

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

CASE NO.: _____

v.
_____, Defendant.

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PETITION TO ENTER PLEA OF GUILTY

I, the above named defendant, hereby state to the Court that I wish to enter a plea of **GUILTY** to the above numbered indictment. In connection with that plea of **GUILTY**, I inform the Court that the answers to the following questions are true:

1. What is your name? _____ Age? _____
 2. How much education have you had? _____ Are you able to read and write? **Yes**__ **No**__
 3. Are you now under the influence of any alcohol, intoxicants, or any drugs? **Yes**__ **No**__
 4. To your knowledge, do you now suffer from any mental or emotional disability? **Yes**__ **No**__
 5. Have you received a copy of the charging document (indictment/accusation) in this case? **Yes**__ **No**__
 6. Have you read it or had it read and explained to you? **Yes**__ **No**__
 7. Do you fully understand the charges against you? **Yes**__ **No**__
 8. Have you had enough time to talk with your lawyer about your case? **Yes**__ **No**__
 9. Have you discussed your case fully and explained everything you know about it to your lawyer including all of the facts and circumstances surrounding any statement, confession, or other evidence obtained from you by anyone? **Yes**__ **No**__
 10. Has your lawyer advised you of the nature of the charges against you and any possible defenses you may have including the right to challenge the legality of any statement, confession, or other evidence obtained or seized from you? **Yes**__ **No**__
 11. Has your attorney discussed your eligibility for first offender treatment and the benefits/risks therein? **Yes**__ **No**__
 12. Do you understand that you have a right to assistance of counsel during trial? **Yes**__ **No**__
 13. Do you understand that you have a right to plead **NOT GUILTY** to every charge filed against you? **Yes**__ **No**__
 14. Do you understand that if you plead **NOT GUILTY** you have a right to a speedy and public trial by a judge and jury? **Yes**__ **No**__
 15. Do you understand that if you plead **NOT GUILTY** you have a right to confront, that is to see, hear, question, and cross examine, the witnesses called to testify against you at trial? **Yes**__ **No**__
 16. Do you understand that if you plead **NOT GUILTY** you have a right to use the subpoena power of the Court to require the attendance of any witnesses on your behalf, whether they want to come or not? **Yes**__ **No**__
 17. Do you understand that if you plead **NOT GUILTY** you have the right to testify or not testify, as you choose, that you cannot be required to testify and that if you do not testify the jury cannot take that as evidence against you? **Yes**__ **No**__
 18. Do you understand that if you plead **NOT GUILTY** you will be presumed to be innocent and that before you can be convicted the prosecution will have the duty of proving your guilt beyond a reasonable doubt? **Yes**__ **No**__
 19. Do you understand that in the event you were convicted in a trial you would have the right to appeal your conviction? **Yes**__ **No**__
 20. Do you understand that if you plead **GUILTY** you will have waived, that is, given up, each of the rights mentioned in questions 11 through 18? **Yes**__ **No**__
 21. Do you realize that if you plead **GUILTY** the Court may impose the same punishment as if you had pleaded **NOT GUILTY** and been convicted? **Yes**__ **No**__
 22. Do you know that the sentence you will receive is solely a matter for the judge to decide? **Yes**__ **No**__
 23. Have you been advised of the maximum and mandatory minimum punishment provided by law for the offense or offenses to which you want to plead **GUILTY**? Max: _____ Mandatory Minimum: _____ **Yes**__ **No**__
 24. Do you realize that if you plead **GUILTY** the Court may sentence you to the maximum punishment authorized by law for the offense or offenses to which you plead **GUILTY**? **Yes**__ **No**__
 25. No other assurances have been made to me by my attorney or anyone else that I will likely make parole within any designated time. I acknowledge that any discussion with my attorney on the subject is, at most, an estimate, not an assurance, is not binding on the Court nor agency of the government, and is NOT a basis for any plea agreement in this case. Do you understand? **Yes**__ **No**__
 26. Has anyone made guarantees to you concerning collateral consequences of your plea? If so, what? _____ **Yes**__ **No**__
 27. Do you understand that any adverse consequences of your plea shall not be a basis for voiding your conviction? **Yes**__ **No**__
 28. If you are now on probation or parole, do you know that by pleading **GUILTY** here your probation or parole may be revoked and that you may be required to serve time in that case in addition to the sentence imposed upon you in this case? **Yes**__ **No**__
 29. If you are now serving another sentence, do you know that the sentence in this case could be made to follow the sentence you are now serving? **Yes**__ **No**__
 30. Has any person used any threats, force, pressure, or intimidation to make you plead **GUILTY**? **Yes**__ **No**__
 31. Has any promise, other than a plea agreement, been made by anyone which causes you to plead **GUILTY**? **Yes**__ **No**__
 32. Has any person suggested to you or led you to believe that you will be placed on probation or be given a lighter sentence or otherwise rewarded for pleading **GUILTY**? **Yes**__ **No**__
- If so, who made the suggestion and exactly what was suggested? _____

