

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
_____ COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS)

v.)

) Case No. _____

Defendant)

DRUG COURT PLEA AGREEMENT,
PLEA OF GUILTY AND WAIVER OF RIGHTS

IN ACCORDANCE WITH 730 ILCS 166/20(a), THE STATE'S ATTORNEY OF THE ABOVE COUNTY AND THE ABOVE-NAMED DEFENDANT AGREE AS FOLLOWS:

1. That Defendant is addicted to a drug or drugs.
2. That Defendant desires to and is willing to participate in the Drug Court Program.
3. That Defendant has not been convicted of a crime of violence within the past 10 years excluding incarceration time. As defined by 730 ILCS 166/20(b)(4), a "crime of violence" includes, but is not limited to, the following offenses: first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, armed robbery, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability, stalking, aggravated stalking, or any offense involving the discharge of a firearm.
4. That the Defendant has never completed or been discharged (successfully or unsuccessfully) from a Drug Court Program or such other similar program in any jurisdiction.
5. That none of the crimes to which the Defendant would enter a plea of guilty to in this case are "crimes of violence" as set forth in 730 ILCS 166/20(b)(4).
6. That the Defendant has, or will at the time of presentation of this Agreement to the Court, enter a plea of guilty to an offense qualifying for the Drug Court Program.

7. That within the last 60 days, the Defendant has undergone an eligibility screening and an assessment related to the present criminal charge(s) pending against the Defendant by an agent designated by the State of Illinois to provide assessment services for the Illinois Courts.

8. That the Defendant is eligible for and should be admitted to the Drug Court Program.

9. The Defendant has read the Drug Court Guidelines and Requirements. The Defendant agrees to comply with the terms of the Drug Court Guidelines and Requirements.

10. That the Defendant and the State's Attorney agree to all terms and conditions set forth in the proposed Drug Court Probation Order and agree to present that Order to the Drug Court Judge as a negotiated plea agreement. The Defendant has read the Drug Court Probation Order and agrees to comply with all terms and conditions of the Drug Court Probation Order as entered by the Court.

11. As a part of the negotiated plea agreement, the Defendant agrees to waive any and all rights to notice, a hearing and to present evidence (a) before the Drug Court Judge imposes any sanction or penalty for non-compliance; (b) before the Drug Court Judge terminates the Defendant unsuccessfully from the Drug Court Program; or (c) before the Court revokes Defendant's probation based on that portion of any Petition To Revoke Probation filed by the State's Attorney alleging that Defendant was unsuccessfully terminated from the Drug Court Program. Also as a part of the negotiated plea agreement, after entry of the Drug Court Probation Order, the Defendant consents to ex parte communications (communications without me or my attorney being present) between the Drug Court Judge, the State's Attorney, any Assistant State's Attorney, any law enforcement officer and any treatment provider regarding the Defendant's compliance with this Order and/or any sanctions or rewards to be imposed by the Drug Court Judge; and Defendant waives and releases all claims of ineffective assistance of counsel by reason of any act or omission of Defendant's attorney while attending or by failing to attend any Drug Court staffing.

12. As a part of the negotiated plea agreement, as to any positive drug, alcohol, or intoxicating substance test result, if the Defendant does not object in writing to the Probation Officer on the date of and immediately after such positive test, then that positive test result shall be conclusive and not subject to challenge in Court, and the Defendant hereby stipulates and agrees to the admission in evidence of that positive test result and waives all rights to object to the admission in evidence of such positive test result at any trial or hearing in this case. In addition,

as to any confirming lab test, the Defendant stipulates to and agrees to the admission in evidence of the confirming lab test result and waives all rights to object to the admission in evidence of such confirming lab test result at any trial or hearing in this case.

13. As a part of the negotiated plea agreement, the Defendant and State's Attorney agree that Defendant shall pay to the Circuit Clerk a Drug Court Program Fee of up to \$500.00, one-half of which shall be remitted to the County Drug Court Fee Fund and one-half of which shall be remitted to the Second Circuit Drug Court Fund administered by the Chief Judge. The Defendant must pay one-half of any Drug Court Program Fee before advancing to Phase III, and must pay the balance of that fee in order to be approved for graduation from the Drug Court Program.

14. As part of the negotiated plea agreement, Defendant agrees to waive any objection to the conducting of Drug Court Probation revocation proceedings or re-sentencing proceedings by the Presiding Drug Court Judge based upon the fact that said Judge has, at any time during or since referral of the Defendant as a Drug Court candidate, received in his or her capacity as Drug Court Judge information presented in any manner or form and relating to the Defendant in any respect.

15. The Defendant and State's Attorney agree that the Defendant is eligible for and should be admitted to:

_____ Track 1 Drug Court.

_____ Track 2 Drug Court.

If Defendant is admitted to Track 1 Drug Court, and if Defendant files a Motion To Withdraw Plea Of Guilty Based Solely On Successful Completion Of Drug Court Program, then if the Defendant successfully completes the Track 1 Drug Court Program, the Court will grant the Defendant's Motion and reinstate the charges based on the Defendant's withdrawal of plea of guilty. The State's Attorney will then file a Motion requesting the Court to dismiss the pending reinstated criminal charges, with prejudice. The Court will then grant the State's Attorney's Motion dismissing the charges with prejudice and discharge the Defendant from any further proceedings in the original prosecution. As a part of the Court's Order, the State's Attorney will be barred from reinstating the matter at any further date, and will not object to an expungement order if one is properly brought and the Defendant shall not be entitled to return or reimbursement of any fines, costs, fees or other money paid in this case.

