

IN THE IOWA DISTRICT COURT IN AND FOR TAMA COUNTY

STATE OF IOWA,)	No. _____
Plaintiff,)	
)	
vs.)	WAIVER OF RIGHTS
)	AND PLEA OF GUILTY
_____ ,)	
Defendant.)	

DIVISION I: OFFENSES

1. I ask permission of the Court to enter pleas of guilty to the following offense(s):

CLASS D FELONIES

Unless specified below, the maximum punishment is an indeterminate 5-year prison sentence and \$10,245 fine and the minimum sentence is a suspended 5-year prison sentence, supervised probation, and \$1,025 fine. There is a 15% surcharge on any fine, plus court costs, attorney fees, DNA sample requirement, and victim restitution, if any. Probation includes a \$300 fee and possible placement on the Intermediate Sanctions Continuum. All felony convictions and deferred judgments result in loss of gun rights.

<i>Count</i>	<i>Charge</i>	<i>Code Section</i>	<i>Additional Minimum Sentence</i>
<input type="checkbox"/>	Assault without Intent but Causing Serious Injury	708.1, 708.2(4)	
<input type="checkbox"/>	Attempted Burglary 2d Degree	713.6	
<input type="checkbox"/>	Burglary 3d Degree	713.6A(1)	
<input type="checkbox"/>	Child Endangerment	726.6(1)(a), 726.6(7)	
<input type="checkbox"/>	Criminal Mischief 2d Degree	716.1, 716.4	
<input type="checkbox"/>	Domestic Abuse Impeding Airway (With Bodily Injury)	236.2(2), 708.1, 708.2A(1), 708.2A(5)	IDAP classes \$90 Domestic Abuse surcharge <input type="checkbox"/> 5-year dangerous weapon minimum § 902.7 if committed to DOC (prison)
<input type="checkbox"/>	Eluding	321.279(3) <input type="checkbox"/> (a) Felony <input type="checkbox"/> (b) OWI/Drugs <input type="checkbox"/> (c) Bodily Injury	
<input type="checkbox"/>	Felon in Possession of a Firearm	724.26(1)	
<input type="checkbox"/>	Forgery	715A.2(1), 715A.2(2)(2)(a)	
<input type="checkbox"/>	Going Armed with Intent	708.8	
<input type="checkbox"/>	Intimidation with a Dangerous Weapon (Threat)	708.6(2)	

<input type="checkbox"/>	OWI 3d or Subsequent Offense	321J.2, 321J.2(2)(c)	Minimum sentence is a 5-year prison sentence with all but 30 days suspended and supervised probation, \$3,125 fine, substance abuse evaluation and treatment, 12-hour drinking driver's class and 6-year driver's license revocation. Maximum fine is \$9,375.
<input type="checkbox"/>	Possessing Contraband (Drugs in Jail)	719.7(1)(a), (4)(b)	<input type="checkbox"/> Consecutive sentence § 901.8
<input type="checkbox"/>	Possession of a Controlled Substance 3d Offense	124.401(5)	
<input type="checkbox"/>	Possession with the Intent to Deliver (Marijuana)	124.401(1)(d)	
<input type="checkbox"/>	Sex Offender Registry Violation 2d or Subsequent Offense	692A.108(1)(c), 692A.111(1)	692A.106(5) requires lifetime registration if this is a 2d offense. 692A.110(2) requires a \$250 civil penalty & 692A.110(1) requires a \$25 annual fee.
<input type="checkbox"/>	Tax Stamp Violation	453B.7, 453B.12(2)	Civil penalty is equal to tax owed. Revenue tax of \$5 per gram plus interest § 453B.7. 437.1
<input type="checkbox"/>	Theft 2d Degree	714.1, 714.2(2)	
<input type="checkbox"/>	Willful Injury (No Serious Injury)	708.4(2)	<input type="checkbox"/> 5-year gun minimum § 902.7 if committed to DOC (prison)

AGGRAVATED MISDEMEANORS

Maximum punishment is an indeterminate sentence not to exceed 2 years in prison and a fine in the amount of \$8,540, OWI 2d max fine is \$6,250. There is a 15% surcharge on any fine, plus court costs, attorney fees, possible DNA sample requirement, and victim restitution, if any. Any form of probation carries a \$300 fee. Minimum sentence is an \$855 fine plus surcharges unless specified below.

