

**IN THE STATE COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs.

DEFENDANT

CASE NO:

**WAIVER OF PHYSICAL PRESENCE AT PLEA HEARING AND CONSENT TO
APPEARANCE BY VIDEOCONFERENCING**

I understand that the Chief Justice of the Georgia Supreme Court has declared a statewide Judicial Emergency beginning March 14, 2020, and extending through September 10, 2020. I understand, based on the standard procedures of the Cherokee County State Court, that I would be produced to be physically present before the Court for my hearing. I am aware the present state of judicial emergency might result in the delay of an in-person hearing in my case. I understand that Uniform Superior Court Rule 9.2 allows the Court to conduct my hearing by videoconferencing. I hereby agree and consent to participating in such hearing by videoconferencing. By signing this waiver, I agree and acknowledge that I have had sufficient access to my attorney both before and during this proceeding. I enter this waiver freely and voluntarily.

SO AGREED, this _____ day of _____, 20_____.

Defendant

Attorney for Defendant

IN THE STATE COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

vs. Accusation No.

Defendant.

NOTICE REGARDING FIRST OFFENDER SENTENCING
PURSUANT TO OCGA § 42-8-61

The Defendant is hereby notified of the provisions of Georgia law regarding first offender sentencing.

Eligibility. You may qualify for first offender sentencing if you have not previously been convicted of a felony or previously been sentenced as a first offender under OCGA § 42-8-60.

Court's discretion. The Court has the discretion to accept or reject any Defendant's request for first offender sentencing.

Effect, generally. A first offender sentence prevents you from having a criminal conviction, unless you violate the conditions of the sentence or commit a new offense during the period of the sentence. Upon successful completion of your sentence, the Court will enter an order discharging you from the offense(s) without an adjudication of guilt. The discharge will completely exonerate you of any criminal purpose and will not affect any of your civil rights or liberties, and you will not be considered to have a criminal conviction.

Effect on future employment or appointment. The law states that discharge may not be used to disqualify you in any application for employment or appointment to officer in either the public or private sector except that certain sex offenses may disqualify you from employment in a school or facilities offering care of the elderly, mentally ill, or developmentally disabled; and discharge pertaining to a crime involving a dishonest or immoral act may be used to disqualify you from peace officer certification or employment.

Future first offender treatment. No one may be sentenced as a first offender more than once. If you have previously been sentenced as a first offender under OCGA § 42-8-60, you can't request first offender sentencing in this case. If you are sentenced as a first offender in this case, you can't request first offender treatment under OCGA § 42-8-60 in any other case.

Adjudication of guilt. Your first offender status may be revoked and the Court may enter adjudication of guilt should you violate the terms of probation or convict another crime during the period of probation, or should the Court determine that you are or were not eligible for first offender sentencing. The Court may then resentence you up to the maximum sentence for the offense charged, with credit for time previously served in custody or on probation.

DEFENDANT'S ELECTION REGARDING FIRST OFFENDER SENTENCING

I have read the above notice regarding first offender sentencing and hereby advise the Court:

_____ I am not qualified to request first offender sentencing because I am a convicted felon or have previously been sentenced as a first offender under OCGA § 42-8-60.

_____ I do not desire to be sentenced in this case as a first offender under OCGA § 42-8-60.

_____ I request sentencing in this case as a first offender under OCGA § 42-8-60.

Date:

DEFENDANT

IN THE STATE COURT OF CHEROKEE COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

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CASE NO.

VS.

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Defendant

DEFENDANT’S RIGHT TO AN ATTORNEY

As a person accused of a crime, you have the right to be represented by an attorney. If you can’t afford an attorney, you have the right to have an attorney appointed to represent you. If you wish to be interviewed to determine whether you qualify financially for a court appointed attorney, please indicate so to the Clerk of Court.

Although you have the right to speak with the prosecutor about your case, you are under no obligation to do so. Anything you say to the prosecutor can be used in evidence against you.

