



# Maricopa County Justice Courts, Arizona

STATE OF ARIZONA

vs.

CASE NUMBER: \_\_\_\_\_

## TELEPHONIC DUI GUILTY PLEA PROCEEDING

Defendant \_\_\_\_\_ DOB \_\_\_\_\_

1. Defendant understands the nature of the charges as driving or being in actual physical control of a vehicle:
  - While under the influence of intoxicating liquor/toxic vapors/drugs, [28-1381A1](#), a class 1 misdemeanor.
  - With an illegal alcohol concentration .08 or more, [28-1381A2](#), a class 1 misdemeanor.
  - While any illegal drug or its metabolite is in the defendant's body, [28-1381A3](#), a class 1 misdemeanor.
  - With an alcohol concentration of .04 percent or more in a commercial vehicle, [28-1381A4](#), a class 1 misdemeanor.
  - With an extreme illegal alcohol concentration of .15 to .19 or more, [28-1382A1](#), a class 1 misdemeanor.
  - With an extreme illegal alcohol concentration of .20 or more, [28-1382A2](#), a class 1 misdemeanor.
2. Defendant is  with counsel  without counsel, and understands the following information: (*waiver of counsel with file*)
3. The maximum penalty for each listed offense is: 6 months jail, \$2,500.00 fine + surcharges, 5 years probation
4.  **FIRST:**

**The minimum penalty** for a first conviction of a non-extreme offense is: 10 days in jail (*9 days suspended upon completion of substance abuse treatment*), \$250.00 fine + surcharges, + \$500.00 PCF assessment and an additional \$500.00 DUI Public Safety assessment, and a certified ignition interlock device.

**The minimum penalty** for an extreme offense of .15 to .19 is 30 consecutive days in jail (*the entire sentence must be served*), \$250.00 fine + surcharges, \$250.00 Abatement assessment, 30 hours of community restitution service may be ordered + \$1,000.00 PCF penalty assessment, an additional \$1,000.00 DUI Public Safety assessment, and a certified ignition interlock device.

**The minimum penalty** for an extreme offense of .20 or more is 45 consecutive days in jail (*the entire sentence must be served*), \$500.00 fine + surcharges, \$250.00 Abatement assessment, 30 hours of community restitution service may be ordered + \$1,000.00 PCF penalty assessment, an additional \$1,000.00 DUI Public Safety assessment, and a certified ignition interlock device.

Motor Vehicle Department will determine license suspension. DUI - drugs conviction includes 1 year revocation of driving privileges. A DUI commercial vehicle conviction includes 1 year revocation of commercial driving privilege.

**SECOND:**

**The minimum penalty** for a second conviction of a non-extreme offense within an 84 month period is 90 days in jail (*60 days suspended upon completion of substance abuse treatment*), \$500.00 fine + surcharges, at least 30 hours of community restitution service + \$1,250.00 PCF penalty assessment an additional \$1,250.00 DUI Public Safety assessment, a 1 year revocation of driving privileges and a certified ignition interlock device.

**The minimum penalty** for a second conviction of an extreme offense of .15 to .19 within an 84 month period is 120 days in jail (*entire sentence must be served and 60 days must be served consecutively*), \$500.00 fine + surcharges, \$250.00 Abatement assessment, at least 30 hours of community restitution service + \$1,250.00 PCF penalty assessment, an additional \$1,250.00 DUI Public Safety assessment, a 1 year revocation of driving privileges and a certified ignition interlock device.

**The minimum penalty** for a second conviction of an extreme offense of .20 or more within an 84 month period is 180 days in jail (*the entire sentence must be served and 90 days must be served consecutively*) \$1000.00 fine + surcharges, \$250.00 Abatement assessment, at least 30 hours of community restitution service + 1,250.00 PCF penalty assessment, an additional \$1,250.00 DUI Public Safety assessment, a 1 year revocation of driving privileges and a certified ignition interlock device.

5. The court has inquired as to the defendant's probation or parole status.
6. Defendant has entered into a plea agreement and consents to its terms; plea to the court.
7. Defendant understands that the following constitutional rights are given up by changing the plea:
  - a. Right to plead not guilty and require the State to prove guilt beyond a reasonable doubt.
  - b. Right to a trial by jury.
  - c. Right to assistance of an attorney at all stages of the proceedings, including appeal. In some cases, the defendant may be eligible for a court appointed attorney free of charge, if the defendant cannot afford one.
  - d. Right to confront witnesses against the defendant and cross-examine them as to the truthfulness of their testimony.
  - e. Right to present evidence on the defendant's behalf and the right to subpoena witnesses free of charge.
  - f. Right to remain silent and to be presumed innocent until proven guilty beyond a reasonable doubt.
  - g. Right to a direct appeal.
8. Defendant understands Rule 17.2 (*the court reads the following to the defendant*): If you are not a citizen of the United States, pleading guilty or no contest to a crime may affect your immigration status. Admitting guilt may result in deportation even if the charge is later dismissed. your plea or admission of guilt could result in your deportation or removal, could prevent you from ever being able to get legal status in the United States, or could prevent you from becoming a United States citizen.
9. Defendant wishes to give up these constitutional rights after having been advised of them.
10. Defendant understands that a review of the conviction or sentence may only be made pursuant to Rule 32.
11. There exists a basis in fact for believing the defendant guilty of the offenses charged.
12. Plea is voluntary and not the result of forces, threats or promises other than those contained in the plea agreement.

I certify that I am an out of state resident or that I reside more than 100 miles from the court. I also certify that I have read and understand all of the matters cited above. That I wish to give up my constitutional right to an attorney and that I wish to plead guilty to the charge(s) of:

Date: \_\_\_\_\_

Defendant's signature

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TELEPHONIC DUI GUILTY PLEA PROCEEDING**

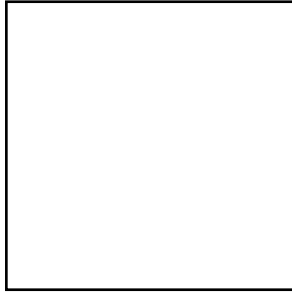
Defendant \_\_\_\_\_

DOB \_\_\_\_\_

I CERTIFY that the above named defendant personally appeared before me, and acknowledge that he or she read all of the foregoing information and identified himself or herself to me by presenting \_\_\_\_\_

(driver's license number and/or picture identification)

And that I have affixed a print of the defendant's right index finger to this document.



Right Index Finger

Date: \_\_\_\_\_

Signature \_\_\_\_\_

Officer Name and Badge Number \_\_\_\_\_

Law Enforcement Agency \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number (       )       - \_\_\_\_\_

I CERTIFY that I have personally advised the defendant telephonically:

1. Of the nature of the charges against him or her.
2. Advised the defendant of all constitutional rights which defendant waived by pleading guilty.
3. Ascertained that the defendant wishes to give up the constitutional rights of which he or she has been advised.
4. Inquired as to the defendant's probation or parole status.

The court finds a basis in fact for believing the defendant is guilty of the offenses charged and, that the defendant's plea of guilty is voluntary and not the result of force, threats or promises other than those contained in a plea agreement.

On the basis of these findings, I conclude that the defendant knowingly, voluntarily and intelligently pleads guilty to the above charges, and I accept his or her plea.

Date: \_\_\_\_\_

Justice of the Peace \_\_\_\_\_

## 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.