

STATE OF MINNESOTA
COUNTY OF OLMSTED

DISTRICT COURT-CRIMINAL DIVISION
THIRD JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

Court File No.: _____

vs.

**PETITION TO ENTER PLEA OF
GUILTY IN FELONY CASE,
PURSUANT TO RULE 15**

_____,
Defendant.

TO: THE ABOVE-NAMED COURT

I, _____, Defendant in the above-entitled action, do respectfully represent and state as follows:

1. My full name is _____. I am ____ years old, my date of birth is _____.
The last grade that I went through in school is _____.
2. If filed in my case, I have received, read and discussed a copy of the Complaint.
3. I understand the charge made against me in this case.
4. Specifically, I understand that I have been charged with the crime of _____ committed on or about _____ in Olmsted County, Minnesota, (and that the crime I am talking about is _____ which is a lesser degree or lesser included offense of the crime charge).
5. I am represented by an attorney whose name is _____ and:
 - a. I feel that I have had sufficient time to discuss my case with my attorney.
 - b. I am satisfied that my attorney is fully informed as to the facts of this case.
 - c. My attorney has discussed possible defenses to the crime that I might have.
 - d. I am satisfied that my attorney has represented my interests and has fully advised me.
6. I have never (have) been a patient in a mental hospital.
7. I have not (have) talked with or been treated by a physician or other person for a nervous or mental condition.
8. I have not (have) been ill recently.
9. I have not (have) recently been taking pills or other medicines.
10. I do not make the claim that I was so drunk or so under the influence of drugs or medicine that I did not know what I was doing at the time of the crime.
11. I do not make the claim that I was acting in self-defense or merely protecting myself or others at the time of the crime.
12. I do not make the claim that the fact that I have been held in jail since my arrest and could not post bail caused me to decide to plead guilty in order to get the thing over with rather than waiting for my turn at trial.
13. I was represented by an attorney when I had a probable cause hearing. If I have not had a probable cause hearing:
 - a. I know that I could now move that the complaint against me be dismissed for lack of probable cause and I know that if I do not make such a motion and go ahead with entering my plea of guilty, I waive all right to successfully object to the absence of a probable cause hearing.
 - b. I also know that I waive all right to successfully object to any errors in the probable cause hearing when I enter my plea of guilty.
14. My attorney has told me and I understand:
 - a. That the prosecutor for his case against me, has:
 - i. physical evidence obtained as a result of searching for and seizing the evidence;
 - ii. evidence in the form of statements, oral or written that I made to police or others

regarding this crime;

iii. evidence discovered as a result of my statements or as a result of the evidence seized in a search;

iv. identification evidence from a line-up or photographic identification;

v. evidence the prosecution believes indicates that I committed one or more other crimes.

b. That I have a right to a pre-trial hearing before a judge to determine whether or not the evidence the prosecution has could be used against me if I went to trial in this case.

c. That if I requested such a pre-trial hearing I could testify at the hearing if I wanted to, but my testimony could not be used as substantive evidence against me if I went to trial and could only be used against me if I was charged with the crime of perjury. (Perjury means testifying falsely).

d. That I do not now request such a pre-trial hearing and I specifically do now waive my right to have such a pre-trial hearing.

e. That whether or not I have had such a hearing I will not be able to object tomorrow or any other time to the evidence that the prosecutor has.

15. That I have been told by my attorney and I understand:

a. That if I wished to plead not guilty I am entitled to a trial by jury of 12 persons and all 12 persons would have to agree I was guilty before the jury could find me guilty.

b. That if I plead guilty I will not have a trial by either a jury or by a judge without a jury.

c. That with knowledge of my right to a trial I now waive my right to a trial.

16. I have been told by my attorney and I understand that if I wish to plead not guilty and have a trial by a jury or trial by a judge I would be presumed innocent until my guilt is proved beyond a reasonable doubt.

17. I have been told by my attorney and understand:

a. That if I wish to plead not guilty and have a trial the prosecutor would be required to have the witnesses testify against me in open court in my presence and that I would have the right, through my attorney, to question these witnesses.

b. That with knowledge of my right to have the prosecution's witnesses testify in open court in my presence and questioned by my attorney, I now waive this right.

18. I have been told by my attorney and I understand:

a. That if I wish to plead not guilty and have a trial I would be entitled to require any witnesses that I think are favorable to me to appear and testify at trial.

b. That with the knowledge of my right to require favorable witnesses to appear and testify at trial I now waive this right.

