

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

IN MAGISTRATE COURT

SECOND JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,
 Plaintiff,

CR _____

VS.

**PETITION
TO GIVE UP RIGHTS
AND
PLEAD GUILTY**

Defendant.

You are the Defendant in this case. You are charged with a class __ misdemeanor. Please check the box for each charge to which you will be pleading guilty.

- | | |
|--|---|
| <input type="checkbox"/> Driving While Under the Influence 1 st Offense | <input type="checkbox"/> Simple Assault |
| <input type="checkbox"/> Driving While Under the Influence 2 nd Offense | <input type="checkbox"/> Domestic Violence Simple Assault |
| <input type="checkbox"/> Reckless Driving | <input type="checkbox"/> Violation of a Protection Order |
| <input type="checkbox"/> Driving While Revoked | <input type="checkbox"/> Petty Theft in the First Degree |
| <input type="checkbox"/> Possession of Marijuana | <input type="checkbox"/> Unlawful Occupancy |

Other _____

Please list above any other charge(s) to which you will be pleading guilty

Yes No

I understand the nature of the charge against me and the elements of the charge necessary to prove my guilt.

Yes No

I understand that the maximum statutory penalty is: \$2,000 fine and/or one year in the county jail plus the additional penalty of:

Yes No

I understand that if I am not a citizen of the United States, conviction of the offense(s) for which I have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the law of the United States.

YOU HAVE THE FOLLOWING CONSTITUTIONAL AND STATUTORY RIGHTS. YOU MUST UNDERSTAND YOUR RIGHTS AND POSSIBLE PENALTIES BEFORE A GUILTY PLEA CAN BE ACCEPTED BY THE JUDGE.

Please check the “Yes” box if you understand you have the following rights:

- | | | |
|-----|----|--|
| Yes | No | → You have the right to be represented by a lawyer. |
| Yes | No | → If you cannot afford to hire a lawyer, a lawyer will be appointed. |
| Yes | No | → You have the right to a speedy public trial in this county with an impartial jury of your peers. |
| Yes | No | → You are presumed innocent unless and until the State has proven you guilty of the offense(s) charged against you beyond a reasonable doubt. |
| Yes | No | → You have the right to compulsory process (the right to have witnesses testify for you), including the right to subpoena witnesses. |
| Yes | No | → You have the right to confront and cross-examine any witness who testifies against you. |
| Yes | No | → You have the right against self incrimination. You cannot be made to say anything about the facts, details or evidence in your case. You do not have to testify at your own trial. |
| Yes | No | → You have the right to a preliminary hearing, unless the case has been indicted. |

N/A--Class 2 misdemeanor

In order to plead guilty, you first must give up your right to a preliminary hearing.

- | | | |
|----------------|----|--|
| Not Applicable | | → Already had preliminary hearing or case was indicted, or pleading to Class 2 misdemeanor. |
| Yes | No | → Do you wish to give up your right to a preliminary hearing? |
| Yes | No | → Has anyone forced or threatened you to make you give up your right to a preliminary hearing? |
| Yes | No | → Other than the presentation to the Court of any recommended plea agreement, has anyone made any promises to you to make you give up your right to a preliminary hearing? |
| Yes | No | → Do you voluntarily give up your preliminary hearing? |

Do you understand that by pleading guilty, you will give up the following rights?

- | | | |
|-----|----|--|
| Yes | No | → The right to a speedy, public jury trial in this county with a jury of your peers. |
| Yes | No | → The right to confront and cross-examine the witnesses against you. |

Yes No

→ The right against self incrimination, also known as the right to remain silent, with respect to the offense, for the purpose of the Court accepting the plea. If the plea is accepted, you continue to have the right to remain silent at sentencing.

 Yes No

→ Do you understand the maximum penalty possible, your rights, any potential for loss of driving privileges, and that you may be ordered to pay restitution?

 Yes No

→ Do you wish to give up all your rights and plead guilty?

To the charge in the complaint/information/indictment, how do you plead?

Circle One → GUILTY or NOT GUILTY

 Yes No

→ Other than the presentation to the Court of any recommended plea agreement, has anyone made any promise to you in order for you to enter this plea of guilty?

Recommended Plea Agreement

 Yes No

→ Above is the recommended plea agreement, which I understand.

 Yes No

→ Has anyone forced or threatened you to make you plead guilty?

 Yes No

→ My plea in this matter is free and voluntary, and the only reason I am pleading guilty is that I am, in fact, guilty as charged.

 Yes No

→ I am not under the influence of any alcoholic beverage or drug which impairs my ability to understand these rights and the effect of a guilty plea on them.

 Yes No

→ I authorize my lawyer to proceed on my behalf, whether I am present or not, to enter my plea of guilty and accept the Court's sentence.

Dated this ____ day of _____, 20__.

Defendant

Subscribed and sworn to before me this ____ day of _____, 20__.

Notary Public or Defendant's Attorney
If Notary, commission expires: _____

As lawyer for the Defendant, _____, I hereby certify that I have read and fully explained to the Defendant the allegations contained in the indictment or information in this case. 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. The plea of guilty offered by the Defendant accords with my understanding of the facts the Defendant has related to me. It is consistent with my advice to the Defendant and in my opinion is voluntarily and knowingly made.

Signed by me in the presence of the Defendant and after full discussion of the contents of this petition with the Defendant this ____ day of _____, 20__.

Attorney for the Defendant