If the Defendant is admitted to Track 2 Drug Court and successfully completes the Track 2 Drug Court Program, the Court will find that the Defendant has successfully completed the Drug Court Probation and will discharge the Defendant from any further proceedings in the original prosecution. The State's Attorney will be barred from reinstating the matter at any further date.

16. That if the Drug Court Judge finds Defendant is ineligible for the Drug Court Program, or if the Defendant fails to comply with the conditions of the Drug Court Program, the Drug Court Judge may sentence the Defendant on his plea of guilty in accordance with the Illinois Unified Code of Corrections. The Drug Court Judge is not required to give approval for Defendant's participation in the Drug Court Program. If approval is initially given for Defendant to participate in the Drug Court Program and Defendant is placed on Drug Court probation, and if Defendant fails to comply with the terms of the Drug Court Program, the Drug Court Judge may terminate Defendant from the Program, discharge the Defendant from that Program and resentence Defendant according to law. In addition, at any time, the State's Attorney may file a Petition to Revoke Probation seeking to revoke the Defendant's probation, terminate the Defendant from the Drug Court Program and to have the Defendant resented according to law.

PLEA OF GUILTY AND WAIVER OF RIGHTS

____ 17. **A. (For use when new charges are pending).** I, the Defendant in the above case, hereby waive my right to a timely indictment or preliminary hearing. I enter my plea of guilty to the _____ (insert Information/Complaint and Count(s)). I hereby waive all constitutional and legislative rights and procedures. I specifically waive my right to a trial either by a jury or a judge, the right to confront the witnesses against me, the right to subpoena witnesses and put on a defense, and my privilege against self-incrimination.

I understand and agree that any failure on my part to abide and comply with any condition set forth in the Court's Drug Court Probation Order or the treatment program can result in my being sanctioned or penalized by the Court and that such sanction may also include being terminated from the Drug Court Program. I hereby waive my rights to notice, a hearing and my right to present any evidence before I am sanctioned or penalized by the Drug Court Judge. I also waive my rights to notice, a hearing, to confront witnesses and present evidence before I am terminated from the Drug Court Program. I further waive my rights to notice, a hearing, to confront witnesses and present evidence involving any portion of a Petition to Revoke based solely on my termination from the Drug Court Program and agree that the Drug Court Judge or any other Judge may revoke my

probation without notice or hearing of any type based solely upon my termination from the Drug Court Program.

I understand and agree that if I am terminated from the Drug Court Program, or if my Drug Court Probation is revoked, then I will be resentenced on the charge(s) to which I entered my plea of guilty. If I am in Track 1 Drug Court, and if I filed a Motion to Withdraw Plea of Guilty Based Solely on Completion of Drug Court Program, then I understand and agree that Motion will be denied because of my termination from the Drug Court program.

_____ **17. B. (For use when a Petition to Revoke Supervision, Conditional Discharge, or Probation is pending).** I hereby waive my right to a hearing of any kind. I admit the allegations of the Petition to Revoke and consent to revocation of my (check one) _____ Supervision, _____ Conditional Discharge, _____ Probation.

I hereby admit the allegations of the Petition to Revoke, waiving all constitutional and legislative rights and procedures. I specifically waive my right to a hearing before a judge, the right to confront the witnesses against me, the right to subpoena witnesses and put on a defense, and my privilege against self-incrimination.

I understand and agree that any failure on my part to abide and comply with any condition set forth in the Court's Drug Court Probation Order or the treatment program can result in my being sanctioned or penalized by the Court and that such sanction may also include being terminated from the Drug Court Program. I hereby waive my rights to notice, a hearing and my right to present any evidence before I am sanctioned or penalized by the Drug Court Judge. I also waive my rights to notice, a hearing, to confront witnesses and present evidence before I am terminated from the Drug Court Program. I further waive my rights to notice, a hearing, to confront witnesses and present evidence involving any portion of a Petition to Revoke based solely on my termination from the Drug Court Program and agree that the Drug Court Judge or any other Judge may revoke my probation without notice or hearing of any type based solely upon my termination from the Drug Court Program.

I understand and agree that if I am terminated from the Drug Court Program, or if my Drug Court Probation is revoked, then I will be resentenced on the charge(s) to which I entered my plea of guilty.

_____ **17. C. (For use only when the Defendant has been provisionally accepted into the Drug Court Program prior to imposition of Drug Court**

Probation but after pleading guilty or admitting violation of Probation, Conditional Discharge or Court Supervision in this case).

I hereby waive my right to be sentenced by the same non-Drug Court Judge who accepted my plea of guilty or admission of violation of Probation, Conditional Discharge or Court Supervision in this case; and I hereby confirm all waivers I have made in this document even though they are not made at the same time as my original plea of guilty or admission of violation. I understand and agree that if I am terminated from the Drug Court Program, or if my Drug Court Probation is revoked, then I will be resentenced on the charge(s) to which I entered my original plea of guilty or admission of violation.

18. This Drug Court Plea Agreement, Plea of Guilty and Waiver of Rights is subject to the approval of the Court.

Date: _____

Defendant

Defendant's Attorney

State's Attorney/Assistant State's Attorney