

CAUSE NO. _____

THE STATE OF TEXAS

336TH DISTRICT COURT

VS.

FANNIN COUNTY, TEXAS

PLEA AGREEMENT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the defendant, his/her attorney (if shown below), and the attorney for the State of Texas, and would show the Court that the defendant will plead GUILTY to the offense of _____ as charged in or as a lesser included offense of the charge in (Count ____ of) the charging instrument and they make the following plea agreement:

- Term of Confinement in _____ for: _____.
- Post-conviction community supervision for _____ years.
- Deferred community supervision for _____ years.
- Pay fine in the amount of \$_____, as directed by the Supervision Office.
- Pay restitution, jointly and severally with co-defendant(s) in the amount of \$_____ (payable prior to plea if deferred community supervision) to:_____.
- Serve _____ days the Fannin County Jail to begin _____;
Work Release: Yes No
- Have no contact with co-defendant(s).
- Testify honestly about any co-defendant's participation in this offense.
- Have no direct communication with the victim, _____, and his/her family and maintain a distance of at least 50 yards from the victim's residence or place of employment.
- Provide identity of drug source.
- Driver's License is suspended for _____ years.
- Participate in and successfully complete the SAFP Program in the Institutional Division and aftercare program.
- Other:_____

COMPLY WITH ALL OTHER CONDITIONS OF COMMUNITY SUPERVISION AS DIRECTED BY THE SUPERVISION OFFICER.

COURT'S ADMONITIONS TO DEFENDANT

1. You stand charged with the offense of _____.
The range of punishment attached to this offense as enhanced, if any, is (check one).
- Capital Offense (Death Penalty Waived):** Life without parole in the Institutional Division of the Texas Department of Criminal Justice.
 - 1st Degree Felony:** Life or any term not more than 99 years or less than 5 years in the Institutional Division of the Texas Department of Criminal Justice and an optional fine not to exceed \$10,000.
 - 2nd Degree Felony:** A term not more than 20 years or less than 2 years confinement in the Institutional Division of the Texas Department of Criminal Justice and an optional fine not to exceed \$10,000.
 - 3rd Degree Felony:** A term not more than 10 years or less than 2 years confinement in the Institutional Division of the Texas Department of Criminal Justice and an optional fine not to exceed \$10,000.
 - State Jail Felony:** A term not more than 2 years or less than 180 days confinement in the Institutional Division of the Texas Department of Criminal Justice and an optional fine not to exceed \$10,000.
 - Habitual Offender:** Life or a term not more than 99 years or less than 25 years confinement in the Institutional Division of the Texas Department of Criminal Justice.
 - 1st Degree Felony Enhanced:** Life or any term not more than 99 years or less than 15 years in the Institutional Division of the Texas Department of Criminal Justice and an optional fine not to exceed \$10,000.
 - 2nd Degree Felony Enhanced:** Life or any term not more than 99 years or less than 2 years confinement in the Institutional Division of the Texas Department of Criminal Justice and an optional fine not to exceed \$10,000.
 - 3rd Degree Felony Enhanced:** A term not more than 20 years or less than 2 years confinement in the Institutional Division of the Texas Department of Criminal Justice and an optional fine not to exceed \$10,000.
 - State Jail Felony Punished as 2nd Degree Felony:** A term not more than 20 years or less than 2 years confinement in the Institutional Division of the Texas Department of Criminal Justice and an optional fine not to exceed \$10,000.
 - State Jail Felony Punished as 3rd Degree Felony:** A term not more than 10 years or less than 2 years confinement in the Institutional Division of the Texas Department of Criminal Justice and an optional fine not to exceed \$10,000.
 - State Jail Felony Punished as Class A Misdemeanor:** A term of up to 1 year confinement in the Fannin County Jail, or a fine not to exceed \$4,000, or both such confinement and fine.
 - Other:** _____
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2. The recommendations of the prosecuting attorney are not binding on the Court. If a plea agreement does exist, the Court will inform you whether it will follow or reject the agreement in open court and before any finding on your plea. Should the Court reject any plea agreement, you will be permitted to withdraw your plea.
3. If the punishment assessed does not exceed the agreement between you and the prosecutor, the Court must give its permission to you before you may appeal on any matter in this case except for those matters raised by written motions prior to trial.
4. If you are not a citizen of the United State of America, a plea of guilty or nolo contendere may result in deportation, exclusion from admission to this country, or the denial of naturalization under federal law.

