



IN THE _____TH JUDICIAL DISTRICT COURT
NUECES COUNTY, TEXAS

THE STATE OF TEXAS
Vs.

No. _____

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

Defendant herein has informed the Court that he/she desires to enter a plea of true or a plea of nolo contendere in this cause. Accordingly, pursuant to Art. 26.13(d), Texas Code of Criminal Procedure [Tx.C.Cr.P.], the Court admonishes Defendant in writing as follows:

Perjury Admonishment. When the hearing begins, 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 hearing, 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 a 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 180 days or by a fine not to exceed \$500 or both; and if you are granted community supervision, your community supervision may be revoked, and you may be sent to prison or the State Jail.

Motion to Revoke Filed. The State of Texas has filed a motion to revoke your community supervision and, if applicable, a motion to adjudicate your guilt. The motion charges that you have violated one or more of the conditions of your community supervision. You should have either received or been served with a copy of the pending motion by now.

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

Basis for Plea of True. Your plea of true may be accepted by the Court only if you admit that you violated a condition of community supervision; you should not plead true for any other reason. By pleading true, the Court may find that you violated a condition of community supervision.

Basis for Plea of Nolo Contendere. You may plead nolo contendere (that is, no contest) if you do not want to admit that you violated a condition of community supervision, but you will not contest, challenge or oppose the charges or evidence against you. A plea of nolo contendere has the same effect as a plea of true in that the Court will find that you violated a condition of community supervision.

Right to Plead Not True. Even though you know that you may have violated a condition of community supervision, you still have the right to plead not true and to force the State to prove by a preponderance of the evidence that you violated a condition of community supervision. You have basic rights: the right to a hearing, without a jury; the right to remain silent and not testify; the right to force the State to bring witnesses into court to testify against you; the right to confront and, through your attorney, to cross-examine the State's witnesses; the right to compel the attendance of witnesses in your behalf; and the right to present evidence in your defense. These are some of your constitutional rights that you waive or give up by pleading true or nolo contendere and by agreeing to be tried before the Court without a jury upon stipulated or agreed testimony and evidence.

No Evidence Required. By pleading true or nolo contendere, the State does not have to produce any evidence against you. By pleading true or nolo contendere alone, the Court may revoke your community supervision and, if you are on deferred adjudication, to proceed to adjudicate your guilt.

No Binding Plea Bargain. Although you may plea bargain with the State for an agreed recommendation, the Court is not bound to follow any agreed recommendation you may have with the State, and you will not be allowed to withdraw your plea of true or nolo contendere if the Court does not follow the agreed recommendation. If you entered a plea of guilty or nolo contendere pursuant to a plea bargain agreement with the State when you entered your plea of guilty or nolo contendere in the original proceedings in this cause, that agreement does not carry forward to a revocation or adjudication proceeding. Therefore, if your plea is based on an agreement with the State that the State will make a specific recommendation on punishment, but the Court does not follow that recommendation, *you will not be allowed to withdraw your plea of true.*

Court Not Required to Accept Punishment Recommendations. In deciding whether to continue you on community supervision or to revoke your community supervision or in assessing your punishment, the Court may consider recommendations made by the State or your attorney, but the Court is not bound or required to accept or follow any recommendations so made. The Court will consider the evidence and then assess whatever punishment the Court feels is proper regardless of any recommendations made.

If Continued on Community Supervision. Although the Court may find that you violated a condition of community supervision, the Court may continue you on community supervision and impose sanctions on you and modify the conditions of community supervision. The sanctions may include increasing the period of community supervision so long as the period of community supervision does not exceed 10 Years; if you are on community supervision for an offense of Indecency with a Child, Sexual Assault of a Child, or Aggravated Sexual Assault of a Child, the Court may extend the community supervision for an additional 10 Years if the Court finds that you have not sufficiently demonstrated a commitment to avoid future criminal behavior and your release from community supervision would endanger the public. Under any of these circumstances and regardless of the recommendation of counsel and whether you agree or not, the Court may order as a sanction or a condition of community supervision that you

be placed at a substance abuse treatment facility, a community correctional facility, a restitution center, any in-patient or out-patient facility suitable for your needs, a boot camp, or in jail.

