# I.C.R. 11. Pleas

Idaho Criminal Rule 11. Pleas.

(a) Alternatives.

(1) In General. A defendant may plead guilty or not guilty. If a defendant refuses to plead or if a defendant corporation fails to appear, the court shall direct the entry of a plea of not guilty.

(2) Conditional Pleas. With the approval of the court and the consent of the prosecuting attorney, a defendant may enter a conditional plea of guilty reserving in writing the right, on appeal from the judgment, to review any specified adverse ruling. If the defendant prevails on appeal, the defendant shall be allowed to withdraw defendant's plea.

(b) Inadmissibility of pleas, offers of pleas, and related statements. The admissibility of pleas, offers of pleas, and related statements shall be governed by Rule 410 of the Idaho Rules of Evidence.

(c) Acceptance of plea of guilty. Before a plea of guilty is accepted, the record of the entire proceedings, including reasonable inferences drawn therefrom, must show:

(1) The voluntariness of the plea.

(2) The defendant was informed of the consequences of the plea, including minimum and maximum punishments, and other direct consequences which may apply.

(3) The defendant was advised that by pleading guilty the defendant would waive the right against compulsory self-incrimination, the right to trial by jury, and the right to confront witnesses against the defendant.

(4) The defendant was informed of the nature of the charge against the defendant.

(5) Whether any promises have been made to the defendant, or whether the plea is a result of any plea bargaining agreement, and if so, the nature of the agreement and that the defendant was informed that the court is not bound by any promises or recommendation from either party as to punishment.

(d) Other advisories upon acceptance of plea. The district judge shall, prior to entry of a guilty plea or the making of factual admissions during a plea colloquy, instruct on the following:

(1) The court shall inform all defendants that if the defendant is not a citizen of the United States, the entry of a plea or making of factual admissions could have consequences of deportation or removal, inability to obtain legal status in the United States, or denial of an application for United States citizenship.

(2) If the defendant is pleading guilty to any offense requiring registration on the sex offender registry, the court shall inform the defendant of such registration requirements.

(3) If the defendant is waiving his right to appeal or other post-conviction proceedings as part of his guilty plea, and such condition of the plea has been called to the attention of the court, the court shall confirm with the defendant his awareness of the waiver of appeal or other proceedings.

(e) Plea Advisory Form. As an aid in taking a plea of guilty, the court may require the defendant to fill out and submit the plea advisory form found in Appendix A of these rules. In addition to the form, the court must make a record showing:

(1) The defendant understands the nature of the charge(s), including any mental element such as intent, knowledge, state of mind;

(2) The defendant understands the maximum and minimum punishments, and any other direct consequences which may apply;

(3) The defendant understood the contents of the guilty plea advisory form, and the defendantís plea is voluntary.

(f) Plea agreement procedure.

(1) In general. The prosecuting attorney and the attorney for the defendant or the defendant when acting pro se may engage in discussions with a view toward reaching an agreement, which may

include a waiver of the defendantís right to appeal the judgment and sentence of the court, that upon the entering of a plea of guilty to a charged offense or to a lesser or related offense, the prosecuting attorney will do any of the following:

(A) move for dismissal of other charges; or

(B) make a recommendation, or agree not to oppose the defendant's request, for a particular sentence, with the understanding that such recommendation or request shall not be binding upon the court; or

(C) agree that a specific sentence is the appropriate disposition of the case; or

(D) agree to any other disposition of the case.

The court may participate in any such discussions.

(2) Notice of Such Agreement. If a plea agreement has been reached by the parties, the court shall, on the record, require the disclosure of the agreement in open court or, on a showing of good cause, in camera, at the time the plea is offered. If the agreement is of the type specified in subdivision (f)(1)(A), (C) or (D), the court may accept or reject the agreement, or may defer its decision as to the acceptance or rejection until there has been an opportunity to consider the presentence report. If the agreement is of the type specified in subdivision (f)(1)(B), the court shall advise the defendant that if the court does not accept the recommendation or request the defendant nevertheless has no right to withdraw his plea.

(3) Acceptance of a Plea Agreement. If the court accepts the plea agreement, the court shall inform the defendant that it will implement the disposition provided for in the plea agreement.

(4) Rejection of a Plea Agreement. If the court rejects the plea agreement, the court shall, on the record, inform the parties of this fact, advise the defendant personally in open court, or, on a showing of good cause, in camera, that the court is not bound by the plea agreement, afford the defendant the opportunity to then withdraw the defendant's plea, and advise the defendant that if the defendant persists in the guilty plea the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement.

(Adopted December 27, 1979, effective July 1, 1980; amended March 30, 1984, effective July 1, 1984; amended March 20, 1985, effective July 1, 1985; amended June 15, 1987, effective November

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