
SENATE BILL NO. 123—COMMITTEE ON JUDICIARY
(ON BEHALF OF ADMINISTRATIVE OFFICE OF THE COURTS)

FEBRUARY 4, 1999

Referred to Committee on Judiciary

SUMMARY—Makes various changes to form for written plea agreement. (BDR 14-850)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

AN ACT relating to written plea agreements; making various changes to the form for a written plea agreement; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 174.063 is hereby amended to read as follows:
2 174.063 1. If a plea of guilty is made in a written plea agreement, the
3 agreement must be substantially in the following form:
4
5 Case No.....
6 Dept. No.....
7
8 IN THE JUDICIAL DISTRICT COURT OF THE
9 STATE OF NEVADA IN AND FOR THE COUNTY OF.....,
10
11 The State of Nevada
12 PLAINTIFF,
13
14 v.
15
16 (Name of defendant)
17 DEFENDANT.

1 GUILTY PLEA AGREEMENT

2 I hereby agree to plead guilty to: (List charges to which defendant is
3 pleading guilty), as more fully alleged in the charging document attached
4 hereto as Exhibit 1.

5 My decision to plead guilty is based upon the plea agreement in this case
6 which is as follows:

7 (State the terms of the agreement.)
8

9 CONSEQUENCES OF THE PLEA

10 I understand that by pleading guilty I admit the facts which support all
11 the elements of the offenses to which I now plead as set forth in Exhibit 1.

12 I understand that as a consequence of my plea of guilty I may be
13 imprisoned for a period of not more than (maximum term of imprisonment)
14 and that I (may or will) be fined up to (maximum amount of fine). I
15 understand that the law requires me to pay an administrative assessment
16 fee.

17 I understand that, if appropriate, I will be ordered to make restitution to
18 the victim of the offenses to which I am pleading guilty and to the victim of
19 any related offense which is being dismissed or not prosecuted pursuant to
20 this agreement. I will also be ordered to reimburse the State of Nevada for
21 expenses related to my extradition, if any.

22 I understand that I (am or am not) eligible for probation for the offense
23 to which I am pleading guilty. (I understand that, except as otherwise
24 provided by statute, the question of whether I receive probation is in the
25 discretion of the sentencing judge, or I understand that I must serve a
26 mandatory minimum term of (term of imprisonment) or pay a minimum
27 mandatory fine of (amount of fine) or serve a mandatory minimum term
28 (term of imprisonment) and pay a minimum mandatory fine of (amount of
29 fine).)

30 I understand that if more than one sentence of imprisonment is imposed
31 and I am eligible to serve the sentences concurrently, the sentencing judge
32 has the discretion to order the sentences served concurrently or
33 consecutively.

34 I understand that information regarding charges not filed, dismissed
35 charges or charges to be dismissed pursuant to this agreement may be
36 considered by the judge at sentencing.

37 I have not been promised or guaranteed any particular sentence by
38 anyone. I know that my sentence is to be determined by the court within the
39 limits prescribed by statute. I understand that if my attorney or the State of
40 Nevada or both recommend any specific punishment to the court, the court
41 is not obligated to accept the recommendation.

1 I understand that the division of parole and probation of the department
2 of motor vehicles and public safety may or will prepare a report for the
3 sentencing judge before sentencing. This report will include matters
4 relevant to the issue of sentencing, including my criminal history. I
5 understand that this report may contain hearsay information regarding my
6 background and criminal history. My attorney (if represented by counsel)
7 and I will each have the opportunity to comment on the information
8 contained in the report at the time of sentencing.

9 ***I understand that, unless I unconditionally waive my right to appeal***
10 ***my judgment of conviction or enter a conditional plea of guilty, guilty but***
11 ***mentally ill or nolo contendere pursuant to subsection 3 of NRS 174.035,***
12 ***my right to appeal is governed by the provisions of subsection 4 of NRS***
13 ***177.015, which states in part that:***

14 ***[T]he defendant in a criminal case shall not appeal a final judgment***
15 ***or verdict resulting from a plea of guilty, guilty but mentally ill or***
16 ***nolo contendere that the defendant entered into voluntarily and with***
17 ***a full understanding of the nature of the charge and the***
18 ***consequences of the plea, unless the appeal is based upon***
19 ***reasonable constitutional, jurisdictional or other grounds that***
20 ***challenge the legality of the proceedings.***

21 ***I understand that an appeal of a final judgment or order must be made***
22 ***by filing a notice of appeal in the district court no later than 30 days after***
23 ***the entry of the judgment or order appealed from.***

24
25 **WAIVER OF RIGHTS**

26 By entering my plea of guilty, I understand that I have waived the
27 following rights and privileges:

28 1. The constitutional privilege against self-incrimination, including the
29 right to refuse to testify at trial, in which event the prosecution would not
30 be allowed to comment to the jury about my refusal to testify.

