

THE STATE OF TEXAS

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IN THE 454TH JUDICIAL

VS.

DISTRICT COURT OF

MEDINA COUNTY, TEXAS

PLEA OF NOLO CONTENDERE/GUILTY, ADMONISHMENTS, VOLUNTARY STATEMENTS, WAIVERS, STIPULATION & JUDICIAL CONFESSION
(Defendant Should Initial Appropriate Blanks)

I am the Defendant in the above entitled and numbered cause. I swear or affirm that the information in this document is true and correct, and that my testimony will be the truth, the whole truth and nothing but the truth.

I. ADMONISHMENTS, Art. 26.13, C.C.P.: You are hereby admonished in writing:

1. You are charged with the felony offense of: _____

2. The full plea bargain agreement in this case is: **See Page 6**

3. **Punishment Range:** The range of punishment for the charged and/or plea-bargained offense is:

_____ **HABITUAL OFFENDER:** a term of life or any term of not more than 99 years or less than 25 years in the Institutional Division of the Texas Department of Criminal Justice.

_____ **FIRST DEGREE ENHANCED:** a term of life or any term of not more than 99 years or less than 15 years in the Institutional Division of the Texas Department of Criminal Justice and, in addition, a fine not to exceed \$10,000.

_____ **FIRST DEGREE FELONY:** a term of life or any term of not more than 99 years or less than 5 years in the Institutional Division of the Texas Department of Criminal Justice and, in addition, a fine not to exceed \$10,000.

_____ **SECOND DEGREE FELONY:** a term of not more than 20 years or less than 2 years in the Institutional Division of the Texas Department of Criminal Justice and, in addition, a fine not to exceed \$10,000.

_____ **THIRD DEGREE FELONY:** a term of not more than 10 years or less than 2 years in the Institutional Division of the Texas Department of Criminal Justice and, in addition, a fine not to exceed \$10,000.

_____ **STATE JAIL FELONY:** a term of confinement in a State Jail for not less than 180 days or more than 2 years and, in addition, a fine not to exceed \$10,000; or, if punished under Sec. 12.44 (a), Penal Code, a term of confinement in a county jail not to exceed one year.

_____ **CLASS A MISDEMEANOR:** Confinement in jail for a term not to exceed one year; a fine not to exceed \$4,000; or both such fine and confinement.

_____ **CLASS B MISDEMEANOR:** Confinement in jail for a term not to exceed 180 days; a fine not to exceed \$2,000; or both such fine and confinement.

_____ **Other:** _____

4. Plea Bargains: The prosecutor's punishment recommendation is not binding on the Court. If a plea bargain agreement exists, and the Court rejects that agreement, you will be permitted to withdraw your plea if you desire.

5. Negotiated Plea & Appeal: If the punishment assessed does not exceed the punishment recommended by the prosecutor and agreed to by you and your attorney, you must receive the Court's permission before you may appeal any matter except matters raised by written motion(s) filed prior to trial.

6. Non-negotiated Plea & Appeal: If there is no plea bargain agreement, then all non-jurisdictional defects are waived, and you have **NO** right to appeal except for jurisdictional matters.

7. Citizenship: If you are not a citizen of the United States of America, a plea of Guilty or *nolo contendere* may result in your deportation, your exclusion from admission to this country, or your denial of naturalization under federal law.

8. Deferred Adjudication: If the Court grants you deferred adjudication community supervision, on violation of any imposed condition, you may be arrested and detained. You will then be entitled to a hearing limited to the determination by the Court of whether to proceed with an adjudication of guilt. After adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of community supervision and your right to appeal continue as if adjudication of guilt had not been deferred. Upon adjudication of your guilt, the Court may assess your punishment at any term of years and any fine within the range of punishment. If the Court defers an adjudication of guilt and places you on community supervision, you may have the right to petition the Court for an order of non-disclosure after successfully completing community supervision, unless you are ineligible due to the nature of this offense or your criminal history.

9. Sexual Offender Registration Requirements: If you receive community supervision, a prison or jail term, or deferred adjudication for an offense described in Chapter 62 of the Texas Code of Criminal Procedure, you must meet all the registration requirements set out in that chapter. Failure to properly register is a separate criminal offense. By affixing your signatures to this document, you and your attorney are acknowledging that your attorney has advised you about and you are aware of any applicable registration requirements under Chapter 62.

10. Article 38.50 Code of Criminal Procedure: You are hereby notified that if you are charged with an offense under Chapter 49 of the Texas Penal Code, any toxicological evidence collected pursuant to an investigation or a prosecution will be retained for the duration of your sentence or community supervision. You may also waive the retention of any toxicological evidence collected.

