

DAVIS COUNTY JUSTICE COURT, DAVIS COUNTY, UTAH 8/2018
NON-APPEARANCE RIGHTS, INSTRUCTIONS, AND WAIVER FORM

Defendant: _____ Case No.: _____ Bail: \$ _____

Address: _____ Phone No.: _____

OPTIONS / PLEAS: At arraignment, you may plead not guilty, not guilty by reason of insanity, guilty and mentally ill, guilty, or no contest (a no-contest plea means you do not challenge the charge; it is still a conviction). If you do not want to appear at arraignment, you may read and complete this form and: 1) plead not guilty to all charges and request that the case be set for a pretrial conference or a bench trial; or 2) request the court to waive any mandatory appearance and allow you to voluntarily forfeit bail on all charges (if allowed by the court, the forfeiture will be entered as a conviction and treated the same as if you pleaded guilty).

RIGHTS:

- 1) You have the right to be represented by an attorney. The court will appoint an attorney at no cost to you if: a) you cannot afford an attorney; and b) there is the possibility of a jail sentence for the offense. Later, you may have to pay for the appointed attorney's service if the court determines you are able to do so.
- 2) You have the right to represent yourself. If you do so, the court cannot advise you on how to handle your case, and you will be required to comply with technical legal rules. There may be disadvantages to proceeding without an attorney. For any future hearing, you must: a) represent yourself; b) hire an attorney; or c) if you cannot afford an attorney, request a court-appointed attorney by filing an affidavit before the proceeding. Failure to exercise option b or c will be treated as an implied waiver of your right to counsel.
- 3) You have the right to a speedy public trial before an impartial jury. If you want a jury trial, you must make a written demand at least 14 days prior to trial. You are not entitled to a jury trial if you are charged only with an infraction.
- 4) You have the right to confront and cross-examine the prosecution witnesses in open court.
- 5) You have the right to call witnesses and compel by subpoena their attendance and testimony. If you cannot afford to pay for the attendance of witnesses, the prosecution will pay those costs.
- 6) You have the right to testify on your behalf. Any statement you make may be used against you. You may refuse to testify, and no one can make you testify or give evidence against yourself. Your refusal to testify cannot be held against you.
- 7) You are presumed innocent until: a) you plead guilty or no contest; or b) the prosecution proves you guilty. The prosecution has the burden of proving each of the elements of the crime beyond a reasonable doubt. A jury verdict must be unanimous.
- 8) You have the right to bail. If you post bail, you will be released on: a) the condition you appear in court for future proceedings; and b) any other conditions the court imposes. Bail may be modified on proper motion, notice, and findings.

If you plead guilty or no contest, these rights are waived, and your plea constitutes an admission of all the elements of the crime.

WITHDRAWAL OF PLEA / RIGHT TO APPEAL: A motion to withdraw a guilty or no-contest plea must be made before you are sentenced or within 28 days of a plea held in abeyance. To withdraw your plea, you must show it was not knowingly and voluntarily made. The right to appeal is limited. If you choose to appeal, you must file a written Notice of Appeal within 28 days of the sentence or order from which you are appealing.

SENTENCING: Sentencing recommendations are not binding on the court. The court may order the sentence to run consecutively (one after the other) with the charges in this case and with any other case. When sentenced to pay a fine, the court shall consider allowing compensatory service, i.e., service or unpaid work performed by a person, in lieu of the payment of the fine, exclusive of any victim restitution imposed.

PENALTIES (MINIMUM / MAXIMUM SENTENCES): Class B Misdemeanor (0 days to 6 months jail, \$0 to \$1,950 fines and surcharges, plus interest); Class C Misdemeanor (0 days to 90 days jail, \$0 to \$1,062.50 fines and surcharges, plus interest); Infraction (no jail, \$0 to \$1,062.50 fines and surcharges, plus interest).

*I have read and I understand the foregoing rights and instructions. I knowingly and voluntarily waive my right to an attorney at this time. **I plead not guilty to all charges. I understand that this case will be set for a pretrial conference or bench trial.***

_____ (Date) _____ (Defendant)

*I have read and I understand the foregoing rights and instructions. I knowingly and voluntarily waive my right to an attorney at this time. **I request the court to waive any mandatory appearance and allow me to voluntarily forfeit the bail on all charges.***

_____ (Date) _____ (Defendant)