Although you may waive the right to an attorney, it is important that you be aware that an attorney can help you understand:

1. The nature of the charges against you;
2. Any statutory lesser-included offenses;
3. The range of possible punishments for the charges, including a jail sentence for up to 12 months on most misdemeanor counts;
4. Strategies for defendant for trying the case;
5. Possible plea negotiations, and rights you give up when you enter a plea;
6. Possible defenses, including, but not limited to, double jeopardy, justification, alibi, misidentification;
7. Mitigating circumstances; and
8. Any other facts necessary for a broad understanding of the matter.

The judge cannot assist you in identifying or developing these matters because the judge must remain impartial between you and the prosecutor and cannot practice law. The judge cannot assist either side against the other.

If you were to waive your right to an attorney, you must understand that at trial

1. The rules of evidence will be enforced by the judge;
2. If the trial is a jury trial, you must make decisions with regard to the process of interviewing the jurors and the striking of jurors.
3. You must make decisions regarding the calling of witnesses to testify on your behalf and whether you will testify or remain silent;
4. The State has the burden of proving its case beyond a reasonable doubt.
5. You are not required to testify at trial; but if you do testify, you would be subject to cross-examination by the prosecutor;
6. Issues must be properly preserved by way of timely objections and, in order to raise them on appeal, the proceedings must be taken down and transcribed by a court reporter.

Even if you choose to waive an attorney now, you can change your mind and obtain an attorney later. But you must act diligently in obtaining an attorney, either appointed or retained. If you do not act diligently, it is possible that you might later be deemed to have waived your right to an attorney.

I have taken the time to thoroughly read the above. The judge has read and explained it.

(initials) I choose to waive my right to an attorney.

(initials) I do not waive my right to an attorney, and I will either retain an attorney or seek a court appointed attorney.

This the _____ day of _____, 20____. _____
Defendant

**IN THE STATE COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

RECORD PRIOR TO TENDERING A PLEA

Accused: _____ Accusation /Ticket #: _____

I, _____, now state the following:

I am not under the influence of alcohol or drugs and I am not suffering from any mental disability. I have read or been advised of each charge pending against me in this Court.

I understand that the law provides that the Maximum Sentence for each charge that the Judge could impose against me is: **(a)** 12 months in Jail, **(b)** a fine up to \$1,000.00 (or \$5,000.00 for Misdemeanors of a High & Aggravated nature), **(c)** local Community Service and/or **(d)** other requirements. I understand that if I am charged with more than one Offense, the Court may make any Sentence against me run consecutively (one after the other).

The Judge has told me that I have the Right to be Represented by a Private Lawyer/Attorney. If I was convicted of the current charge(s) and could be Sentenced to Jail or Probation or otherwise could lose my Liberty, If I am eligible, I can be represented by a Court appointed Public Defender at no cost to me. I understand that if I enter a plea of Guilty or Nolo Contendere ("no contest") I am Waiving and giving up certain Rights, such as:

- (1) The Right to a Trial by Jury (the Jury decides Guilt or Innocence);
- (2) The Right to have the State prove my Guilt Beyond a Reasonable Doubt;
- (3) The Right to be Presumed Innocent;
- (4) The Right to Confront (question) Witnesses against me;
- (5) The Right to Subpoena Witnesses (make people come to Court and testify for me);
- (6) The Right to Testify and to present other Evidence; and
- (7) The Right to an Attorney.

YOUR RIGHT TO HELP FROM AN ATTORNEY

You have the Right to be represented by an Attorney/Lawyer in this Criminal Proceeding against you. You may hire your own Attorney or, if you believe that you are not financially able to hire/pay a Lawyer/Attorney of your own choice and it is determined that you cannot, you have a Right to have the Court Appoint an Attorney (a Public Defender) to represent you at no charge.

