidental violation of a separate statutory provision in the course of the commission of a more serious crime, but rather was an indication of defendant's willingness to commit more than one criminal offense; or
 - The criminal offense (for which a consecutive sentence is contemplated) caused, or created a risk of causing, greater or qualitatively different loss, injury or harm to the victim than was caused or threatened by the other offense or offenses committed during a continuous and uninterrupted course of conduct; or
 - The criminal offense (for which a consecutive sentence is contemplated) caused or created a risk of causing loss, injury or harm to a different victim than was caused or threatened by the other offense or offenses committed during a continuous and uninterrupted course of conduct.

Defendant

Date

Defense Attorney