5. You will be required to meet the registration requirements of Chapter 62 of the Code of Criminal Procedure (CCP) if you are convicted or placed on deferred adjudication for an offense for which a person is subject to the registration requirements under Chapter 62 CCP.
6. If the Court defers adjudicating your guilt and places you under community supervision on any violation of any condition, you may be arrested and detained as provided by law. You are then entitled to a hearing limited to a determination by the Court whether to proceed with an adjudication of guilt on the original charge. No appeal may be taken from this determination. After adjudication of guilt, all proceedings, including the assessment of punishment and your right to appeal continue as if adjudication of guilt had not been deferred.

DEFENDANT'S WAIVER OF RIGHTS AND JUDICIAL CONFESSION

With the Court's approval, the defendant herein states that he/she:

1. Understands that he has a right to be charged by an indictment returned by a grand jury and to be served with a copy of the indictment. If an indictment has not been returned in this case, the defendant waives those rights and agrees to be tried on information.
2. Agrees that the court may accept his/her plea by broadcast by closed-circuit video teleconferencing.
3. Is the same person charged in the charging instrument.
4. Waives any and all defects, errors or irregularities, whether of form or substance, in the charging instrument.
5. Waives arraignment and formal reading of the charging instrument.
6. Waives the ten (10) days allowed to prepare for trial after the appointment of counsel and agrees to proceed on this date.
7. Waives the preparation of a pre-sentence investigation report.
8. Waives the right to a jury trial on both guilt and punishment.
9. Waives any and all due diligence claims.
10. Waives the right to subpoena witnesses and have them testify on his/her behalf.
11. Waives the right to remain silent as to guilt and punishment and agrees to testify.
12. Waives the right to appeal to the Court of Appeals.
13. Waives the right to urge a motion for new trial.
14. Waives any right under Arts. 1.149(a) and 38.39(d), Code of Criminal Procedure, requiring the State of Texas to preserve evidence containing biological material.
15. Waives the right to confront and cross-examine the State's witnesses in open court, and consents to the introduction of evidence against him/her in the form of written and oral stipulations of evidence and testimony, testimony by affidavit, written statements of witnesses, and any other documentary evidence.
16. Waives the right to seek an application for a writ of habeas corpus under Art. 11.07 Code of Criminal Procedure
17. Had had an adequate opportunity to consult with his/her attorney who has explained his/her rights under the constitutions and laws of the United States and the State of Texas and is fully satisfied with the representation provided by his/her attorney.

18. **JUDICALLY CONFESSES** and admits to committing the offense of

_____ exactly as charged in the charging instrument or as a lesser included offense of the offense charged in (Count _____ of the charging instrument.

19. **PLEADS TRUE** to all enhancement paragraph(s) which are contained in the charging instrument, and judicially confesses that he/she is the same person who was previously duly and legally convicted of the offenses(s) alleged therein.

20. Agrees that upon court order, the Texas Department of Criminal Justice (hereinafter "the Department") may withdraw, seize or garnish funds from an inmate's trust account to pay court fees, costs and fines associated with this conviction. As part of this plea agreement, the defendant:

- a. Agrees not to object to, challenge, protest, or otherwise contest, in any manner, the withdrawal, seizure or garnishment of funds from your inmate trust account by the Department for the payment of court fees, costs, and fines associated with this conviction.
- b. Waives the right to object to, challenge, protest or otherwise contest, in any manner, the calculation of the amount of court fees, costs and fines associated with this conviction to be withdrawn, garnished or seized by the Department from your inmate trust account.
- c. Waives the right to be served with legal process or notice of any kind (including any writ of garnishment, application, accompanying affidavit(s), bill(s) of costs or court order) in any way pertaining or related to the withdrawal, garnishment or seizure of funds from your inmate trust account by the Department for the payment of court fees, costs, and fines associated with this conviction.
- d. Waives any legal, equitable or administrative process or procedure (including by inmate grievance or other internal Department method) to regain funds, or to prevent withdrawal, garnishment or seizure of funds, from your inmate trust account by the Department for the payment of court fees, costs and fines associated with this conviction.
- e. Waives, foregoes, surrenders and relinquishes any property right to any funds withdrawn, garnished or seized from your inmate trust account by the Department to pay court fees, costs and fines associated with this conviction.
- f. Waives the right to the appointment of legal counsel to pursue any legal, equitable or administrative proceeding to prevent the Department from withdrawing, garnishing or seizing funds from your inmate trust account to pay an unpaid fine, court costs or court fees to regain the same.”