11. Notice Of Intent To Forfeit Or Destroy Evidence: on this day, _____, the undersigned state attorney, at the conclusion of the proceedings in the above captioned and numbered caused on the foregoing date hereby certify that written notice has been given to (1) defendant, (2) defendants counsel of record, and (3) Convicting Court, by hand delivery of a copy of this notice of intent to forfeit or destroy evidence of the foregoing individuals and court, I have the intent of the state of Texas to forfeit or destroy any and all evidence, which may be in the possession of the attorney representing the State of Texas or the law-enforcement agency or a clerk or any other person possessing said evidence in the above captioned and numbered cause at any time the expiration of ninety-one days from the foregoing date. The defendant hereby agrees that any evidence obtained in the above referenced clause should be forfeited or destroyed pursuant to the plea bargain agreement as evidence by the signatures below. The defendant further agrees that the law enforcement agency assigned to this case exercises sole discretion on whether to forfeit or destroy this evidence.

II. VOLUNTARY STATEMENTS:

NOW COMES the Defendant in open court in the above-entitled and numbered cause. After consulting with my attorney, I make the following voluntary statements:

1. I was sane at the time of the offense, and am presently competent to stand trial.
2. I understand the nature of the charge(s) against me, and the plea bargain agreement, if any. If I have a plea bargain agreement with the prosecutor, its terms are fully set forth in this document under the heading Plea Agreement on Page 6. I have received no promises from the prosecutor, my attorney or the Court which are not set forth in that document, and I realize that no one else would be empowered to make me any promises.

3. I understand the admonishments set out in this document and am aware of the consequences of a plea of guilty or *nolo contendere*.
4. I understand that I have the right to trial by jury, to confront and cross-examine the witnesses against me, the right to subpoena witnesses to testify for me, and the right to remain silent and not incriminate myself.
5. I have received a copy of the indictment or information in this cause, and I fully understand its contents.
6. I have been explained my immigration consequences by my attorney.
7. I am satisfied with the advice and representation of my attorney in this case.
8. I have been notified of the retention period of toxicological evidence collected pursuant to the investigation or prosecution of my case.

III. WAIVERS:

After consulting with my attorney, I freely, voluntarily, intelligently and knowingly:

1. **WAIVE** reading of the indictment or information.
2. **WAIVE**, if applicable, service of the indictment; the waiting period for arraignment; arraignment; the right to file additional motions or pleadings; additional time to respond to the amended indictment or information; and additional time for my court appointed attorney to prepare for trial.
3. **WAIVE** the right to trial by jury, and request that the Court and the State join, consent to and approve of this waiver.
4. **WAIVE** the appearance of and right to confront and cross-examine the witnesses against me.
5. **CONSENT** to the introduction of evidence by live testimony, affidavits, written statements of witnesses or any other documentary evidence sufficient to establish my guilt.
6. **WAIVE** the right to subpoena witnesses to testify for me.
7. **WAIVE** my right to remain silent and not to incriminate myself, and state that I desire to judicially confess/not contest my guilt.
8. **WAIVER OF PRESENTENCE INVESTIGATION REPORT:** I, the defendant, advise the court that I have been advised by my attorney of my statutory right to have a presentence investigation report prepared by the community supervision officer and I hereby knowingly, intelligently and voluntarily waive the preparation and filing of a presentence investigation report in this case.
9. **WAIVE** my right to have the Court inquire about and request a copy of the victim impact statement, if any; waive my rights to read, comment upon, and/or introduce testimony related to such statement, if any; and waive any right I may have for the Court to consider, before sentencing, the contents of such victim impact statement, if any.

IV. STIPULATION AND JUDICIAL CONFESSION:

1. I have read and understand the indictment or information filed and/or amended in this case, and/or I understand the reduced offense now pending against me pursuant to the State's motion.

_____ I confess and admit/do not contest that I committed each and every element of the charged offense or the reduced offense now charged against me in this case and, if applicable, that I committed/do not contest committing the offense(s) and/or acts alleged in the enhancement paragraph(s).

_____ I am pleading guilty (or *nolo contendere*) because I am guilty and for no other reason.

_____ I fully understand the consequences of my plea and my plea of guilty (or *nolo contendere*) is entered freely and voluntarily, and without any coercion, duress or promise of benefit other than that stated above in the plea bargain agreement.

_____ I consent to the introduction of this document, STATE'S EXHIBIT # 1, into evidence in support of my plea of guilty (or *nolo contendere*) and agree that this document is sufficient evidence under Art. 1.15, C.C.P. to substantiate my guilt.

