



CAUSE NO. _____

THE STATE OF TEXAS

IN THE COUNTY
COURT-AT-LAW # _____
OF
COMAL COUNTY, TEXAS

VS.

**ADMONISHMENTS, VOLUNTARY STATEMENTS, WAIVERS, STIPULATION(S),
JUDICIAL CONFESSION(S) & PLEA AGREEMENT**

On this day, this cause was called for trial. The Defendant personally appeared pro se or was represented by the attorney of record; the State was represented by its Criminal District Attorney. In open Court, the Defendant waived the reading of the information; the information was stated in substance; and the Defendant entered a plea of guilty (or *nolo contendere*) to the offense of:

DRIVING WHILE INTOXICATED – SECOND OFFENSE

I. **ADMONISHMENTS, ART. 26.13, C.C.P.:** The Defendant is hereby admonished in writing:

a. **Punishment Range:** If convicted, you face the following range of punishment:

CLASS A MISDEMEANOR: Confinement in jail for a term not to exceed one year; and a fine not to exceed \$4,000.00; or both fine and confinement.

CLASS B MISDEMEANOR: Confinement in jail for a term not to exceed 180 days; a fine not to exceed \$2,000.00; or both such fine and confinement.

OTHER: _____

- b. **Plea Bargains:** The Criminal District Attorney’s punishment recommendation is not binding on the Court. If a plea bargain agreement exists, and the Court rejects that agreement, you will be permitted to withdraw your plea if you desire and the Criminal District Attorney shall be allowed to withdraw his consent to the plea bargain agreement, including his consent to waiver of jury trial.
- c. **Negotiated Plea & Appeal:** If the punishment assessed does not exceed the punishment recommended by the prosecutor and agreed to by you and your attorney, if you are represented, you must receive the Court’s permission before you may appeal any matter in the case, except those matters raised by written motions filed and ruled upon before trial.
- d. **Non-negotiated (Open) Plea & Appeal:** If there is no plea bargain agreement, then all non-jurisdictional defects are waived, and you have **NO RIGHT TO APPEAL** except for jurisdictional matters.
- e. **Citizenship:** If you are not a citizen of the United States of America, a plea of Guilty or *nolo contendere* may result in your deportation, your exclusion from admission to this country, or your denial of naturalization under federal law.
- f. **Deferred Adjudication:** If the Court grants you deferred adjudication community supervision, on violation of any imposed condition, you may be arrested and detained. You will then be entitled to a hearing limited to the determination by the Court of whether to proceed with an adjudication of guilt. No appeal may be taken from this determination. After adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of community supervision and your right to appeal continue as if adjudication of guilt had not been deferred. Upon adjudication of your guilt, the Court may assess your punishment at any term of years and any fine within the original range of punishment.
- g. **Driver’s License Suspension:** You understand that if the offense charged involves the manufacture, possession, transportation, or use of an alcoholic beverage, or the manufacture, delivery, possession, transportation, or use of a controlled substance, if you are under 21 years of age at the time of the offense, your Texas driver’s license or privilege to obtain a license in Texas will be automatically suspended for one year; or if your are 21 years of age or older, your Texas driver’s license or privilege to obtain a license in Texas will be automatically suspended for 180 days; and the suspension will continue in effect until such time as you attend and successfully complete a drug or alcohol education program as prescribed by law.
- h. **Driver’s License Suspension DWI:** You understand that if the offense charged is driving while intoxicated and your Texas driver’s license or privilege to obtain a license will be suspended, cancelled, revoked or denied as a result of your plea, the suspension, cancellation, revocation or denial will, at the conclusion of the original suspension period, continue for an additional 24 month period, until you complete a program under article 42.12, §13, Texas Code of Criminal Procedure, and the Texas Department of Public Safety receives proof of completion under §521.344, Texas Transportation Code. If you are under 21 and placed on community supervision, your driver’s license will be suspended

for 90 days.

