



Maricopa County Justice Courts

INSTRUCTIONS FOR COMPLETING GUILTY / NO CONTEST PLEA BY MAIL AND JUDGMENT OF CONVICTION

Warning: The submission to the court of a completed form to enter a "guilty / no contest plea by mail" will have important legal consequences.

Please read these instructions completely and carefully. If you do not follow these procedures correctly and completely, your plea by mail may not be accepted by the court, and you may be required to appear in court in-person.

Read Rule 17.1(a)(4) of the Arizona Rules of Criminal Procedure and / or consult a lawyer if you have any additional questions after reading these instructions.

Note: You must have a copy of the complaint charging you with a crime to complete the form.

You must complete the following items on the plea by mail form.

- (1) Enter the name of the court where the complaint was filed (for example, South Mountain Justice Court or Kyrene Justice Court).
- (2) Enter the court's case number.
- (3) Enter your first name, middle name, and last name exactly as they appear on the complaint along with your complete mailing address, telephone number, and email address.
- (4) Print your full legal name (which can be different than your name on the complaint.)
- (5) Check whether you are pleading guilty or no contest. Check only one box.
- (6) Provide the reasons why you have an "undue hardship". An undue hardship is something that makes it difficult for you to personally appear in court, such as an illness, physical incapacity, a substantial distance to travel, or you are incarcerated (that is, you are currently in jail.) You may enter a plea by mail only if you have an "undue hardship". If you do not have an "undue hardship", you must personally appear in court.
- (7) Provide any information you would like the judge to consider before you are sentenced. You may attach additional pages if needed to provide complete information. You may also attach any other documents or statements you'd like the judge to consider before you are sentenced.
- (8) **Your signature must be witnessed and notarized by a Notary Public.** You must have identification to show the notary. The notary public will add his or her stamp or seal and the notary's signature to show that the notary personally witnessed you sign the plea by mail form. Your signature confirms that you have read and understand the plea by mail form as well as these instructions, or that they have been read to you and that you understand them. If you do not read or speak English, please contact the court and request the assistance of an interpreter. If you have a lawyer, your lawyer must also sign the form and provide a State Bar number. Please note that only an attorney who is licensed to practice law in Arizona may sign the form.
- (9) You must provide your complete mailing address, telephone number, and email address. The court will mail a copy of the judgment of conviction to you.



Maricopa County Justice Courts, Arizona

(1)

STATE OF ARIZONA

vs.

(2) CASE NUMBER: _____

(3) _____

Defendant(s) Name / Address / Email / Phone

GUILTY / NO CONTEST PLEA BY MAIL and JUDGMENT OF CONVICTION

I (4) _____, am the defendant in this case. I have a copy of the criminal complaint in this case, and I have read and I understand the charges filed against me.

I hereby agree to plead (5) Guilty No Contest to the criminal offense(s) alleged in the complaint. If there is more than one offense alleged in the complaint, I am pleading guilty or no contest to each of the criminal offenses in the complaint.

I admit to a factual basis for the offense(s) set forth in the complaint (that is, if my case went to trial, the facts would show that I did what I am charged with doing). I consent to the entry of judgment on my plea as indicated above.

I understand that the court will determine the sentence pursuant to my plea, and that I am responsible for satisfying all of the penalties that are imposed by the court. I further understand that the court may reject my plea by mail if any of the following are true:

- P my case involves a victim;
- P the court will impose a jail term, unless I am sentenced to time served, or unless I am currently in jail and the jail time that is imposed would not extend the length of my current jail sentence;
- P the court will impose a term of probation;
- P my fingerprint is required to be on the sentencing document;
- P a plea by mail would not be in the interests of justice; or
- P I have not described any undue hardship that justifies my plea by mail.

I understand that the range of penalties for misdemeanor and petty offenses are as follows:

- Class 1 misdemeanor: a \$2500 fine, 6 months jail, and/or 3 years probation, plus surcharges and fees.
 - Class 2 misdemeanor: a \$750 fine, 4 months jail, and/or 2 years probation, plus surcharges and fees.
 - Class 3 misdemeanor: a \$500 fine, 30 days jail, and/or 1 year probation, plus surcharges and fees.
 - Petty offense: not more than a \$300 fine, plus surcharges and fees.
- The maximum fine amounts are higher for enterprises.