If Community Supervision Revoked. If the Court revokes your community supervision and the Court had previously found you guilty, 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 proceed to find you guilty and set your punishment up to the maximum term provided by law for your offense, even though your lawyer and the State's attorney may recommend a lesser or reduced sentence for you. In other words, the Court may set whatever punishment the Court feels is 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 or nolo contendere in this case may result in your deportation, your exclusion from admission to this country, or your denial of naturalization under federal law. This Court has no power to bind the federal government regarding your immigrant status in this country as a result of any agreement you may have with the State.

Right to Notify Consular Office. If you are not a citizen of the United States, you are entitled to have the State of Texas notify your native country's consular representative here in the United States and to inform that representative that charges have been filed against you. Your country's consular officials are entitled to have access to you and to provide you consular assistance if you desire such assistance, whatever assistance that might be. If you want the State of Texas to notify your country's consular representative before you enter your plea, you must tell the Court now. Otherwise, you will waive or give up your right to have the State of Texas notify your country's consular representative.

If a Sex Offender. If you are on community supervision for a reportable sex offense, you continue to comply with the registration requirements under Chapter 62 of the Texas Code of Criminal Procedure and to register as a sex offender at least once each year and every time you change your residence. Depending on the sex offense involved, your duty to register as a sex offender will end (1) on the tenth anniversary from the date that you are discharged from community supervision or released from prison, whichever is later, or (2) when you die. Failure to register as a sex offender when required to do so is a felony offense and may result in additional felony charges filed against you.

If a Family Violence Offender. If you enter a plea of true or nolo contendere to an offense of family violence defined by Section 71.004 of the Texas Family Code, including to a misdemeanor family violence offense, it is unlawful for you, *from now on*, to own, possess or transfer a firearm or any ammunition. If you do so, you may be prosecuted under either or both state or federal law.

DNA Testing. If the Court finds that you violated a condition of community supervision, you shall submit to DNA testing and you shall pay the cost thereof, unless, because of a prior proceeding, you have already submitted DNA testing.

Jail Term as condition of Community Supervision. If the Court finds that you violated a condition of community supervision, the Court may order that you serve a jail term as a condition of community supervision. The jail term cannot exceed 180 days.

In-patient Treatment Placement. If you enter a plea of true or nolo contendere to a charge admitting substance abuse, or if the evidence shows that you have a history of substance abuse, the Court may, with or without your agreement, place you in an in-patient residential treatment facility, including a substance abuse felony punishment facility operated by the Texas Department of Criminal Justice. The term of the placement cannot exceed one year.

Jail Time Credit. Depending on the degree of the offense and the facts and circumstances of confinement, you may be entitled to mandatory credit of any jail confinement in your case.

State Jail Felonies. You are not entitled to mandatory credit of your pretrial jail confinement towards your sentence; however, in its discretion, the Court may give you such credit. If you are indigent and did not post bond to get out of jail and are sentenced to serve the maximum sentence of 2 years confinement in the State Jail, then you are entitled to credit for your pre-trial confinement.

All Other Felonies. You are entitled to mandatory credit of your pretrial confinement towards your sentence.

Pending Revocation Hearing. If your community supervision is revoked, you are entitled to mandatory credit of any jail time pending a hearing on the motion to revoke.

SATF Term. If you were placed on community supervision on or after September 1, 2007 and if you successfully completed a treatment program while on community supervision in this cause in a substance abuse treatment facility [SATF] operated by the Texas Department of Criminal Justice or in another court-ordered residential program or facility, you are entitled to mandatory credit for any time served in such a facility, if your community supervision is revoked. If you were placed on community supervision before September 1, 2007, you are not entitled to any credit for any time served in a SATF, even if you completed the program satisfactorily.

Jail Term as a Condition. If you were ordered to serve a jail term as a condition of community supervision, you are not entitled to credit for that term of confinement.

