

IN THE CRIMINAL COURT OF HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE,)	
)	
<i>Plaintiff,</i>)	DIVISION _____
)	
vs.)	
)	NO(s).
_____ ,)	
)	
<i>Defendant.</i>)	

**PETITION TO WAIVE RIGHT TO TRIAL BY JURY AND
TO ENTER A PLEA OF GUILTY**

I, the above-named defendant, respectfully petition the Court as follows:

1. My true full name is: _____
My birth date is: _____
My Social Security No. is: _____
My home address is: _____

2. I am represented by counsel, and the name of my attorney is: _____

REPRESENTATIONS BY THE DEFENDANT

3. **My Right to Plead Not Guilty:** I understand that I have the absolute right to plead “not guilty” to any offense charged. However, I choose instead to PLEAD “GUILTY.”

4. **My Plea as a Voluntary Act:** I enter this guilty plea voluntarily. No one has forced or coerced me to plead guilty.

In addition, no one has made any promise or suggested in any way that, if I would plead guilty, I would receive a lighter sentence, probation, or any other form of benefit or leniency, other than what is specifically set forth in writing in this petition. _____ **(Initials)**

5. **My Decision to Plead Guilty:** Although my attorney has advised me as to various alternatives and of the consequences of those alternatives, *I understand that the decision to plead guilty to any charge is ultimately my decision, and my decision alone.* _____ **(Initials)**

6. **My Ability to Understand the Plea:** I am not now under the influence of any drug, alcohol, medication, or other intoxicant that impairs my ability to fully understand the important constitutional and statutory rights I am giving up by pleading guilty. _____ **(Initials)**

7. **The Nature of My Charges:** I have received a copy of the indictment, and I have read and discussed the charge(s) with my attorney. If I am unable to read, I acknowledge that my lawyer has read the indictment to me word for word. I understand the nature of the charge(s), and my attorney has advised me what the State must prove beyond a reasonable doubt before I may be found guilty of any of the charges. _____ (Initials)
8. **My Attorney's Representation:** I have had sufficient time to speak with my attorney about my case. My attorney has counseled and advised me regarding the nature and elements of the charge(s) against me; the possible penalties; the consequences of my guilty plea; and any and all possible defenses. Except as to anything that I tell the Court, I am satisfied with my attorney's representation. _____ (Initials)
9. **Questioning by the Court:** I understand that the Court will question me about my plea of guilty and may also question me about the crime and my involvement. As to this questioning, I understand:
- a. that I have a privilege against self-incrimination and that I do not have to answer any questions, unless I voluntarily choose to do so; and
 - b. that, if I decide to answer the Court's questions, then I am required to be truthful, and that any answers I give may be used against me in any subsequent proceeding. I understand that, if I answer falsely, I may be prosecuted for perjury or aggravated perjury. _____ (Initials)
10. **My Liability for Court Costs:** I understand that there will be court costs and/or fines in each case. Even if some costs are waived by the Court due to indigence, I understand that I may still be responsible for payment of other court costs and fines. I agree to contact the Criminal Court Clerk's Office, at (423) 209-7500, to find out about these court costs and/or fines and to make arrangements for payment of these amounts. _____ (Initials)

WAIVER OF TRIAL RIGHTS AND OTHER CLAIMS

11. **My Constitutional Right to a Jury Trial:** I understand that I have a constitutional right to have my case tried before a jury of my peers at a speedy and public trial.
12. **State's Burden of Proof at Trial:** I understand that the State bears the burden of proving my guilt beyond a reasonable doubt and that I have no obligation, or burden, to prove my innocence. I understand that I cannot be convicted by the jury of any offense unless the jury unanimously finds me guilty of that offense beyond a reasonable doubt.
13. **My Rights at a Trial:** At a jury trial, I understand that I also have the following constitutional rights:
- a. the right to be presumed to be innocent of each and every charge against me unless, and until, that presumption is overcome by proof at trial establishing my guilt beyond a reasonable doubt;

- b. the right to have the assistance of a lawyer in my defense at all stages of the proceedings;
- c. the right to see, hear, confront, and cross-examine all witnesses against me;
- d. the right to present evidence in my defense, including issuing subpoenas for the production of any evidence or witnesses in my favor;
- e. the right to testify or not to testify, as I choose. I understand that I cannot be compelled to incriminate myself, and, if I choose not to testify, the jury will be instructed that it cannot infer any guilt from this fact;
- f. the right to have a jury impose any fine greater than \$50.00; and
- g. the right to appeal any conviction or sentence.

14. **Waiver of My Rights:** I understand that, by pleading guilty:

- a. I will waive—or give up, relinquish, and abandon—my right to a trial by jury, as well as each of the other rights that are identified in this agreement.
- b. I will also waive, or give up, the right to appeal my conviction and sentence, except to the extent that Tenn. R. Crim. P. 37(b)(2) permits an appeal from a conviction or sentence following a guilty plea.

