

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

GUILTY PLEA ADVISORY AND FORM

TO BE FILLED OUT BY THE DEFENDANT

Defendant's Name: _____ Signature _____

Date: _____ Case Number: _____

Age: _____ Date of Birth: _____

STATEMENT OF CONSTITUTIONAL RIGHTS
(Please initial each response)

1. You have the right to remain silent. You do not have to say anything about the crime(s) you are accused of committing. If you elect to have a trial, the State may not call you as a witness or ask you any questions. If you do decide to testify the State will be permitted to ask you questions and anything you say can be used as evidence against you in court.

I understand that by pleading guilty I am **waiving** my right to remain silent as to the elements of the crime(s) to which I am entering this plea. _____

2. The waiver of your right to remain silent only applies to your plea of guilty to the crime(s) in this case. Even after pleading guilty, you will still have the right to refuse to answer any question or to provide any information that might tend to show you committed some other crime(s). You can also refuse to answer or provide any information that might tend to increase the punishment for the crime(s) to which you are pleading guilty.

I understand that by pleading guilty to the crime(s) in this case, I still have the right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence. _____

3. You have the right to be represented by an attorney. If you want an attorney and cannot pay for one, you can ask the Judge for an attorney who will be paid by the county. You may be required to reimburse the county for the cost of this representation. _____

4. You are presumed to be innocent. You will be found guilty if: 1) you plead guilty in front of the Judge; or 2) you are found guilty at a jury trial.

I understand that by pleading guilty I am **waiving** my right to be presumed innocent. _____

5. You have the right to a speedy and public jury trial before twelve persons. A jury trial is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense. You are not required to do so, however. The State must convince all of the jurors of your guilt beyond a reasonable doubt.

I understand that by pleading guilty I am **waiving** my right to a speedy and public jury trial.

6. You have the right to question (confront) the witnesses testifying against you. This occurs during a jury trial. At trial, the State must prove its case by calling witnesses to testify under oath in front of you, the jury, and your attorney. Your attorney could then cross-examine (question) each witness. You could also call witnesses of your choosing to testify on your behalf. If you do not have the funds to bring those witnesses to court, the State will pay the cost of bringing your witnesses to court and will compel their attendance by the use of the subpoena power of the court.

I understand that by pleading guilty I am waiving my right to question (confront) the witnesses against me, and present witnesses and evidence in my defense. _____

7. The State has the burden of proving you guilty beyond a reasonable doubt.
I understand that by pleading guilty, I am waiving my right to require the State to prove my guilt beyond a reasonable doubt. _____

QUESTIONS REGARDING ABILITY TO ENTER PLEA

(Please answer every question. If you do not understand a question, consult your attorney before answering.)

Please check the correct answer

1. Do you read and write the English language? YES ___ NO ___

If not, have you been provided with an interpreter to help you fill out this form? YES ___ NO ___

Do you want an Interpreter? YES ___ NO ___

2. What is your true and legal name? _____

3. What was the highest grade of school you completed? _____

4. If you did not complete high school, have you received either a general education diploma or high school equivalency diploma? YES ___ NO ___

5. Are you currently under the care of a mental health professional? YES ___ NO ___

6. Have you ever been diagnosed with a mental health disorder? YES ___ NO ___

If so, what was the diagnosis and when was it made? _____

7. Are you currently prescribed any medication? YES ___ NO ___

If yes, what medications are you taking at this time? _____

If you answered "yes," have you taken your prescription medication during the past 24 hours?

YES ___ NO ___

8. In the last 48 hours, have you taken any medication or drugs, including over the counter, or have consumed any alcoholic beverages which you believe affect your ability to understand these questions and to make a reasoned and informed decision in this case?

YES ___ NO ___

9. Are you under the influence of any alcohol, drugs, or other medication at this time?

YES ___ NO ___

10. Are you capable of understanding these proceedings?

YES ___ NO ___

11. Do you claim that you are mentally incapable of understanding these proceedings or what it means to plead guilty to a crime?

YES ___ NO ___

12. Is there anything going on in your life that affects your ability to enter a voluntary guilty plea?

YES ___ NO ___

13. Are you having any difficulty in understanding what you are doing by filling out this form?

YES ___ NO ___

14. Is there any other reason that you cannot make a reasoned and informed decision in this case?

YES ___ NO ___

If yes, what is the reason? _____

PLEA AGREEMENT

15. Is your guilty plea the result of a plea agreement?

YES ___ NO ___

If so, what are the terms of that plea agreement?
(If available, a written plea agreement **must** be attached hereto as "Addendum 'A'")

If a written plea agreement was done, have you read this plea agreement?