Filing an Appeal. If your community supervision is revoked and a sentence is imposed, you have a right to appeal. If you want to appeal, you must give notice of appeal within 30 days from the sentencing date. If you file a motion for new trial, you must give notice of appeal within 90 days from the sentencing date. If you want to file a motion for new trial, you must file the motion within 30 days of sentencing. The notice of appeal and the motion for new trial must be in writing and must be timely filed with the clerk of this Court.

Although the Court may find that you violated a condition of community supervision, if your community supervision is not revoked and you are continued on community supervision, you have no right to appeal an Order sanctioning you and continuing you on community supervision.

If you are indigent and unable to hire an attorney, at your request, the Court will appoint an attorney to represent you on appeal free of charge to you, and will also furnish you free of charge a record of the revocation hearing. However, the Court will not provide you free of charge the record of the guilty plea hearing when you were first placed on community supervision or of any prior revocation hearing. If you are now being represented by an appointed attorney, your attorney shall continue to represent you on appeal until appeals are exhausted or the attorney is relieved by the Court or replaced by other counsel.

After the proceeding, the Court will sign the "Trial Court's Certification of Defendant's Right of Appeal," which will give you additional admonishments about your right of appeal. You are required to sign your receipt of the certification and to provide contact information. You will be provided a copy of the appeal certification after you sign it. 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; if you cannot read, then have your attorney or the language interpreter (if necessary) read the document to you. If you do not understand a particular item or if you have questions on anything stated above, you must let me know or 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. After the hearing, it will be too late to complain about any matter that could have been taken care of at the hearing.

JUDGE PRESIDING

DEFENDANT'S STATEMENT UNDERSTANDING ADMONISHMENTS

[Place your initials next to any paragraph if the "_____" next to the paragraph has a "/" before it and/or applies to you.]

Defendant, being duly sworn, in open court states Defendant's understanding as follows:

/ _____ 1) I **understand and can read** the English language. I have personally read the documents required for this hearing. - **OR** -
_____ 2) Although I **cannot read**, I do understand and speak the English language. All of the documents required for this hearing were read to me by _____. - **OR** - _____ 3) 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 understand the Court's written admonishments and explanation of my constitutional and statutory rights.

/ _____ I am the same person who was placed on community supervision on _____ for a period of _____ years for the offense of _____ alleged to have occurred in Nueces County, Texas on _____ under a Judgment of conviction with a suspended sentence or of deferred adjudication. I understand that "community supervision" was previously known as and is sometimes referred to as "probation."

/ _____ When I was placed on community supervision, I was given a copy of the conditions of community supervision. The conditions of community supervision were explained to me. I understood the conditions then 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, and my lawyer has explained the motion and the nature of these proceedings to me. I have discussed with my lawyer any possible defenses that I may have to the alleged violations, and I am convinced that I have no defenses to those violations that I intend to enter a plea of True.

_____ I now enter my **plea of true to at least one** of the alleged violations in the motion. I enter my plea of true freely and voluntarily and without force, threats, persuasion, fear or promise. I enter said plea because I violated at least one condition of community supervision alleged in the pending motion to revoke.

_____ I enter my **plea of nolo contendere or no contest to at least one** of the alleged violations in the motion because, although I do not admit criminal responsibility, I will not contest or oppose the allegation(s) against me. I do not object to the admission of any evidence offered by the State against me. I stipulate that the State's witnesses would testify as shown in the State's evidence, regardless of whether I agree with such evidence.

/ _____ I have had sufficient time and opportunity to consult with my lawyer and have discussed with my attorney all relevant facts and the law applicable in this case. I am satisfied with the representation my lawyer has given me, and I have no complaints against my lawyer or objections to the representation my lawyer has given me.

/ _____ I am mentally competent to enter a plea in this case. I am sane now and I know what I am doing in court today. As far as I know, I was sane and I knew what I was doing on the dates alleged in the motion.

_____ With the assistance of my lawyer, I have entered into an **agreed recommendation** with the State. I understand, however, that the agreed recommendation is not binding on the Court and that the Court is free to revoke my community supervision and to set the punishment as it deems appropriate. I want the Court to accept my plea regardless whether the Court follows any agreed recommendation.