I choose to waive, or give up, each of these rights. _____ **(Initials)**

15. **My Waiver of Other Claims I May Have:** Except to the extent that I do not waive the right to appeal pursuant to Tenn. R. Crim. P. 37(b)(2), I understand that, by pleading guilty, I also waive and give up any other complaints or claims that I may have about my case concerning any of the following matters:

- a. any claim challenging how law enforcement or others investigated the case, or how they questioned me or obtained a confession or statement from me;
- b. any claim challenging how I was identified, including any lineup in which I or my photograph appeared;
- c. any claim challenging a search of me or my property; the manner in which I was arrested; or the manner in which any evidence used against me was seized; and
- d. any claim challenging any issues involving a preliminary hearing; the grand jury proceedings; the indictment; and any delay in the prosecution of my case.

I choose to waive, or give up, each of these other claims that I may have. _____ **(Initials)**

SENTENCING CONSIDERATIONS

- 16. **General Sentencing Considerations:** I understand that, if the State and I have not agreed to a sentence, the Court will hold a hearing to determine the length, order, and manner of service of my sentence. At the hearing, I understand that the Court will consider my entire record, including evidence of any prior criminal convictions or criminal behavior. I also understand that, if I am eligible for probation or a suspended sentence, the Court will decide whether to grant or deny probation or a suspended sentence.
- 17. **Sentencing Ranges:** I understand that my Offender Classification is Range I. Based upon this Offender Classification, I understand the minimum and maximum penalties provided by law for each charge are as follows:

Docket No.	Charges	Minimum penalty	Maximum penalty

- 18. **First Degree Murder Sentencing Principles, if Applicable:** I understand that, if I am convicted of first-degree murder, there is no range of punishment, and the law authorizes only three possible sentences: life imprisonment, life imprisonment without the possibility of parole, and death.

To seek a sentence of death or of life imprisonment without the possibility of parole, the State must file a notice of intent to seek such a sentence, and, in such a case, the jury will decide the appropriate punishment. However, if the State does not serve a notice of its intent to seek a sentence other than life imprisonment, the Court *must impose* a sentence of life imprisonment upon my conviction for first-degree murder.

- 19. **Felony Sentencing Principles, if Applicable:** I understand that, if I am convicted of a felony other than first-degree murder committed after June 7, 2005, and if the State and I have not agreed to the sentence, the Court may impose any sentence within the range of punishment for my offense and offender classification. In doing so, the Court must consider, **but is not bound by**, the following factors:
 - a. that the minimum sentence within the applicable range of punishment should be imposed because it reflects the legislature’s assessment of the relative seriousness of the offense; and
 - b. that the sentence length should be adjusted to reflect the presence or absence of mitigation and enhancement factors.

Nevertheless, I understand that the Court is granted broad discretion to impose a sentence anywhere within the applicable range, regardless of the presence or absence of enhancement or mitigation factors. I also understand that the Court may impose the *maximum* sentence within the range—even if no enhancement factors are applicable and one or more mitigation factors are present—if the Court finds that such a sentence is consistent with the statutory purposes and principles of sentencing.

20. **Misdemeanor Sentencing Principles, if Applicable:** I understand that, if I am convicted of a misdemeanor, and if the State and I have not agreed to the sentence, the Court may set my punishment anywhere within the applicable sentencing range for the misdemeanor.

SIGNIFICANT CONSEQUENCES OF MY CONVICTION(S)

21. **Consequences of a Felony Conviction, if Applicable:** I understand that, whether I plead guilty or not, if I am convicted of a felony, the following considerations apply:

- a. **Loss of the Right to Vote:** If I am convicted of a felony, I understand that I will be adjudged infamous, which means I will be disqualified from voting.
- b. **Loss of Additional Rights Upon a Felony Conviction:** If I am convicted of a felony, I understand that I will lose the rights to hold public office, to sit on a jury, and to be employed in certain occupations in Tennessee. I also understand that I will lose the right to use, own, or possess a firearm under state and federal law. *See* Tenn. Code Ann. § 39-17-1307(b), (c); 18 U.S.C. § 922(g)(1).
- c. **Conditional Restoration of Voting and Other Rights of Citizenship:** Whether and when I may apply for a voter registration card is set forth in Tenn. Code Ann. §§ 40-29-201, *et. seq.*

Whether and when I may petition the circuit court in this county, or the county of my residence, for restoration of full rights of citizenship and a certificate of employability is set forth in Tenn. Code Ann. §§ 40-29-101. Petitions to restore full rights of citizenship and for a certificate of employability may or may not be granted.

Even if full rights of citizenship are restored, I will still be ineligible to engage in certain occupations or to possess a handgun. If I am convicted of a felony drug offense or a felony involving use or attempted use of force, violence, or a deadly weapon or am prohibited from possessing a firearm under any other provision of state or federal law, I understand that I will still be ineligible to possess a firearm.

