

CAUSE NUMBER: _____

THE STATE OF TEXAS

VS.

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§

IN THE 241ST JUDICIAL

DISTRICT COURT OF

SMITH COUNTY, TEXAS

**PLEA ADMONISHMENTS ON MOTION TO PROCEED TO FINAL ADJUDICATION
OR MOTION TO REVOKE PROBATION**

ORIGINAL CHARGE: _____

MAXIMUM SENTENCE POSSIBLE: _____

A. NOTICE OF CHARGE

In the above styled and numbered cause the above named defendant, having previously been placed on probation, duly acknowledges that he or she is charged, in a charging instrument filed by the State of Texas in this Court, styled as an:

- _____ 1. Original or Amended MOTION TO PROCEED TO FINAL ADJUDICATION
or
_____ 2. Original or Amended MOTION TO REVOKE PROBATION

B. NOTICE OF RIGHT TO HAVE CHARGING INSTRUMENT READ ALOUD

You have the right to have the charging instrument, being either the original or amended MOTION TO PROCEED TO FINAL ADJUDICATION OR MOTION TO REVOKE PROBATION, above mentioned, as applicable, read aloud and in open Court.

C. INFORMATION REGARDING RIGHT TO A JURY TRIAL

There is no right to a jury trial at this proceeding. The trial is entirely before the Court.

D. BURDEN OF PROOF

While the burden of proof remains with the State of Texas, that burden, in this proceeding is “preponderance of the evidence only” and not “beyond a reasonable doubt.”

E. EFFECT OF A “TRUE” PLEA

If you enter a TRUE plea to any paragraph in the applicable charging instrument in this cause, it is not necessary that the Court take any additional evidence or testimony to find that the particular paragraph to which you have pled TRUE is TRUE, and instead will rely solely on your said plea(s) of TRUE to find the same is, in fact TRUE. It is, therefore, most important that you fully consider how you plead to each paragraph before you enter

your plea.

F. EFFECT OF A “TRUE” FINDING

If the Court finds any paragraph in the charging instrument to be TRUE then the Court may set punishment anywhere within the range of punishment set forth by law.

G. EFFECT OF PLEA NEGOTIATIONS

The Court is not bound by any plea negotiation you may have entered with the State of Texas. If the Court rejects any agreement which has been negotiated, you will be allowed to withdraw any plea(s) of true as you choose and the case will proceed to trial or be set for trial.

H. RIGHT TO AN ATTORNEY AND CONFRONT WITNESSES

The defendant understands he or she has a right to an attorney, whether or not he or she can afford an attorney. The defendant understands he or she has the right to confront witnesses against said defendant as provided by law.

I. RIGHT TO APPEAL

In certain situations, especially with regard to those matters raised by written motion prior to trial, the defendant may be able to appeal any judgment and sentence in the cause. If the defendant is indigent and unable to afford an attorney, one can be appointed to represent the defendant in the appeal at no cost to the defendant. A copy of the transcription can be provided unto that attorney for his or her use in handling the appeal, again at no cost to defendant, in such event. A trial court’s “revocation” of deferred adjudication community supervision is reviewable in the same manner as a revocation hearing in which an adjudication of guilt had not been deferred.

J. CITIZENSHIP INFORMATION

If you are not a citizen of the United States of America, a plea of TRUE could be used against you for deportation, exclusion from admission to this country, or the denial of naturalization under federal law. Counsel for defendant certifies that proper legal advice about the adverse consequences of such a plea has been provided to the defendant prior to the plea herein.

THE ABOVE DEFENDANT, TOGETHER WITH HIS OR HER ATTORNEY, HEREBY ACKNOWLEDGES, THAT BY SIGNING THIS WRITTEN DOCUMENT BELOW, THE COURT HAS PROVIDED SAID DEFENDANT THE ABOVE STYLED ADMONITIONS AND THAT SAID DEFENDANT FULLY UNDERSTANDS EACH SAID ADMONITION AND WARNING AND CONSEQUENCES REGARDING SAME, AND THAT SAID DEFENDANT HAS BEEN DULY AND FULLY ADMONISHED.

The above named defendant, being duly admonished, in open court, freely and voluntarily

elects to WAIVE and give up the rights set forth below, and said waivers are approved by the State's attorney as well, to-wit:

1. Waiver of Reading Aloud the Charging Instrument (Item B above);
2. Waiver of Appeal (Item I above), including any right to file a Motion for New Trial;
3. Waiver of any claim that defendant's attorney, if any, has been ineffective in representation of defendant, and waives any claim that any plea herein is the product of coercion or duress and instead stipulates that same has been freely and intelligently and voluntarily given.
4. Waiver of the right to the time allowed by law to file motions and pleadings and to prepare for hearing, and abandons all motions, pleadings and objections made before the entry of the pleas.
5. Waiver of any right to require a presentence investigation report be made before sentencing.
6. Waiver of the right to the appearance, confrontation, and cross-examination of witnesses, the right against self-incrimination, and hereby consents to the oral and written stipulation of evidence.

Defendant is mentally competent and fully understands the State's Motion (charging instrument) and these plea documents, and has no questions about these documents or his or her rights.

The Defendant and the State have entered into a plea bargain agreement on the following terms: In exchange for Defendant's plea of TRUE to the allegations before the Court and Defendant's agreement to waive any right to new trial or appeal, the State makes the following punishment recommendation:

Defendant requests the Court to approve and follow said recommendation:

DEFENDANT

ATTORNEY FOR DEFENDANT

APPROVED BY:

ASST. DISTRICT ATTORNEY

ENTRY OF PLEA(S) IN WRITING

I, Defendant, affirm that I am the same person who was placed on community supervision in this cause. I have read the most recently filed State's Motion to Revoke Probation or Motion to Proceed to Final Adjudication, original or amended, and I fully understand what the State says I did or did not do regarding the terms and conditions of my probation. I make the following plea(s):

Defendant enters a plea of TRUE to the following paragraphs in the State's Motion (charging instrument): _____

Defendant enters a plea of NOT TRUE to the following paragraphs in the State's Motion (charging instrument): _____

The State of Texas has withdrawn and waived the following paragraphs in the State's Motion (charging instrument) and no finding shall be made upon them:
_____.

DEFENDANT

ATTORNEY FOR DEFENDANT

**APPROVAL BY COURT OF ALL WAIVERS, ADMONISHMENTS,
AND ENTRY OF PLEAS**

The Court being satisfied that all the above waivers, admonishments and pleas have been understood by all involved, and have been freely and voluntarily given, and are not the product of any fear or coercion exerted on any person herein identified, all of the above matters are ORDERED duly approved this date.

Date: _____

PRESIDING JUDGE

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

I, DEBBY GUNTER, certify this criminal case:

1. _____ Is not a plea bargain case, and the Defendant has the right of appeal (or)
2. _____ Is a plea bargain case, but matters were raised by written motion filed and ruled on before trial and not withdrawn and waived, and the Defendant has the right of appeal (or)
3. _____ Is a plea bargain case, but the trial court has given permission to appeal, and the Defendant has the right of appeal (or)
4. _____ Is a plea bargain case, and the Defendant has **NO** right of appeal (or)
5. _____ The Defendant has waived the right of appeal.

Date

Honorable Debby Gunter
Judge, 241st Judicial District Court
Smith County, Texas

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, 68.3. 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 inform my appellate attorney of any change in my address, I may lose the opportunity to file a pro se petition for discretionary review.

Defendant

Mailing Address:

Phone No. _____

Email: _____

Defendant's Counsel

State Bar No. _____

Mailing Address:

Phone No. _____

Email: _____