Revised 12/2016

IN THE CRIMINAL 406th DISTRICT COURT OF WEBB COUNTY, TEXAS

CAUSE NO. _____ DATE: _____

STATE OF TEXAS VS: _____

FELONY OFFENSE(S): _____ COUNT(S): _____

MISDEMEANOR OFFENSE(S): _____ COUNT(S): _____

AGREED RECOMMENDATIONS

It is mutually agreed and recommended by the parties that:

( ) Prosecution proceed only on the following counts: _____

( ) Prosecution proceed only on Paragraphs: _____

( ) Prosecution proceed on the lesser included offense of: _____

_____

( ) Under §12.44(a) P.C., punishment be assessed as a Class A Misdemeanor

( ) Plea to lesser included offense: _____

( ) Under 12.45 P.C., the Court can consider the following unadjudicated offenses: _____

_____

( ) Punishment be assessed at

Felony Offense _____ years in the Institutional Division -TDCJ.

State Jail Felony _____ years/months/days in the State Jail Division - TDCJ.

Misdemeanor _____ days/months/years in the Webb County Jail.

$_____ fine

( ) Probation for Felony Offense of the confinement period be granted for a term of _____ years.

( ) Probation for State Jail Felony of the confinement period be granted for a term of _____ years.

( ) Probation for Misdemeanor of the confinement period be granted for a term of _____ years.

OTHER AGREED RECOMMENDATIONS:

( ) Pay $500.00 Attorney's Fees

( ) Pay $_____ Court Costs

( ) Pay $180.00 Lab Fees

( ) Pay $250.00 DNA Fees

( ) Pay $60.00 Drug Court Program Fee

( ) Pay $50.00 Crimestoppers Program Fee

( ) _____

STATE'S RECOMMENDATIONS

The State recommends that the Court take the following action:

_____

_____

_____

DEFENDANT'S RECOMMENDATIONS

The Defendant recommends that the Court take the following action:

_____

_____

_____

_____
DEFENDANT

_____
ASSISTANT DISTRICT ATTORNEY

_____
COUNSEL FOR DEFENDANT

IN THE 406th DISTRICT COURT
OF WEBB COUNTY, TEXAS

CAUSE NO. _____

STATE V: _____

DATE OF OFFENSE: _____ OFFENSE: _____

PLEA MEMORANDUM

Comes now the Defendant, represented by counsel, and would show the Court under oath the following:
Se presenta ahora el acusado, representado por su abogado, y bajo juramento, muestra a la Corte lo siguiente:

1. RANGE OF PUNISHMENT: I understand that if I am convicted of this offense that under the law punishment must be assessed within the following range:

ALCANCE DEL CASTIGO: Entiendo que si soy condenado de esta ofensa, que de acuerdo con la ley, el castigo debe ser impuesto dentro del siguente alcance:

( ) FIRST DEGREE FELONY: a term of life, or any term of not more that 99 years or less than 5 years in the Institutional Division – TDCJ and in addition, a fine may be assessed not to exceed $10,000.

FELONIA DE PRIMER GRADO: cadena perpetua, o un término de no más de 99 años o menos de 5 años en la División Institucional – TDCJ, y además, se podrá imponer una multa que no sobrepase los $10,000.

( ) SECOND DEGREE FELONY: a term of not more than 20 years or less than 2 years in the Institutional Division – TDCJ and in addition, a fine may be assessed not to exceed $10,000.

FELONIA DE SEGUNDO GRADO: un plazo de no más de 20 años o menos de 2 años en la División Institucional – TDCJ, y además, se podrá imponer una multa que no sobrepase los $10,000.

( ) THIRD DEGREE FELONY: a term of not more than 10 years or less than 2 years in the Institutional Division – TDCJ and in addition, a fine may be assessed not to exceed $10,000.

FELONIA DE TERCER GRADO: un plazo de no más de 10 años o menos de 2 años en la División Institucional – TDCJ, y además, se podrá imponer una multa que no sobrepase los $10,000.

