

Form D

WAIVER OF PHYSICAL PRESENCE; SUBMISSION OF PLEA; PRO SE DEFENDANT

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| IN THE _____ COURT OF THE _____ CIRCUIT _____ DIVISION | WAIVER OF PHYSICAL PRESENCE: SUBMISSION OF PLEA; <i>PRO SE</i> DEFENDANT | Case Number: |
| STATE OF HAWAI'I vs. (DEFENDANT) | | Police Report Number: |
| CHARGE(S): VIOLATION OF H.R.S. SECTION(S) REVISED ORDINANCE SECTION(S) | | AMENDED CHARGE(S): |

In accordance with Rule 43, Hawai'i Rules of Penal Procedure:

1. I am proceeding without an attorney and I have full knowledge of the following: (Each box must be initialed by Defendant).

[] I understand that I have a right to representation by an attorney. I also understand that if I am financially unable to afford an attorney the court will appoint one at no cost to me.

[] The information(s), complaint(s) and/or indictment(s) set(s) out what the government claims I did. I have read the information(s), complaint(s) and/or indictment(s). I know the government must prove the allegations in the information(s), complaint(s) or indictment(s) in order to convict me.

[] I understand the charge(s) against me.

[] I understand that I have the right to be present at the arraignment, at pretrial proceedings, at a trial, at the time I enter my plea and at my sentencing. I voluntarily waive (give up) my right to be physically present at all of these proceedings.

- I understand that face-to-face video conferencing might be necessary in order for the court to accept or defer my plea and impose or defer sentence.
- I understand that I have the right to address the court before I am sentenced and agree to do so via face-to-face video teleconferencing instead of me appearing in person before the court.
- I understand that by pleading guilty or no contest I give up my right to a trial by a jury or by the court. I understand that for misdemeanor and felony offenses in a jury trial:
- Twelve members of the community make up a jury;
 - I may take part in jury selection;
 - A jury verdict must be unanimous; and
 - If I waive a jury trial, the judge alone will decide whether I am guilty or not guilty.
- I understand that in any trial,
- the government is required to prove my guilt beyond a reasonable doubt;
 - I have the right to see, hear and question witnesses who testify against me;
 - I have the right to call my own witnesses to testify for me, but I am not obligated to present any evidence in my own defense, nor can any conclusions be drawn against me for not presenting any evidence;
 - I have the right not to testify, and should I decide not to testify my decision cannot be used against me;
 - I have the right to testify and that the deputy prosecutor will be able to question me; and
 - The court would ask me whether my decision to testify or not to testify was my own.
- I understand that an attorney would:
- (a) investigate my case, call witnesses, and present evidence;
 - (b) research the law and present legal issues on my behalf and present defenses to the charge(s) on my behalf;
 - (c) know and explain courtroom procedures and argue my case; and
 - (d) negotiate with the government to reduce the charge(s) or lessen the sentence.

- I understand that, if I give up my right to an attorney, I will not have an attorney's assistance and must do everything an attorney would do by myself.
- I understand my right to be represented by an attorney. I may either hire my own attorney or ask the court to appoint one if so required. I choose to give up my right to an attorney and I desire to represent myself.
- My mind is clear. I am not ill. I did not consume any substances which have affected my ability to understand this document or this proceeding.
- I understand that the maximum penalties are: \$ _____ fine or _____
 days months years in jail or both. (If you are being prosecuted for multiple offenses, complete Form E [listing for multiple offenses].)

2. I plead: GUILTY OR NO CONTEST
to the: ORIGINAL OR AMENDED charge(s) listed above.

3. My birth year is _____ and I am _____ years old. The last four digits of my social security number are XXX-XX-_____. I have completed _____ years of education.

I speak, read, write, and understand the English language.

I do not speak, read, write, and understand the English language. This document was interpreted from English to _____.
(Insert Language)

4. INITIAL ONE: I am am not on probation or parole; I know that this plea might provide a basis for revocation of my probation or parole.

5. I offer my plea freely and voluntarily and with full understanding of all the matters set forth in the information, complaint, or indictment. No one is pressuring or threatening me or anyone close to me to force me to plead. I am not taking the blame or pleading to protect someone else from prosecution.

6. INITIAL ONE:

I plead GUILTY because (Give a brief factual statement of what you did):

I plead NO CONTEST because I do not wish to contest the charge(s) against me.

7. I understand that the government may provide reports or information to establish a factual basis for the plea and/or for sentencing recommendations.
8. INITIAL ONE:
- I do not have any agreement with the government regarding my plea. No one has promised me any kind of deal or favor or leniency if I plead.
- I have reached the following agreement with the government (give a brief summary):
- INITIAL:
- I understand that the court is not bound by this agreement. I understand that I will not be permitted to withdraw my plea if the court does not follow the agreement.
- Other than the foregoing agreement, no one has promised me any kind of deal or favor or leniency if I plead.
9. I have full knowledge of the following: (Each box must be initialed)
- I understand that the court is not required to grant any request for a deferred acceptance of a guilty or no contest plea.
- I consent to the court imposing sentence without me being physically present. If a presentence report is required by law, I waive (give up) the right to have a presentence report prepared and presented to the court. I further understand that non-compliance with the court's judgment or order will result in the issuance of a bench warrant, subjecting me to arrest and an order to appear in court.
- I understand that the court will read the following to me before accepting my plea:

If you are not a citizen of the United States, whether or not you have lawful immigration status, you have the right to receive advice from a lawyer about the specific impact that this case will have, if any, on your immigration status. The entry of a guilty or no contest plea, admission of guilt or sufficient facts, or conviction, deferred judgment, or deferred sentence might have the consequences of your immediate detention, deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. In some cases, detention and deportation from the United States will be required. Your lawyer must investigate and advise you about these issues prior to the commencement of trial, entry of a guilty or no contest [plea], or admission of guilt or sufficient facts to any offense punishable as a crime under state law, other than those offenses designated as infractions. You are not required to disclose your immigration or citizenship status to the court.

Form D

HAWAI‘I RULES OF PENAL PROCEDURE

[] I declare under penalty of perjury, that I am the person charged with the offense(s) listed above and affix my fingerprint hereto.

DATED this _____ day of _____, 20 ____.

Defendant’s Signature: _____
Address: _____
Telephone No.: _____

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|--|---------------------------------------------------------------------------------------------------------------|
| | Defendant must affix right thumbprint in black ink |
| | Defendant must attach a recent photograph showing Defendant’s face as it will appear during video conference. |

Prosecutor
[] Objects
[] Does not object
[] Takes no position

Approved and so ordered:

Judge of the Above-Entitled Court (Date)