<i>Count</i>	<i>Charge</i>	<i>Code section</i>	<i>Additional minimum sentence</i>
<input type="checkbox"/>	Assault with Intent to Inflict Serious Injury	708.1,708.2(1)	<input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Assault while Displaying Dangerous Weapon/Use of Dangerous Weapon	708.1,708.2(3)	<input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Assault on Persons Engaged in Certain Occupations (Causing Bodily Injury)	708.1, 708.3A(3)	<input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Burglary 3d Degree	713.6A(2)	
<input type="checkbox"/>	Child Endangerment	726.6(1)(a), 726.6(8)	
<input type="checkbox"/>	Criminal Mischief 3d Degree	716.5	
<input type="checkbox"/>	Domestic Abuse Enhanced	236.2, 708.1,708.2A(3)(b)	2 days and Iowa Domestic Abuse Program classes (IDAP) \$90 Domestic Abuse surcharge <input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Domestic Abuse (Strangulation) (No Injury)	708.1, 708.2A(2)(d)	2 days and Iowa Domestic Abuse Program classes (IDAP) \$90 Domestic Abuse surcharge <input type="checkbox"/> Conviction may result in loss of gun rights

<input type="checkbox"/>	Driving While Barred	321.561	
<input type="checkbox"/>	Eluding	321.279(2)	
<input type="checkbox"/>	Forgery - Credit Card	715A.6(2)	
<input type="checkbox"/>	Harassment 1 st Degree	708.7(2)	<input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Interference with Official Acts (Causing Serious Injury)	719.1(1)(d)	
<input type="checkbox"/>	Operating without Owner's Consent	714.7	
<input type="checkbox"/>	OWI 2d Offense	321J.2	7 days, \$1,875 fine, impoundment of vehicles, substance abuse evaluation and treatment
<input type="checkbox"/>	Possession of Controlled Substance 2d Offense	124.401(5)	2 days <input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Possession of Controlled Substance 3d Offense (Marijuana)	124.401(5)	2 days <input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Tampering with Records	715A.5	
<input type="checkbox"/>	Theft 3d Degree	714.1, 714.2(3)	
<input type="checkbox"/>	Use of a Dangerous Weapon	724.4	<input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Unauthorized Use of a Credit Card	715A.6(2)(c)	

SERIOUS MISDEMEANORS

Maximum punishment is 1 year jail and a fine of \$2,560, OWI max fine is \$1,250. There is a 15% surcharge on any fine, plus court costs and attorney fees, plus victim restitution, if any. Possession of Marijuana has a maximum sentence of 6 months jail and a \$1,000 fine, plus 15% surcharge, court costs, and attorney fees. Any form of probation carries a \$300 fee. Minimum sentence is a \$430 fine plus surcharges unless specified below.

<i>Count</i>	<i>Charge</i>	<i>Code section</i>	<i>Additional minimum sentence</i>
<input type="checkbox"/>	Absence from Custody	719.4(3)	Consecutive to existing sentences
<input type="checkbox"/>	Assault Causing Bodily Injury	708.1, 708.2(2)	<input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Assault Causing Bodily Injury Domestic	236.2, 708.1, 708.2A(2)(b)	2 days and Iowa Domestic Abuse Program classes (IDAP) \$90 Domestic Abuse surcharge <input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Assault on Persons Engaged in Certain Occupations (No Injury)	708.1, 708.3A(4)	<input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Domestic Abuse Enhanced (Two Prior Simple Misdemeanor Domestic)	236.2, 708.1, 708.2A(3)(a)	2 days and Iowa Domestic Abuse Program classes (IDAP) \$90 Domestic Abuse surcharge <input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Criminal Mischief 4th Degree	716.1 & 716.6	