A Lawyer/Attorney can help you: **(1)** Understand the charges against you; **(2)** Determine whether legally sufficient charges have been filed against you; **(3)** Determine whether you have any Defense to the charges against you, possible Defenses may include but are not limited to self-defense, alibi, misidentification, accident, and reliance on the Presumption of Innocence and the State's burden to prove you guilty on all elements of the charges against you beyond a Reasonable Doubt, abandonment, impossibility, renunciation, defense of habitation or property, entrapment, mistake of fact, justification, mental capacity, minimum age, delusional compulsion, intoxication and coercion; **(4)** Prepare and conduct any Trial held on the charges against you; **(5)** Determine what Evidence is legally admissible against you; **(6)** File Motions at the right time and make Objections to exclude Evidence which is not legally Admissible against you; **(7)** Determine what Evidence you would be able to present in your Defense; **(8)** File Motions to obtain information from the Prosecution, such as police reports, scientific reports, witness statements, video or audiotapes, photographs, etc.; **(9)** Make strategic decisions as to the calling of Witnesses and whether or not you should Testify at Trial; **(10)** Obtain a Transcript and properly preserve legal issues for Appeal in the event that you are Convicted at Trial; **(11)** Conduct Plea Negotiations on your behalf if you desire to plead Guilty to the charges against you; **(12)** Make sure your Rights are protected; **(13)** and if you plead Guilty or are found Guilty after a Trial: Present Evidence on your behalf about Sentencing including presenting circumstances in Mitigation.

I have read (or had read to me) all of the section above titled "**YOUR RIGHT TO HELP FROM AN ATTORNEY**". I understand I have the Right to the assistance and guidance from an Attorney.

At this time, I have: (choose & circle one below)

some questions

no questions

that need to be answered before I sign an acknowledgement and Waiver of this Right.

Initial: _____

IN THE STATE COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

CASE NO:

V.

, DEFENDANT

PETITION TO ENTER PLEA OF GUILTY/NOLO CONTENDRE

I, the above named defendant, hereby state to the Court that I wish to enter a PLEA of _____ to the charge(s) in the above mentioned accusation(s) and request that the Court accept my PLEA.

Further, I hereby state the following:

1. My full name is
2. I am ____ years old and have completed ____ years of education.
3. I do not suffer from any emotional or mental disability.
4. I am able to read and write.
5. I am not under the influence of alcohol, any other drug, controlled substance or narcotic.
6. I fully understand the charges against me.
7. I understand that I have the right to plead NOT GUILTY to every charge against me.
8. I understand that if I plead NOT GUILTY I will have a right to a speedy and public trial by Judge or Jury.
9. I understand that if I plead NOT GUILTY, I have a right to confront, that is to see, hear, question and cross-examine the witness called to testify against me at trial and to subpoena witnesses to testify for me, and to use the subpoena power of the Court to compel their attendance.
10. I understand that if I plead NOT GUILTY I will have the right to testify or not testify, as it is my choice and if I choose not to testify, that cannot be used against me.
11. I understand that if I plead NOT GUILTY I am presumed innocent and before I can be convicted the state must prove guilt beyond a reasonable doubt as to the charges against me.
12. I understand in the event I am convicted at trial, I would have the right to appeal my conviction.
13. I understand that I have right to be represented by a lawyer and if I can not afford a lawyer, a lawyer may be appointed by the Court to represent me.
14. I understand if I plead GUILTY/NOLO CONTENDRE, I will have waived, which means given up the rights identified in statements 7-13.
15. I understand that if I feel these court proceedings resulted in a substantial denial of my rights under the Constitution of the United States or Georgia I must exercise my Habeas Corpus rights with in one year of a final judgment for a misdemeanor offense or within 180 days of a misdemeanor traffic offense. See O.C.G.A. §§ 9-14-42 and 40-13-33.
16. I understand that if I do not exercise my Habeas Corpus rights within the time limits mentioned above, my rights to challenge these proceedings are waived, that is given up.
17. I understand if I plead GUILTY/NOLO CONTENDRE, I could be imprisoned for as long as 12 months or fined \$ _____ or both on EACH charge against me.
18. I understand if I plead GUILTY/NOLO CONTENDRE there may be collateral consequences beyond the control of the Court. Such consequences include, but are not limited to:
 - a. The plea may be used against me and may affect my probation or parole status in this or other courts.
 - b. If I plead GUILTY/NOLO CONTENDRE to any misdemeanor offense involving domestic violence I will PERMANANTLY lose my right to ship, transport, possess or receive any firearm or ammunition. (18 U.S.C. § 922(g)(9)).
 - c. This plea could affect my immigration status.

