

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO: FAX NO: EMAIL ADDRESS: ATTORNEY FOR:	STATE BAR NUMBER: FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO <input type="checkbox"/> 495 Main Street, Placerville, CA 95667 <input type="checkbox"/> 1354 Johnson Blvd., South Lake Tahoe, CA 96150	
PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER
PLEA AND WAIVER—FELONY	

INSTRUCTIONS:

- Fill out this form only if you want to plead guilty or no contest.
- Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- On Page 7, sign and date the form under "DEFENDANT'S STATEMENT."
- Keep in mind that the court cannot give legal advice. If you have any questions about anything in this form, ask your attorney.
- My true full name: _____

1. **CHARGES AND MAXIMUM TERM.** I want to plead guilty or no contest ("nolo contendere") to the charges and admit the following prior convictions, enhancements, allegations, and circumstances in aggravation listed below. I understand that the minimum and maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

INITIALS

COUNT	CHARGES (SECTION & DESCRIPTION)	YEARS / MONTHS		PRIOR CONVICTIONS, ENHANCEMENTS, ALLEGATIONS & CIRCUMSTANCES IN AGGRAVATION (SECTION & DESCRIPTION)	YEARS / MONTHS		TOTAL MAXIMUM TIME
		MINIMUM	MAXIMUM		MINIMUM	MAXIMUM	
AGGREGATE MAXIMUM TIME OF IMPRISONMENT							

☐ Additional count(s)/prior(s) listed on Plea & Waiver Attachment Page (Local Form CR-017A)

2. **PLEA AGREEMENT.** I understand that I must tell the court on this form about any promises anyone has made to me about the sentence I will receive or the sentence recommendations that will be made to the court. My attorney, the court, or the prosecutor has explained to me that if I plead guilty or no contest to the charges and admit the prior convictions, enhancements, allegations, and circumstances in aggravation listed above, the court will sentence me as follows:

a. Check one: ☐ **State Prison** (or the Division of Juvenile Justice) ☐ **County Jail** for

(1) ☐ _____ years and _____ months or

(2) ☐ not less than _____ years and _____ months and/or not more than _____ years and _____ months.

(3) ☐ Other (*specify*): _____

b. **Probation** for _____ years under conditions to be set by the court, including:

(1) ☐ _____ days in the **county jail** as follows: _____ days in county jail and _____ days alternatives; or

(2) ☐ up to _____ days in the **county jail**.

(3) Maximum period of probation: _____ years

INITIALS

I understand that a violation of any of the conditions of probation, including failure to complete a drug education or treatment program, if ordered by the court, may cause the court to send me to **county jail or state prison** for up to the **"Aggregate Maximum Time of Imprisonment"** specified in item 1, which may include a period of mandatory supervision under Penal Code section 1170(h)(5)(B) if the court sends me to county jail.

2. c. **Split Sentence (1170(h)(5)(B)):** _____ years and _____ months in the county jail and _____ years and _____ months on mandatory supervision under conditions set by the court. I understand that if I violate any of the terms or conditions of mandatory supervision, I may be remanded into custody for the entire unserved portion of the sentence.

I understand that the court retains jurisdiction to modify the terms of my mandatory supervision and may modify the terms after notice and an opportunity to be heard.

I have been advised and understand that my sentence includes a period of probation supervision by the El Dorado County Probation Department which may include the use of flash incarceration.

d. **Proposition 36 Drug Cases – Deferred Entry of Judgment**

I understand that judgment and sentencing will be deferred for a minimum of 12 months and up to a maximum of 24 months.

In addition to a substance abuse treatment program, the Court may also order that I complete Mental Health treatment, job training, or other programs the Court finds appropriate.

I agree to waive any issue of confidentiality and understand the treatment program(s) will report any violations, failures, or other issues to the Court.

I understand that for any time spent in a residential treatment program, I will receive credit for only actual days spent in the program and will not receive any conduct credits pursuant to Penal Code Section 4019.

I understand that if I fail to successfully complete a drug treatment program, or other program, as ordered by the Court, it may cause the court to find me unamenable to treatment, terminate Proposition 36 conditions, and sentence me up to the maximum aggregate time of imprisonment or place me on a grant of probation.