31 2. The constitutional right to a speedy and public trial by an impartial
32 jury, free of excessive pretrial publicity prejudicial to the defense, at which
33 trial I would be entitled to the assistance of an attorney, either appointed or
34 retained. At trial, the state would bear the burden of proving beyond a
35 reasonable doubt each element of the offense charged.

36 3. The constitutional right to confront and cross-examine any witnesses
37 who would testify against me.

38 4. The constitutional right to subpoena witnesses to testify on my
39 behalf.

40 5. The constitutional right to testify in my own defense.

41 ~~6. The right to appeal the conviction, with the assistance of an~~
42 ~~attorney, either appointed or retained, unless the appeal is based upon~~
43 ~~reasonable constitutional, jurisdictional or other grounds that challenge the~~

1 ~~legality of the proceedings and except as otherwise provided in subsection~~
2 ~~3 of NRS 174.035.]~~

3 ***I (do or do not) unconditionally waive my right to appeal my judgment***
4 ***of conviction.***

5
6 VOLUNTARINESS OF PLEA

7 I have discussed the elements of all the original charges against me with
8 my attorney (if represented by counsel) . ~~{and I understand}~~

9 ***I am entering into this plea with a full understanding of*** the nature of
10 ***these charges against me {;} and the consequences of the plea.***

11 I understand that the state would have to prove each element of the
12 charge against me at trial.

13 I have discussed with my attorney (if represented by counsel) any
14 possible defenses and circumstances which might be in my favor.

15 All of the foregoing elements, consequences, rights and waiver of rights
16 have been thoroughly explained to me by my attorney (if represented by
17 counsel).

18 I believe that pleading guilty and accepting this plea bargain is in my
19 best interest and that a trial would be contrary to my best interest.

20 I am signing this agreement voluntarily, after consultation with my
21 attorney (if represented by counsel) and I am not acting under duress or
22 coercion or by virtue of any promises of leniency, except for those set forth
23 in this agreement.

24 I am not now under the influence of intoxicating liquor, a controlled
25 substance or other drug which would in any manner impair my ability to
26 comprehend or understand this agreement or the proceedings surrounding
27 my entry of this plea.

28 My attorney (if represented by counsel) has answered all my questions
29 regarding this guilty plea agreement and its consequences to my satisfaction
30 and I am satisfied with the services provided by my attorney.

31
32 Dated: This day of, 19.....

33
34 Defendant.
35

36 Agreed to on this day of....., 19.....

37
38 Deputy District Attorney.
39

40 2. If the defendant is represented by counsel, the written plea
41 agreement must also include a certificate of counsel that is substantially in
42 the following form:

1 CERTIFICATE OF COUNSEL

2 I, the undersigned, as the attorney for the defendant named herein and as
3 an officer of the court hereby certify that:

4 1. I have fully explained to the defendant the allegations contained in
5 the charges to which guilty pleas are being entered.

6 2. I have advised the defendant of the penalties for each charge and the
7 restitution that the defendant may be ordered to pay.

8 3. ***I have advised the defendant of his right to appeal his judgment of***
9 ***conviction with the assistance of an attorney. I have also advised the***
10 ***defendant that, to perfect an appeal, a notice of appeal must be filed in***
11 ***the district court no later than 30 days after the entry of the judgment or***
12 ***order appealed from. Further, I have advised the defendant of the***
13 ***procedure for filing a notice of appeal.***

14 4. All pleas of guilty offered by the defendant pursuant to this
15 agreement are consistent with all the facts known to me and are made with
16 my advice to the defendant and are in the best interest of the defendant.

17 ~~[4.]~~ 5. To the best of my knowledge and belief, the defendant:

18 (a) Is competent and understands the charges and the consequences of
19 pleading guilty as provided in this agreement.

20 (b) Executed this agreement and will enter all guilty pleas pursuant
21 hereto voluntarily.

22 (c) Was not under the influence of intoxicating liquor, a controlled
23 substance or other drug at the time of the execution of this agreement.

24 Dated: This day of, 19.....

25

26 Attorney for defendant.

27 **Sec. 2.** The amendatory provisions of this act do not apply to a written
28 plea agreement entered into before the effective date of this act.

29 **Sec. 3.** This act becomes effective upon passage and approval.