

IN THE IOWA DISTRICT COURT FOR WOODBURY COUNTY

<p>THE STATE OF IOWA,</p> <p>Plaintiff,</p> <p>vs.</p> <p>_____</p> <p>Defendant.</p>	<p>CRIMINAL NO. _____</p> <p>WRITTEN PLEA OF GUILTY AND WAIVER OF RIGHTS (OWI – SECOND OFFENSE)</p>
---	---

COMES NOW the above-named Defendant and states to the court:

I know that I have the right to an attorney and that if I cannot afford to pay an attorney, an attorney will be appointed to represent me at public expense at all stages of this criminal case, including trial, plea taking, sentencing and appeal.

My attorney is _____ of _____, Iowa, with whom I am satisfied and by whom I have been advised of my constitutional and statutory rights and who I authorize to act in my behalf.

I have told my attorney all the facts and surrounding circumstances as known to me concerning the matters in the trial information and I believe that my attorney is fully informed as to all such matters. My attorney has informed, counseled and advised me at length as to the nature and cause of each accusation against me as set forth in the trial information and as to any possible defenses I might have in this case.

I believe that my attorney has done all that can be done to counsel and assist me.

If I do not have an attorney, I state that I am aware that there may be defenses to criminal charges that may not be known to non-lawyers. I accept the risk that waiving counsel might result in a defense being overlooked. I know that by pleading guilty now without an attorney, I will be giving up the opportunity to get an independent opinion on whether it is wise to plead guilty, under the facts of my case and the law. I hereby waive my right to an attorney.

There is nothing about the proceedings in this case which I do not fully understand.

My date of birth is: _____.

I have completed _____ years of school.

My usual occupation is: _____.

I am in good health except for: _____.

I am not now under the influence of any drugs or alcohol except: _____
_____.

I understand that in order to establish my guilt of the crime charged that the State of Iowa would have to prove beyond a reasonable doubt all of the following elements:

1. That in Woodbury County, Iowa, on or about the date stated in the trial information, I operated a motor vehicle.
2. At that time I was either (a) under the influence of an alcoholic beverage or other drug or a combination of such substance, (b) had an alcohol concentration of .08 or more, or (c) any amount of a controlled substance was present in my blood or urine.
3. I had previously been convicted in the last twelve years of Operating While Intoxicated.

I have been advised and I know that I may plead not guilty to the charge and if so:

I will be entitled to a speedy and public trial by a jury whose verdict must be unanimous to convict me.

I will be presumed innocent until proven guilty and the jury will be instructed of this.

My guilt must be proven beyond a reasonable doubt by competent evidence and the jury will be instructed of this.

I have a privilege against self-incrimination which I waive by this plea of guilty. At trial I may or may not testify as I desire and my not testifying could not be used against me.

I may confront my accusers and cross examine the witnesses against me. I may be present at all stages of the proceedings and the trial.

I may subpoena witnesses for myself, which means that I may require their attendance and testimony in court.

I understand that by pleading guilty I waive any right to a trial and that there will be no trial of any kind.

I acknowledge that no promises of leniency or probation, or threats of severe sentence or additional prosecutions or any other promises or threats have been made to me to induce this plea. I state that this plea of guilty is voluntarily made. However, I have been

informed that the prosecutor will recommend what is contained in the plea agreement, if a plea agreement is filed in this case.

I also know that the judge may not follow the recommendation in the plea agreement and that my sentence may be either less or more severe than the plea agreement recommendation.

I know that the maximum sentence that is provided by statute for the crime to which I am pleading guilty is imprisonment not to exceed two years and a fine of \$6,250.00 plus 15% surcharge. The minimum sentence includes imprisonment in the county jail for not less than seven days, a fine of \$1,875.00 plus 15% surcharge, assignment to a course for drinking drivers and a requirement that I follow the recommendations of a substance abuse evaluation. In addition, I could be ordered to make restitution to the victims of my offense, restitution for the cost of my court appointed attorney and court costs would be taxed to me.

