

**IN THE DISTRICT COURT
OF KENEDY COUNTY, TEXAS
THE 105TH JUDICIAL DISTRICT OF TEXAS**

The State of Texas

VS.

No. _____

**COURT’S WRITTEN ADMONISHMENTS TO DEFENDANT
IN REVOCATION AND/OR ADJUDICATION PROCEEDINGS**

The Defendant has informed the Court that he/she desires to enter a plea of true or nolo contendere to the Motion to Revoke community supervision and/or to adjudicate guilt filed in this cause. Accordingly, the Court admonishes the Defendant in writing as follows:

Perjury Admonishment: At the beginning of the proceedings, you will be placed under oath. ***You are now warned that any statements you make must be the truth.*** If you make a false statement during this proceeding, you may be charged with the offense of Aggravated Perjury, which is punishable by imprisonment in the state penitentiary for any term of not more than 10 years or less than 2 years and fine not to exceed \$10,000; or you may be held in Contempt of Court, which is punishable by confinement in jail for a term not to exceed 6 months or by a fine not to exceed \$500 or both; and if you are granted community supervision, your community supervision may be revoked, which may result in your being sent to prison.

Motion to Revoke Filed: The State has filed a Motion to Revoke your community supervision, and, if applicable, to adjudicate your guilt. The motion charges that you have violated one or more of the conditions of your community supervision.

Voluntary Plea: Your plea of true must be voluntary. The Court cannot accept your plea of true if anyone forced you, tried to force you or persuaded you to plead true; or if anyone threatened you or promised you anything to get you to plead true; or if your plea of true is influenced by any consideration of fear or a delusive hope of a pardon prompting you to confess a violation of a condition of your community supervision. ***Your plea of true must be of your own free will.***

Basis for Plea: Your plea of true may be accepted by the Court only if you in fact committed the one or more of the violations alleged in this motion. You should not plea true for any other reason. You may plead nolo contendere if you do not want to contest the charges against you, though you may not want to admit criminal responsibility for your conduct.

Right to Plead Not True: You have the right to plead not true and to have a hearing by the Court, without a jury. The State must prove any one or more of the alleged violations by a preponderance of the evidence. You also have the right to remain silent, to require the State to bring witnesses into Court to testify against you, to confront and cross-examine those witnesses through your attorney, and to present evidence in your defense. These are your Constitutional rights that you would be waiving or giving up by pleading true and by agreeing to be tried upon stipulated testimony.

Effect of Plea of True: By pleading true, the State does not have to offer any evidence against you. By your plea of true alone, the Court may revoke your community supervision or adjudicate your guilt if you are on deferred adjudication.

No Plea Bargaining: There is no plea bargaining in revocation or adjudication proceedings. If you entered a plea of guilty/nolo contendere pursuant to a plea bargain agreement, that plea bargain agreement does not carry forward to revocation or adjudication proceedings. Therefore, if your plea of true is based on an agreement with the State to make a specific recommendation on punishment and the Court does not follow that recommendation, *you will not be allowed to withdraw your plea of true.*

Court not Bound by Recommendations: In assessing your punishment and upon deciding whether to continue or to revoke your community supervision, the Court may consider any recommendation made by the State or your attorney, but the Court is not bound or obligated to accept or follow any recommendations so made.

If Continued on Supervision: In lieu of revocation, the Court may continue you on community supervision and modify the conditions of community supervision as the Court deems appropriate; and/or impose sanctions upon you, including increasing the period of your community supervision so long as the total period of supervision does not exceed 10 years (unless the offense is Indecency with a Child, Sexual Assault of a Child, or Aggravated Sexual Assault of a Child, the Court may extend the supervision period for an additional 10 years). In any of these circumstances, regardless of the recommendation of counsel and whether or not you agree, the Court may order as a sanction or condition of community supervision that you be placed in a substance abuse treatment facility, a community corrections facility, a restitution center, any suitable in-patient or out-patient facility, a boot camp, or in the Kenedy County Jail.

If Supervision Revoked: If the Court revokes your supervision and the Court previously entered a finding of guilt, the Court may impose the original sentence previously suspended, even though your lawyer and the State's attorney recommend a lesser or reduced sentence for you. If the Court revokes your supervision and the Court had previously deferred an adjudication of guilt, the Court may now find you guilty and set your punishment at the maximum term provided by law for your offense, even though your attorney and the State prosecutor may recommend a lesser or reduced sentence. In other words, the Court may set whatever punishment the Court deems appropriate in your case regardless of the recommendation of counsel.