YES ___ NO ___

16. Do you understand your plea agreement?

YES ___ NO ___

17. There are two types of plea agreements. Please initial the one paragraph below which describes the type of plea agreement:

- a. I understand that my plea agreement is a **non-binding** plea agreement. This means that the Court is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, up to the maximum sentence. Because the Court is not bound by the agreement, if the District Court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. _____
- b. I understand that my plea agreement is a **binding** plea agreement. This means that if the District Court does not impose the specific sentence as recommended by both parties, I will be allowed to withdraw my plea of guilty and proceed to a jury trial. _____

18. Has your attorney or anyone else forced or coerced you in any way into accepting this plea agreement?

YES ___ NO ___

19. Have any other promises been made to you that have influenced your decision to plead guilty?

YES ___ NO ___

20. Has anyone told you what your sentence will be?

YES ___ NO ___

If so, what have you been promised?

21. Is this a conditional guilty plea in which you are reserving your right to appeal any pre-trial issues?

YES ___ NO ___

22. Have you waived your right to appeal your **judgment of conviction** as part of your plea agreement?

YES ___ NO ___

23. Have you waived your right to appeal your sentence as part of your plea agreement?

YES ___ NO ___

Under what condition can you appeal your sentence?

24. Do you understand that by pleading guilty you will waive (or give up) any defenses, both factual and legal, that you believe you may have in this case?

YES ___ NO ___

25. Have you discussed the elements of the offense(s) for which you are charged with your attorney?

YES ___ NO ___

POTENTIAL SENTENCE

I am charged with the crime(s) of:

I understand the Minimum & Maximum - Fine and Imprisonment:

26. If you plead guilty to more than one crime do you understand that your sentences for each crime could be ordered to be served either **concurrently** (at the same time) or **consecutively** (one after the other)? YES ___ NO ___

27. Do you understand that if you plead guilty and you commit crimes in the future, this conviction could be considered in the future case and could cause more severe penalty in the future case? YES ___ NO ___

ADDITIONAL CONSEQUENCES OF A GUILTY PLEA

28. Are you currently on probation or parole? YES ___ NO ___

If so, do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole **(WHICH MEANS THAT ANY SUSPENDED SENTENCE COULD BE IMPOSED AND ANY PAROLE REVOKED)?**

YES ___ NO ___

29. Are you aware that if you are 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, and or denial of an application for United States citizenship? YES ___ NO ___

30. Does the crime to which you will plead guilty require you to register as a **sex offender**? (I.C. § 18-8304) YES ___ NO ___

31. Are you aware that if you plead guilty you may be required to pay **restitution** in this case? (I.C. §19-5304) YES ___ NO ___

32. Are you pleading guilty to a crime for which you may be required to pay the **costs of prosecution and investigation**? (I.C. § 37-2732 (k)), (I.C.R. 33(d)(2)) YES ___ NO ___

If so, have you and the State agreed upon the amount of this reimbursement?

YES ___ NO ___

If you have, what is the amount? _____

33. Have you agreed to pay restitution as a condition of your plea agreement? YES ___ NO ___

34. If the amount of restitution has not been agreed upon, do you understand that you cannot withdraw your guilty plea even if the restitution amount is determined to be higher than you thought it might be or should be? YES ___ NO ___

35. Is a **license suspension** required as a result of a guilty plea in this case? YES ___ NO ___

36. Do you understand that if you plead guilty you will be required to submit a **DNA sample** and **Right Thumbprint impression** to the State? (I.C. § 19-5506) YES ___ NO ___

37. Are you pleading guilty to a crime for which the Court could impose a **fine** for a crime of violence of up to \$5,000, payable to the victim of the crime? (I.C § 19-5307) YES ___ NO ___

38. Do you understand that if you plead guilty to a felony, you will lose your right to **vote** in Idaho during the period of your sentence? (Id. Const. art.6, §3) YES ___ NO ___

39. Do you understand that if you plead guilty to a felony, you will lose your right to hold **public office** in Idaho during the period of your sentence? (Id. Const. art.6, §3) YES ___ NO ___

40. Do you understand that if you plead guilty to a felony, you will lose your right to perform **jury service** in Idaho during the period of your sentence? (Id. Const. art.6, §3) YES ___ NO ___

41. Do you understand that if you plead guilty to a felony and or to a misdemeanor crime of domestic violence you will lose your right to purchase, possess, or carry **firearms**? (I.C. § 18-310, 18 U.S.C. § 922(g)(9)) YES ___ NO ___

42. Do you understand that by pleading guilty to a felony, you run the risk that if you have new felony charges in the future, you could be charged as a Persistent Violator? (I.C §§ 19-2514, 37-2739) YES ___ NO ___