I understand that if I am not a citizen of the United States that the decision to go to trial or to enter into a plea agreement will have immigration consequences. Specifically, I understand that pleading guilty to a crime will affect my immigration status even if the case is later expunged. I understand that a plea of guilty will result in:

- A. Deportation or removal from the United States, including immediate removal. See 8 U.S.C. § 1227(a)(2)(A)(iii).
- B. Mandatory detention during expedited removal proceedings. See 8 U.S.C. §§ 1226(c)(1)(b), 1228(a)(2).
- C. Foreclosure of cancellation of removal proceedings. See 8 U.S.C. § 1229b(b)(1)(C).
- D. A permanent bar on legal reentry. See 8 U.S.C. § 1182(a)(9)(ii)(I).
- E. A fine and twenty years of incarceration if the Defendant tries to reenter the United States. See 8 U.S.C. § 1326(b)(2).

I know that under Rule 2.8 of the Iowa Rules of Criminal Procedure that the court is required to address me and explain my rights to me before accepting my plea. I hereby request and approve of the court, in its discretion, waiving the provisions of Rule 2.8 of the Iowa Rules of Criminal Procedure.

I know that by executing this Written Plea of Guilty and Waiver of Rights form that I admit that I did commit the crime to which I am pleading guilty, that I committed the elements of this crime and that I may lose my liberty because of it.

What I actually did in Woodbury County, Iowa, on or about the date stated in the trial information was:

_____ Element 1: I operated a motor vehicle in the State of Iowa.

_____ Element 2: At that time, I was either (a) under the influence of an alcoholic beverage or other drug or a combination of such substance, (b) had an

alcohol concentration of .08 or more, or (c) had any amount of a controlled substance present in my blood or urine.

_____ Element 3: I had previously been convicted in the last twelve years of Operating While Intoxicated.

Knowing and understanding all of my rights and having had them fully explained to me, I desire to plead guilty as set out below:

I hereby enter my PLEA OF GUILTY to the crime of OPERATING WHILE INTOXICATED – SECOND OFFENSE in violation of Iowa Code section 321J.2.

I ask that judgment and sentence be pronounced now and without delay at any place in the Third Judicial District of Iowa.

If the court wishes further presentence investigation, the court may take such additional time as the court requires.

I understand that in the event that I am fined and/or that the costs of this case are taxed to me and I do not pay the fine, surcharge or costs, that I may be held in contempt of court and imprisoned or fined.

I know that any challenges to a plea of guilty, based on alleged defects in the plea proceedings, must be raised in a Motion in Arrest of Judgment and that failure to raise such challenges shall preclude the right to assert them on appeal. I hereby waive my right to file a Motion in Arrest of Judgment.

I know that under Iowa Code Section 814.6 (1) (a) that I have no right to appeal a plea of guilty unless I can establish good cause.

I hereby waive time for sentencing. I waive my right to be present at sentencing. I waive my right to allocution. I waive my right to make a statement to the court in mitigation of punishment.

I know that I have a right to appeal under Iowa Rule of Criminal Procedure 2.23(3)(e). If I am unable to pay the cost of appeal, I have the right to apply to the court for the appointment of counsel and the furnishing of a transcript of the evidence as provided in Iowa Code sections 814.9 and 814.11. I know that the filing of this Notice of Appeal is jurisdictional and that failure to timely file a Notice of Appeal within the time and in the manner specified in Iowa Rule of Appellate Procedure 6.101 precludes my right to appeal.

I hereby waive reporting of these proceedings.

I HAVE READ ALL OF THE ABOVE AND UNDERSTAND ALL OF IT AND THE CONSEQUENCES OF THIS GUILTY PLEA AND REPRESENT TO THE COURT THAT IT IS INTELLIGENTLY AND VOLUNTARILY MADE BY ME.

Defendant

STATE OF IOWA)
)
WOODBURY COUNTY)

I, the Defendant herein, being first duly sworn on oath depose and state that I have read this Written Plea of Guilty and Waiver of Rights and that I am familiar with its contents. All of the statements and allegations contained in this document are true.

Defendant

Subscribed and Sworn to before me on this _____ day of _____, 20____.

Notary Public

I, _____, a practicing attorney in the State of Iowa, state that I represented the Defendant, that I have advised the Defendant at length and in detail regarding all of the Defendant's rights and that in my opinion the Defendant has full knowledge of those rights. In my opinion, there is a factual basis for the Defendant's plea of guilty and that the Defendant fully understands the consequences of this plea. Based on my conferences with the Defendant, the statements made by the Defendant in this Written Plea of Guilty and Waiver of Rights form are true.

Attorney for the Defendant