

9-406. Guilty plea proceeding.

[For use with District Court Rule 5-303 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
IN THE DISTRICT COURT

No. _____

STATE OF NEW MEXICO

v.

_____, Defendant.

GUILTY PLEA PROCEEDING

The defendant personally appearing before me, I have ascertained the following facts, noting each by initialing it.

*Judge's
Initial*

- _____ 1. That the defendant understands the charges set forth in the [complaint] [information] [indictment].
- _____ 2. That the defendant understands the range of possible sentences for the offenses charged, including any mandatory minimum penalties, maximum possible penalties, and possible sentence enhancements as follows:
_____.
- _____ 3. That the defendant understands the following constitutional rights which the defendant gives up by pleading guilty:
 - _____ (a) the right to trial by jury, if any;
 - _____ (b) the right to the assistance of an attorney at trial, and to an appointed attorney, to be furnished free of charge, if the defendant cannot afford one;
 - _____ (c) the right to confront the witnesses against him and to cross-examine them as to the truthfulness of their testimony;
 - _____ (d) the right to present evidence on his own behalf, and to have the state compel witnesses of his choosing to appear and testify;

- _____ (e) the right to remain silent and to be presumed innocent until proven guilty beyond a reasonable doubt.
- _____ 4. That the defendant wishes to give up the constitutional rights of which the defendant has been advised.
- _____ 5. That there exists a basis in fact for believing the defendant is guilty of the offenses charged and that an independent record for such factual basis has been made.
- _____ 6. That the defendant and the prosecutor have entered into a plea agreement and that the defendant understands and consents to its terms. (*Indicate "NONE" if a plea agreement has not been signed.*)
- _____ 7. That the plea is voluntary and not the result of force, threats or promises other than a plea agreement.
- _____ 8. That under the circumstances, it is reasonable that the defendant plead guilty.
- _____ 9. That the defendant understands that a plea of guilty or no contest may have an effect upon the defendant's immigration or naturalization status, and that, if the defendant is represented by counsel, the defendant has been advised by counsel of the immigration consequences of the plea.
- _____ 10. (*Domestic violence or felony cases only*) That the defendant understands that a plea of guilty or no contest for a crime of domestic violence or felony will affect the defendant's constitutional right to bear arms, including shipping, receiving, possessing or owning any firearm or ammunition, all of which are crimes punishable under federal law for a person convicted of domestic violence.
- _____ 11. That, if the defendant is represented by counsel and the defendant has entered a plea of guilty or no contest to a crime for which registration as a sex offender is or may be required, the defendant has been advised by counsel of the registration requirement under the Sex Offender Registration and Notification Act [Section 29-11A-1 NMSA 1978].

On the basis of these findings, I conclude that the defendant knowingly, voluntarily and intelligently pleads guilty to the above charges and accept such plea. A copy of this affidavit shall be made a part of the record in the above-styled case.

District Judge

Date

CERTIFICATE BY DEFENDANT

I certify that the judge personally advised me of the matters noted above, that I understand the

constitutional rights that I am giving up by pleading guilty and that I desire to plead guilty to the charges stated.

Defendant

I have conferred with my client with reference to the execution of this certificate and I have explained to my client its contents in detail.

Defense Counsel

USE NOTE

For use in the district court when there is no plea and disposition agreement.

[As amended, effective September 1, 1990; withdrawn, effective May 1, 1998; as amended by Supreme Court Order 07-8300-29, effective December 10, 2007; by Supreme Court Order No. 10-8300-028, effective December 3, 2010.]