( ) STATE JAIL FELONY:	a term of not more than two years or less than 180 days in the State Jail Division – TDCJ and in addition, a fine may be assessed not to exceed $10,000.
FELONIA DE CARCEL ESTATAL:	un plazo no menos de 180 días, ni más de 2 años en la División De Carcel Estatal – TDCJ y además, se podrá imponer una multa que no sobrepase los $10,000.
( ) STATE JAIL FELONY ENHANCEMENT:	punishment for a THIRD DEGREE FELONY
FELONIA DE CARCEL ESTATAL INCREMENTO:	castigo de una FELONIA DE TERCER GRADO
( ) THIRD DEGREE FELONY ENHANCEMENT:	punishment for a SECOND DEGREE FELONY
FELONIA DE TERCER GRADO INCREMENTO:	castigo de un FELONIA DE SEGUNDO GRADO
( ) SECOND DEGREE FELONY ENHANCEMENT:	punishment for a FIRST DEGREE FELONY
FELONIA DE SEGUNDO GRADO INCREMENTO:	castigo de una FELONIA DE PRIMER GRADO
( ) FIRST DEGREE FELONY ENHANCEMENT:	a term of life, or any term of not more than 99 years or less than 15 years in the Institutional Division – TDCJ and in addition, a fine may be assessed not to exceed $10,000
FELONIA DE PRIMER GRADO INCREMENTO:	cadena perpetua, o un plazo de no más de 99 años o no menos de 15 años en la División Institucional – TDCJ y además, se podrá imponer una multa que no sobrepase los $10,000
( ) HABITUAL OFFENDER:	a term of life, or any term of not more than 99 years or less than 25 years in the Institutional Division – TDCJ
DELINQUENTE HABITUAL:	cadena perpetua, o algún plazo de no más de 99 años o menos de 25 años en la División Institucional – TDCJ
( ) _____	_____
_____	_____
_____	_____

2. PUNISHMENT RECOMMENDATION: I understand that:

RECOMENDACIONES PARA EL CASTIGO: Entiendo que:

( ) BINDING AGREEMENT: the Court must either accept or reject the agreement I have made with the State. If the Court ACCEPTS or does not exceed the agreement I made with the State, the Court must give me permission before I can prosecute an appeal on any matter except those raised by written motion filed before trial. If the Court REJECTS the agreement, I will be permitted to withdraw my plea. Knowing all of these things, I desire to persist in my plea.

ACUERDO OBLIGATORIO: la Corte tendrá que aceptar o rechazar el arreglo que he hecho con la Fiscalía. Si la Corte ACEPTA el arreglo o no exceda el arreglo que he hecho con la Fiscalía, tendrá que darme permiso antes que yo pueda presentar una apelación sobre cualquier asunto que no sea tratado en alguna moción, por escrito antes del juicio. Si la Corte RECHAZA el arreglo, podré retirar mi declaración. Sabiendo todo esto, deseo seguir con el arreglo.

( ) NON-BINDING AGREEMENT: any punishment recommendation of the prosecutor is not binding on the Court, and that the Court can assess any punishment within the range allowed by law for this offense. Knowing all these things, I desire to persist in my plea.

ARREGLO NO OBLIGATORIO: cualquier recomendación para el castigo por parte del Estado no será obligatorio sobre la Corte, y la Corte podrá fijar el castigo que sea permitido por la ley para esta ofensa. Sabiendo todo esto, deseo seguir con el arreglo.

3. MENTAL COMPETENCY TO STAND TRIAL: I know and understand the proceedings involved in this case and fully cooperated with my counsel, and I certify that no issue of my mental competency to stand trial exists.

COMPETENCIA MENTAL PARA SOMETERSE A JUICIO: Reconozco y entiendo los procedimientos relacionados con esta causa, y he cooperado completamente con mi abogado, y certifico que no existe ningún hecho relacionado a mis facultades mentales para ser sometido a juicio.

4. VOLUNTARINESS OF PLEA: I am entering my plea freely and voluntarily and only because I am guilty of the offense alleged against me.

VOLUNTAD DE LA DECLARACION: Estoy declarándome libremente y voluntariamente solamente porque soy culpable del cargo que se alega en mi contra.

5. CITIZENSHIP: I understand that if I am not a citizen of the United States of America my plea of guilty or nolo contendre may result in my deportation, the exclusion from admission to this country, or the denial of naturalization under Federal Law.

CIUDADANIA: Entiendo que si no soy ciudadano de los Estados Unidos Americanos, mi declaracion de culpablidad o no contesto podrá resultar en deportación, exclusión de admisión al país o de negación a nacionalización bajo la ley federal.

