

STATE OF FLORIDA,

Clerk Case Number(s): _____

Plaintiff,
vs.

Defendant.

PLEA AND SENTENCING AGREEMENT

1. THE FOLLOWING REFLECTS ALL TERMS OF THE PLEA AND SENTENCING AGREEMENT BETWEEN THE STATE OF FLORIDA AND THE NAMED DEFENDANT:

<u>CASE #</u>	<u>COUNT</u>	<u>DEFENDANT CURRENTLY CHARGED WITH</u>	<u>MAXIMUM</u>	<u>FINE</u>	<u>MANDATORY</u>

DEFENDANT PLEADS: _____ GUILTY _____ NOLO CONTENDERE to the following:

TERMS OF PLEA ENTRY AND SENTENCING AGREEMENT AGREED UPON BY THE STATE AND DEFENDANT:

Defendant is required to submit blood or swab specimens pursuant to F.S. 943.325 for any plea of guilty or nolo contendere to a felony offense.

2. ADJUDICATION OF GUILT IS: _____ WITHHELD _____ ADJUDICATED _____ DISCRETION OF COURT
3. THE PRESENTENCE REPORT IS _____ ordered _____ waived _____ not required

4. CERTIFICATION OF DEFENDANT:

In addition to certifying to all terms, conditions, obligations, duties and rights heretofore stated in this plea agreement, I hereby certify that I have read the information or indictment and I understand the charge(s) set forth in the information or indictment or I understand any lesser included offense(s) to which I enter my plea(s). I understand all terms, conditions, obligations, duties, and rights that are listed below and that the sentencing court is incorporating by reference this complete plea agreement as part of the sentencing order imposed by the court. Each term, condition, obligation, duty and right has been explained to me by my attorney, if so represented by an attorney. I am able to read, or if I cannot read, everything in this plea agreement has been read to me and I understand all of this plea agreement. If represented by an attorney, I am satisfied with the attorney's advice and services and my attorney has not compelled or induced me to enter into this plea agreement by any force, duress, threats or pressure. Also, my attorney, the Court and the prosecutor have not made any promises nor have I relied on any representations as to actual time I would serve in entering this plea agreement if I were to be incarcerated under the terms of the agreement. I further understand that, unless otherwise designated in this plea agreement, I must complete all terms and conditions no later than sixty (60) days prior to the termination of any supervision imposed.

1. I hereby plead (guilty) (nolo contendere) to the charge(s) in this case(s) as reflected by this plea agreement.
2. **I understand that I am giving up the following rights:**
 - (a) The right to plead not guilty; (b) The right to trial by jury; (c) The right to be represented or helped at trial by a lawyer;
 - (d) The right to compel or make any witnesses come to trial; (e) The right to be present when witnesses testify against me.
 - (f) The right to cross-examine witnesses who testify against me; (g) The right to remain silent and not testify against myself;
 - (h) The right to present any and all defenses I may have; (i) Right to appeal all matters including the issue of guilt or innocence.
3. I understand that there will **not** be a further trial of any kind and I waive or give up my right to a trial.
4. I also understand that the Judge may ask me questions about the crime and that the answers I give will be under oath, subject to perjury.
5. I understand that if I am **not** a citizen of the United States of America, that my plea to these charges may result in my deportation or expulsion from the United States. If not citizen of U.S.A., **I am citizen of** _____.
6. I hereby waive or give up any right to request a modification of my sentence within the limits of this agreement absent a **substantial change in circumstances occurring after sentencing**.
7. I understand that the maximum period of imprisonment and fines, as well as any mandatory minimums that apply, with regard to the charges to which I am entering my plea are as indicated on page 1 of this agreement and paragraph 16 below and any applicable attachments. I have reviewed the sentencing guidelines applicable to the cases to which I am entering a plea.
8. I have reviewed the facts of my case(s) with my attorney and I agree and stipulate there are sufficient facts available to the State to justify my plea of guilty or nolo contendere to the charge(s).

9. I have not had any drugs, alcohol, or medication of any kind in the past 24 hours except: _____
10. I have never been declared legally incompetent or insane. I hereby enter this plea agreement fully and voluntarily and of my own accord and with full understanding of all matters set forth in the information and in this plea agreement.
11. If I am a **juvenile**, I have read, signed and agreed to all the terms listed in the Addendum to Plea and Sentencing Agreement for Juvenile Offenders if I desire to waive a PDR and PSI PDR and PSI.
12. I understand that if I am convicted of a crime of **domestic violence** as defined by Section 741.28, Fla. Stat., that the Court must impose a minimum of 1 year of probation during which I must complete a "batterer's" intervention program.
13. I understand that if I am convicted for possession of, sale of, trafficking in, or conspiracy to possess, see or traffic in a **controlled substance**, the Court will direct the Department of Highway Safety and Motor Vehicles to withhold issuance to me a driver's license or revoke my driver's license as required pursuant to and/or until such conditions as are set forth in F.S. Sections 322.056 are met. Any revocation will be in addition to any already imposed.
14. I understand that if I plea nolo contendere or guilty to any felony offense, I will be required to submit two (2) **buccal swab specimens** or blood or other biological specimens to the Florida Department of Law Enforcement (FDLE) designated felony facility and that unless I lack the ability to pay as determined by the Court, that I must reimburse the appropriate agency for the costs incurred in the drawing and transmitting of the blood or other biological specimens to the FDLE.

