

9-406A. Guilty plea or no contest plea proceeding.

[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.

GUILTY PLEA OR NO CONTEST PLEA PROCEEDING¹

The defendant personally appearing before me, I have ascertained the following facts:

1. That the defendant understands the charges set forth in the complaint and agrees to plead [guilty] [no contest] to the following charges:

.
2. That the defendant understands the range of possible sentences for the offense charged, including any mandatory minimum penalties, maximum possible penalties, and possible sentence enhancements as follows:

.
3. That, if pleading no contest, the defendant has been advised and understands that a plea of no contest has the same effect as a plea of guilty in this court.
4. That the defendant has been advised and understands the following constitutional rights which the defendant gives up by pleading [guilty] [no contest]:
 - (a) the right to trial;
 - (b) the right to trial by jury, if any²;
 - (c) the right to the assistance of an attorney at all stages of the proceeding, and to an appointed attorney, to be furnished free of charge, if the defendant cannot afford one;
 - (d) the right to confront the witnesses against the defendant and to cross-

- examine them as to the truthfulness of their testimony;
- (e) the right to present evidence and to have the court compel witnesses to appear and testify;
 - (f) the right to remain silent and to be presumed innocent until proven guilty beyond a reasonable doubt;
 - (g) the right to appeal the conviction.
5. That the defendant wishes to give up those constitutional rights of which the defendant has been advised.
 6. That there is a factual basis for the plea.
 7. That the plea is voluntary and not the result of force, threats or promises (*other than a plea agreement*).
 8. That under the circumstances, it is reasonable that the defendant plead [guilty] [no contest].
 9. That the defendant understands that a plea of guilty or no contest may have an effect upon the defendant's immigration or naturalization status, as well as the defendant's legal rights and personal opportunities, and that, if the defendant is represented by counsel, the defendant has been advised by counsel of the immigration consequences of the plea.
- (For use only in Magistrate and Metropolitan Court.)**
10. (*Domestic violence cases only.*) That the defendant understands that a plea of guilty or no contest for a crime of domestic violence will affect the defendant's 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.)**
11. That, if the defendant pleads guilty or no contest to a crime for which registration as a sex offender is or may be required, and, if the defendant is represented by counsel, the court shall determine that the defendant has been advised by counsel of the registration requirement under the Sex Offender Registration and Notification Act [Sections 29-11A-1 to -10 NMSA 1978].

The judge advised me of the matters noted above. I understand the constitutional rights that I am giving up and plead [guilty] [no contest] to the charges specified above.

Date

Defendant

I certify that prior to the defendant's entry of a plea of guilty or no contest in this case3:

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 explained the consequences of a plea of guilty or a plea of no contest.

In my opinion the plea of [guilty] [no contest] was voluntarily and understandingly made.

Date

Attorney for defendant

On the basis of these findings, I conclude that the defendant knowingly, voluntarily and intelligently pleads [guilty] [no contest] to the specified charges and accept such plea.

Date

Judge

USE NOTES

1. This form is to be used if the defendant may be incarcerated in jail. This form may be used in all cases in which the defendant is charged with a domestic violence offense, a battery, a violation of substance abuse laws, driving while under the influence or with an offense which has a mandatory minimum jail term.

2. 4(b) is not applicable to municipal court and may be eliminated because there is no right to a trial by jury in municipal court.

3. To be completed if the defendant has not signed a written waiver of counsel.

[Adopted, effective September 1, 1990; May 1, 1997; May 15, 2003; as amended by Supreme Court Order No. 07-8300-030, effective December 15, 2007; as amended by Supreme Court Order No. 08-8300-048, effective December 31, 2008; by Supreme Court Order No. 10-8300-028, effective December 3, 2010.]