6. ADVICE FROM COURT: I understand that I can ask the Court to explain any matters of law to me, whether or not I have received advice on the matter from my lawyer. I further understand that my failure to seek the Court's advice may constitute waiver in the event my lawyer has given me incorrect advice.

CONSEJO DE LA CORTE: Entiendo que puedo solicitar al Juez me explique cualquier materia de ley aunque haya recibido asesoramiento o no de mi abogado sobre este punto. Además entiendo que si por mi falta de no pedir asesoramiento al Juez, podrá determinarse como renuncia por mi parte en caso que mi abogado me haya proporcionado algún consejo incorrecto.

7. WAIVER OF 10 DAYS PREPARATION:
If my attorney is appointed, I give up and waive the right provided pursuant Art. 26.04 C.C.P. to wait 10 days to prepare for trial.

RENUNCIA DE 10 DIAS PARA PREPARACION:
Si mi abogado es designado, renuncio y rechazo el derecho que provee de el Artículo 26.04, Código de Procedimientos Criminales, en que se requieren 10 días para prepararse para juicio.

8. APPROVAL OF COUNSEL: I am totally satisfied with the representation given to me by my attorney in this case. He provided me fully effective and competent representation.

APROBACION DE ABOGADO: Estoy completamente satisfecho con la representación que me ha brindado mi abogado en esta causa. El me ha prestado una representacion completamente eficaz y competente.

9. WAIVER OF RIGHTS: In accordance with Art. 1.14 C.C.P., I hereby waive and give up all rights given me by law, whether in form, substance or procedure.

RENUNCIA DE DERECHOS: Conforme al Artículo 1.14 del Código de Procedimientos Penales, rechazo y renuncio en ésta todos los derechos que la ley me otorga, ya sea en forma, substancia o procedimiento.

10. PAROLE AND GOOD CONDUCT CREDIT:
I understand that if I am sentenced to the Institutional Division – TDCJ, it cannot be accurately predicted how the parole or good conduct laws may be applied to me, because the application of

these laws will depend on decisions made by prison and parole authorities. I understand that becoming eligible for parole does legally require parole consideration:

( ) when my actual time served equals 5 years or the term of the sentence imposed, whichever comes first, without consideration of any good conduct time I may earn.

( ) when my actual time served equals 1/2 of the sentence imposed or 30 years, whichever comes first, without consideration of good conduct time I may earn.

( ) when my actual time served plus any earned good conduct time equals 1/4 of the sentence imposed or 15 years whichever is less.

LIBERTAD CONDICIONAL Y
CREDITO POR BUENA CONDUCTA:

Entiendo que si soy sentenciado a la División Institucional - TDCJ, no se puede predecir como se me aplicarán las leyes de libertad vigilada y de buena conducta porque la aplicación de estas leyes depende en las decisiones de las autoridades de la prisión y la libertad condicional. Entiendo que el tener derecho a la libertad vigilada legalmente se require ser considerado para la libertad vigilada:

( ) cuando el tiempo que he servido equivale a 5 años o la sentencia impuesta, cual sea primero, sin considerar el tiempo de buena conducta que se me pueda aplicar.

( ) cuando el tiempo que he servido es equivalente a la mitad (1/2) de la sentencia impuesta o 30 años, cual sea primero, sin considerar el tiempo de buena conducta que se me pueda aplicar.

( ) cuando el tiempo que he servido junto con el tiempo ganado por buena conducta equivale a una cuarta (1/4) parte de la sentencia impuesta, o 15 años, lo que sea menos.

11. STATE JAIL FELONY & GOOD CONDUCT CREDIT:

You are not entitled to earn good conduct credit on any state jail sentence. The Court may, but is not required to give you credit on a state jail sentence for any time served in jail either awaiting trial or as a condition of supervision. In the event of a revocation of community supervision, the Court must give you credit on your sentence for any time you were required to serve in a state jail facility as a condition of probation on any time you are required to serve after revocation.

FELONIA DE CARCEL ESTATAL
Y CREDITO POR BUENA CONDUCTA:

No tiene derecho a acumular crédito de buena conducta en ninguna sentencia con cárcel estatal. El Juez podrá, sin que sea exigido, otorgarle crédito en una sentencia con cárcel estatal por cualquier tiempo de condena cumplido en la cárcel, ya sea esperando juicio o como condición de supervisión. En caso de revocación de la supervisión comunitaria, el Juez deberá otorgarle crédito sobre su sentencia por algún tiempo que se le requirió a usted servir en una cárcel estatal como condición de libertad condicional sobre algún plazo que se le exija cumplir después de la revocación de la libertad condicional.

