

vs. Miguel Hernandez

17-00570

FILED Rosa Castillo 2018 JUN 20 AM 8:55

PLEA AGREEMENT

TO THE HONORABLE JUDGE OF SAID COURT:

The defendant herein and the attorneys for both the defendant and the State waive a jury trial and make the following agreement:

Defendant's Plea: Guilty [X] Defendant will testify [X] Nolo contendere [ ] Defendant will not testify [ ] Plea to enhancement paragraph(s): [ ] True [ ] Not true [ ] Plea bargain [ ] Open plea [ ] Type of Plea: [ ] Community Supervision [ ] Deferred Adjudication [ ] Fine [ ] Restitution [ ] Other [ ]

State's recommendation:

Agreed sentence:

[X] Confinement in (penitentiary) (state jail) (county jail) for 365 180 (years) (months) (days) [ ] Post-conviction community supervision, confinement/probated for (years) (months) (days) [ ] Deferred community supervision for (years) (months) (days) [ ] Fine of \$ [ ] to be paid [ ] to be probated [ ] Boot Camp [ ] Shock Probation [ ] Substance Abuse Felony Program [ ] CENIKOR [ ] Judicial Treatment Center [ ] Dallas County Jail Chemical Dependency Program [ ] Restitution in the amount of \$ [ ] Defendant will sign waiver of extradition [ ] Defendant knowingly and voluntarily waives appeal [ ] Defendant Waives a court reporter [ ] Other: [X] Back-time included: 7/12/17 to 12/20/17 [ ] Back time NOT included

[ ] CHANGE OF NAME (Applicable only if box is checked)

The defendant having suggested that his/her true name is other than that set forth in the charging instrument, and having moved that the charging instrument and all other documents in this cause be amended to show his/her true name to be, said motion is hereby granted. It is so ordered.

COURT'S ADMONITIONS TO DEFENDANT

You are charged with the offense of: Returning a Marked Ballot The punishment range for the offense charged is:

- [ ] 1st Degree Felony, 5-99 years or Life and an optional fine not to exceed \$10,000.00 [ ] 2nd Degree Felony, 2-20 years confinement and an optional fine not to exceed \$10,000.00 [ ] 3rd Degree Felony, 2-10 years confinement and an optional fine not to exceed \$10,000.00 [X] State Jail Felony, 180 days - 2 years State Jail and an optional fine not to exceed \$10,000.00 [X] CLASS B MIS 0-180 days CP Jail & up to a \$2,000

You have an absolute right to a jury trial, to confront and cross-examine the witnesses against you, and to call witnesses in your own behalf. You have a right to testify, but you cannot be compelled to do so. The prosecuting attorney's recommendation as to punishment is not binding on the Court. You will be permitted to withdraw your plea if the Court rejects any plea bargain made in this case. If the punishment assessed by the Court is not greater than that which you have plea-bargained, you may not appeal on any matter in the case unless the Court grants permission for the appeal or the matters appealed were raised by written motion filed and ruled on before the plea. If you enter a plea of guilty or nolo contendere and there is no plea bargain, the court may assess your punishment anywhere within the range allowed by law. If you are not a citizen of the United States, a plea of guilty or nolo contendere may, and under current Federal Immigration rules is almost certain to, result in your deportation, exclusion from admission to the United States, or denial of naturalization. If you have a court-appointed attorney, you have a right to ten days from the date of the attorney's appointment to prepare for trial. You have the right to be tried on an indictment returned by a Grand Jury, and, unless you are on bond, a right to two entire days after being served with a copy of the charging instrument before being arraigned. If you receive unadjudicated community supervision and violate its conditions, you may be arrested and subjected to a hearing limited to determining whether or not guilt should be adjudicated. If guilt is adjudicated, no appeal may be taken from the Court's decision, and the full range of punishment is open to the Court. All proceedings, including assessment of punishment, pronouncement of sentence, granting of community supervision, and an appeal, then continue as if the adjudication of guilt had not been deferred. [In sex offense cases, see Court's Admonition to Sex Offenders, which is incorporated by reference and attached hereto.]