<input type="checkbox"/>	Driving while Revoked/Barred/Suspended	321J.21	\$1,000 fine mandatory, suspension/bar/revocation doubled
<input type="checkbox"/>	Eluding	321.279(1)	
<input type="checkbox"/>	Harassment 2d Degree	708.7(3)	<input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Interference with Official Acts (Causing Bodily Injury)	719.1(1)(c)	
<input type="checkbox"/>	OWI 1 st Offense	321J.2	2 days, \$1,250 fine, substance abuse evaluation and treatment
<input type="checkbox"/>	Persons Ineligible to Carry Weapons	724.8B	<input type="checkbox"/> Conviction may result in loss of gun rights (drug possession)
<input type="checkbox"/>	Possession of Marijuana 1 st Offense	124.401(5)	2 days <input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Possession of Marijuana 2d Offense	124.401(5)	2 days <input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Possession of Cocaine	124.401(5)	2 days <input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Possession of Methamphetamine	124.401(5)	2 days <input type="checkbox"/> Conviction may result in loss of gun rights
<input type="checkbox"/>	Theft 4 th Degree	714.1, 714.2(4)	
<input type="checkbox"/>	Unlawful Possession of Prescription Drug	155A.21	<input type="checkbox"/> Conviction may result in loss of gun rights

2. I understand that the Court may sentence me to consecutive sentences for multiple offenses including other pending cases or probation and/or parole.

DIVISION II: PRELIMINARY ADMISSIONS

3. I am represented by undersigned counsel.

4. I can read, write, and understand the English language (or see interpreter certification at the end of this document). I have had enough time and opportunity to meet or speak with my attorney. I am satisfied with their representation and the services they provided.

5. I am not under the influence of any illicit drugs or alcohol. I have not used any illicit drugs or alcohol in the past 24 hours. I have not taken any medication(s) other than as prescribed by my doctor in the past 24 hours. To the extent that I am taking medication as prescribed, those medications do not affect my ability to understand the contents and consequences of this written guilty plea.

6. I do not have a physical or mental condition that prevents me from understanding the charge(s) or proceedings.

7. I authorize my attorney to appear on my behalf.

8. I have received, read, and reviewed the trial information and minutes of testimony with my attorney. I understand the nature of the charges against me and what the State would be required to prove.

9. I have discussed possible legal defenses with my attorney, including any potential suppression issues. I know of no legal defense to the charge(s), suppression issue(s), or any other reason that would change my decision to enter this written guilty plea.

10. I understand that by pleading guilty, I may not be able to vote, hold public office, or possess firearms or ammunition. I further understand that certain convictions can have adverse consequences with housing, employment, federal or state benefits, student loans, and driving privileges in addition to other consequences.

11. If I am convicted of two or more felony offenses in my lifetime, I may be subject to an enhanced sentence as a habitual felon. Furthermore, if I am pleading guilty to theft (Iowa Code section 714.1) or domestic abuse assault (Iowa Code section 708.2A), this plea of guilty may be considered in determining whether future allegations of theft or domestic abuse assaults are charged as enhanced offenses.

12. I understand that if I am currently on probation or parole this guilty plea could be a basis for revocation of that probation or parole. I further understand that the Court may revoke my probation or parole and order those terms to be served consecutive to any punishment imposed in this case.

DIVISION III: WAIVER OF RIGHTS

13. I understand that I have the right to remain silent and that anything that I say can and will be used against me in a court of law.

14. I understand that I have the right to be represented by an attorney, before, during, and after trial and that if I do not have the means to pay for the services of an attorney, the Court will appoint an attorney to assist me. The costs of such attorney will be paid at State expense. However, the Court can require me to repay the State the costs of that attorney as Category B restitution.

15. I understand that if I wish I can continue with my plea of not guilty and require that my case be decided by a speedy and public jury trial consisting of 12 persons. If I plead guilty, I give up my right to a jury and to participate in selecting a jury. I can also elect to have my case decided by a judge. If I continue in my plea of not guilty, I have the following rights:

- a) To see, hear and to have the opportunity to cross-examine any witness that the State calls to testify.
- b) To present witnesses who would give testimony in my favor and to avail myself of the power of the court, if necessary, to subpoena those witnesses to present themselves in court.
- c) To testify personally or to remain silent, as I wish. No one can require or force me to testify at my own trial and if I decide not to testify, the jury who decides my case cannot hold my silence against me. Moreover, if I remain silent, the attorney for the State cannot comment to the jury regarding my refusal to testify. That is to say: My right to remain silent cannot be used against me.
- d) It is presumed by law that I am innocent and not guilty of the charges against me until such time, if ever, as the attorney for the State establishes my guilt to the satisfaction of the jury by competent evidence so that there remains no reasonable doubt.
- e) The members of the jury must be unanimous in their verdict.