12. WAIVER OF JURY TRIAL: In accordance with Art. 1.13 C.C.P., in open Court, and joined by my attorney and counsel for the State, and with the consent and approval of the Court, I waive and give up any right to a jury trial in this case.

RENUNCIA DE JUICIO CON JURADO:

Conforme al Artículo 1.13 del Código de Procedimientos Penales, y al estar presente en la Corte, y acompañado, por mi abogado y por el procurador, y con el consentimiento y aprobación de la Corte, rechazo y renuncio a cualquier derecho de tener un juicio con jurado en esta causa.

13. STIPULATION FOR EVIDENCE: In accordance with Art. 1.13 C.C.P., I consent in writing and in open Court to waive and give up the right to appearance, confrontation and cross-examination of witnesses, and consent to oral and written stipulations of evidence, and this waiver and consent is approved in writing by the Court.

ESTIPULACION DE PRUEBAS: Conforme al Artículo 1.13 del Código de Procedimientos Penales, doy mi consentimiento, por escrito en plena corte, a rechazar y renunciar al derecho de comparecencia, confrontación y contra-interrogación de testigos, y doy mi consentimiento a estipulaciones por escrito y verbalmente, y este consentimiento es aprobado por escrito por el Juez.

14. JUDICIAL CONFESSION: Under oath, in writing and in open Court, I swear that I have read the indictment returned against me in this case; that I understand everything that it contains; and that I committed each and every element alleged. I further swear that I am guilty of all allegations made in the indictment as well as any lesser included offenses. I further swear that all testimony I will give in this case will be the truth, so help me God.

DECLARACION JUDICIAL: Bajo juramento por escrito en plena Corte, juro que he leído la acusación formal en mi contra en esta causa; que entiendo todo su contenido, y que he cometido todos y cada uno de los elementos que se alegan. Declaro además, que soy culpable de todas las alegaciones hechas en la acusación formal, así como ofensas de gravedad reducidas. Juro además, que todo el testimonio que daré en esta causa será la verdad, así Dios me ayude.

_____
DEFENDANT - ACUSADO

Sworn to and subscribed to before me by the Defendant on this the _____ day of _____20____.

_____
DEPUTY DISTRICT CLERK, WEBB
WEBB COUNTY, TEXAS

_____
Defendant – Acusado

_____
Presiding Judge - Juez

_____
Counsel for Defendant
Abogado del Acusado

_____
Counsel for State - Fiscal

Revised 12/2016

CAUSE NO. _____

THE STATE OF TEXAS	§	THE 406th DISTRICT COURT
VS.	§	OF WEBB COUNTY, TEXAS
_____	§	_____TERM, 20____

APPLICATION FOR COMMUNITY SUPERVISION

To the Honorable Judge of said Court:

Now comes the Defendant in the above styled and numbered cause, wherein the defendant is charged by indictment with the offense of_____and shows to the Court that Article 42.12 entitled Community Supervision of the Texas Code of Criminal Procedure is applicable to the felony with which the defendant is charged, and further alleges that the defendant has never before been convicted of a felony in this or any other state.

Wherefore, the defendant prays the court to hear testimony in support of the above allegations, and that in the event of defendant's conviction in this case and the punishment is assessed at a period not exceeding ten years imprisonment in the institutional division, that the defendant be granted community supervision pursuant to Article 42.12 of the Texas Code of Criminal Procedure.

_____
Defendant

Before me, the undersigned authority, on this day personally appeared _____, who having been by me first duly sworn, upon oath deposes and says that he/she is the defendant in the above and forgoing application for community supervision, and the facts therein stated are true and correct.

Sworn to and subscribed before me this _____ day of _____, 20_____.

_____
Deputy District Clerk
Esther Degollado
Clerk of the District Courts of Webb County, Texas

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CAUSE NO. _____

THE STATE OF TEXAS	§	THE 406th DISTRICT COURT
VS.	§	OF WEBB COUNTY, TEXAS
_____	§	_____ TERM, 20____

EXHIBIT "A"

I am the defendant in the above and described cause. My fingerprints are taken by the Bailiff and/or Sergeant at Arms in the presence of the Deputy District Clerk.