DEFENDANT’S APPROVAL

I, the defendant herein, do acknowledge that:

- 1. My attorney has explained to me and I have read and understand the foregoing “Plea Agreement,” “Court’s Admonitions to Defendant,” and “Defendant’s Waiver of Rights and Judicial Confession.”
- 2. My attorney has explained to me and I understand the legal effect of waiving my rights and the consequences of my plea.
- 3. I knowingly, freely, and voluntarily waive my rights, plead GUILTY and consent to the stipulation of facts.
- 4. I request that the Court accept my plea, agreements, waivers, statements, and stipulation.

Date

Defendant
Printed Name: _____

SUBSCRIBED AND SWORN BEFORE ME, the undersigned authority, by the defendant on this the _____ day of _____, 20_____.

Nancy Young, District Clerk

By: _____
Deputy

DEFENSE ATTORNEY'S APPROVAL

I, the attorney of record for the defendant herein, being a licensed member in good standing of the State Bar of Texas, do hereby certify that:

1. The defendant has a sufficient present ability to consult with me with a reasonable degree of rational understanding, and he/she has a rational as well as factual understanding of the proceeding against him/her.
2. I have read the foregoing "Plea Agreement", "Court's Admonitions to Defendant," "Defendant's Waiver of Rights and Judicial Confession," fully explained each of them to the defendant, and I am satisfied that he/she understands each of them.
3. I have explained to the defendant the legal effects of waiver his/her rights and the legal consequences of his/her plea, I have witnessed his/her signature contained herein, and I am satisfied that he/she understands these rights and the legal consequences of his/her plea.
4. I am satisfied that the defendant's plea, agreements, waivers, statements and stipulations are knowingly, freely and voluntarily made, and I do hereby approve and consent to each of them.

Date

Attorney for Defendant
Printed Name: _____
State Bar No.: _____

STATE'S APPROVAL

THE STATE OF TEXAS, by and through its Criminal District Attorney, upon the acceptance and approval by the Court of the defendant's waivers and stipulations of fact herein, waives its right to a trial by jury.

RICHARD E. GLASER
Criminal District Attorney
Fannin County, Texas

Date

By: _____

Assistant Criminal District Attorney
State Bar No.: _____

COURT'S APPROVAL

The Court finds the following:

1. The defendant has a sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding, and has a rational as well as factual understanding of the proceeding against his or her.
2. The defendant has the age, maturity, and intelligence to understand does knowingly understand his or her rights with regard to the two above said instruments.
3. The defendant does knowingly waive his or her rights as described therein.
4. The defendant does understand his or her rights regarding stipulations and does knowingly waive his or her rights to have such facts proved otherwise.
5. The defendant does knowingly stipulate and agree that the facts contained in the "Defendant's Waiver of Rights and Judicial Confession" are true and correct.
6. The does knowingly request that a pre-sentence investigation not be made and the Court herein agrees.

IT IS THEREFORE ORDERED that the defendant's waivers as they appear in the aforesaid instruments be and are hereby approved, consented to, and accepted by this court; that the stipulations be are hereby approved, consented to, and accepted by this court; and, said instruments are hereby ORDERED filed in the papers of this cause.

SIGNED THIS _____ day of _____ 20 _____.

PRESIDING JUDGE
336th District Court
Fannin County, Texas

CAUSE NO. _____

THE STATE OF TEXAS

336TH DISTRICT COURT

VS.

FANNIN COUNTY, TEXAS

CONSENT TO DESTRUCTION OF EVIDENCE

The Defendant hereby consents to the destruction of any evidence seized in connection with his arrest and prosecution. The Defendant understands that destruction of such evidence will prevent any future request for additional testing or the presentation of new evidence or defenses or a claim of innocence based on such evidence.

Date

After having agreed to assess punishment consistent with the plea agreement, the Court hereby finds that the Defendant understands the consequences of consenting to the destruction of evidence seized in connection with his arrest and prosecution. The court finds the consent is voluntary, intelligent and knowing and accepts the consent. The state thereby may destroy said evidence.

Investigative/Arresting Agency

Investigative/Arresting Agency Case #

SIGNED THIS _____ day of _____ 20 _____.

PRESIDING JUDGE
336th District Court
Fannin County, Texas