

IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

STATE OF IOWA,
Plaintiff,

vs.

DOB:
Defendant.

CRIMINAL NO.

WAIVER OF RIGHTS AND GUILTY
PLEA, AGGRAVATED MISDEMEANOR

I, the undersigned Defendant, have carefully read and fully understand the following:

A. I am charged with _____
in violation of Iowa Code § _____ an **AGGRAVATED MISDEMEANOR**.

B. The maximum punishment for an aggravated misdemeanor is imprisonment of **up to two years in prison or not more than one year in jail and a mandatory fine of not more than \$6,250.00 plus statutory surcharge, or both**, plus Court costs and all costs and fees incurred for legal assistance. There is a **mandatory minimum fine of \$625.00** which is immediately due on the date of sentencing. I realize the Court may allow payment of my fine to be extended for 120 days or beyond if it appears that I cannot or should not make immediate payment. I acknowledge the Court may order me to perform Community service work if the Court is of the opinion that Community Service work will deter and discourage others from similar criminal activity. (The rate at which community service shall be calculated against my fine shall be the federal minimum wage.)

C. I understand that a criminal conviction deferred judgment or deferred sentence, may result in my deportation or have other adverse immigration consequences if I am not a United States citizen.

D. If I plead **not** guilty, I would be entitled to the following rights. I give up these rights by pleading guilty:

- (1) The right to a speedy and public trial by a jury of twelve people.
- (2) The right to have an attorney represent me at trial and, if the Court found I was unable to afford an attorney, the Court would, at public expense, appoint an attorney to represent me.
- (3) At trial, I would be presumed innocent until such time, if ever, the State established my guilt beyond a reasonable doubt.
- (4) At trial, a jury verdict of guilty would have to be unanimous.
- (5) At trial, I would have the privilege against self-incrimination, that is, I cannot be forced to testify, and if I choose not to testify, the State may not comment on the fact of my failure to testify and, at my request, I would be entitled to a jury instruction stating that the jury could not infer guilt from my failure to testify.
- (6) At trial, the State would have to confront me with witnesses upon whose testimony it relied to obtain conviction, and I would have the right to cross examine those witnesses.
- (7) At trial, I would be entitled to present witnesses to testify on my behalf and to compulsory process to secure their attendance.

E. By pleading guilty, there will not be a trial of any kind. By pleading guilty, I waive my right to trial, and will be treated as if I had been tried and found guilty by a jury.

F. The Court, in determining whether there is a factual basis for this plea of guilty, may make such a determination by examining the Minutes of Testimony attached to the Trial Information, by reviewing the investigative reports of law enforcement agents who have investigated the offense, or by asking me or counsel to recite and summarize the material facts that would be offered at trial.

G. I understand, if applicable, that the Court will decide my reasonable ability to pay restitution of court appointed attorney fees at sentencing. I waive my right to allocution on my reasonable ability to pay attorney fees.

H. The Court has the discretion to accept or reject any plea agreement made between the State and me. This is (not) a bargained plea. I have been informed by _____, who is Prosecuting Attorney, that the State will recommend the following sentence and disposition:

- (1) A fine of \$ _____ plus a statutory 35% surcharge.
- (2) Incarceration for _____ two years in prison, with credit for _____ days previously served _____ a period of _____ days in jail, with credit for _____ days previously served
- (3) Payment all costs and fees incurred for legal assistance, pursuant to §815.9.
- (4) Payment of court costs.
- (5) Victim restitution, if any.
- (6) Payment of \$125.00 law enforcement initiative surcharge.
- (7) Other:

_____.

The foregoing paragraph reflects the entire agreement between the State and this Defendant.

Madison County Prosecuting Attorney

I now state to the Court that I am, in fact, **GUILTY** of the charge of _____, in violation of Iowa Code § _____, and that no threats or promises have been made to induce me to enter my plea of guilty.

The present charge against me was committed by me on the _____ day of _____, 20____, in this County by my doing the following:

I ask the Court to accept this plea of guilty. I waive the preceding rights and my right to have the Court address me personally regarding this plea. I agree the court may consider the Minutes of Testimony in its decision to accept this plea of guilty.

If the Court accepts my plea of guilty, I realize:

- (1) The Court will set a sentencing date not less than fifteen days after the date of its acceptance of this Guilty Plea unless I waive this right. In order to contest this plea of guilty, I must file a Motion in Arrest of Judgment at least five days prior to sentencing. The right to file a Motion In Arrest of Judgment will be waived by having the Court impose a sentence today.
- (2) If the Court imposes a sentence today, I will never be able to challenge this plea of guilty, and I will be giving up my right to directly appeal my guilty plea.
- (3) I understand that I have a right of allocution which allows me to address the Court personally and make a statement in mitigation of my punishment in this case, as provided by Iowa Rule of Criminal Procedure 2.23(3)(d). I further understand that if I am represented by counsel in this case, my attorney may address the Court on my behalf and make a statement in mitigation of my punishment in this case.

Signed on this _____ day of _____, 20__.

 Defendant
 Telephone No.: () _____

 Defendant's Attorney

WAIVER OF MOTION IN ARREST OF JUDGMENT

If the Court accepts my plea of guilty, I wish to be sentenced now. I understand:

1. In order to contest this plea of guilty, I must file a motion in arrest of judgment no later than 45 days after a plea of guilty and no later than five days prior to pronouncement of judgment, and that the Court will set a sentencing date not less than fifteen days after the date of its acceptance of this guilty plea unless I waive this right, and the right to file a motion in arrest of judgment will be waived by having the Court impose a sentence now.
2. By having the Court impose my sentence now, I will never be able to challenge this plea of guilty and I will be giving up my right to directly appeal my guilty plea.

I hereby request the Court sentence me now, and I waive any time to which I may be entitled for sentencing at a later date.

Signed on this _____ day of _____, 20__.

 Defendant

 Defendant's Attorney

WAIVER OF RIGHT OF ALLOCUTION

I understand that I have a right of allocution which allows me to address the Court personally and make a statement in mitigation of my punishment in this case, as provided by Iowa Rule of Criminal Procedure 2.23(3)(d). I further understand that if I am represented by counsel in this case, my attorney may address the Court on my behalf and make a statement in mitigation of my punishment in this case. I hereby waive this right of allocution.

Signed on this _____ day of _____, 20__.

Defendant

Defendant's Attorney