DEFENDANT'S STATEMENTS AND WAIVERS

With the approval of counsel, defendant makes the following statements and waivers. I am the accused in the charging instrument and am mentally competent. I understand the nature of the accusation made against me, the range of punishment for such offense, and the consequences of a plea of guilty or nolo contendere. I understand that I have an absolute right to a jury trial, that I have the right to remain silent, that anything I say can and will be used against me, that I have the right to confront and cross-examine the witnesses against me, and that I have a right to be tried upon an indictment returned by a grand jury. I understand that if I am not a United States citizen, a plea of guilty or nolo contendere will probably result in my deportation from the United States, exclusion from admission to the United States, or denial of naturalization under Federal law.

I hereby waive my right to be tried on an indictment returned by a grand jury; any and all defects, errors, or irregularities, whether of form or substance, in the charging instrument; my right to a jury trial; and my right to remain silent. I waive arraignment and reading of the charging instrument; the appearance

confrontation, and cross-examination of witnesses; my right to ten days to prepare for trial after the appointment of counsel (if counsel has been appointed); and the preparation of a pre-sentence report. I consent to the oral or written stipulation of evidence or testimony, to the introduction of testimony by affidavits or written statements of witnesses, and to all other documentary evidence.

I admit and judicially confess that I committed the offense of \_\_\_\_\_ on April 10, 2011, exactly as alleged/included in the charging instrument. I affirm that my plea and judicial confession are freely and voluntarily made, and not influenced by any consideration of fear, persuasion, or delusive hope of pardon or parole.

I understand the admonitions regarding unadjudicated community supervision, and that I will be required to register as a sex offender if convicted of, or placed on community supervision for, one of the offenses enumerated under Court's Admonition to Sex Offenders (attached hereto). I understand that under the Uniform Extradition Act, should I be charged with a violation of my community supervision and be arrested in another state, I have the right to require the issuance and service of a warrant of extradition, the right to hire legal counsel, or, if indigent, to have counsel appointed, and the right to apply for a writ of habeas corpus to contest my arrest and return to this State.

I voluntarily and knowingly waive my rights under the Extradition Act, waive extradition, and waive my right to contest my return to the State of Texas from any jurisdiction where I may be found. I understand and agree that such waiver is irrevocable.

I understand that I do not have a right to appeal to the Court of Appeals if the Court follows the terms of the State's recommendation as to sentencing. I understand that I do have a right to appeal to the Court of Appeals in any open plea. However, after consulting with my attorney, I do expressly, voluntarily, knowingly, and intelligently give up and waive my right to any appeal.

I waive and give up my right to have a court reporter make a record of these court proceedings as provided by Rule 13.1 of the Texas Rules of Appellate Procedure.

**DEFENDANT'S PLEA TO ENHANCEMENT PARAGRAPH(S) (Applicable only if box is checked)**

I, the defendant, plead true to the enhancement allegations included in the:

second  third  second & third paragraphs which is/are contained in the charging instrument, and judicially confess that I am the same person who was previously duly and legally convicted of the offense(s) alleged therein.

**SIGNATURES AND ACKNOWLEDGMENTS**

I, the defendant herein, acknowledge that my attorney has explained to me, and I have read and I understand, all the foregoing admonitions and warnings regarding my rights and my plea, and that my statements and waivers are knowingly, freely, and voluntarily made with full understanding of the consequences. I request that the Court accept all my waivers, statements, agreements, and my plea.

6/20/18  
Date

[Signature]  
Defendant  
[Signature]  
Printed Name

I have consulted with the defendant, whom I believe to be competent, concerning the plea in this case and have advised the defendant of his/ her rights. I approve and agree to all waivers, statements, and agreements of the defendant herein and ask the Court to accept them and the defendant's plea.

6/20/18  
Date  
00784962  
State Bar Number

[Signature]  
Attorney for Defendant  
[Signature]  
Printed Name

As attorney for the State, I hereby consent to and approve the requests, waivers, agreements, and stipulations in this instrument.

FAITH JOHNSON, Criminal District Attorney, Dallas County

6/20/18  
Date  
24080087  
State Bar Number

[Signature]  
Assistant District Attorney  
Emily K Antram  
Printed Name

It appearing to the Court that the defendant is mentally competent and is represented by counsel, that the defendant understands the nature and consequences of the charge, and that all the parties have consented to and approved the waiver of jury trial and stipulations of evidence, the Court finds the waivers, agreements, and plea to have been knowingly, freely, and voluntarily made, approves the waivers and agreements, accepts the defendant's plea, approves the stipulation of testimony, and approves the change of name contained herein (if applicable).

\_\_\_\_\_  
Date

[Signature]  
Judge