SEXUAL PREDATOR/OFFENDER & SEXUALLY VIOLENT PREDATOR

15. I understand if I plea guilty or nolo contendere to any crime that is included in the **SEXUAL PREDATOR** criteria and in Section 775.21, Florida Statutes, and if I qualify as a **SEXUAL PREDATOR** as defined in Section 775.21, Florida Statutes, the Court will enter a written order finding me to be a **SEXUAL PREDATOR**. If I am found to be a **SEXUAL PREDATOR** by the Court, I understand I will have to maintain registration as a **SEXUAL PREDATOR** with the Department of Corrections and appropriate law enforcement agencies will inform the community and public of my presence.
16. I understand that if I plea nolo contendere or guilty to a "sexually violent offense" as defined by Section 394.912, Florida Statutes and sentenced to prison, prior to my release from prison, I may be declared to be a "**SEXUALLY VIOLENT PREDATOR**" and be subject to a civil commitment for long term care and treatment in a state institution, pursuant to Chapter 394, Florida Statutes (**Jimmy Ryce Act**).
17. I understand if I plea guilty or nolo contendere to any crime that would qualify me as a "**SEXUAL OFFENDER**" as described in Section 943.0435, Florida Statutes, I will be required to follow certain registration requirements concerning my residence.

HABITUAL FELONY OFFENDER/HABITUAL VIOLENT FELONY OFFENDER

- 18(a) I understand that the State is seeking an enhanced sentence against me as a habitual felony offender (HFO), habitual violent felony offender (HVFO), violent career criminal (VCC), prison release re-offender (PRR), ten-20-life (10-20-L), or three strikes (3 strikes) sanctions, pursuant to Chapter 775, Florida Statutes. I understand such a sentence could deny any form of early release from prison and could require a mandatory minimum sentence, or a requirement to serve 100% of the sentence imposed by the Court.
- (b) If the Judge should sentence me as such, I could receive the following sentence and/or mandatory minimum sentence:

HFO	_____	years imprisonment
HVFO	_____	years imprisonment with _____ years mandatory minimum imprisonment
VCC	_____	years imprisonment with _____ years mandatory minimum imprisonment
PRR	_____	years imprisonment with _____ years mandatory minimum imprisonment
10-20-Life	_____	years imprisonment with _____ years mandatory minimum imprisonment
3 Strikes	_____	years imprisonment with _____ years mandatory minimum imprisonment

5. **COSTS, FINES, RESTITUTION (Select single highest amount based upon all charged offenses before the court)**
 - \$515.00 Standard Court Costs includes: Facility Trust Fund Local Gov't Crim. Justice Fund - \$225; Crimes Comp. Trust Fund - \$50; A'ddl Court Cost Clearing Trust Fund-\$3; Local Law Enforcement Education-\$2; Crimestopper Trust Fund Fee- \$3; Crime Stopper Trust Fund- \$17; Crime Prevention-\$50; BOCC Programs- \$65; Costs of Prosecution- \$100.
 - \$615.00 Felony Possession of Controlled Substance Offenses (includes discretionary FDLE Fine)
 - \$1140.00 Felony Sale of Controlled Substance Offenses (Discretionary FDLE fine + \$500 for Drug Crimes as def by F.S. 893.13; surcharge of \$25)
 - \$1015.00 Felony Solicitation for Prostitution Offenses (Additional \$500 for soliciting, inducing, enticing, or procuring another to commit prostitution, lewdness, or assignation. F.S. 796.07(6))
 - \$867.00 Felony Assault/Battery Domestic Violence Offenses (Additional \$201 & \$151 for any violation of any offense of domestic violence as described in F.S. 741.28, or in violation of F.S. 784.011, F.S. 784.021, F.S. 784.03, F.S. 784.041, F.S. 784.045, F.S. 784.048, F.S. 784.07, F.S. 784.08, 784.081, F.S. 784.082, F.S. 784.083, F.S. 784.085, or F.S. 794.011.)
 - \$616.00 Felony Offenses against minors (\$101 for Crimes Against a Minor as def by F.S. 938.10)
 - \$250.00 Misdemeanor Criminal Offenses (add \$5.00 for Reckless Driving & Leaving Scene of Accident)
 - \$265.00 Misdemeanor Criminal Traffic Offenses
 - \$602.00 Misdemeanor Assault/Battery Domestic Violence Offenses