If I am arrested on another offense in the future, I know that as the result of my plea in this case, I may be charged with a more serious offense that has more severe penalties.

If I am presently on probation or parole, I know that this guilty or no contest plea may result in a violation of my probation or parole.

I know that if I am not a citizen of the United States, pleading guilty or no contest to a crime may affect my immigration status. Admitting guilt may result in deportation even if the charge is later dismissed. My plea or admission of guilt could result in deportation or removal, could prevent me from ever being able to get legal status in the United States, or could prevent me from becoming a United States citizen.

I understand that by entering my plea of guilty or no contest by mail I am giving up all of the following constitutional rights:

- a. The right to plead not guilty and to require the State to prove guilt beyond a reasonable doubt.
- b. The right to a trial, and depending on the charge(s) against me, a right to a trial by jury.
- c. The right to assistance of an attorney at all stages of the proceeding, including appeal. If I cannot afford one, I may be eligible for a court-appointed attorney at a reduced cost or at no cost.
- d. The right to confront the witnesses against me and to cross-examine them as to the truthfulness of their testimony.
- e. The right to present evidence in my own behalf and to have the court compel my chosen witnesses to appear and to testify free of charge.
- f. The right to remain silent, not to incriminate myself, and to be presumed innocent unless/or until proven guilty beyond a reasonable doubt.
- g. The right to a direct appeal.

I give up the right to be present at the time of sentencing.

My plea is voluntary and not the result of force, threat, or promises.

I understand that I may file a petition for post-conviction relief in accordance with Rule 32 of the Arizona Rules of Criminal Procedure, and if it is denied I may file a petition for review.

(6) I wish to enter my plea by mail because my personal appearance in court would be an undue hardship for the following reasons: (Explain the hardship, such as illness, physical incapacity, substantial distance to travel, or incarceration, fully and in detail. Attach additional pages if needed.)

(7) I would like the court to consider the following information in determining an appropriate sentence (attach additional pages if needed):

(8) I have read the instructions for completing this plea by mail form, or these instructions have been read to me. I understand this plea form, and I am voluntarily signing it below. I understand that the court will mail a copy of its judgment to me, and that I will be responsible for fulfilling the penalties and the sentence imposed by the court. I understand that I must sign this plea by mail in the presence of a Notary Public.

Date _____ Defendant's Signature **Your signature must be witnessed and notarized by a Notary Public

(if any) Defense Counsel Signature _____ AZ Bar # _____

State of _____)

County of _____)

This instrument was acknowledged before me this _____ day of _____ 20____, by _____.

(Notary Seal) _____ Notary Public / Court Clerk

(9) _____

Defendant(s) Name / Address / Email / Phone _____

ACCEPTANCE OF PLEA AND JUDGMENT OF CONVICTION

I CERTIFY that I have personally reviewed the defendant's statements set forth in this Guilty/No Contest Plea by Mail form. The court finds a basis in fact for believing the defendant is guilty of the offense(s) charged, and that the defendant's plea of guilty or no contest is voluntary and intelligent. I accept the defendant's plea and find that the defendant is guilty of the following offense or offense(s) as follows:

A.R.S. Codes: A. _____ B. _____ C. _____ D. _____ E. _____
\$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Dated: _____ Judge

I CERTIFY that I mailed a copy of this PLEA BY MAIL and JUDGMENT OF CONVICTION to the defendant at the address shown above:
Date: _____ By _____ Clerk

DOMESTIC VIOLENCE CONVICTION WARNINGS

You have been convicted of crime that is considered domestic violence according to ARS 13-3601A: Based on the nature of the crime and your relationship to the victim. If the crime involves the use or attempted use of physical force or the threatened use of deadly weapon, you are prohibited by federal law from possessing firearm or ammunition. This prohibition is permanent unless the conviction is set aside pursuant to ARS 13-907. Conviction may not be set aside if the criminal offense involved the infliction of serious physical injury or the use of exhibition of deadly weapon or dangerous instrument or if the victim is under fifteen years of age. conviction is not automatically set aside upon request. Any decision is within the discretion of the judge. The mandatory minimum sentencing requirement for domestic violence conviction is counseling program. Additionally, if you are convicted of second offense, you may be placed on supervised probation with term of jail as condition of that probation, third or subsequent charge may be filed as felony and conviction for that offense will result in term of incarceration.

