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2 **IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR**  
3 **JACKSON COUNTY WELLNESS COURT**

4 STATE OF OREGON,

5 Plaintiff,

6 Vs.

7 \_\_\_\_\_,

8 Defendant

**Case No.**

**CHARGE(s):**

**PETITION TO ENTER PLEA OF**

**GUILTY OR NO CONTEST**

**AND ORDER PERMITTING THE**

**SAME**

9  
10 The above named Defendant respectfully represents to the Court as follows:

11 1. My true name is \_\_\_\_\_.

12 2. I am \_\_\_ years of age; my date of birth is \_\_\_\_\_.

13 \_\_\_\_\_ I read, write and understand the English language.

14 \_\_\_\_\_ I do not read, write and understand the English language, however I have  
15 had the assistance of a qualified interpreter for this case and plea.

16 3. I request all proceedings against me to be had in the name which I have hereby declared  
17 to be my true name.

18 4. I am represented by counsel and the name of my attorney is \_\_\_\_\_. I have received  
19 a copy of the complaint/information/indictment before being called upon to plead and  
20 have read the same, discussed it with my attorney and fully understand all charges made  
21 against me.

22 5. I have told my attorney all the facts and surrounding circumstances as known to me  
23 concerning the matters mentioned in the complaint/information/indictment and believe  
24 that my attorney is fully informed as to all such matters. My attorney has since informed  
25 me and has counseled and advised with me at length as to the nature and cause of each  
26 accusation against me as set forth in the complaint/information/indictment and as to any  
27 possible defenses I might have in this case.

28 6. My attorney has advised me as to the maximum punishment which the law provides for  
the offense charged in the complaint/information/indictment as follows:

Count 1: \$ \_\_\_\_\_ Fine \_\_\_\_\_ Year(s) Imprisonment \_\_\_\_\_

I have also been advised, if I am pleading to a felony, that under Oregon Sentencing  
Guidelines the potential period of incarceration is determined by relating the crime  
severity of the crime of conviction to the criminal history scale. I have also been advised

1 that is the court finds substantial and compelling reasons may impose either more or less  
2 time than is called for in the presumptive grid block rage. An upward durational  
3 departure from presumptive incarceration term shall not total more than double the  
4 maximum duration of the presumptive incarceration term. I also have been advised as  
5 to the possibility of consecutive sentences being imposed.

6  
7 7. I understand that I am not required to plead guilty or no contest and may plead not guilty  
8 if I choose. If I plead not guilty, I understand I am entitled to a speedy trial before a jury  
9 of my peers; that I have the right to call witnesses in my behalf and at no expense to me,  
10 and that any such witnesses so called would be compelled to appear and testify; that I  
11 have an absolute right to confront any witness that would testify against me and cross  
12 examine such witness; that I need not take the witness stand or give any testimony against  
13 myself; that the sole burden of proof is upon the State of Oregon to establish my guilt  
14 which must be established beyond a reasonable doubt and to a moral certainty; that I  
15 have a right to the assistance of a lawyer for my defense at all stages of the proceedings,  
16 including a lawyer at State expense if I cannot afford one. I understand that by pleading  
17 guilty I give up these rights.

18 8. I also understand that a prior criminal record could not be used against me except for  
19 impeachment purposes; that any admissions, statements or confessions which I may  
20 have made or any evidence obtained by virtue of a search and seizure of my property may  
21 well be inadmissible against me in evidence unless my constitutional rights have been  
22 safeguarded, which rights have been explained to me I understand that if I would like to  
23 speak to an attorney concerning my constitutional rights that the Court will grant me time  
24 for that purpose.

25 9. I declare that no officer or agent of any branch of government nor any lawyer or any other  
26 person has made any promise to me, or within my knowledge to anyone else, that I would  
27 receive a lighter sentence or any other form of leniency by pleading guilty or no contest  
28 with the exception that:

**[Enter plea agreement terms]**

10. Upon successful completion of the Wellness Court program, the plea agreement is as  
follows: \_\_\_\_\_ **[disposition of charges]**.

11. If I am unsuccessful and as a result, terminated from the Wellness Court program prior  
to successful completion, the plea agreement is as follows: \_\_\_\_\_ **[disposition of  
charges]** \_\_\_\_\_.