I understand I have a right to a hearing to determine if I have violated any terms or conditions prior to the Court finding me unamenable to treatment.

I further understand that while participating in Proposition 36 treatment program(s), I will be on Pre-Trial Release Supervision through the Probation Department and subject to specific terms and conditions including testing and search and seizure.

I agree to waive time for judgment and sentencing.

I understand that if I successfully complete the terms and conditions of treatment as ordered by the Court, I will be allowed to withdraw my plea, the charge(s) will be dismissed and the arrest will be deemed to have never occurred.

e. **Open Plea**

- (1) ☐ I understand the maximum and minimum sentences for the charges, enhancements, and allegations stated on page 1. No one has made any other promises to me about what sentence the court may order.
- (2) ☐ I understand that I am not eligible for probation.
- (3) ☐ I understand that I will not be granted probation unless the court finds at the time of sentencing that this is an unusual case where the interests of justice would be best served by granting probation.

f. **Fines for Revocation of Parole, Postrelease Community Supervision, Mandatory Supervision, or Probation**

I understand that if I am sentenced to **state prison**, the court **will** impose a parole revocation fine or a postrelease community supervision revocation fine from \$300-\$10,000 (PC1202.45), which will be collected only if my parole or postrelease community supervision is later revoked. I also understand that if I am granted probation or mandatory supervision, the court **will** impose a probation revocation fine or mandatory supervision revocation fine from \$300-\$10,000 (PC1202.44), which will be collected only if my probation or mandatory supervision is later revoked.

2. g. **Restitution, Statutory Fees, and Assessments**

I understand that the court will order me to pay the following amounts (if an amount is not yet known, "TBD" for "to be determined" is entered next to the \$); I must prepare financial disclosure statements to assist the court in determining my ability to pay; and refusal or failure to prepare the required financial disclosure statements may be used against me at sentencing:

INITIALS

- (1) ☐ \$ _____ to the Victim Restitution Fund (\$300-\$10,000) PC1202.4(b)
- (2) ☐ \$ _____ restitution to actual victims, name(s): _____
- (3) ☐ \$ _____ restitution to the State of California, Victim of Crime Fund
- (4) ☐ \$ _____ criminal lab analysis fee (\$195 per count) HS11372.5
- (5) ☐ \$ _____ court operations assessment (\$40 per count) PC1465.8
- (6) ☐ \$ _____ court facilities assessment (\$30 per count) GC70373
- (7) ☐ \$ _____ base fine plus any applicable penalties, assessments, and surcharges
- (8) ☐ \$ _____ domestic violence fund fee PC1203.097(a)(5)
- (9) ☐ \$ _____ other (specify): _____
- (10) ☐ \$ _____ other (specify): _____
- (11) ☐ Court reserves jurisdiction over issue of restitution.
- (12) ☐ An (additional) amount to be determined by the court at sentencing or such other hearing as the court may set

h. **Dismissal of Other Counts**

I understand that as part of this plea agreement bargain, the following counts will be dismissed after sentencing:

I understand and agree that the sentencing judge may consider facts underlying dismissed counts to determine restitution and to sentence me on the counts to which I am entering a plea. (**Harvey Waiver**)

i. **Other Terms (specify):** _____3. **CONSEQUENCES OF MY PLEA**a. **No Contest ("Nolo Contendere") Plea**

I understand that a no contest plea is the same as pleading guilty and that if I plead no contest, I will be convicted and my no contest plea could be used against me in a civil case.

b. **Parole and Postrelease Community Supervision**

I understand that if I am sentenced to **state prison**

- (1) I will be placed on parole or postrelease community supervision for up to _____ years after my release.
- (2) If I abscond or the court tolls my supervision, the total time of parole or postrelease community supervision can be extended.
- (3) If I violate any of the terms or conditions of my parole, I can be sentenced to county jail for up to 180 days for each violation, or returned to state prison for up to one year, up to a maximum of _____ years. If I violate any of the terms or conditions of postrelease community supervision, I can be sentenced to county jail for up to 180 days for each violation, for up to a maximum of 3 years.
- (4) Pursuant to Penal Code section 1203.35, in any case where the court grants probation or imposes a sentence that includes mandatory supervision, the county probation department is authorized to use flash incarceration for any violation of the conditions of probation or mandatory supervision if, at the time of granting probation or ordering mandatory supervision, the court obtains from the defendant a waiver to a court hearing prior to the imposition of a period of flash incarceration.
- (5) I understand my rights pursuant to Penal Code section 1203.35 and make a voluntary waiver permitting flash incarceration by the probation officer, pursuant to Section 1203.35.

