

9-408A. Plea and disposition agreement.

[For use with Magistrate Court Rule 6-502 NMRA,
Metropolitan Court Rule 7-502 NMRA, and
Municipal Court Rule 8-502 NMRA]

STATE OF NEW MEXICO
[COUNTY OF _____]
[CITY OF _____]
_____ COURT

[STATE OF NEW MEXICO]
[COUNTY OF _____]
[CITY OF _____]

v. No. _____

_____, Defendant.

DOB: _____
S.S.#: _____

PLEA AND DISPOSITION AGREEMENT

The prosecution and the defendant hereby agree to the following disposition of this case:

Plea:

The defendant agrees to plead [guilty] [no contest] to the following offenses:

Terms:

On the following understandings, terms, and conditions:

[1. **Agreement as to sentence.** That the following disposition will be made of the charges: _____]¹

[1. **No agreement as to sentence.** There are no agreements as to sentencing. The mandatory minimum penalties, maximum possible penalties, and possible sentence enhancements are as follows:

(set forth possible penalties).]

2. **Dismissed or additional charges.** That the prosecution will dismiss the following charges:

The following charges are not yet filed and will not be filed against the defendant:

_____ 2

3. **New charges.** The complaint is hereby amended to add the following charges against defendant: _____

4. **Effect on charging document.** That this agreement, unless rejected or withdrawn, serves to amend the complaint to charge the offense to which the defendant pleads, without the filing of any additional pleading. If the plea is rejected or withdrawn, the original charges are automatically reinstated.

5. **Waiver of defenses and appeal.** Unless this plea is rejected or withdrawn, that the defendant hereby gives up any and all motions, defenses, objections, or requests which the defendant has made or raised, or could assert hereafter, to the court's entry of judgment and imposition of a sentence consistent with this agreement.

6. **Withdrawal permitted if agreement rejected.** That, if after reviewing this agreement and any presentence report the court concludes that any of its provisions are unacceptable, the court will allow the withdrawal of the plea, and this agreement shall be null and void. If the plea is withdrawn, neither the plea nor any statements arising out of the plea proceedings shall be admissible as evidence against the defendant in any criminal proceedings.

I have read and understand the above. I have discussed the case and my constitutional rights with my lawyer. I understand that by pleading [guilty] [no contest] I will be giving up my right to a trial by jury if I am entitled to a jury,³ to confront, cross-examine, and compel the attendance of witnesses, my privilege against self-incrimination, and my right to appeal my conviction. I agree to enter my plea as indicated above on the terms and conditions set forth herein. I fully understand that if, as part of this agreement, I am granted probation, a suspended sentence, or a deferred sentence by the court, the terms and conditions thereof are subject to modification in the event that I violate any of the terms or conditions imposed.

I understand that entry of this plea agreement may have an effect upon my immigration or naturalization status, as well as my legal rights and personal opportunities, and I acknowledge that, if I am represented by an attorney, my attorney has advised me of the immigration consequences of this plea agreement.

(For use only in Magistrate and Metropolitan Court.)

(Domestic violence cases only) I understand that an entry of a plea for a crime of domestic violence will affect my constitutional right to bear arms, including shipping, receiving, possessing, or owning any firearm or ammunition, all of which are crimes punishable under federal law for a

person convicted of domestic violence.

(For use only in Magistrate and Metropolitan Court.)

I understand that entry of this plea agreement may require me to register as a sex offender under the Sex Offender Registration and Notification Act (Sections 29-11A-1 through 29-11A-10 NMSA 1978), and I acknowledge that, if I am represented by an attorney, my attorney has advised me of the requirement to register.

(Check and complete if applicable.)

Conditional plea

I understand that the plea of guilty that I have entered is conditioned upon my appeal. If I file an appeal on the issue of _____ (*describe pre-trial motion upon which appeal will be based*) and I win my appeal on this issue I may withdraw my plea.

Date

Defendant

I have discussed this case with my client in detail and I have advised my client of my client's constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

Date

Defense Counsel

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

Date

Prosecutor

Approved:

Judge

USE NOTE

1. If the plea agreement is not made in exchange for a guaranteed, specific sentence, this paragraph should state as follows: "The State agrees to recommend the following sentence _____ - or agrees not to oppose the defendant's request for a particular sentence, and the defendant understands that the court is not bound to those recommendations or requests and may sentence the defendant to a more unfavorable disposition."

2. This paragraph is used if there are other pending or known criminal charges against the defendant that will be disposed of by this agreement.

3. The list of rights the defendant is giving up may exclude the right to a trial by jury in municipal court.

[Adopted, effective May 1, 1997; as amended May 15, 2003; as amended by Supreme Court Order No. 07-8300-029, effective December 10, 2007; as amended by Supreme Court Order No. 08-8300-048, effective December 31, 2008; as amended by Supreme Court Order No. 10-8300-028, effective December 3, 2010; as amended by Supreme Court Order No. 13-8300-020, effective for all cases pending or filed on or after December 31, 2013.]