RELATIONSHIP WITH YOUR ATTORNEY

43. Have you had sufficient time to discuss your case with your attorney? YES ___ NO ___

44. Have you had adequate time to fill out this form? YES ___ NO ___

45. Have you had adequate access to your attorney's assistance in filling out this form? YES ___ NO ___

46. Your attorney can obtain various items from the prosecutor relating to your case. This may include police reports, witness statements, tape recordings, photographs, reports of scientific testing, etc. This is called "discovery." Have you had the opportunity to review the discovery provided by your attorney? YES ___ NO ___

47. Do you want your attorney to take any further action in this case? YES ___ NO ___

48. If you are not a citizen of the United States, have you talked to your attorney about the impact of your guilty plea on deportation, on your legal status in the United States and on obtaining United States citizenship? YES ___ NO ___

49. Do you understand that no one, including your attorney, can force you to plead guilty in this case? YES ___ NO ___

50. Are you satisfied with your attorney's representation? YES ___ NO ___

If not, please state why you are dissatisfied?

IF YOUR GUILTY PLEA IS THE RESULT OF A PLEA AGREEMENT REACHED THROUGH MEDIATION:

51. Did you voluntarily enter mediation? YES ___ NO ___

52. Did anyone force you, or coerce you, to enter into the plea agreement in the mediation? YES ___ NO ___

53. Were you satisfied with the conduct of the mediation? YES ___ NO ___

ENTRY OF PLEA

54. Are the answers throughout this form your own answers? YES ___ NO ___

55. Are you entering your plea freely and voluntarily? YES ___ NO ___

56. Do you understand the consequences of entering a guilty plea? YES ___ NO ___

57. Are you admitting to all the elements of the crime(s) to which you are pleading guilty? YES ___ NO ___

Or are you pleading guilty because you are entering an Alford Plea? YES ___ NO ___

58. If you are entering an Alford Plea, do you understand that the Court will consider you just as guilty as if you enter a non-Alford plea? YES ___ NO ___

59. Have you had any trouble answering any of the questions in his form which you could not resolve by discussing the issue(s) with you attorney? YES ___ NO ___
60. If you were provided with an interpreter to help you fill out this form, have you had any trouble understanding your interpreter? YES ___ NO ___
61. Do you need any additional time before you enter your guilty plea(s)? YES ___ NO ___
62. Do you understand that if the Court accepts your guilty plea(s) that you may not be able to withdraw your plea(s) at a later date? YES ___ NO ___
63. Is there anything else you want to tell the court about why you are pleading guilty? YES ___ NO ___

I have answered the questions on pages 1-8 of this Guilty Plea Advisory Form truthfully, I understand all of the questions and answers herein, I have had the opportunity to discuss each question and answer with my attorney, and I have completed this form freely and voluntarily **WITH A COMPLETE UNDERSTANDING OF THE CHARGE(S) TO WHICH I AM PLEADING GUILTY AND WITH KNOWLEDGE OF THE POTENTIAL CONSEQUENCES OF THIS PLEA.** Furthermore, no one has forced me or threatened me to plead guilty.

DATE: _____

_____ DEFENDANT

POST PLEA RIGHTS

A presentence investigation will be ordered by the Court unless both you and the State waive that report and the Court approves that waiver. The Court may order evaluations as part of this investigation **AND THESE REPORTS WILL BE USED TO DETERMINE YOUR SENTENCE.** You have the right to remain silent during all proceedings and interviews from now until sentencing WHICH INCLUDES THE PRESENTENCE INVESTIGATION AND ANY COURT ORDERED EVALUATIONS.

The information in the presentence interview and any evaluations (which will include any statements you make in these processes) will be used by the Court in determining your sentence. In particular if you are ordered to undergo a psychosexual evaluation (which can include a polygraph examination), a domestic violence evaluation, a substance abuse evaluation or a mental health examination (which can include a psychological or psychiatric examination) you will be asked extensive questions and your answers to those questions may be used against you during sentencing.

- 1. Have you discussed the right to remain silent with your attorney? YES ___ NO ___
- 2. Do you understand the nature of these rights? YES ___ NO ___
- 3. Do you understand that you may waive these rights? YES ___ NO ___
- 4. Have you waived any of these rights in your plea agreement? YES ___ NO ___
- 5. Do you have any questions concerning either these rights or the waiver of these rights? YES ___ NO ___
- 6. Have you discussed with your attorney your rights regarding your attorney's attendance and presence during the presentence investigation or these various evaluations? YES ___ NO ___
- 7. Do you want the Court to order any particular evaluations to assist the Court in determining your sentence in this case? YES ___ NO ___

If yes, which evaluations and why?

I ACKNOWLEDGE THE FOREGOING POST PLEA RIGHTS.

DATE: _____

DEFENDANT