If Not a Citizen: If you are not a citizen of the United States, a plea of true may result in your deportation, your exclusion from admission to this country, or your denial of naturalization under federal law. This Court has no authority to bind the federal government regarding your immigration status in this country as result of any agreement you have with the State.

Right of Appeal: Generally speaking, you have a right to appeal the judgment of the Court. If you are dissatisfied with the judgment of the Court, and you want to appeal, you must give notice of appeal within 30 days from this date, unless you file a Motion for New Trial, in which event you must give notice of appeal within 90 days from this date. A Notice of Appeal must be in writing filed with the Clerk of this Court. If you are indigent and unable to hire an attorney, the Court will appoint an attorney to represent you on appeal free of charge, and will also furnish you free of charge, a copy of the record of the hearing. It is your responsibility to follow all appellate timetables provided by the Texas Code Criminal Procedure and the Texas Rules of Appellate Procedure.

You yourself must read the foregoing admonishments, and you must read them carefully. If you have any questions about any of the admonishments or warnings given to you above, you must ask those questions during the hearing. Do not sign any documents unless you yourself have read them or someone else read them to you, word for word, and unless you fully understand what is contained in the documents.

Jack W. Pulcher
Judge Presiding

DEFENDANT’S STATEMENT UNDERSTANDING ADMONISHMENTS

[Instructions to Defendant: Place your initials on the space [____] only if that paragraph applies to you.]

The Defendant and being duly sworn in open Court states the following:

_____ I understand and can read the English language. I have personally read the documents required for this hearing.

_____ Although I cannot read, I do understand and speak the English language. All of the documents required for this hearing were read to be by _____.

_____ I do not understand, speak or write the English language. All of the documents required for this hearing were read to me in my native language by _____.

I am the same person who was charged in this cause with the offense of _____ alleged to have occurred in **Kenedy County**, Texas on _____, _____ and who was placed on the community supervision on _____, _____ for a period of _____ years. I understand that prior to September 1, 1993, the term “community supervision” was known as “probation.”

When I was placed on community supervision, I was given a copy of the conditions of community supervision, and the conditions of community supervision were explained to me. I understood the conditions when first provided to me and I understand them now.

I have received a copy of the State’s Motion to Revoke community supervision and, if applicable, to adjudicate guilt. I have read the motion and I understand it. I waive the reading of the motion at my hearing. I have talked to my lawyer about the motion and my case. My lawyer has explained the motion and the nature of these proceedings to me. I have also discussed with my lawyer any possible defense that I may have to the alleged violations, and I am convinced that I have no defense to those violations and that I intend to enter a plea of true.

I now in open Court enter my plea of true to at least one violation alleged in the motion. I enter my plea of true voluntarily and without force, threats, persuasion, fear or promise. I enter my plea of true only because I have violated those conditions of community supervision for which I have plead true.

I understand the Court’s written admonishments of my Constitutional rights. I understand my Constitutional rights. I waive all of my Constitutional rights.

I have had sufficient opportunity to consult with my attorney and have discussed with him/her all relevant facts and circumstances concerning my case. My lawyer has explained the law applicable in this case. I am satisfied with the representation my lawyer has given me, and I have no complaints or objections to such representation.

I am mentally competent to enter a plea of true in this case; I am sane now and I know what I am doing here in Court today. To the best of my knowledge, I was sane and I knew what I was doing on the date of each alleged violation contained in the Motion for which I have entered a plea of true.

I understand that there is no plea bargaining in revocation or adjudication proceedings. I also understand that if the State has agreed with my lawyer and I to make a specific recommendation on punishment, the Court is not obligated to follow any such recommendation, and that the if the Court chooses not to follow the State’s recommendation or my lawyer’s recommendation, I have no right to withdraw my plea of true or to ask the Court to allow me to withdraw my plea of true.

I also understand that in determining punishment the Court may consider recommendations made by the District Attorney's Office or my attorney and that the Court is not bound or obligated to accept or follow any recommendations so made. The Court will consider the evidence and hand down whatever punishment the Court deems proper if my community supervision is revoked, regardless of any recommendations made. I further understand that despite a recommended reduced sentence from either my lawyer or the State's attorney, the Court upon a finding of true to the allegations may impose the previously suspended original sentence, or upon a finding of guilt impose a term up to the maximum in a previously deferred adjudication.