19. I have been told by my attorney and I understand:

a. That a person who has prior convictions or a prior conviction can be given a longer prison term because of this.

b. That the maximum penalty that the court could impose for this crime (taking into consideration any prior conviction or convictions) is imprisonment for ____ years. That if a minimum sentence is required by statute the court may impose a sentence if imprisonment of not less than ____ months for this crime.

c. That for felony driving while impaired offenses and most sex offenses, a mandatory period of conditional release will follow any executed prison sentence that is imposed. Violating the terms of this conditional release may increase the time I serve in prison. In this case, the period of conditional release is ____ years.

d. That a person who participates in a crime by intentionally aiding, advising, counseling, and conspiring with another person or persons to commit a crime is just as guilty of that crime as the person or persons who are present and participating in the crime when it is actually committed.

e. That my present probation or parole could be revoked because of the plea of guilty to this crime.

20. I have been told by my attorney and understand:

a. That my attorney discussed this case with a prosecutor in the County Attorney's Office and my

attorney and the prosecutor agreed that I may be accepted into the Olmsted County Attorney Pre-Trial Diversion Program on the following conditions:

i. A full and complete admission of the factual basis for the crimes charged shall be attached hereto and entered on the district court record. A plea pursuant *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160 (1970) or *State v. Norgaard*, 261 Minn. 106, 110 N.W.2d 867 (1961) will not be accepted;

ii. A Diversion Application has been made and accepted by the Diversion Coordinator;

iii. I have received and reviewed with my attorney a copy of the Olmsted County Attorney Pre-Trial Diversion Program and agree to said document in its entirety;

iv. I agree to participate in the Olmsted County Adult Diversion Program and pay the fee associated with the program and any/all fees related to individualized programming and/or treatment. The fee is due upon entry to the diversion program and any other costs of the program shall be paid before dismissal of the complaint pursuant to Minnesota Rule of Criminal Procedure 30.01;

v. As part of the diversion program, I have signed a Diversion Agreement with Olmsted County Community Corrections specifying the terms and conditions that must be followed during the period of diversion (a copy of this signed agreement is attached to this petition). I understand that Community Corrections will specify the time period of diversion, which will not exceed two years without written approval of the County Attorney or designee.

vi. I agree to pay restitution in the amount of _____;

vii. I acknowledge that failure to pay restitution pursuant to the schedule determined by the Diversion Program of Community Corrections or any noncompliance with the Diversion Agreement will result in termination from the diversion program. Upon termination from the diversion program, this court will accept my plea and enter a judgment of conviction and set the matter on for sentencing; and

b. This is a joint agreement between the defendant and the prosecution. That if the court does not approve this agreement:

i. The State shall withdraw from the agreement and the matter shall proceed as if there had not been any agreement.

ii. Any testimony that I have given concerning the guilty plea could not be used against me unless I am charged with the crime of perjury based on this testimony.

21. That except for the agreement between my attorney and the prosecuting attorney:

a. No one - including my attorney, any policemen, prosecutor, judge or any other person - has made any promises to me, to any member of my family, to any of my friends or other persons, in order to obtain a plea of guilty from me.

b. No one - including my attorney, any policemen, prosecutor, judge or any other person - has threatened me or any member of my family or any of my friends or other persons, in order to obtain a plea of guilty from me.

22. My attorney has told me and I understand that if my plea of guilty is for any reason not accepted by the court, or if I withdraw the plea, with the court's approval, or if the plea is withdrawn by court order on appeal or other review:

a. I would then stand trial on the original charge (charges) against me as noted in paragraph 4 (which would include any charges that were dismissed as a result of the plea agreement entered into by my attorney and the prosecuting attorney).

b. The prosecution could proceed against me just as if there had been no plea of guilty and no plea agreement.

23. My attorney has told me and I understand that if my plea of guilty is accepted by the judge I have the right to appeal, but that any appeal or other court action I may take claiming error in the proceedings probably would be useless and a waste of my time and the courts.

24. My attorney has told me and I understand that a judge will not accept a plea of guilty for anyone who claims to be innocent.

25. I now make no claim that I am innocent.
26. I have been told by my attorney and I understand that if I wish to plead not guilty and have a jury trial:
- a. That I could testify at trial if I wanted to but I could not be forced to testify.
 - b. That if I decided not to testify neither the prosecutor nor the judge could comment on my failure to testify.
 - c. That with knowledge of my right not to testify and that neither the judge nor the prosecutor could comment on my failure to testify at trial I now waive this right and I will tell the judge about the facts of the crime.
27. My attorney has told me and understand that if I am not a citizen of the United States this plea of guilty may result in a deportation, exclusion from admission to the United States of America or denial of citizenship.
28. That in view of all above facts and considerations I wish to enter a plea of guilty.

Dated: _____

Attorney for Defendant

Defendant's Current Address:

I, _____, state that I am the attorney for the defendant in the above entitled criminal action; that I personally explained the contents of the above petition to the defendant; and that I personally observed the defendant date and sign the above petition.

Dated this ____ day of ____, 20____.

Attorney for Defendant