12. I fully understand that the actual sentence is up to the Court, no matter what any  
recommendations may be.

- 1 13. I believe that my attorney has done all that anyone could do to counsel and assist me and  
2 that there is nothing about the proceedings in this case against me which I do not fully  
3 understand. I am satisfied with the advice and help my attorney has given me.
- 4 14. I know that the Court will not permit anyone who claims to be innocent to plead guilty  
5 and with that in mind and because I am guilty and make no claim of innocence, I wish to  
6 plead guilty and respectfully request the Court to accept my plea of guilty. Or, if I am  
7 pleading no contest, I am saying that I do not contest that the State has evidence of my  
8 guilt and wish to have the conviction entered without admitting guilt.
- 9 15. I know if I claim to be innocent, the court will not accept my guilty plea. I am pleading to  
10 the crime(s): \_\_\_\_\_.
- 11 16. I have taken no drink or drug nor anything else which would in any way impair my  
12 judgment at this time, and I feel that I am now fully alert and that in executing this  
13 petition I am doing so knowingly and voluntarily and offer my plea of my own free will  
14 and accord with a full understanding of all the matters set forth in the  
15 complaint/information/indictment and in this petition.
- 16 17. The factual basis of my guilty plea is: \_\_\_\_\_.
- 17 18. I now pray the Court to enter my plea of \_\_\_\_\_ in reliance upon my  
18 representations and the fact that there is a factual basis for my plea and the State  
19 possesses evidence which may lead a jury to find that I am guilty if I stand trial. I  
20 believe it to be in my best interest that I now so declare and plead.
- 21 19. I have been advised by my attorney that a criminal conviction may result in deportation,  
22 exclusion from admission to the United States or denial of naturalization if I am not a  
23 U.S. citizen.
- 24 20. I understand that if I am not a citizen of the United States and am pleading guilty to a  
25 crime which is considered as aggravated felony under 8 USC 1101 this conviction will  
26 result in removal proceedings against me unless the United States Attorney General or  
27 his designee choose not to pursue removal. I also understand that this conviction will  
28 result in a change in my immigration status.
- 29 21. In addition to the sentence imposed, I understand that there may be other significant  
30 consequences if I enter a "Guilty" or "No Contest" plea, including but not limited to, a  
31 prohibition from leaving the state without first requesting transfer of supervision under  
32 the provisions of the Interstate Compact for Adult Offender Supervision.
- 33 22. I understand that if I enter a plea of "Guilty" or "No Contest" to an offense involving  
34 domestic violence, as defined in ORS 135.230, and am convicted of the offense, federal  
35 law may prohibit me from possessing, receiving, shipping, or transporting any firearm  
36 or firearm ammunition and that the conviction may negatively affect my ability to serve

1 in the Armed Forces of the United States as defined in ORS 348.282 or to be employed  
2 in law enforcement.

3 23. I agree that if I withdraw or if a court later reverses, vacates, or sets aside my plea of  
4 "Guilty" or "No Contest" in this case, the court will reinstate any charge(s) that were  
5 dismissed in return for my plea and the district attorney no longer will be bound by any  
6 promises made to me in exchange for my plea. If the court reinstates the charge(s), I  
7 waive the statute of limitations and any statutory or constitutional speedy trial or  
8 double jeopardy rights applicable to the dismissed charges.

9 **24. I hereby acknowledge that my attorney or the Court has furnished me  
10 with a Notice and Advice of Right to Appeal pursuant to ORS 137.020 (5).**

11 Signed by me in open Court on:

12 Date: \_\_\_\_\_

13 DEFENDANT

14  
15 **CERTIFICATE OF COUNSEL**

16 The undersigned, as attorney for the Defendant above named hereby certifies as follows:

- 17 1. That I have read and fully explained to the Defendant the allegations contained in the  
18 complaint/information/indictment in this case.
- 19 2. That I have explained to defendant the maximum and minimum penalties that could be  
20 imposed for each charge and for all charges together.
- 21 3. That to the best of my knowledge and belief the statements, representations and  
22 declarations made by the Defendant in the foregoing petition are in all respects accurate  
23 and true.
- 24 4. That the plea of guilty or no contest as offered by the Defendant in the foregoing  
25 petition and stipulation to a factual basis for this plea as related to me by the Defendant  
26 is consistent with my advice to the Defendant.
- 27 5. That in my opinion the Defendant's plea is voluntarily and understandingly made, and I  
28 recommend to the Court that the plea be accepted by the Court, and entered on behalf  
of the Defendant as requested.
6. I have explained to Defendant any limitation on the right to appeal the judgment of  
conviction and sentence, a notice of the same is filed herein.