c. **Effect of Conviction on Other Cases**

I understand that a conviction in this case may constitute a violation of any other current grant of parole, mandatory supervision, postrelease community supervision, or probation in any other case and that I may receive additional punishment as a result of that violation.

3. d. **Registration**

I understand that I will be required to register with the local police agency or sheriff's department in the city or county in which I reside as

INITIALS

- (1) ☐ an arson offender (PC 457.1)
 (2) ☐ a gang member (PC 186.30)
 (3) ☐ a sex offender (lifelong requirement) (PC 290)
 (4) ☐ Other (*specify*): _____

and that if I fail to register or to keep my registration current for any reason, new felony criminal charges may be filed against me.

e. **Drug Charges**

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, 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. These 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.

f. **Prints and DNA Samples**

I understand that I must provide biological samples and prints for identification purposes—including buccal (mouth) swab samples, right thumb prints, palm prints of each hand, and blood specimens or other biological samples required by law—and that failure to do so constitutes a new criminal offense. PC 296 et seq.

g. **Serious or Violent Felony ("strike")**

- (1) ☐ I understand that by pleading guilty or no contest to a serious or violent felony ("strike"), the penalty for any future felony conviction will be increased as a result of my conviction in this case, depending on the number of strikes I have, up to a mandatory prison sentence of double the term otherwise provided or a term of at least 25 years to life.
- (2) ☐ I understand that if I am convicted of a violent felony, any jail or prison conduct/work-time credit I may accrue will not exceed 15 percent in the event I am ever sentenced to state prison.
- (3) ☐ I understand that if I am admitting a prior strike conviction, prison work-time credit that I may accrue will not exceed 20 percent of the total term of imprisonment.
- (4) ☐ I understand that if I am convicted of murder or a third felony conviction of certain offenses, I am ineligible to receive work-time credits. Count _____ is such an offense.

h. **Prior Prison Term for Sexually Violent Offense**

I understand that if I am sentenced to serve a state prison term for this sexually violent offense, as defined in Welfare and Institutions Code section 6600(b), the penalty for any future felony conviction may be increased as a result of my incarceration in this case.

i. **Driver's License and Vehicle Forfeiture, DUI Admonishment**

I understand that my privilege to drive a motor vehicle may be revoked or suspended by the court or the California Department of Motor Vehicles and my vehicle may be ordered forfeited if it was involved in the offense.

I understand my driving privilege will be revoked for 4 years. This privilege will not be reinstated until I complete a program of 18 or 30 months as determined by the Department of Motor Vehicles and file proof of my ability to respond to damages.

I understand that I will be designated as a habitual traffic offender for a period of 3 years pursuant to Vehicle Code §§13350(b) and 14601.3(e)(3).

Felony Driving Under the Influence or at a 0.08% Blood Alcohol Level with Bodily Injury

I understand that my driving privilege will be suspended for up to 10 years and will not be reinstated until I file proof of my ability to respond to damages.

I understand that if I am charged with violating Vehicle Code section 23103, as specified in Vehicle Code section 23103.5, or Vehicle Code sections 23152 or 23153, the following warning applies:

INITIALS

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. (**Watson Advisement**)

3. j. **Immigration Consequences**

I understand that if I am not a citizen of the United States, my plea of guilty or no contest will result in my deportation, exclusion from admission to the United States, or denial of naturalization under the laws of the United States.

k. **Firearms (Guns), Firearm Parts, and Ammunition Prohibition**

I understand that federal and state laws prohibit a convicted felon from possessing firearms (guns), firearm parts, firearm replicas, ballistic armor, ammunition, or ammunition feeding devices for life. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). I understand that individuals prohibited from owning firearms are prohibited from purchasing or possessing body armor and ballistic armor (see Penal Code section 31360).

l. **Sexual Offenses**

I understand that I will be required to submit to testing for AIDS pursuant to Penal Code §1202.1.