33. Has any plea agreement been made by you with anyone which causes you to plead **GUILTY**? Yes__ No__
 If so, exactly what is that agreement as you understand it? _____
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34. Did you commit the unlawful acts set forth in the charge or charges to which you want to plead **GUILTY**? Yes__ No__
 Specifically, what unlawful acts did you commit? _____
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35. Has your lawyer gone over all of these questions and your answers to them with you? Yes__ No__
 36. Are you satisfied with your lawyer and the way you were represented in the case? Yes__ No__
 37. Do you understand all the questions? If not, which ones do you not understand? _____ Yes__ No__
 38. Is there any other information or advice you want before you enter a plea of **GUILTY**? Yes__ No__
 39. Do you understand that if you plead **GUILTY** the Court may place you under oath and ask you questions about the offense or offenses to which you have pled and the answers to these questions may later be used against you in a prosecution for perjury or false statement or in any proceedings challenging the entry of your plea? Yes__ No__
 40. Is your plea of **GUILTY** given voluntarily and of your free will and accord? Yes__ No__
 41. Do you now want to plead **GUILTY**? Yes__ No__
 42. Are you both eligible and requesting sentencing as a **First Offender** (OCGA 42-8-60)? Yes__ No__
 43. Are you a U.S. Citizen? Yes__ No__
 44. Do you understand that if you are not a citizen of the United States that your entry of a plea, even a plea under First Offender or Conditional Discharge, will in all likelihood, have adverse immigration consequences, including deportation, exclusion from this country and denial of naturalization? Yes__ No__
 45. Has your attorney discussed with you the impact of entering this plea on your immigration status? Yes__ No__
 46. Having been advised of the adverse consequences and having discussed them with your attorney, do you still wish to proceed with the entry of this plea of **GUILTY**? Yes__ No__

I therefore petition the Court to accept my plea of **GUILTY**.

This ____ day of _____, 20____.

 DEFENDANT

Sworn to and subscribed before me this _____ day
 of _____, 20_____

 Notary Public

CERTIFICATE OF COUNSEL

I, as attorney for the defendant, hereby certify that:

1. I have read and fully explained to the defendant all of the charges contained in the charging document in this case.
2. I have explained and discussed with defendant the facts and elements of the case which the prosecution must prove and the defenses that may be available to the charge or charges.
3. I have explained to the defendant the maximum and minimum penalty provided by law for the offense or offenses to which the defendant offers a plea of guilty and the possible consequences of a plea of guilty (including immigration consequences). I have explained to the defendant all the rights and ramifications listed above in this petition, including First Offender treatment.
4. The plea of guilty offered by the defendant to the charge or charges accords with my understanding of the facts the defendant has related to me, is consistent with my advice to the defendant and in my opinion is voluntarily and understandably made.
5. To the best of my knowledge and belief the statements, representations, and declarations made by the defendant in the foregoing petition are in all respects accurate and true.
6. I do not know of any reason why the Court should not accept the plea of guilty.