(CONTINUED ON NEXT PAGE)

19. I understand that as an alien a plea of GUILTY/NOLO CONTENDRE may result in deportation.
20. No person has used any threats, force, pressure or intimidation to make me plead GUILTY/NOLO CONTENDRE.
21. No person has made any promise(s) to cause me to plead GUILTY/NOLO CONTENDRE.
22. I understand by entering a plea of GUILTY/NOLO CONTENDRE I voluntarily waive:
 - a. my right to a speedy and public trial by a Judge or Jury;
 - b. the presumption of innocence;
 - c. my right to have the State prove my guilt beyond a reasonable doubt;
 - d. my right to subpoena witnesses;
 - e. my right to confront the witnesses against me in a trial by a Judge or Jury;
 - f. my right to testify and offer other evidence;
 - g. my right to assistance of counsel at all stages of trial; and
 - h. my right not to incriminate, testify or produce evidence against myself.
23. I have read and fully understand each of the above statements and the rights I am voluntarily waiving.
24. I do not have any question about my rights that appear on the statements made above.
25. I am in fact guilty of the unlawful acts set forth in the accusation(s) herein.
26. I freely and voluntarily enter my plea of _____ to the charges(s) against me.

I THEREFORE PETITION THE COURT TO ACCEPT MY PLEA OF GUILTY/NOLO CONTENDRE

Sworn and subscribed before me this _____ Day of _____, 20____

Notary Public

DEFENDANT'S SIGNATURE
DATE: _____

ORDER

The Court finds the Defendant understands the nature and the consequence of Defendant's action, the Defendant's plea is knowingly and voluntarily entered without undue influence, compulsion or duress. The Court is also satisfied that a sufficient factual basis exists for the acceptance of this plea. The Court further finds that the pro se Defendant understands his right to counsel and has knowingly and voluntarily waived that right. It is therefore ordered that the Defendant's plea of guilty/nolo contender be entered on the minutes and that this Transcript and Certificate be filed with the accusation.

This _____ day of _____, 20____.

Judge, State Court of Cherokee County

IN THE STATE COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

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CASE NUMBER: _____

V.

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WAIVER OF FOURTH AMENDMENT RIGHTS

COMES NOW, _____, Defendant in the above styled case and states to the Court the following:

I understand that I have rights that protect me from unreasonable search and seizure.

I understand that these rights are guaranteed by the Fourth Amendment to the United States Constitution, as well as the Georgia Constitution.

I also understand that I can voluntarily give up these rights as part of a negotiated plea agreement or as part of an alternative of court and as an acceptable alternative to incarceration.

I do hereby waive and give the rights listed above, and do hereby consent to a search of my person, papers, personal effects, residence, vehicle, cell phone, computer, tablets, digital media storage, social media and bodily substances. I further consent that such a search may be conducted by my probation officer, Surveillance officer or by any law enforcement officer. I agree that such a search may be conducted without a warrant and without probable cause, articulable suspicion, or reasonable grounds. In any prosecution that may arise from said search, I consent to the admission of any evidence seized during such a search without further authentication or foundation.

Respectfully submitted this ____ day of _____, 20__.

Defendant

Attorney for Defendant

Assistant Solicitor General