/ _____ I understand that in a revocation of community supervision hearing, there is no right to a jury trial.

/ _____ 1) I am a **CITIZEN** of the United States of America. - **OR** - _____ 2) 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 true or nolo contendere on the pending motion to revoke in this cause may result in my deportation, the exclusion from admission to this country, or the denial of naturalization under federal law. I understand that this Court has no authority to bind the United States government regarding my immigrant status in this country. I understand that I am entitled to have the State of Texas notify my country's consular representative here in the United States and to inform that representative that a motion to revoke has been filed against me; and that my country's consular officials are entitled to have access to me and to provide me consular assistance if I desire such assistance, whatever assistance that might be. I do not want, and I hereby waive and give up my right, to have the State of Texas notify my country's consular representative on my behalf; nor do I want any consular assistance on these matters.

_____ I understand that, because I am on community supervision for a **reportable sex offense**, I will be required to continue to register as a sex offender with the local law enforcement authority. I understand that I must register every time I establish a new residence or change my address. I understand that if I fail to timely register as a sex offender, additional felony charges may be filed against me. *I understand that I must register as a sex offender within seven days from today if I am released to community supervision or of my release from prison if my community supervision is revoked.*

/ _____ I understand that I have the right of appeal if my community supervision is revoked and a sentence is imposed upon. I understand that, if the Court does not revoke my community supervision and, instead, sanctions me and continues me on community supervision, I have no right of appeal.

/ _____ I 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 to me, and will also furnish me free of charge a record of these proceedings. I understand that if I am now being represented by an appointed attorney, my attorney shall continue to represent me on appeal until direct appeals are exhausted or the attorney is relieved of his duties by the Court or replaced by other counsel.

/ _____ I 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/nolo contendere.

/ _____ I understand that, after the proceedings, I will be required to sign the "Trial Court's Certification of Defendant's Right of Appeal." I will receive a copy of the Certificate after I sign it. I understand that it is my responsibility to follow all requirements for appeal and all appellate timetables as set by the Texas Code Criminal Procedure and the Texas Rules of Appellate Procedure.

Defendant

DEFENDANT'S WAIVER OF RIGHTS

With the advice and consent of my lawyer, and as shown by my initials to each applicable paragraph, I hereby file my Waiver of Rights prior to the 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:** I understand my right to have the pending motion to revoke read to me in open Court. I hereby waive the formal reading of the pending motion to revoke in open court.

_____ **Waiver of 10-day Preparation:** I understand that I have the right (and/or my lawyer) to have at least 10 days after appointment to prepare for a revocation hearing 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 – as to any Plea of "True" (or "Nolo Contendere"):** I understand that I have the right to the appearance, confrontation and cross-examination of witnesses in this cause. I hereby waive my right to the appearance, confrontation, and cross-examination of the witnesses against me as to any plea of "true" (or "nolo contendere"). I agree that the testimony of such 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 Court and were testifying under oath; and that any testimony or evidence may be introduced by affidavit, written statements of witnesses and any other documents offered by the State.

_____ **Waiver of In Court Proceeding / Consent to Video-Conference:** I understand that in lieu of appearing in court (*in person*) in this case, I (and/or my attorney) are hereby waiving any right to same and consenting to the proceedings being conducted *via* videoconferencing.

_____ **Waiver of Service and Notice of Bill of Costs:** Defendant hereby acknowledges and waives formal service and notice of the total court costs and/or Bill of Costs associated with the prosecution of the above-referenced cause number as may be required pursuant to **§42.16 and Chapter 103 of the Code of Criminal Procedure**. Defendant waives service and notice of the total court costs accrued, or which may accrue in this matter, **whether placed on probation or sentenced to the Texas Department of Criminal Justice or State Jail Facility**. Notice is hereby provided that the Bill of Costs will include all court costs, and other reasonable and necessary expenses incurred in the prosecution of the above references case. Should I be placed on probation, I acknowledge that the Bill of Costs will become part of my payment obligation associated with the conditions of my probation.