DIVISION IV: PLEA AGREEMENT

16. The terms of the plea agreement in this case are as follows:

- Request deferred judgment Defendant waives sentencing hearing Sentencing hearing required
- Request payment plan Request category B hearing
- Order pre-sentencing PSI Order post-sentencing PSI
- Bond remains the same Defendant ROR'd Defendant released on pre-trial supervision
- No Contact Order continues for _____ years Cancel No Contact Order
- This is a Rule 2.10 plea This is an Alford plea

17. Unless this is a Rule 2.10 plea, I understand the Court is not party to this agreement and that this agreement does not bind the Court in any manner.

18. Apart from the plea agreement, no one has made any promises or threats to me to influence me or force me to plead guilty. Moreover, unless this is a Rule 2.10 plea, no one has predicted to me or assured me what sentence I will receive. I make this plea voluntarily.

DIVISION V: FACTUAL BASIS

19. On the

I have read the trial information and the minutes of testimony and acknowledge that they are substantially correct insofar as necessary to provide a factual basis for the offense(s) previously listed, and I ask the Court to find me guilty of those offense(s).

20. By declaring myself guilty of this offense I admit to the Court that the State can prove all the elements of this (these) offense(s) so that there remains no reasonable doubt, and there is a basis in reality which establishes my guilt. The minutes of testimony are true to the extent necessary to support this (these) guilty plea(s). I give up, and I understand that I lose, my above-stated rights and I understand that this case will not be presented to a tribunal (judge or jury) for trial. I am guilty of the offenses indicated herein. I waive the procedures set forth in Rule 2.8(2)(b) of the Iowa Rules of Criminal Procedure.

21. (a) I plead guilty to the following simple misdemeanor(s)/citation(s): _____

(b) I request a trial in Magistrate's Court on the following simple misdemeanor(s)/citation(s) and understand that a date will be mailed to me by the Clerk of Court: _____

22. If this is an enhanced charge, I admit the following: (a) I understand that I have the right to a separate trial on the issue of whether I have prior convictions that increase the sentence in this case. I also understand that I would be entitled to the same trial rights explained in Division III. (b) I understand that I have the right to a hearing before a judge to determine, and have the State prove, whether I was represented by an attorney or waived my right to be represented by an attorney in the prior case(s). (c) By entering this written guilty plea, I understand that I am waiving my right to a separate trial on the issue of identity. I also understand that I am also waiving my right to a hearing before a judge on the issue of whether I was previously represented by an attorney. (d) In addition, I admit that the allegations of prior offenses contained in the trial information as to state, county, case number, and date of violation are true and accurate. I also admit that I was either represented by counsel or waived my right to counsel.

DIVISION VI: WAIVER OF SENTENCING RIGHTS

23. Unless I have requested a sentencing hearing in Division IV, I hereby understand and waive the following sentencing rights:

a) *Right to be Present at Sentencing*: I hereby know, understand, and waive my right to appear in person for sentencing.

b) *Right to Delay in Sentencing*: I waive my right to a delay of a 15-day delay before the pronouncement of judgment and sentence.

c) *Right of Allocation*: I hereby waive my right to address the Court personally.

d) *Motion in Arrest of Judgment*: I waive my right to file a Motion in Arrest of Judgment. This is a motion which challenges the adequacy of the guilty plea. This Motion must be filed within 45 days after the plea or no later than 5 days prior to sentencing, whichever comes first. Failure to file this Motion bars me from challenging the plea at a later time.

24. *Pre-Sentence Investigation*: If this is a felony plea, and unless I requested a presentence investigation in Division IV above, I waive my right to have a presentence investigation report (PSI) prepared prior to this sentencing. I understand that if I enter a plea of guilty to a felony, a PSI must be ordered by the Court pursuant to Iowa Code section 901.2 and that I cannot waive the preparation of a PSI. I understand that I have a right to have the Court use the PSI when determining my sentence in this case. The report would contain information and background about myself, including information about my family, employment, education, substance abuse or mental health treatment, military service, prior criminal history, and other social history. The report would also include information from the Iowa Department of Corrections regarding my rehabilitative needs and services available as well as a sentencing recommendation. I understand that the report could contain information favorable to me.