I understand that if I am convicted of an offense specified in PC§ 290 (c), I will be required to pay a base fine of \$300 plus penalty assessments for the first conviction and a base fine of \$500 plus penalty assessments for the second and subsequent convictions unless the court determines that I do not have the ability to pay. (PC §290.3).

I understand that the offenses I am pleading to may subject me to more severe criminal penalties in the future under California's "One Strike" law. PC § 667.61 provides that if I am convicted in the future of a sexual offense listed in that code section and my conviction(s) in this case are alleged and proven, I will be subject to a term in prison of either 15 years to life or 25 years to life.

I understand that at the end of my sentence for the offense(s) to which I plead guilty/no contest, 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 my being committed to a secure medical facility indefinitely.

The parties discussed but were unable to agree to a disposition involving a plea to an offense that is not a sexually violent offense.

m. **Other Consequences (specify):**4. **RIGHT TO AN ATTORNEY**

I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me.

I hereby give up my right to be represented by an attorney.

5. **OTHER CONSTITUTIONAL RIGHTS**

I understand that I am entitled to each of the following rights as to the charges, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1):

a. **Right to a Jury Trial**

I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were unanimously convinced beyond a reasonable doubt that I am guilty. I have a right, through my counsel, to participate in jury selection.

b. **Right to a Court Trial**

I understand that, as an alternative to a jury trial, if the prosecutor agrees, I may give up a jury trial and have a court trial in which the judge alone, without a jury, hears the evidence. I still could not be convicted unless, after hearing all of the evidence, the judge was convinced beyond a reasonable doubt that I am guilty.

c. **Right to Confront and Cross-Examine Witnesses**

I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court, they must testify under oath in my presence, and my attorney may question them.

5. d. **Right to Remain Silent and Not to Incriminate Myself**

I understand that I have the right to remain silent, and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself, and I cannot be forced to testify.

INITIALS

e. **Right to Produce Evidence and to Present a Defense**

I understand that I have a right to present evidence and to have the court issue subpoenas to bring to court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.

f. **Right to Jury Determination of Sentencing Factors**

I understand I have the right to have a jury determine the sentencing factors that may be used by a judge to increase my sentence on any charge, sentencing enhancement, or allegation to the upper or maximum term provided by law.

6. **BEFORE THE PLEA**a. **Discussion With My Attorney**

Before entering this plea, I have had a full opportunity to discuss the following with my attorney:

- (1) The facts of my case;
- (2) The elements of the charged offenses, prior convictions, enhancements, allegations, and circumstances in aggravation;
- (3) Any defenses that I may have;
- (4) My constitutional and statutory rights and waiver of those rights;
- (5) The consequences of this plea, including the immigration consequences; and
- (6) Anything else I think is important to my case.

b. **Questions**

I have no further questions of the court or of my attorney with regard to my plea and admissions in this case, any of the rights, or anything else on this form.

c. **Medications or Controlled Substances**

I am not taking any medication that affects my ability to understand this form and the consequences of my plea, have not recently consumed any alcohol or drugs, and am not suffering from any medical condition, except for the following: _____

d. **Court Approval of Plea Agreement**

I understand that the plea agreement in item 2 (on pages 1, 2, and 3) is based on the facts before the court. I understand that if the court approves this plea agreement, the approval of the court is not binding, and that the court may withdraw its approval of the plea agreement upon further consideration of the matter. I understand that if the court withdraws its approval of this plea agreement, I will be allowed to withdraw my plea. (Pen. Code, § 1192.5.)

7. **STATUTORY RIGHT TO A PRELIMINARY HEARING**

I understand that before I have a trial, the law gives me the right to a speedy preliminary hearing at which the prosecution would produce evidence and the court must find reasonable cause to believe I committed the crimes with which I have been charged. I understand that I have all of the above constitutional rights at the preliminary hearing, except for the right to a jury trial.

I give up my right to a preliminary hearing and the constitutional rights listed in item 5 (on page 5 and 6).

