

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: _____

Case Name: _____

Case Number: _____
(if known)

ACKNOWLEDGMENT and WAIVER OF RIGHTS VIOLATION OF PROBATION

I, _____ of _____

my attorney being _____ do hereby freely and voluntarily make the following statements which I understand shall apply to each and every Violation of Probation, if there is more than one, to which I intend to plead TRUE.

I have discussed this present plea of TRUE to the Violation of Probation with my attorney who has explained the nature of the charge to me. I fully understand the Violation of Probation of which I stand accused.

I understand that I am under no obligation to plead TRUE, and that even after signing this form I am still under no obligation to plead TRUE.

I understand that by pleading TRUE to the Violation of Probation I am giving up the following constitutional rights as to that violation:

MY RIGHT to a speedy and public hearing before a judge.

MY RIGHT to see, hear and question all witnesses. This gives me the opportunity and right to confront my accusers and cross-examine them myself or through my attorney.

MY RIGHT to present evidence and call witnesses in my favor and to testify on my own behalf.

MY RIGHT to refuse to answer any questions if a truthful answer would tend to incriminate me in a new criminal offense.

MY RIGHT to have the judge order into court all evidence and witnesses in my favor.

MY RIGHT to have my lawyer continue to defend me, and to present all defenses that I may have.

MY RIGHT not to be convicted except by proof by preponderance of the evidence with respect to all elements of the violation, which have been explained to me by my attorney.

MY RIGHT to appeal, if convicted

I GIVE UP ALL THE ABOVE RIGHTS ON MY OWN FREE WILL.

I understand that by pleading TRUE, I am admitting to the truth of the allegation against me in the Violation of Probation. On my admission that I committed the violation, and the judge's acceptance of my TRUE plea, a finding of TRUE will be entered against me.

I am pleading TRUE because I committed the violation. I admit that I committed the acts charged in the Violation of Probation and that I committed the acts _____. No force has been used upon me, nor have any threats been made to me, by any member of the prosecutor's office, Dept. of Corrections, or anyone else in an effort to have me enter this plea of TRUE to the Violation of Probation. No promises have been made to me by any member of the prosecutor's office, Dept. of Corrections, or anyone else in an effort to have me enter this plea of TRUE to the Violation of Probation, except as follows:

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However, I understand that the judge is not bound by the prosecutor's recommendation as to sentence. I understand that I may withdraw my plea if the judge exceeds the limits of a negotiated plea.

If I plead TRUE without an agreement with the prosecutor or if the judge refuses to accept the agreement and I nonetheless decide to plead TRUE anyway, I understand that the judge may impose such sentence as in his/her discretion he/she considers appropriate, subject, however, to those limits prescribed by law for the underlying offense. My attorney, with whose services I am satisfied, has advised me of the penalties that the judge can impose for the Violation of Probation to which I am pleading TRUE.

I understand that the underlying charge against me is a

Class _____ Felony or a misdemeanor, and

that the maximum penalty is _____ years, and

that the minimum penalty is _____ years, and

that in addition a fine may be imposed not to exceed \$ _____. I may be sentenced to the balance of the sentence and/or fine not yet imposed.

I understand that even though I am pleading TRUE and giving up my right to call witnesses, and testify myself, this does not apply to the calling of witnesses, and giving of testimony on the question of the sentence to be imposed, unless I have agreed to the sentence.

I am not under the influence of drugs or alcohol.

**ALL OF THESE STATEMENTS THAT I HAVE GIVEN TODAY IN THIS
ACKNOWLEDGMENT OF RIGHTS ARE TRUTHFUL AND VOLUNTARILY GIVEN.**

I do not have any questions at this time of my attorney or of the Prosecutor's Office. If there are any questions of the judge or if there is anything I would like to say prior to sentencing in this case, my attorney will make this known to the judge at the time of my plea to the Violation of Probation. I understand the entire contents of the Acknowledgement of Rights, and I freely and voluntarily sign this form below. I also understand that I may have a copy of this form upon request.

Date

Defendant

As Counsel for the defendant, I have thoroughly explained to the defendant all the above, including the nature of the Violation of Probation, what the State must prove by a preponderance of the evidence and the maximum and minimum penalties. I believe the defendant fully understands the meaning of the Acknowledgment of Rights, that he/she is not under the influence of drugs or alcohol, and that he/she knowingly, intelligently and voluntarily waives all of his/her rights as set forth in the form

Date

Attorney for the Defendant

The undersigned Justice of the _____, having inquired into the education and background of the defendant, is satisfied that he/she fully understands all of his/her rights as set forth above, and that he/she is not under the influence of drugs or alcohol. The Court finds that the defendant has the mental capacity to evaluate these rights and, having done so, to knowingly, intelligently, and voluntarily waive all of his/her rights as set forth in this form, and the defendant does knowingly, intelligently, and voluntarily waive those rights.

Date

Presiding Justice