_____
Defendant

I hereby certify that in accordance with Article 42.01 of the Texas Code of Criminal Procedure that I caused the Defendant, _____, place his fingerprints in the space provided below.

_____
Bailiff and/or Sergeant

Sworn to and subscribed before me this _____ day of _____, 20____, by the Defendant, _____, in this cause. I further certify that the fingerprints were taken by the Bailiff and/or Sergeant at Arms in my presence.

_____
Deputy District Clerk
Esther Degollado
Clerk of the District Courts of
Webb County, Texas

Right Hand- Mano Derecha

Thumb	Index	Middle	Ring	Little

Left Hand- Mano Izquierda

Thumb	Index	Middle	Ring	Little

CAUSE NO. _____

THE STATE OF TEXAS	§	THE 406th DISTRICT COURT
VS.	§	OF WEBB COUNTY, TEXAS
_____	§	_____ TERM, 20____

EXHIBIT "A"

I am the defendant in the above and described cause. My fingerprints are taken by the Bailiff and/or Sergeant at Arms in the presence of the Deputy District Clerk.

_____
Defendant

I hereby certify that in accordance with Article 42.01 of the Texas Code of Criminal Procedure that I caused the Defendant, _____, place his fingerprints in the space provided below.

_____
Bailiff and/or Sergeant

Sworn to and subscribed before me this _____ day of _____, 20____, by the Defendant, _____, in this cause. I further certify that the fingerprints were taken by the Bailiff and/or Sergeant at Arms in my presence.

_____
Deputy District Clerk
Esther Degollado
Clerk of the District Courts of
Webb County, Texas

Right Hand- Mano Derecha

Thumb	Index	Middle	Ring	Little

Left Hand- Mano Izquierda

Thumb	Index	Middle	Ring	Little

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CAUSE NO. _____

THE STATE OF TEXAS	§	THE 406th DISTRICT COURT
VS.	§	OF WEBB COUNTY, TEXAS
_____	§	_____ TERM, 20_____

TRIAL COURT'S CERTIFICATION OF DEFENDANT'S RIGHT TO APPEAL*

I, judge of the trial court, certify this case:

___ Is not a plea-bargain case, and the defendant has the right of appeal. (or)

___ Is a plea-bargain case, but matters were raised by written motion filed and ruled on before trial and not withdrawn or waived, and the defendant has the right of appeal. (or)

___ Is a plea-bargain case, but the trial court has given permission to appeal, and the defendant has the right of appeal. (or)

___ Is a plea-bargain case, and the defendant has NO right of appeal. (or)

___ The defendant has waived the right of appeal.

_____ Judge

_____ Date Signed

I have received a copy of certification: I have also been informed of my rights concerning any appeal of this criminal case, including any right to file a *pro se* petition for discretionary review pursuant to Rule 68 of the Texas Rules of Appellate Procedure. I have been admonished that my attorney must mail a copy of the court of appeal's judgment and opinion to my last known address and that I have only 30 days in which to file a *pro se* petition for discretionary review in the court of appeals. Tex. R. App. P. 68.2.

I acknowledge that, if I wish to appeal this case and if I am entitled to do so, it is my duty to inform my appellate attorney, by written communication, of any change in the address at which I am currently living or any change in my current prison unit. I understand that, because of appellate deadlines, if I fail to timely inform my appellate attorney of any change in my address, I may lose the opportunity to file a *pro se* petition for discretionary review.

_____
Defendant

Defendant (if not represented by counsel)

Mailing Address:_____

_____

Telephone No.:_____

Fax No. (if any): _____

_____
Attorney for Defendant

Defendant's Counsel:

Bar No.: _____

Mailing Address:_____

_____

Telephone No.:_____

Fax No. (if any): _____

* "A defendant in a criminal case has the right of appeal under these rules. The trial court shall enter a certification of the defendant's right to appeal in every case in which it enters a judgment of guilt or other appealable order. In a plea bargain case - that is – a case in which the defendant's plea was guilty or nolo contendere and the punishment did not exceed the punishment recommended by the prosecutor and agreed to by the defendant—a defendant may appeal only: (A) those matters that were raised by written motion filed and ruled on before trial, or (B) after getting the trial court's permission to appeal." TEXAS RULE OF APPELLATE PROCEDURE 25.2(a)(2).