_____ I am a citizen of the United States of America.

_____ I am not a citizen of the United States of America. I fully acknowledge and understand that, because I am not a citizen of the United States, a plea of guilty or nolo contendere for the offense in my case may result in my deportation, the exclusion from admission to this country, or the denial of naturalization under federal law. I also understand that this Court has no authority to bind the United States government regarding my immigration status in this country.

I acknowledge and understand the admonishments given to me in writing by the Court, I know the range of punishment applicable in this cause, and I am aware of the consequences of my entering a plea of true.

I understand that if I am dissatisfied with the judgment of the Court, I have the right to appeal. I understand that, if I entered a plea of true to any violation of the conditions of supervision, my right of appeal may be affected in that I will have actually nothing to appeal and the judgment of the Court will likely be affirmed. I also understand that if I am indigent and unable to hire a lawyer, the Court will appoint a lawyer to represent me on appeal free of charge, and will also furnish me free of charge a copy of the record of the revocation hearing only. I understand that it is my responsibility to follow all requirements for appeal and all appellate timetables as set by the Texas Code of Criminal Procedure.

Defendant

Defendant's Waiver of Rights

With the advice of my counsel, and as shown by my initials to each applicable paragraph, I hereby file my Waiver of Rights prior to entry of my plea of true or nolo contendere as follows:

_____ **Waiver of Language Interpreter:** I understand and speak the English language. I understand that if I do not fully speak or understand the English language, I have the right to have an interpreter present to translate all of the proceedings and testimony to me in a language that I understand. I hereby waive the right to have a certified language interpreter.

_____ **Waiver of Reading of Motion:** I understand my right to have the Motion to Revoke Community Supervision and/or Adjudicate Guilt read to me in open court. I hereby waive the reading of said Motion.

_____ **Waiver of 10-Day Preparation:** I understand my right that entitles my court-appointed lawyer to at least 10 days after appointment to prepare for trial or for today's proceedings. In the event my lawyer was appointed less than 10 days from today, I hereby waive the 10-day preparation period.

_____ **Waiver of Confrontation of Witnesses:** I understand that I have the right to appearance, confrontation and cross-examination of witnesses in this cause. I hereby waive my right to the appearance, confrontation, and cross-examination of any witnesses against me. I agree that the testimony of the witnesses may be read into the record by the State’s attorney; that such testimony would be the same as if the witnesses were present in the court and were testifying under oath; and that any testimony or evidence may be introduced by an affidavit, written statements of witnesses and any other documents offered by the State.

_____ **Waiver of In-person Confrontation of Witnesses (ZOOM):** I understand that I have the right to appearance, and in-person confrontation and cross-examination of witnesses in this cause. I hereby waive my right to the in-person appearance of witnesses for the purposes of remote proceedings such as “ZOOM” hearings, but I reserve my right to confront and cross-examine witnesses remotely.

_____ **Withdrawal of Pre-trial Motions and/or Rulings on Pretrial Motions:** In the event that my lawyer filed pre-trial motions on my behalf, I hereby withdraw all such motions, except those motions previously ruled upon by the Court. If the Court ruled on any pre-trial motions filed on my behalf, I hereby waive my right to appeal any such rulings.

_____ **Waiver of Appeal:** I understand that, whether I plead true or nolo contendere, I may have a limited right to appeal. Regardless of the result of the proceeding, **I hereby waive any right that I may have in this cause to appeal the judgment of the Court.**

Defendant

Clerk’s Certificate

On _____, Defendant stated to me under oath that he/she had read all of the foregoing documents or that said documents had been read to him/her in his/her native language; that he/she understands all of the statements contained therein; that he/she freely signed said documents; and that Defendant’s signatures or initials appearing on the documents were his/her signatures or initials.

VERONICA VELA, DISTRICT CLERK

BY _____, DEPUTY CLERK

Counsel's Certificate of Consultation and Consent to Waiver

I, _____, Bar No. _____, attorney for Defendant herein, hereby certify that I have read and explained all of the Court's written admonishments to Defendant and the applicable range of punishment and the waiver of rights. Defendant understands and can read the English language; if he/she cannot read but does understand English, I have caused to have the documents read to him/her in my presence; if he/she does not understand English, I have caused to have the documents orally translated and interpreted to him/her in my presence in the language of his/her understanding. In my opinion, Defendant is mentally competent today and was sane at the time of the commission of the violations of conditions of supervision. He/she understands the nature of the accusation against him/her and of the proceedings herein. We have discussed the facts of the case and the applicable law. His/her plea of true/nolo contendere is made freely, voluntarily, knowingly and intelligently, and is done with my advice and consent. Defendant is fully aware of the consequences of his/her plea, knows the range of punishment, and understands all of the admonishments given to him/her by the Court in writing. I further agree and consent to his/her waiver of rights.