This ____ day of _____, 20____.

 ATTORNEY FOR DEFENDANT

ORDER

After examination by the Court, the Court ascertains, determines, and adjudges that the plea of guilty by the defendant is freely, knowingly and voluntarily made and was made without undue influence, compulsion, or duress and without promise of leniency. It is therefore ordered that his/her plea of guilty be entered on the minutes and that this Transcript and Certificate be filed with the Charging Document.

This ____ day of _____, 20____.

 JUDGE, SUPERIOR COURT
 BLUE RIDGE JUDICIAL CIRCUIT

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs.

* **INDICTMENT NO.** _____
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*
*

POSSIBLE EFFECTS OF MY CONVICTION

I acknowledge that the conviction in the above styled case may result in collateral consequences beyond the control of my attorney and the court. Such consequences may include but not be limited to the following:

The plea may be used against me and may affect my probation or parole status in this or other courts;

I will likely lose my right to vote or hold elective office;

I will permanently lose my right to ship, transport, possess or receive any firearm or ammunition for any misdemeanor involving domestic violence (18 U.S.C. § 922(g)(9)) or for any felony;

The conviction may affect my immigration status;

The conviction may prevent me from being licensed in some occupations or skills;

The conviction may affect custody disputes in which I am a party or household member;

The conviction may affect my employment;

The conviction may affect many other factors which I may not now be able to anticipate;

I understand that these consequences can occur even in cases of "First Offender" discharge and acquittal, and that some other State and Federal jurisdictions or agencies do not recognize a "First Offender" discharge and acquittal;

I have received no assurances from my lawyer or any other third party, including, but not limited to state or law enforcement agencies to the contrary. I acknowledge that these issues form no part of any negotiation nor agreement as an incentive for a plea. Any adverse affect of my conviction in any of these or similar areas shall not be basis for voiding my conviction.

This the _____ day of _____, 20____.

DEFENDANT

ATTORNEY FOR DEFENDANT

(ASST.) DISTRICT ATTORNEY

IN THE SUPERIOR COURT OF CHEROKEE COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

*

INDICTMENT NO.

VS.

*

*

WAIVER OF FOURTH AMENDMENT RIGHTS

Comes now _____, Defendant in the above styled case, and states to the court the following:

I understand that I have rights that protect me from unreasonable search and seizure.

I understand that these rights are guaranteed by the Fourth Amendment to the United States Constitution, as well as the Georgia Constitution.

I also understand that I can voluntarily give up these rights as part of a negotiated plea agreement as an acceptable alternative to prison.

I do hereby waive and give up the rights listed above, and do hereby consent to a search of my person, papers, personal effects, residence, vehicle, and bodily substances. I further consent that such a search may be conducted by my probation officer or by any law enforcement officer. I agree that such a search may be conducted without a warrant and without probable cause, articulable suspicion, or reasonable grounds. I consent to the use of any evidence seized during such a search in any prosecution that may arise' from said search.

Respectfully submitted, this _____ day of _____, 20__.

Defendant

Attorney for Defendant

Assistant District Attorney
Blue Ridge Judicial Circuit

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

v.

* CASE NO.: _____
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*
*

_____,
DEFENDANT

**NOTICE OF POST-CONVICTION REMEDIES
AND ADVISEMENT OF RIGHTS**

You have certain remedies and rights to challenge your conviction and plea of guilty, but there are time limitations on each of these remedies and rights. **Failure to timely assert any of these rights will likely result in a waiver of these rights.** Whether to pursue any of these remedies and rights is your decision.