- i. **Probation and Parole:** You understand that if you are currently on probation or parole, a plea of guilty or nolo contendere may result in the revocation of probation or parole and further confinement.
- j. **Enhancement:** You understand that if you are found guilty, this offense may be used to enhance the punishment in subsequent offense.
- k. **Family Violence Offense:** **If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04 (b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.**

II. **VOLUNTARY STATEMENTS** – NOW COMES the Defendant in open court in the above-entitled and numbered cause, and makes the following voluntary statements:

- a. “I represent that I am the person named in the Information or Complaint; I have agreed to the terms of this Plea Agreement and the signature hereon is my true and correct signature.”
- b. “I have consulted with my attorney if I have an attorney or one has been appointed to represent me; otherwise, these statements are made after review by me representing myself.”
- c. “I was sane at the time of the offense, and am presently competent to stand trial.”
- d. “I understand the nature of the charge(s) against me.”
- e. “I understand the admonishments set out in this document and I am aware of the consequences of a plea of guilty or *nolo contendere*”
- f. “I understand that I have the right to trial by jury, to confront and cross-examine the witnesses against me, the right to subpoena witnesses to testify for me, and the right to remain silent and not incriminate myself.”
- g. “If I am representing myself, I state to the court that I can afford an attorney, I am not indigent, and I have, on my own desire, chosen to represent myself.”

III. **WAIVERS** – NOW COMES the Defendant in open court in the above-entitled and numbered cause, and after consulting with my attorney, I freely, voluntarily, intelligently and knowingly:

- a. **WAIVE** reading of the indictment or information.
- b. **WAIVE**, if applicable, service of the indictment; the waiting period for arraignment, arraignment; the right to file additional motions or pleadings; additional time to respond to the amended indictment or information; time from my waiver of my right to hire an attorney until time of trial; and additional time for my court appointed attorney, if I have one, to prepare for trial.
- c. **WAIVE** the right to trial by jury, and request that the Court and the State join, consent to and approve of this waiver.
- d. **WAIVE** the appearance of and right to confront and cross-examine the witnesses against me.
- e. **CONSENT** to the introduction of evidence by live testimony, affidavits, written statements of witnesses or any other documentary evidence sufficient to establish my guilt and/or punishment. This **CONSENT** is valid as to the Guilt/Innocence phase of this matter as well as to the Punishment phase of this matter.
- f. **WAIVE** this waiver also includes, but is not limited to, any and all statements contained in any pre-sentence investigation report or any reports reviewed by the Court in deciding the sentence to be imposed in this matter and also includes a waiver of my 6th Amendment right to confront the witnesses against me, in both the Guilt/Innocence phase of this matter and the Punishment Phase of this matter as well.
- g. **WAIVE** the right to subpoena witnesses to testify for me.
- h. **WAIVE** my right to remain silent and not to incriminate myself.
- i. **WAIVE** any right which I may have to the preparation of a Pre-sentence Investigation Report.
- j. **WAIVE** my right to have the Court inquire about and request a copy of the victim impact statement, if any; waive my right to read, comment upon, and/or introduce testimony related to such statement, if any; and waive any right I may have for the Court to consider, before sentencing, the contents of such victim impact statement, if any.
- k. **AGREES** that the court may accept his/her plea by broadcast by closed-circuit video teleconferencing and **WAIVES** the right to have sentence pronounced in his/her presence if the plea is by video teleconference.

IV. **STIPULATION AND JUDICIAL CONFESSION** – “I have read and understand the information filed in this case and I judicially confess my guilt as to each, every, and all acts alleged in the information in this cause, and I admit to and stipulate that each and every allegation contained therein is true and correct.”