THE FOLLOWING RIGHTS ARE APPLICABLE IN CRIMINAL CASES ONLY

NOTICE OF RIGHT OF SETTING ASIDE JUDGMENT ARS 13-907 Setting aside judgment of convicted person on discharge; application; release from disabilities; exceptions:

- A. Except as otherwise provided in this section, every person convicted of a criminal offense, on fulfilling the conditions of probation or sentence and discharge by the court may apply to the judge, justice of the peace or magistrate who pronounced sentence or imposed probation or such judge, justice of the peace or magistrate's successor in office to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of discharge.
- B. The application to set aside the judgment may be made by the convicted person or by the convicted person's attorney or probation officer authorized in writing.
- C. If the judge, justice of the peace or magistrate grants the application, the judge, justice of the peace or magistrate shall set aside the judgment of guilt, dismiss the accusations or information and order that the person be released from all penalties and disabilities resulting from the conviction other than those imposed by:
 1. The department of transportation pursuant to section 28-3304, 28-3306, 28-3307, 28-3308 or 28-3319, except that the conviction may be used as a conviction if such conviction would be admissible had it not been set aside and may be pleaded and proved in any subsequent prosecution of such person by the state or any of its subdivisions for any offense or used by the department of transportation in enforcing section 28-3304, 28-3306, 28-3307, 28-3308 or 28-3319 as if the judgment or guilt had not been set aside.
 2. The game and fish commission pursuant to section 17-314 or 17-340.
- D. This section does not apply to a person convicted of a criminal offense:
 1. Involving the infliction of serious physical injury.
 2. Involving the use or exhibition of a deadly weapon or dangerous instrument.
 3. For which the person is required or ordered by the court to register pursuant to section 13-3821.
 4. For which there has been a finding of sexual motivation pursuant to section 13-118.
 5. In which the victim is a minor under fifteen years of age.
 6. In violation of section 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.

NOTE: Pursuant to ARS 13-907, an Application to Set Aside Judgment does not mean that the Court will seal the record of your arrest or conviction or restrict public inspection of the record, nor respond to inquiries relating to your conviction as though the conviction never occurred. You may be required to disclose conviction which has been set aside in applications for certain licenses. The Court cannot deny anyone the right to look at the court file or obtain copy of the original citation, complaint, sentence or conviction, The Motor Vehicle Department has no authority to suppress convictions and suspensions from the driving record. The Motor Vehicle Department will not remove any points from your driving record and the information is available to an insurance agency. If the judgment is set aside, the record of the original sentence or conviction will be followed by Court entry indicating that an application to set aside the judgment was granted.

RIGHT TO POST-CONVICTION RELIEF

You also have right to petition the Court for post-conviction relief, Rule 32, Rules of Criminal procedure. In order to exercise your post-conviction relief right: You must file Notice of Post-Conviction Relief within 90 days of the entry of judgment and sentence if you do not file, or do not have the right to file, Notice of Appeal. If you do appeal, the time you have to file Notice of Post-Conviction relief is extended to within 30 days of the order and mandate affirming the judgment and sentence on direct appeal. If you do not timely file Notice of Post-Conviction Relief you may never have another opportunity to have any errors made in your case corrected by another court. To file for post-conviction relief, get copy of the Notice of Post Conviction relief form, either from the clerk of the court or jail, fill it out and file or send it to the clerk of the justice court where you were sentenced. The notice must be received by the court within 90 days after you were sentenced or within 30 days of the order and mandate affirming the judgment and sentence on direct appeal.

