

STATE OF NEW YORK
COUNTY OF _____ COURT

THE PEOPLE OF THE STATE OF NEW YORK

-vs-

CR # _____

_____,

Defendant.

APPEARANCES: _____ DISTRICT ATTORNEY
_____, Esq., of counsel
Attorney for People

_____, ESQ.,
Attorney for Defendant

DECISION AND ORDER

_____, J.

The defendant is charged with _____. The court has held conferences with the People and defense counsel concerning plea negotiations. The People have offered to the defendant an opportunity to plea to _____ with a negotiated sentence of _____. This court has approved such offer and proposed sentence.

Due to the existing COVID-19 novel coronavirus pandemic, the defendant has requested to have the case proceed without a personal appearance in order 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. The defendant has provided a plea affidavit to the court which waives his/her statutory and constitutional rights to be present in court and also authorizes his/her attorney to enter the guilty plea(s) in his/her

absence pursuant to Criminal Procedure Law § 340.20 (2) (a). The defendant has also waived in the plea affidavit his/her rights, including the right to maintain a 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 the defendant, the right to cross-examine witnesses that may testify against the defendant, the right to remain silent or testify, the right to call witnesses, the right to have an attorney assist with a defense, and that before the defendant can be found guilty, the People, represented by the District Attorney's Office, have the burden to prove the defendant's guilt beyond a reasonable doubt.

The defendant's affidavit also acknowledges that the defendant understands that a his/her guilty plea will operate just like a conviction of guilty after trial, and that he/she is giving up the right to claim that the police did anything illegal in regard to this charge, and the right to a hearing to determine if that police conduct was in fact illegal. The defendant also waives his/her separate right to appeal this conviction and the sentence.

This court has reviewed the plea affidavit signed and acknowledged by the defendant in its entirety and permits defense counsel to enter the defendant's guilty plea with the court based upon the defendant's stated authorization of his/her attorney to enter such plea on his/her behalf (see CPL 340.20 (2) [a]). After review of the affidavit, this court determines that the defendant has been advised of his/her rights and that the defendant is giving up such rights without any promises or threats made to the defendant in order for him/her to give up such rights. Also, the defendant has indicated that he/she understands the guilty plea and sentence may have consequences regarding immigration status depending upon his/her citizenship and or immigration status and that the

defendant has discussed that issue with his/her attorney.

This court accepts the defendant's plea filed with the court on his/her behalf by her authorized attorney as a knowing and voluntary plea of guilty to the offense(s) of

_____.

The defendant has filed a motion requesting to dispense with the requirement that the defendant be personally present for the pronouncement of sentence (*see* CPL 380.40). This motion is made by the defendant in order 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. The motion is accompanied by a waiver, signed and acknowledged by the defendant, that recites the maximum sentence that may be imposed for the charged offense(s) and states that the defendant waives his/her right to be personally present at the time his/her sentence is pronounced. This court determines that the defendant has satisfied the statutory requirements to allow the court to dispense with the requirement that the defendant be personally present at the time his/her sentence is pronounced by the court.

This court has accepted the defendant's plea of guilty to the offense(s) of _____ and, therefore, sentences the defendant to the agreed upon sentence of _____.

This shall constitute the decision and order of this court.

Dated this ___ day of _____, 2020 at _____, New York.

JUSTICE OF _____