V. **PLEA AGREEMENT AND PUNISHMENT RECOMMENDATION** – In consideration of the Defendant’s plea, it is mutually agreed and recommended by the Defendant and the Criminal District Attorney that punishment be assessed as follows:

- a. 365 days confinement in the Comal County Jail; 365 days suspended;
- b. 24 months of community supervision;
- c. \$ 4,000.00 Fine (Payment of fine is suspended per Accountability Court);
- d. \$ _____ Restitution;
- e. Take the following unadjudicated offense(s) into consideration pursuant to Texas Penal Code § 12.45:
_____ and Defendant judicially confessed guilt to each element of each offense listed;
- f. \$ _____ Court Appointed Attorney fees, payable at sentencing;
- g. \$ _____ Court Costs, payable at sentencing;
- h. \$50.00 crime stoppers fee, payable at sentencing;
- i. 100 Community Service Hours (suspended per Accountability Court);
- j. 30 days Confinement in County jail as a condition of community supervision(suspended per Accountability Court);
- k. DWI INTERVENTION;
- l. VICTIM IMPACT PANEL;
- m. AA/NA MEETINGS DIRECTED;
- n. GUARDIAN INTERLOCK FOR PROBATION (per Accountability Court);
- o. SCRAM DEVICE (per Accountability Court);
- p. DRUG/ALCOHOL EVALUATION, AND ANY COUNSELING AND/OR TREATMENT AS RECOMMENDED BY THE COMAL COUNTY ACCOUNTABILITY COURT;
- q. Successfully complete the Comal County Accountability Court program;
- r. \$ 500.00 Program fee payable before completion of Phase One of Accountability Court, within 4 months of plea.
- s. Following cases will not be filed/dismissed for a plea in this case: _____;
- t. Other: _____

The above terms constitute our agreement, and there are no agreements not set forth above. The Defendant and Counsel request the Court to follow the plea bargain.

I can read and write the English language. I have read this entire document and discussed it fully with my attorney, if I have an attorney. I understand this document completely, and I am aware of the consequences of my plea. If I have one, my attorney has discussed with me the law and facts applicable to this case, and I am satisfied that I have been effectively represented. Furthermore, I am mentally competent; I understand the admonishments; I am freely, voluntarily, knowingly, and intelligently entering my plea of guilty or nolo contendere; I stipulate to the evidence; and I judicially confess as stated in paragraph IV, above.

DEFENDANT

SWORN AND SUBSCRIBED TO before me by the Defendant, this the _____ day of _____, 20_____.

Honorable Joy Streater
County Clerk
Comal County, Texas

By: _____
Deputy

I hereby join, consent to and approve of the waiver of jury trial pursuant to Art. 1.13, C.C.P., and the stipulations of evidence pursuant to Art. 1.15 C.C. P. In addition, I hereby advise the Court that I have fully consulted with the defendant and have carefully reviewed with him/her this entire document. I believe he/she is mentally competent, understands the admonishments, is aware of the consequences of the plea, and is freely, voluntarily, knowingly and intelligently entering his/her plea of guilty, waiver, stipulation and judicial confession.

COUNSEL FOR DEFENDANT

I hereby join, consent to and approve of the waiver of jury trial pursuant to Art. 1.13, C.C.P., and the stipulations of evidence pursuant to Art. 1.15, C.C.P., and also represent to the court that the above terms constitute the agreement between the Criminal District Attorney and the Defendant, and further request the court to follow the plea bargain.

ASSISTANT CRIMINAL DISTRICT ATTORNEY

ORDER OF THE COURT

The Court hereby finds that (1) the Defendant was sane when the alleged offense was committed, is mentally competent, **is represented by competent counsel/is not represented by counsel and is not indigent**, understands the nature of the charges against him/her and the consequences of a plea of guilty or *nolo contendere*, including the minimum and maximum punishment provided by law; (2) the attorney for the Defendant, or the Defendant Pro Se, and the State consent and approve the waiver of trial by jury and agree to stipulate the evidence in this case; and (3) the Defendant's plea of guilty, statements, waiver, stipulations, and judicial confession were freely, voluntarily, knowingly and intelligently made.

All stipulations, waivers, and pleas are hereby approved and accepted along with all findings as set out above.

IT IS SO ORDERED on this the _____ day of _____, 20_____.

JUDGE PRESIDING