_____ **Waiver of Original Signature:** I understand that I have the right to personally sign and/or initial these plea documents. I do not desire to do so and I have given my counsel the right to do so for me. I hereby acknowledge that any signature and/or initial (whether signed by my attorney and/or electronically added) contained within this document and/or the *Trial Court's Certification of Defendant's Right to Appeal* are made with my permission after being fully explained to my satisfaction and understanding.

_____ **Waiver of Fines and Costs Ability to Pay Inquiry.** I hereby waive my right to have the trial court inquire on the record at the time of sentencing whether or not I have sufficient resources or income to immediately pay all or part of the fine and costs assessed against me (including attorney's fees, probation fees and other CSCD fees), and I affirm that I do have sufficient resources or income to pay the fine I have agreed to an the costs as I understand them to be.

Defendant

CLERK'S CERTIFICATE

On _____, Defendant stated to me under oath that he/she had read all of this document or that this document had been read to Defendant in Defendant's native language; that he/she understands all of the statements contained therein; that he/she freely signed this document; and that Defendant's signatures appearing on the document were Defendant's signatures and/or those of Defendant's attorney, whom Defendant authorized to sign or notate same.

ANNE LORENTZEN, 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 waiver of rights. Defendant understands and can read the English language; if he/she cannot read but does understand English, I have had the document read to Defendant in my presence; if Defendant does not understand English, I have had the certified language interpreter orally translate and interpret the document to Defendant in my presence in the language of Defendant's understanding. In my opinion, Defendant is mentally competent today and was sane at the time of the commission of the alleged violations. Defendant understands the nature of the charges against Defendant and of the proceedings herein. We have discussed the facts of the case and the applicable law. Defendant's plea of true/nolo contendere is made freely and voluntarily, knowingly and intelligently, and is done with my advice and consent. Defendant is fully aware of the consequences of this plea, knows the range of punishment, and understands all of the admonishments given to Defendant by the Court in writing. Defendant understands that an agreed recommendation between the State and Defendant is not binding on the Court and that the Court is free to impose its own judgment on the case after hearing the evidence and argument of counsel. If Defendant is not a citizen of the United States, I have counseled him about the consequences of entering a plea of true or no/nolo contendere in this case and about his right to notify the consular representative of Defendant's native country in the United States. I agree and consent to Defendant's waiver of rights. In addition, the undersigned hereby verifies that Defendant was explained the right to personally sign and/or initial these plea documents and that after being fully explained to Defendant's satisfaction and understanding, Defendant agreed to waive such right and have the undersigned sign and/or initial (whether by actual signature/initial or/and electronic form thereof) signed by my attorney and/or electronically added) this document and/or the *Trial Court's Certification of Defendant's Right to Appeal*.

Attorney for Defendant

ORDER APPROVING DEFENDANT'S WRITTEN STATEMENTS AND WAIVERS

Prior to the hearing on Defendant's plea of true or nolo contendere, the Court tendered to Defendant the document containing the "Court's Written Admonishments to Defendant on Defendant's Plea of True or Nolo Contendere in Revocation and/or Adjudication Proceeding," "Defendant's Statement Understanding Admonishments," 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 and waiver and the attorney's certificate are in due and proper form; that Defendant fully understands all of the admonishments given to Defendant in writing; that Defendant is aware of the range of punishment applicable in this case; that Defendant is mentally competent and was sane at the time of the commission of the offense; that Defendant's plea is made freely and voluntarily, knowingly and intelligently, and made with the advice and consent of his attorney; that Defendant understands Defendant's rights; and that Defendant has freely and voluntarily, and knowingly and intelligently waived all of Defendant's rights. If Defendant is not a citizen of the United States, the Court further finds that Defendant's counsel has cautioned him about the consequences of entering a plea of true/nolo contendere and about his right to notify the consular representative of Defendant's native country in the United States.

IT IS ORDERED that Defendant's Sworn Statement and Waiver of Rights be and are hereby **APPROVED** and **ACCEPTED** and made a part of the record in this cause.

SIGNED on _____.

JUDGE PRESIDING