8. **WAIVER OF CONSTITUTIONAL AND STATUTORY RIGHTS**

I give up, for each of the charges, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1), my right to a jury trial, my right to a court trial, my right to confront and cross-examine witnesses, my right to remain silent and not to incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf. I understand that I am, in fact, incriminating myself with my plea.

Defendant

Attorney

9. **WAIVER OF APPEAL**

I understand I have the right to appeal in this matter. I have discussed this right with my attorney, and I freely and voluntarily waive my right to appeal.

10. **THE PLEA**

I freely and voluntarily plead ☐ GUILTY ☐ NO CONTEST to the charges listed in item 1 (on page 1) and admit the prior convictions, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1), understanding that this plea and admission will lead to the penalties listed in item 2 (on pages 1, 2, and 3).

PEOPLE OF THE STATE OF CALIFORNIA v.

Defendant(s):

CASE NUMBER:

INITIALS

10. a. I offer my plea of guilty or no contest freely and voluntarily and with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or my loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

b. I understand that the court is required to find a factual basis for my plea to make sure that I am entering a plea to the proper offenses under the facts of the case.

I offer to the court the following as the basis for my plea of guilty or no contest and any admissions:

(1) I understand that the court may consider the following as proof of the factual basis for my plea:

(a) ☐ Preliminary hearing transcript

(b) ☐ Police report, report # _____

(c) ☐ Probation report, dated _____

(d) ☐ Welfare investigator's declaration

(e) ☐ Court documents regarding any alleged prior offenses

(f) ☐ Other (specify): _____

(g) ☐ (Specify facts): _____

11. AFTER THE PLEA**a. Surrender**

I understand that the court is allowing me to surrender at a later date to begin serving time in custody.

I agree that if I fail to appear on the date set for surrender or sentencing without a legal excuse, or if I am arrested for or commit a new crime, or violate any condition of my release, my plea will become an "open plea" to the court, I will not be allowed to withdraw my plea, and I may be sentenced up to the maximum allowed by law. **(Cruz Waiver)**

b. Sentencing Court

I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea. I give up that right and agree that any judge or commissioner may sentence me. **(Arbuckle Waiver)**

c. Sentencing Date

I understand that I have the right to be sentenced within 20 court days. I give up that right and agree to be sentenced at a later date.

d. Probation Report

I give up my right to a full probation report before sentencing.

DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, 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 effects of any prior convictions, enhancements, allegations, and circumstances in aggravation 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: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT)

PEOPLE OF THE STATE OF CALIFORNIA v.

Defendant(s):

CASE NUMBER:

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of his or her questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge; any possible defenses to the charges; the effect of any prior convictions, enhancements, allegations, and circumstances in aggravation; and the consequences of the plea.

I concur in the plea and admissions and join in the waiver of the defendant's constitutional and statutory rights, and I hereby stipulate that there is a factual basis for the plea and refer the court to the ☐ police report ☐ preliminary hearing transcript ☐ probation report ☐ other (*specify*): _____.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY)

INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: ☐ Spanish ☐ Other (*specify*): _____

Date: _____

(CERTIFICATION NUMBER)

(TYPE OR PRINT NAME)

(SIGNATURE OF INTERPRETER)

DISTRICT ATTORNEY'S STATEMENT

I have read this form and understand the terms of the plea agreement.

I ☐ agree ☐ do not agree with the terms of the plea agreement and the indicated sentence.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF DISTRICT ATTORNEY)

COURT'S FINDINGS AND ORDER

The court, having reviewed this form (and any addenda), and having orally examined the defendant, finds as follows:

1. The initialed items in this form have been read by or read to the defendant, and the defendant understands each of them.
2. The defendant understands the nature of the crimes, prior convictions, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1) and the consequences of the plea and any admissions.
3. The defendant expressly, knowingly, understandingly, and intelligently waives the constitutional and statutory rights associated with this plea.
4. The defendant's plea, admissions, and waiver of rights are made freely and voluntarily.
5. A factual basis exists for the plea and admissions, or the defendant is pleading under a plea bargain under *People v. West*.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Date: _____

(SIGNATURE OF JUDICIAL OFFICER)