Signature of Attorney for Defendant

State's Consent

I, _____, Bar No. _____, Attorney for the State of Texas, hereby consent to Defendant's Waiver of Rights as noted above and agree to waive a jury in this cause.

Attorney for the State

**IN THE DISTRICT COURT
OF KENEDY COUNTY, TEXAS
THE 105TH JUDICIAL DISTRICT OF TEXAS**

The State of Texas

VS.

No. _____

ORDER APPROVING DEFENDANT’S WRITTEN STATEMENTS

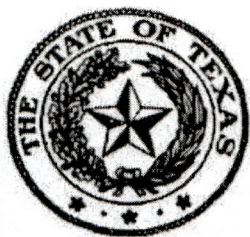
Prior to the hearing on Defendant’s plea of true/nolo contendere, the Court tendered to Defendant the *Court’s Written Admonishments to Defendant in Revocation and/or Adjudications Proceedings* and *Defendant’s Waiver of Rights*.

During the hearing the Court received and reviewed Defendant’s sworn statement that he/she understands the Court’s written admonishments and waiver of rights as stated above. The Court finds that said statement, waiver and attorney’s certificate are in due and proper form; that Defendant is aware of the range of punishment in this case; that Defendant is mentally competent and his/her plea is made freely, voluntarily, knowingly, and intelligently and Defendant properly waived all of his/her rights.

IT IS ORDERED that Defendant’s sworn Statement of Understanding and Waiver of Rights as contained within the *Court’s Written Admonishments* are hereby **APPROVED** and made a part of the record in this cause.

SIGNED ON _____

Jack W. Pulcher
Judge Presiding



IN THE DISTRICT COURT
OF KLEBERG / KENEDY COUNTY, TEXAS
THE 105TH JUDICIAL DISTRICT OF TEXAS

THE STATE OF TEXAS

VS.

No. _____

TRIAL COURT'S CERTIFICATION OF DEFENDANT'S RIGHT OF APPEAL*

I, the Judge of the trial Court, certify that this criminal case:

- is not a plea bargain case, and the Defendant has the right of appeal. [*or*]
- is a plea bargain case, but matters were raised by written motion filed and ruled on before trial and not withdrawn or waived, and the Defendant has the right of appeal. [*or*]
- is a plea bargain case, but the Court has given permission to appeal, and the Defendant has the right of appeal. [*or*]
- is a plea bargain case, and the Defendant has NO right of appeal. [*or*]
- the Defendant has waived the right of appeal.

JACK W. PULCHER, JUDGE PRESIDING

Date signed

I, the Defendant, have received a copy of this certification. I have also been informed of my rights concerning any appeal of this criminal case, including any right to file a *pro se* petition for discretionary review pursuant to Rule 68 of the Texas Rules of Appellate Procedure. I have been admonished that my attorney must mail a copy of the court of appeals' judgment and opinion to my last known address and that I have only 30 days in which to file a *pro se* petition for discretionary review in the court of appeals. Tex. R. App. P. 68.2. I acknowledge that, if I wish to appeal this case and if I am entitled to do so, it is my duty to inform my appellate attorney, by written communication, of any change in the address at which I am currently living or any change in my current prison, state jail or county jail unit. I understand that, because of appellate timetables, if I fail to timely inform my appellate attorney of any change in my address, I may lose the opportunity to file a *pro se* petition for discretionary review.

Defendant

Mailing address:

Telephone:

Fax number (if any):

Defendant's Counsel SBN:

Mailing address:

Telephone:

Fax number (if any):

*"A defendant in a criminal case has the right of appeal under these rules. The trial court shall enter a certification of the defendant's right to appeal in every case in which it enters a judgment of guilt or other appealable order. In a plea bargain case—that is, a case in which a defendant's plea was guilty or *nolo contendere* and the punishment did not exceed the punishment recommended by the prosecutor and agreed to by the defendant—a defendant may appeal only: (A) those matters that were raised by written motion filed and ruled on before trial, or (B) after getting the trial court's permission to appeal." Texas Rule of Appellate Procedure 25.2(a)(2).