\$351.00 Misdemeanor Crimes against minors Offenses

\$750.00 Misdemeanor Solicitation for Prostitution (includes Solicitation) Offenses

DUI/BUI Fines (under 0.15/0.15 and above) (DUI Offenses require Adjudication of Guilt)

1st (\$500/\$1000) 2nd (\$1000/\$2000) 3rd (\$2000/\$4000) 4th (\$2000)

\$150 State provided legal assistance, costs and fees: \$100(F.S. 938.29), and \$50 application fee for determination of indigent status F.S. 27.52.

_____ Mandatory Drug Trafficking Fine (Additional \$25,000 - \$500,000 for drug trafficking crimes as def by F.S.893.135; surcharge \$1250 - 25,000 as def by F.S. 938.04)

_____ Mandatory Criminal Drug Enterprises Fine (FS 893.20)

_____ Cost Recovery, additional costs of prosecution, including investigative costs by law enforcement agencies, and by fire departments or arson investigations, if documented (F.S. 938.27) to: _____

\$40.00 Probation or Community Control, Costs of Supervision is \$40.00 per month plus \$2.00 per month surcharge to Dept of Corrections.

RESTITUTION

_____ Upon a plea of nolo contendere or guilty for a violation of Chapter 794 or guilty for a violation of Chapter 794 or Chapter 800, a defendant must make restitution to the Crimes Compensation Trust or to the county, whichever paid for the initial forensic physical examination, in an amount equal to compensation paid to the medical provider for the cost of the initial forensic physical examination, that restitution amount due is _____.

_____ The defendant understands that an order of restitution entered as a part of this plea agreement is as definitive and binding as any other order of restitution and that it may be enforced as provided in Section 775.089, Florida Statutes.

_____ The defendant shall make restitution in:

Case # _____ to _____ in the amount of _____ at _____ per month.

Case # _____ to _____ in the amount of _____ at _____ per month.

6. Term and Conditions of Probation or Community Control

(a) Standard Conditions

If probation and/or community control is part of the agreed upon sentence, the Defendant must comply with all the standard conditions of probation or community control, as required by **Section 948.03, Florida Statutes**, unless otherwise announced by the Court.

(b) Standard Conditions for Listed Sex Crimes

If the defendant is placed on probation and/or community control for a violation of Chapter 794, Sections 800.04, Sections 827.071 or Sections 847.014, Florida Statutes, the Court **must** impose and the defendant must **comply** with additional standard conditions of supervision in addition to all other standard and special conditions imposed. These additional standard conditions are set forth in Section 948.03(5), Florida Statutes. These include, but are not limited to, such things as a special curfew; restrictions on where the defendant may live; restrictions on unsupervised contact with a child under the age of 18; restrictions on where the defendant may work or visit; a requirement to participate and complete a sex offender treatment program, a prohibition from contact with the victim(s); a prohibition of the defendant from possessing obscene or pornographic material; a requirement to make restitution to the victim(s) for all necessary professional mental and/or physical health care needs; a requirement of a submission of two buccal swab specimens (for DNA purposes) to the Florida Department of Law Enforcement to be registered with the DNA data bank; a requirement to a submission to an annual polygraph examination; a requirement to maintain a driving log; a prohibition of maintaining a post office box; a requirement, at the defendant's expense, to obtain an HIV Test with the results to be released to the victim; and a requirement, at the defendant's expense, of electronic monitoring. These and other standard conditions are described in more detail in Chapter 948.03, Florida Statutes.

(c) Special Conditions

In addition to **all** standard conditions of probation, required by **Section 948.03, Florida Statutes**, the following special conditions (as indicated) are being imposed upon the defendant:

_____ The defendant shall have no contact with co-defendants, directly or indirectly.

_____ The defendant shall not have [contact or no violent contact] with the victim(s) directly or indirectly, unless the victim(s) files with the supervising officer a written declaration agreeing to contact for a set period or until revoked in writing.

_____ The defendant will complete _____ hours of community service no later than 60 days before termination of defendant's supervision.