- d. **Parole and Parole Eligibility:** If I am sentenced to incarceration, I understand that, except for a sentence of life imprisonment without the possibility of parole, I will have to serve a certain percentage of the sentence before I become eligible for release. This release percentage is determined by the agreements herein or, if there is no agreement, the release percentage will be determined by my offense and offender classification, less sentence credits earned and retained.

Even if I become eligible for early release, I understand that I am not guaranteed parole and that I may not be released early. I understand that I may have to serve every day of my sentence.

22. **Consequences of All Convictions:** I understand that the following consequences may apply to all conviction(s), whether or not the conviction is for a felony or misdemeanor:

- a. **Use of Conviction to Enhance a Future Sentence:** I understand that, if I am later convicted of another offense, my guilty plea and conviction in this case may be used to enhance, or increase, my punishment in that later case. In addition, if I am later convicted of a federal offense, my conviction in this state case may be used to increase any federal sentence as well.
- b. **Immigration Consequences:** I understand that, if I plead guilty or no contest to any criminal offense, and I am not a citizen of the United States of America, the conviction may have an effect on my immigration or naturalization status. These effects could include deportation, exclusion of admission into the United States; or denial of naturalization pursuant to the laws of the United States.

If the offense is one that, under federal law presumptively mandates removal from the United States and federal officials decide to seek removal, it is extremely likely that the plea will result in deportation, exclusion from admission, or denial of naturalization under federal law. My attorney has advised me that immigration consequences may result from my plea and has recommended that I speak with a lawyer specializing in immigration law if my lawyer is unable to advise me fully.

- c. **DNA Sample:** I understand that I may be required by law to submit a DNA sample for inclusion in a databank for use by law enforcement.
- d. **Loss of Handgun Carry Permit:** If my plea today is to a Class A misdemeanor, I understand that it will be unlawful for me to carry a handgun for the term of my sentence. *See* Tenn. Code Ann. § 39-17-1352(f)(2).

23. **Consequences of Particular Convictions, if Applicable:** I understand that the following consequences may apply to a conviction for certain types of offenses:

- a. **Offense Involving Domestic Violence:** If I am convicted of an offense involving domestic violence, whether as a misdemeanor or as a felony, I will be prohibited from using, owning, or possessing a firearm for as long as I remain subject to the disabilities of the conviction.
- b. **Offense Involving Community Supervision for Life:** If I am convicted of a sexual offense that requires community supervision for life, I understand that even *after* I have served my sentence, I will still be under the supervision and control of the Department of Correction in the same manner as a person under parole supervision.

I also understand that any violation of that supervision is either a Class A misdemeanor or a Class E felony, depending upon whether I have only violated a condition of supervision or have committed a new offense.

RECOMMENDED SENTENCE

24. **Recommended Sentence, if Applicable:** I respectfully request that the Court accept my plea and fix the punishment. The crime(s) to which I am pleading guilty and any punishment(s) to which I have agreed is (are) as follows:

<u>Docket No.</u>	<u>Charges</u>	<u>Recommended Sentence</u>

Additional charges and/or or sentencing recommendations are attached on a separate page.

Signed by me, in the presence of my attorney, this the ____ day of _____, 202__.

Defendant

CERTIFICATE OF COUNSEL

The undersigned, as attorney and counselor for the above-named defendant, hereby certifies as follows:

1. I have discussed with the defendant in detail the facts in this case, any defenses, and any plea recommendations made by the State.
2. I have advised the defendant of all matters within the scope of Tenn. R. Crim. P. 11 relating to this plea, including the relinquishment of all trial rights and defenses, and the nature and consequences of the plea, including possible enhancement of future sentences as a result of this plea and conviction.
3. If the defendant is not a citizen of the United States, I have advised the defendant that there may be adverse immigration consequences resulting from the plea, including possible deportation; exclusion of admission into the United States; and denial of naturalization pursuant to the laws of the United States.
4. If the defendant's plea involves a sentence of community supervision for life, I have advised the defendant of this fact and of the consequences of community supervision for life.
5. I am satisfied the defendant has understood my explanation of the plea and the consequences of the plea. I am also satisfied the defendant does not appear to be under the influence of any intoxicant, drug, alcohol, and/or medication that would impair the defendant's ability to fully understand the statutory, constitutional and other rights the defendant is waiving by entering into this plea.
6. The defendant has personally expressed to me the desire to enter this plea, rather than to exercise his or her right to trial by jury.
7. The defendant signed this document in my presence, and I believe that the signing was the defendant's free, willing and voluntary act.
8. I have made no changes or alterations to the form petition used by the Court without first notifying the Court and all other parties.

Signed, this the ____ day of _____, 202__.

Attorney for Defendant

CONSENT OF DISTRICT ATTORNEY GENERAL

The undersigned Assistant District Attorney General consents to the defendant's waiver of trial by jury and approves and concurs in the preceding petition.

Assistant District Attorney General