NOTICE OF APPEAL (O.C.G.A. §§ 5-6-33; 5-6-38; 5-6-39)

You have a right to appeal the judgment of conviction on your guilty plea and sentence. ***A notice of appeal must be filed within 30 days after entry*** of the judgment of conviction and sentence. Failure to timely assert such notice of appeal will likely result in the waiver of this right to appeal. You have a right to counsel and your attorney is obligated to continue to represent you until the time this post-conviction remedy expires (30 days) or until he or she is permitted by the Court order to withdraw or is replaced by substitute counsel. As long as you are represented by counsel, you cannot file a notice of appeal on your own behalf (otherwise known as a Pro Se notice), and this can result in failure to timely assert your right.

NOTICE TO WITHDRAW A PLEA OF GUILTY (URSC 33.12; O.C.G.A. § 15-6-3)

After sentence is pronounced by the Court, you have a right to move to withdraw your plea of guilty. ***A motion to withdraw a plea of guilty must be filed before the end of the term of court in which the plea is entered.*** A new term of court for the Blue Ridge Judicial Circuit begins on the second Monday in January, May, and September. You have a right to counsel and your attorney is obligated to continue to represent you until the time this post-conviction remedy expires (end of the term of court) or until he or she is permitted by the Court order to withdraw or is replaced by substitute counsel. As long as you are represented by counsel, you cannot file any motion on your own behalf (otherwise known as a Pro Se motion). If you file a motion to withdraw your plea while represented by counsel, this can result in failure to timely assert your right.

NOTICE OF HABEAS CORPUS RIGHTS—NON DEATH CASES (O.C.G.A. §§ 9-14-42; 40-13-33)

You have a right to challenge the proceedings that have resulted in your conviction if you believe that there was a substantial denial of your rights under the United States Constitution or the Constitution of Georgia. Also, you have a right to challenge the composition of the grand jury or trial jury in your case. ***However, you must make such a challenge within the following time limits: 180 days for traffic offense convictions, one (1) year for misdemeanor convictions, and four (4) years for felony convictions.***

The time limit is measured from the date of your conviction becoming final (i.e., the judgement of conviction becoming final by the conclusion of direct review or appeal or the expiration of time for seeking such review, which would be calculated as thirty (30) days from sentencing, or ruling on motion for new trial, or ruling on motion for out of time appeal), the date which an impediment to filing a petition was created by State action in violation of the United States or Georgia Constitution is removed; the date the right asserted was initially recognized by the United States Supreme Court or Supreme Court of Georgia where the right applies retroactively to cases on collateral review or the date which the facts supporting the claims presented could have been discovered through exercise of due diligence.

Your attorney is **not** obligated to represent you in any Habeas Corpus action. Failure to timely assert such a challenge constitutes a waiver of claims.

ACKNOWLEDGMENT

My attorney has advised me of my post-conviction remedies and rights, including the extent of my attorney's continued representation beyond the Court's imposition of sentence, and I acknowledge the same.

Respectfully submitted this _____ day of _____, 20_____.

Defendant

Attorney for Defendant

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

State of Georgia,

vs.

_____,
Defendant.

Case No.: _____

**WAIVER OF PHYSICAL PRESENCE AT PLEA HEARING AND CONSENT TO
APPEARANCE BY VIDEOCONFERENCING**

I understand that the Chief Justice of the Georgia Supreme Court has extended the statewide judicial emergency initially declared on March 14, 2020, for another thirty (30) day period, from December 11, 2020, until January 8, 2021. I understand that based on the standard procedures of the Cherokee County Superior Court I would be produced to be physically present before the Court for my hearing. I am aware the present state of judicial emergency might result in the delay of an in-person hearing in my case. I understand that Uniform Superior Court Rule 9.2 allows the Court to conduct my hearing by videoconferencing. I hereby agree and consent to participating in such hearing by videoconferencing. By signing this waiver, I agree and acknowledge that I have had sufficient access to my attorney both before and during this proceeding. I enter this waiver freely and voluntarily.

SO AGREED, this _____ day of _____, 20____.

Defendant

Attorney for Defendant