NOTICE OF RIGHT TO APPEAL (CRIMINAL) YOUR RIGHT TO AN ATTORNEY DURING THE APPEAL

You have constitutional right to an attorney to represent you during the appeal stage of your case. This means you have the right to hire private attorney, and in certain situations, you may be eligible for court appointed attorney to represent you. Generally, if you had court appointed attorney for the trial, you will continue to have court appointed attorney for the appeal. If the sentence you are appealing includes jail time or probation and you cannot afford to hire private attorney, you may complete financial statement and request court appointed attorney. Depending upon your income and financial situation, an attorney may be appointed; your request may be denied; or you may have an attorney appointed with the requirement that you pay some amount in contribution toward the cost of the attorneys services. The procedure to apply for court appointed attorney is set forth in Rules of Criminal Procedure, Rule 6. If you wish to consider this process, ask the clerk for further instructions. If you file an appeal you are the APPELLANT. The Justice Court is called the Trial Court, THE APPEAL PROCESS There are two separate stages to the appeal process. The first stage begins in the Justice Court and the second stage takes place in the Superior Court. You must complete ALL steps at both stages or you risk having your appeal dismissed. This notice does not set forth all the rules that govern the appeal process. You may review the complete rules at the library as contained in the Superior Court Rules of Appellate Procedure. the Rules of Criminal Procedure and in the Arizona Revised Statutes. It is recommended that you keep copy of all your documents during the appeal process.

THE NOTICE OF APPEAL

To appeal you must file NOTICE OF APPEAL with the court within fourteen (14) calendar days from the final order or final judgment. If you do not file the NOTICE OF APPEAL with in the time allowed by law, you lose the right to appeal. It is required that you designate the specific judgment order or ruling that is being appealed

BOND ON APPEAL

If your release status at the time of appeal is "own recognizance", you will retain that status pending the appeal. If you have posted bond to secure your release, your bond will remain with the court pending the appeal unless modified by the court.

STAY OF EXECUTION OF SENTENCE

Execution of any sentence requiring incarceration will be stayed, pending the appeal. Any order of restitution however, is not stayed pending the appeal.

THE RECORD

Also, within the time to appeal you must file an original and one copy of the DESIGNATION OF RECORD. Designation of the record is a formal list of the items in the court record that you want to include in the appeal. The justice court record is made by audiotape, CD, or video. The court will provide you with a copy of the audiotape, CD or video if the proceedings were on the record. The court will contact you to pick up the copy of the audiotape, CD, or video within ten (10) days after you file the NOTICE OF APPEAL. If the taped proceedings are more than 90 minutes in length, it will be necessary for you to pay a court reporter to prepare a transcript (a typed record) of the proceedings. You can find a listing for COURT REPORTERS in the yellow pages of the telephone book. Within 14 calendar days after you file a NOTICE OF APPEAL, you must make arrangements with the court reporter to transcriber to pay any record or transcript preparation fees. The transcript must be filed with the trial court before, or at the same time you file your memorandum (see FILING THE APPELLANT'S MEMORANDUM). If you cannot afford to pay for the transcript, ask the clerk for information about a waiver or extension to make payment at a later time. If you fail to pay for the transcript your appeal may be dismissed. Additional copies of the processing may be obtained for an additional charge.

THE WRITTEN APPELLANTS MEMORANDUM

You will need the record for the next step, the APPELLANT'S MEMORANDUM. The appellant's memorandum is your written "brief" or explanation of why the trial court ruling was legally wrong. Your memorandum should refer to specific portions of the record of the trial or hearing to point out where there was error by the court (that is why written record must be prepared). The memorandum should be typed or printed on letter-sized white paper, double spaced, and not exceed 15 pages in length. You may also attach any exhibits from the trial or hearing to the memorandum. FILING THE APPELLANT'S MEMORANDUM (within 60 days). The APPELLANT'S MEMORANDUM must be filed with the trial court within 60 calendar days of the deadline to file the NOTICE OF APPEAL. Remember that the trial court must have your current mailing address at all times to keep you informed. Even if you hire an attorney your address is still required for legal notifications.

NOTIFICATION FOR THE SUPERIOR COURT

If you have completed all of the steps of the first stage, your case moves to Superior Court where an appeals judge will review the case. About 60 days after you file your memorandum you will receive notification that your case has been sent to Superior Court. Next, you will receive second notice from the Superior Court assigning Superior Court case number to use in all further correspondence. The notice will also inform you what will happen next. If you have completed all of these steps, you will receive ruling from the Superior Court. The Superior Court has the right to affirm the trial court; overrule the trial court; modify some of the trial court's decision; or, if the record is not clear, order a new trial in the trial court.