1 7. I am aware that, if Defendant is eligible to be represented by court-appointed counsel  
2 on appeal, I am responsible for determining whether Defendant wishes to appeal and, if  
3 Defendant wishes to appeal, I am responsible for transmitting the information  
4 necessary to initiate an appeal to the Office of Public Defense Services.

5 Signed by me in open Court in the presence of the Defendant above named and after full discussion  
6 of the contents of this certificate with the Defendant on

7  
8 Date: \_\_\_\_\_

9 \_\_\_\_\_  
10 ATTORNEY FOR DEFENDANT

11 **NOTICE OF AND RIGHT TO APPEAL**

12 Following your conviction of an offense, you have 30 days from the date of judgment to appeal the  
13 decision of the court.

14 If you pled guilty or no contest, you may appeal only whether your sentence or term of probation  
15 exceeds the maximum allowed by law or is unconstitutionally cruel and unusual. You must  
16 demonstrate to the appellate court that your appeal is supported by a colorable claim of error.

17 If you entered a conditional plea of guilty or no contest, you must reserve in the judgment the right  
18 to appeal the court's ruling on a pretrial motion. You may appeal only the ruling reserved in the  
19 judgment and whether your sentence or term of probation exceeds the maximum allowed by law or  
20 is unconstitutionally cruel and unusual. You must demonstrate to the appellate court that your  
21 appeal is supported by a colorable claim of error.

22 If you were sentenced for a probation violation or following a re-sentencing hearing, you must  
23 demonstrate to the appellate court that your appeal is supported by a colorable claim of error.

24 If an attorney represented you in your case, you must notify your attorney of your desire to file an  
25 appeal so that he or she can transmit the information necessary to perfect your appeal.

26 If you are unable to afford an attorney to represent you on appeal, you may qualify to have one  
27 appointed to represent you by the court. You may contact the Office of Public Defense Services  
28 (formerly the State Public Defender's Office) by mail at 1175 Court Street NE, Salem, Oregon 97301  
or by phone at (503) 378-3349.

To perfect your appeal, you or your attorney must do the following: (1) prepare a written and  
signed notice of appeal, (2) file the  
Original, signed notice of appeal and proof of service on the parties with the State Court  
Administrator, Appellate Court Records Section, 1163 State Street, Salem, Oregon 97301-2563, and  
(3) serve copies of the notice of appeal with all parties including the district attorney and the trial  
court administrator.

1 During your appeal, you may ask the trial court to release you from custody or stay your financial  
2 obligations. This is discretionary with the trial court and may be with any conditions that the trial  
3 court decides to impose.

4 There is no filing fee for criminal cases, but there may be a filing fee for appeals of other types of  
5 cases. You may contact the Court of Appeals for information regarding those fees at (503) 986-5555.

6 **\* \* \* ORDER \* \* \***

7 This Court Finds:

- 8 1. Good cause appearing therefore from the foregoing petition of the Defendant above  
9 named, and the certificate of Defendant's counsel and from all proceedings  
10 heretofore had in this case;  
11 2. Defendants plea of guilty is voluntarily, intelligently, and knowingly made;  
12 3. Defendant's waiver of counsel, if proceeding without an attorney, is voluntarily,  
13 intelligently, and knowingly made.

14 IT IS HEREBY ORDERED AND ADJUDGED by the Court that the petition be granted and  
15 that the Defendant's plea(s) of:

16  GUILTY be accepted and entered as prayed in the above petition and as  
17 recommended by the certificate of counsel;

18  NO CONTEST be accepted and entered as prayed in the aforesaid petition and as  
19 recommended by the certificate of counsel.

20 Entered in open Court on:

21  
22  
23 Date/Circuit Court Judge Signature: \_\_\_\_\_  
24  
25  
26  
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28