

STATE OF NEW YORK
COUNTY OF _____

COURT

THE PEOPLE OF THE STATE OF NEW YORK

GUILTY PLEA AND
WAIVER OF PRESENCE
AT PLEA AND
SENTENCING
AFFIDAVIT
CPL §§ 340.20 & 380.40
CR # ____ - _____

- v -

_____, Defendant.

STATE OF NEW YORK)

COUNTY OF) ss:

I, _____, am the above-named defendant in this matter, and having been duly sworn, and by this Affidavit, do hereby authorize my attorney, _____, to accept upon my behalf the plea agreement disposition negotiated with the assistant district attorney representing the _____ County District Attorney's Office, and to enter on my behalf, a guilty plea and that and I do hereby swear and state under oath that the following statements of fact are true:

1. I am charged with the crime(s) and/or violations of:

in violation of New York State Penal Law / Vehicle and Traffic Law § § _____

and those events occurred on or about _____, 2020, in the Village / Town / City of _____, and were charged by an accusatory instrument(s) which was filed in the Village / Town / City of _____ under CR Number ____ - _____.

2. I authorize my attorney to enter a plea of guilty to the charge(s) of: _____,
in full satisfaction of the charges pending before this Court under CR#__-_____, and
by this Affidavit, I do admit that I am guilty of having committed that crime, in that I did:

_____.

3. I understand that I will be given a sentence of: _____,
_____ , and that
the maximum possible sentence could be: _____.

4. I understand that I have statutory and constitutional rights to be present in court for each and every proceeding related to this case, including but not limited to, any plea or other disposition of the case, trial, and or sentencing. I understand that there is a current public health crisis that is taking place due to the existing COVID-19 novel coronavirus pandemic, and I wish to have the case proceed without my personal appearance in order for me to avoid possible exposure to the effects of an in court appearance or traveling to or from court during the existing COVID-19 novel coronavirus pandemic. Therefore I do hereby waive my statutory and constitutional rights to be present in court and I also hereby authorize my attorney to enter the guilty plea(s) in my absence pursuant to Criminal Procedure Law § 340.20 (2) (a).

For these same reasons I am asking the Court to proceed with the sentencing without having me be present in the courtroom, and I do hereby waive my statutory and constitutional rights to present in court and I also hereby request and authorize the sentencing to take place in my absence pursuant to Criminal Procedure Law Section 380.40 (2).

5. I understand that by entering this guilty plea I am giving up rights that I have including my right to maintain my plea of not guilty, the right to be prosecuted by an Information, the right to a trial by a jury, the right to have the People produce witnesses that testify

against me, the rights to cross-examine witness that may testify against me, the right to remain silent or testify if I choose to, the right to call my own witnesses, the right to have an attorney assist me with my defense, and that before I can be found guilty, the People, represented by the District Attorney's Office, have the burden to prove my guilt beyond a reasonable doubt.

I understand that by pleading guilty my plea of guilty will operate just like a conviction of guilty after trial. I understand that by pleading guilty I am giving up my right to claim that the police did anything illegal in regard to this charge, and my right to a hearing to determine if that police conduct was in fact illegal.

I waive all of these rights after having discussed this with my attorney and I do so knowingly and voluntarily. No promises or threats have been made to get me to enter this plea and waive these rights. I fully understand that this guilty plea and sentence may have consequences regarding immigration status depending upon my citizenship and or immigration status and I have discussed that issue with my attorney and I still wish to plead guilty.

6. I understand that as a condition of this specific plea offer and as a part of this plea and sentence disposition I am waiving my separate right to appeal this conviction and the sentence. I have discussed with my lawyer the charge(s) pending against me and the range of possible sentences. In exchange for the plea agreement that I have decided to accept, I agree to waive my right to appeal. I understand that the right to appeal is a right that is separate and apart from the constitutional trial rights that I am waiving when I enter a plea of guilty.

I am aware that an appeal is a proceeding before a higher court called an appellate court. If I cannot afford the costs of an appeal or of an attorney for the appeal, the State of New York will cover those costs. On an appeal, a defendant may, normally through an attorney, argue that an error took place in this Court which requires a modification or reversal of the judgment. I understand that a reversal would require either new proceedings in this Court or a dismissal.

By waiving my right to appeal, I agree to give up the right to have an appellate court consider most claims of error regarding this case and conviction, and whether the sentence

is excessive and/or should be modified in any way. As a result of waiving my right to appeal, this conviction, sentence, and judgment will normally be final.

While I am not giving up my right to take an appeal by filing a legally proper notice of appeal within 30 days of the imposition of my sentence, unless there is an Executive Order that continues to extend that time, I understand there are only limited claims that survive this waiver including: my competency to stand trial; my constitutional right to a speedy trial; the voluntariness of this plea; the validity of this waiver; and the legality of the sentence.

7. I understand that the _____ County District Attorney's Office has offered this plea and sentence disposition conditioned on the waiver of the right to appeal and I do accept this offer of my own free will.

8. I have fully discussed this plea, disposition, waiver of my appearance and trial rights, and the separate waiver of the right to appeal with my attorney and I fully understand those rights, the plea, this process, and the disposition detailed herein. I am satisfied with the representation my attorney has given to me. I have had a full and fair opportunity to discuss any issue(s) or question(s) with my attorney before signing this document and I am not under the influence of any substance, drug, or medication, I am feeling awake and alert, and I understand what I am doing.

9. I fully understand the English language, I have the ability to read and write in English, and have fully read and understood this document, which I now sign, understanding that I do so under oath and stating that all of the statements and contents contained in this document are true and accurate under penalty of law.

(Signature of the Defendant)

(Printed Name of the Defendant)

Subscribed and sworn to before me this

___ day of _____, 2020

NOTARY PUBLIC

Certification of Defendant's Attorney:

I hereby certify that I am the attorney of record for the above-named defendant and that I have explained to my client the statutory, constitutional and appellate rights affected by this plea authorization and that the defendant has voluntarily and knowingly executed the waivers contained herein.

Dated: _____

ATTORNEY NAME

Attorney for the Defendant