25. My attorney has advised me of the above listed rights.

DIVISION VII: IMMIGRATION CONSEQUENCES

26. I understand that a criminal conviction or deferred judgment may result in my deportation or other adverse immigration consequences if I am not a citizen of the United States. I have been informed of my right to have the immigration consequences of my guilty plea explained to me by my attorney. I have also been informed of my right to contact an immigration attorney and/or my consulate. By my signature as set forth below I acknowledge that I have read and understand this document or have had this document read to me by an interpreter in my language of choice, have been informed of the potential consequences of a plea or finding of guilt, and am satisfied with the explanation and advice I have received from my attorney.

DIVISION VIII: APPEAL RIGHTS

27. I understand that by submitting this written guilty plea, I no longer have an absolute right to appeal my conviction. To appeal, I now need to establish good cause. If I choose to appeal, a notice of appeal must be filed within 30 days of sentencing, or I will not be able to appeal my conviction.

DIVISION IX: RESTITUTION

28. Category A restitution: I understand that I may be assessed category A restitution, which encompasses monetary damages to crime victims (referred to as pecuniary damages), fines, penalties, and surcharges. I understand that I will be required to pay, in full, pecuniary damages, if any, and category "A" restitution, except for any fines, penalties, or surcharges that are suspended.

29. Category B restitution: I further understand that I may be assessed category B restitution, which encompasses repayment of contributions to local anticrime organizations that provided assistance to law enforcement in this case, crime victim compensation program reimbursements, expenses incurred by public agencies pursuant to Iowa Code section 321J.2(13)(b), court costs, court-appointed attorney fees and expenses (including the expense of a public defender), and medical assistance program reimbursements pursuant to Iowa Code chapter 249A.

30. Reasonable ability to pay: I understand that I may ask the Court to determine the amount of category B restitution payments that I am reasonably able to pay. I understand that I am presumed to have the reasonable ability to make payments for the full amount of category B restitution. I understand that if I do not ask the Court to make the determination at the time of sentencing or within 30 days of the issuance of a restitution order, and that if I do not file a completed financial affidavit and prove that I am not reasonably able to make payments toward the full amount of category B restitution, I will be ordered to pay the full amount of category B restitution, and I will waive future claims regarding my reasonable ability to pay, except as provided by Iowa Code section 910.7.

DEFENSE ATTORNEY CERTIFICATION

1. I certify, as an officer of the court, that I have had ample opportunity to confer with my client. I have provided my client with the opportunity to ask any question that they may have. I have explained the contents of this written guilty plea, their waiver of rights, the minimum and maximum punishments, the plea agreement, the collateral consequences for a conviction of these offenses, and the possible defenses and strategies. I have investigated these offenses, which includes reviewing discovery material related to this matter, and I am not aware of any legal reason why the Court should not accept this waiver of rights, plea agreement, and petition to plead guilty.

2. I further certify that after discussing these matters with my client, I believe they knowingly, intelligently, and voluntarily executed this waiver of rights and written guilty plea and request the Court accept it, consistent with the terms set forth herein.

ATTORNEY FOR DEFENDANT

COUNTY ATTORNEY CERTIFICATION

1. The State agrees to the plea agreement outlined above and agrees to dismiss all indictable related simple misdemeanors and or citations at the Defendant’s cost unless otherwise provided in paragraph 21.
2. If this is a felony, the State waives presence for sentencing unless in-court sentencing is requested or required.
3. The State stipulates that the Defendant does not have the reasonable ability to pay category B restitution and agrees to waive any hearing on category B restitution.
 A court hearing is needed to determine category B waiver.
4. Victim, if any, waives in-court impact statement. No in-court sentencing required.

(ASSISTANT) COUNTY ATTORNEY

DEFENDANT CERTIFICATION

I have read this entire document. I have had the opportunity to discuss this Waiver of Rights and Written Guilty Plea with my attorney and ask questions. I understand the contents and consequences of this written guilty plea as explained above, I also understand that by pleading guilty, I am giving up the rights set forth above and that there will not be a trial on this offense(s). I am pleading guilty because I am in fact guilty of the offense(s) detailed in Division I of this petition. I knowingly, intelligently, and voluntarily enter this written guilty plea and request that the Court accept it consistent with the terms set forth herein. I am waiving my right to personally appear before the Court for plea and sentencing unless otherwise noted above or alternatively ordered by the Court.

DEFENDANT

I am an interpreter, and I certify that I have read this document to the defendant in _____ and/or have provided interpretation in that language for the defendant and his/her attorney, as requested.