2. I hereby further stipulate and admit to the following: (optional)

**Insert Indictment
Language Here**

I swear to or affirm the foregoing, and I further swear or affirm that all testimony I give in this case will be the truth, the whole truth and nothing but the truth.

I and my counsel further agree with the State's attorney that I am the person named in the indictment, that all of the acts alleged therein occurred in Medina County, Texas, and that the allegations are true and correct.

I can read and write the English language; I have read this entire document and discussed it fully with my attorney; I understand this document completely; and I am aware of the consequences of my plea. My attorney has discussed with me the law and facts applicable to this case, and I am satisfied that I have been effectively represented.

DEFENDANT

I read, write, and understand the _____ language. This entire document was read to me and fully explained to me in that language by my attorney and/or an interpreter, namely: _____. I understand this document completely; and I am aware of the consequences of my plea. My attorney has discussed with me the law and facts applicable to this case, and I am satisfied that I have been effectively represented.

DEFENDANT

Sworn to and subscribed to before me on this date: _____.

DEPUTY DISTRICT CLERK
MEDINA COUNTY, TEXAS

I hereby join, consent to and approve of the waiver of jury trial pursuant to Art. 1.13, C.C.P., and the stipulations of evidence pursuant to Art. 1.15, C.C.P. In addition, I hereby advise the Court that I have fully consulted with the defendant and have carefully reviewed with him/her this entire document. I believe s/he is mentally competent, understands the admonishments, is aware of the consequences of the plea, and is freely, voluntarily, knowingly and intelligently entering his/her plea of guilty, waiver, stipulation and judicial confession.

COUNSEL FOR DEFENDANT

(PRINT) COUNSEL FOR DEFENDANT

I hereby join, consent to and approve of the waiver of jury trial pursuant to Art. 1.13, C.C.P., and the stipulations of evidence pursuant to Art. 1.15, C.C.P.

ATTORNEY FOR STATE

(PRINT) ATTORNEY FOR STATE

The Court hereby finds that (1) the Defendant was sane when the alleged offense was committed, is mentally competent, is represented by competent counsel, understands the nature of the charges against him/her, and has been warned of the consequences of a plea of guilty or *nolo contendere*, including the minimum and maximum punishment provided by law; (2) the attorney for the Defendant and the State consent and approve the waiver of a trial by jury and agree to stipulate the evidence in this case; and (3) the Defendant understands the consequences of his plea, and the Defendant's plea of guilty, statements, waivers, stipulations, and judicial confession were freely, voluntarily, knowingly and intelligently made. The Court hereby accepts the Defendant's plea of guilty and approves the waiver of a jury trial and the consent to stipulate evidence.

SIGNED this _____ day of _____, 20_____.

DISTRICT JUDGE PRESIDING

PLEA AGREEMENT

It is mutually agreed and recommended by the parties:

____ Prosecution to proceed only on Count(s) _____ Prosecution for lesser included offense of _____

____ Defendant agrees that he has been previously convicted of one/two or more felonies for enhancement under 12.42 P.C.

____ Class A Misdemeanor punishment with: ____ State jail Felony Conviction under §12.44(a), P.C. ____ Misdemeanor Conviction under §12.44(b), P.C.

____ Punishment to be assessed at _____ months or years TDCJ-ID *or* State Jail
____ Fine \$ _____

____ Time and Money to Run Concurrent ____ Credit for Time Served

____ Affirmative Finding of Deadly Weapon or 3G offense, Defendant not eligible for supervision under CCP42.12, Sec.3

____ Affirmative finding that the applicable conduct was engaged in as part of the activities of a criminal street gang as defined by Section 71.01, Texas Penal Code.

____ Affirmative Finding of Family Violence. CCP, Art. 42.013. In the trial of an offense under Title 5, Penal Code, if the court determines that the offense involved family violence, as defined by Section 71.004, Family Code, the court shall make an affirmative finding of that fact and enter the affirmative finding in the judgment of the case.

____ State opposes community supervision/deferred adjudication.

____ State recommends community supervision.

____ State recommends deferred adjudication.

____ Concurrent with: _____

____ Causes taken into consideration: _____

____ Restitution to be determined by the Court through the Community Supervision office or \$ _____

____ Payable to victim in this cause number only: _____

____ Payable to victims under: _____

____ \$50.00 Donation to Crime Stoppers ____ \$50.00 Donation to Bluebonnet Children’s Advocacy Center

NOTE: The parties are not allowed to make binding agreements regarding the length of community supervision or the terms and conditions of community supervision, which are totally dependent upon the Court's discretion. The following recommendations do not constitute part of the formal plea agreement. However, the (State) (both parties) make the following non-binding recommendations:

- | | |
|---|---|
| ____ Community Supervision be granted for ____ years | ____ Parenting Class ____ Anger Management <i>or</i> BIPP Class |
| ____ Treatment Alternative to Incarceration Program | ____ Days in County Jail or State Jail (circle one) |
| ____ Hours Community Service | ____ Outpatient Substance Abuse Treatment Evaluation (OSAT) |
| ____ Letter of Apology to _____ | ____ Uvalde County Community Correctional Facility |
| ____ \$50.00 Donation to Family Life Center | ____ No Guns in residence or on person |
| ____ 500 Word essay where defendant sees themselves in 5yrs | ____ Substance Abuse Felony Punishment Facility (SAFPF) |
| ____ No Harmful/Injurious Contact w/ _____ | ____ No contact with _____ |

Other Punishment recommendations: _____

The above terms constitute our agreement, and there are no agreements not set forth above. The Defendant and Counsel request the Court to follow the plea bargain.

CRIMINAL DISTRICT ATTORNEY/
ASSISTANT CRIMINAL DISTRICT ATTORNEY

ATTORNEY FOR DEFENDANT

DEFENDANT

TRIAL COURT'S CERTIFICATION OF DEFENDANT'S RIGHT OF APPEAL

I, judge of the 454th District Court, certify this criminal case:

_____ is not a plea-bargain case, and the defendant has the right of appeal. [*or*]

_____ is a plea-bargain case, but matters were raised by written motion filed and ruled on before trial and not withdrawn or waived, and the defendant has the right of appeal. [*or*]

_____ is a plea-bargain case, but the trial court has given permission to appeal, and the defendant has the right of appeal. [*or*]

_____ is a plea-bargain case, and the defendant has NO right of appeal.

_____ the defendant has waived the right of appeal.

_____ the notice of appeal was not timely filed, and the defendant has NO right of appeal.

DISTRICT PRESIDING JUDGE

DATE SIGNED

I understand appeal is perfected by timely filing a sufficient notice of appeal in writing and filed with the trial court clerk. I also understand the notice of appeal must be filed:

- (1) within 30 days after the day sentence is imposed or suspended in open court, or after the day the trial court enters an appealable order; or
- (2) within 90 days after the day sentence is imposed or suspended in open court if the defendant timely files a motion for new trial.

I have received a copy of this certification. I have also been informed of my rights concerning any appeal of this criminal case, including any right to file a *pro se* petition for discretionary review pursuant to Rule 68 of the Texas Rules of Appellate Procedure. I have been admonished that my attorney must mail a copy of the court of appeal's judgment and opinion to my last known address and that I have only 30 days in which to file a *pro se* petition for discretionary review in the court of appeals. Tex. R. App. P.68.2. I acknowledge that, if I wish to appeal this case and if I am entitled to do so, it is my duty to inform my appellate attorney, by written communication, of any change in the address at which I am currently living or any change in my current prison unit. I understand that, because of appellate deadlines, if I fail to timely notify my appellate attorney of any change of address, I may lose the opportunity to file a *pro se* petition for discretionary review.

Defendant
Mailing address: _____
Telephone Number: _____
Fax Number (if any): _____

Defendant's Counsel
State Bar of Texas ID Number: _____
Mailing address: _____
Telephone Number: _____
Fax number (if any): _____

Cause No. _____

THE STATE OF TEXAS

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IN THE DISTRICT COURT

VS.

454TH JUDICIAL DISTRICT

MEDINA COUNTY, TEXAS

**ORDER FOR CONVICTED INDIGENT DEFENDANT TO OFFSET COST
OF LEGAL SERVICES PROVIDED BY THIS COUNTY AS COURT COSTS**

WHEREAS, the Court previously determined that the Defendant is indigent under the procedures and standards adopted by the judges of this county and appointed counsel to represent the defendant in this matter, and the defendant has been convicted or placed on deferred adjudication in this cause, the Court now FINDS that:

Determination 1: The 38th and 454th Judicial District Adult Probation Department shall conduct an assessment within 90 days of the date the defendant is placed on probation as to the defendant’s ability to pay all or part of the attorney’s fees and court costs incurred in this case. As a result of said assessment, should the defendant be found to be able to pay, the Court Finds:

Determination 2: The defendant has the ability to pay \$_____ of the total cost of the legal services provided in this cause, as well as costs of court in the amount of \$_____, and therefore orders the defendant to pay said amounts as court costs at a date and in intervals which are in accordance with defendant’s ability to pay.

SIGNED AND ENTERED on _____, 20_____.

DISTRICT PRESIDING JUDGE

DEFENDANT

ATTORNEY FOR DEFENDANT
STATE BAR NO. _____

(Rev. 2/25/2021)