_____ The defendant will attend and successfully complete the following counseling as indicated:

- | | |
|--|--|
| _____ Anger control counseling | _____ Sexual Offender counseling |
| _____ Domestic violence counseling | _____ Outpatient substance abuse eval., counseling if needed |
| _____ Mental Health/Psychological counseling | _____ Keeton Residential substance abuse program |

_____ The defendant agrees to testify truthfully regarding the involvement of any codefendants.

_____ **In addition** to the above standard and special conditions of supervision, the defendant agrees to the following special conditions or modifications of standard conditions of supervision: _____

7. **FACTUAL BASIS FOR PLEA:** The **arrest report** or **offense report** or **probable cause affidavit** which is a part of the court record filed with the clerk of the court is hereby incorporated by reference and agreed to by the defendant as a factual basis for the plea .

ACKNOWLEDGMENT OF DEFENDANT

By signing this **Plea and Sentencing Agreement**, I, the undersigned defendant in this case, agree that I have read and understand the contents of this document, **and** if represented by an attorney, that I have discussed with my attorney all of the ramifications or consequences of entering a plea of guilty or nolo contendere to these charges. If placed on probation, I understand all the standard and special conditions of probation that will be required of me, as is set forth in **Section 948.03, Florida Statutes** and in this agreement . If represented by an attorney, I am satisfied with the attorney=s advice and services and my attorney has not compelled or induced me to enter into this plea agreement by any force, duress, threats, pressure or promises. In the event that I have participated in discovery, my attorney has reviewed said discovery disclosed by the State and whether it included a listing or description of physical items of evidence. I am unaware of any physical evidence disclosed by the State for which DNA testing may exonerate me.

DEFENDANT

DATE

CERTIFICATE OF STATE ATTORNEY

The undersigned Assistant State Attorney, representing the State of Florida, hereby certify that I am unaware of any physical evidence for which DNA testing may exonerate the Defendant.

ASSISTANT STATE ATTORNEY

DATE

CERTIFICATE OF DEFENDANT’S ATTORNEY

I, Defendant’s Counsel of Record, certify that: I have discussed this case with Defendant, including the nature of the charge(s), essential elements of each, the evidence against him/her of which I am aware, the possible defenses he/she has, the maximum penalty for the charge(s) and the facts set forth in the State’s information or on the record. I have not made any promises or representations to Defendant as to actual time he or she would serve if incarcerated and have explained that matters related to parole, release, gain time, etc. are controlled by the Department of Corrections and the Legislature and are subject to change. I believe he/she fully understands this plea agreement, the consequences of entering it, and that Defendant does so of his/her own free will. In my opinion the defendant is mentally competent. I have advised the Defendant of the mandatory cost provisions of Chapter 938, Florida Statutes. If court appointed, I have advised the Defendant of the provisions of F.S. 938.29, concerning assessment of costs and attorney’s fees and the fact that any costs assessed therein will be reduced by any amount assessed against the Defendant pursuant to F.S. 938.05.

In the event that the Defendant has participated in discovery, I have reviewed said discovery disclosed by the State and whether it included a listing or description of physical items of evidence. I have reviewed the nature of the evidence disclosed through discovery with the Defendant. I am unaware of any physical evidence disclosed by the State for which DNA testing may exonerate the Defendant.

ATTORNEY FOR DEFENDANT

DATE

ADDENDUM TO PLEA AND SENTENCING AGREEMENT
(JUVENILE OFFENDERS WHO DESIRE TO WAIVE PDR/PSI)

Before adult sanctions can be imposed in your case you have the right to have the court order and consider a presentence investigation report prepared by the Department of Corrections, with comments by the Department of Juvenile Justice, regarding the suitability of adult, juvenile, or youthful offender dispositions in this case. Furthermore, the law requires that the judge make findings of fact in writing regarding the following matters:

1. The seriousness of the offense to the community and whether the protection of the community requires adult disposition.
2. Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.
3. Whether the offense was against persons or against property; greater weight being given to offenses against persons, especially if personal injury resulted.
4. The sophistication and maturity of the defendant, as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living.
5. Defendant's record and previous history including:
 - a. Previous contacts with HRS, the Department of Corrections, law enforcement agencies, and courts;
 - b. Prior periods of probation or community control;
 - c. Prior adjudications of delinquency or violation of law; and
 - d. Prior commitments to institutions.
6. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child if he is assigned to juvenile services and facilities.
7. Whether the Department of Juvenile Justice has appropriate programs, facilities, and services immediately available.
8. Whether youthful offender or adult sanctions would provide more appropriate punishment and deterrence of further violations of law than the imposition of juvenile sanctions.

By signing this addendum, you acknowledge that you waive your right to have the court order and consider a presentence investigation and that you fully and clearly understand each factual finding which the Court is required to make, that each has been reviewed with you by your attorney, that you acknowledge and agree that adult sanctions are appropriate and that you are waiving your right to require that the Court make those findings in writing.

DATED this _____ day of _____, 200____.

_____, DEFENDANT