JUDGE DEMPSEY'S PRACTICE MANUAL
and
OTHER DIVISION "C" INFORMATION

I. MOTIONS

A. FORMAT:

1. Include full case number, "Division C - Dempsey," defendant's SPN number and your Florida Bar number on all motions and proposed orders. These numbers are needed for data entry and tracking in the Leon County Justice Information System (JIS) database and may be required by the Florida Court Rules of Procedure. If you don't know the SPN number of the defendant, call the felony clerk's office (577-4070) and ask.

2. Motions / Orders / Notices of Hearing / Return envelopes: All should be prepared on plain white paper, <u>not</u> letterhead. (See Second Circuit Administrative Order 96-01).

3. Indicate in the body of your motion whether or not opposing counsel has been contacted and whether opposing counsel objects to the motion. Unopposed or stipulated motions <u>generally</u> will not be set for hearing. (See Second Circuit Administrative Order 90-26).

4. Original signature and Bar number are <u>required</u>. Prefer signatures in blue ink. Photocopiers are of such high quality that a black ink signature vs. a copy is difficult to discern.

5. Indicate specific name of assigned assistant state attorney and name of counsel for defendant in certificate of service as persons who received copy of your motion and who should also receive copy of order when signed.

B. WHAT TO SEND TO JUDGE DEMPSEY:

1. NOTHING - Do **NOT** send a courtesy copy or facsimile to the judge.

2. No action will be taken on any courtesy copy or facsimile unless there is clearly a true "emergency."

C. **WHAT TO FILE WITH THE CLERK:**

1a. Original motion plus a proposed order if the motion is unopposed (plus one copy for each case number listed on the order and one copy for each person listed as a cc: on the order). Indicate specific name of assigned assistant state attorney and name of counsel for defendant at bottom of order. No action will be taken if a proposed order with sufficient copies for each case number and parties is not provided;

or

1b. a proposed notice of hearing if the motion is opposed. The notice should be prepared for the judge's signature leaving the date and time of the hearing blank (plus ZERO copies). The hearing will be scheduled based on the day commensurate with the assistant state attorney who is assigned to the case unless it appears from the face of the motion that the hearing needs to be expedited. Indicate specific name of assigned assistant state attorney and name of counsel for defendant at bottom of notice of hearing. The judge's assistant will photocopy the notice and mail copies to persons listed at bottom of notice. No action will be taken to set the motion for hearing if a proposed notice of hearing is not provided.

and

1c. an addressed, plain white, stamped return envelope for each person listed as a cc: on the proposed order or notice of hearing who does not have an office/pick-up box inside of the Leon County Courthouse. No envelope needs to be provided for the State Attorney's Office, Public Defender's Office, Court Reporters, Leon County Probation, DOC Probation, Leon County Jail, Leon County Sheriff, Pre-Trial Release, Warrants Division. Conflict attorneys now have a pick-up shelf in the office of the Court Administrator and need not provide a return envelope for themselves. In addition, no envelope is needed for defendants who are in-custody. Those will be dropped off at the Bailiff's Unit for hand delivery. You must indicate on the copy that the defendant is in-custody.

D. **EXCEPTION FOR STATE ATTORNEY AND PUBLIC DEFENDER**

The State Attorney's Office and the Public Defender's Office do not provide stamps to their attorneys so they are unable to send pre-addressed, stamped envelopes to the judge. The assistant ASA or PD will provide the original and copies of orders to the judge and the conformed copies will be returned to them for mailing from their own mail room.

E. **FILING OF MOTIONS WHEN JUDGE IS OUT OF OFFICE**

Follow the same procedures as above. The judge will contact his judicial assistant at least once per day and give directions. The judicial assistant will then find a judge to sign the order or notice of hearing. **DO NOT GO JUDGE SHOPPING**.

II. HEARINGS

A. WHEN WILL HEARINGS BE SET?

1. Hearings are generally set at 8:30 a.m. and 1:30 p.m. based on the day commensurate with the assistant state attorney who is assigned to the case. Current assignments are as follows, however some months vary, so for any particular month, please check the calendar to verify the date:

Jason Jones	Second Monday
John Hutchins/Stefanie Walters	Second Wednesday
Kathy Ray	Fourth Monday
Eric Abrahamsen	Fourth Wednesday

2. If it is necessary to set a motion for a day other than the assigned assistant state attorney's day you must contact that attorney and obtain his/her permission. Put a note on the proposed notice of hearing so that the judge will know that you have spoken to the assigned state attorney. If the hearing should be set for more than one week away, let the judge know so that he can try to accommodate your needs.

3. Put a note on your proposed notice of hearing if your motion hearing will take longer than 5-10 minutes so that the judge will know to special-set the motion at 1:30 p.m. (instead of 8:30 a.m.) and will allot extra time for the hearing.

4. Cases set for final disposition (after entering a plea on a previous date) will be set for 1:30 p.m.

B. **<u>GENERALLY</u>, NO HEARING WILL BE SET IF THE MOTION IS STIPULATED OR CLEARLY LEGALLY INSUFFICIENT OR PREVIOUSLY RULED UPON.**

C. IN CUSTODY DEFENDANTS WILL AUTOMATICALLY BE BROUGHT OVER FOR THE FOLLOWING HEARINGS IN ADDITION TO TRIALS AND EVIDENTIARY HEARINGS: JURY SELECTION PRE-TRIAL, FINAL TRIAL PLEAS AND VOP CASE MANAGEMENT.

III. INFORMATION CONCERNING SPECIFIC MOTIONS

A. **Motion to Set Bond or for Pre-Trial Release** - hearings are generally set at 8:30 a.m. but may be set at 1:30 p.m. if testimony of witnesses is required.

B. **Motion to Reduce Bond** - hearings are generally set at 8:30 a.m. but may be set at 1:30 p.m. if testimony of witnesses is required.

C. **Motion for Continuance** - must be timely filed and comply fully with rule 3.190(g), Fla.R.Crim.P. or they will be denied even if the assistant state attorney does not oppose. Say in your motion what event needs to be continued (for example - case management currently set for 9:00 a.m. on December 4, 2006). NOTE: No continuances will be granted for Pre-trial Case Management Conferences (PTCM, Thurs 8:30 a.m.), Jury Selection Pre-trial (JSPT, Thurs 9:30 a.m.) or VOP Hearings absent a proven emergency or exigent circumstances. **THIS SECTION APPLIES EQUALLY TO THE STATE AND THE DEFENDANT.**

D. **Motion to Dismiss** - will not be entertained on the day of trial. These motions should be filed and set for hearing well before the final pre-trial case management conference in accordance with the Case Management Order.

E. **"Emergency" Motion** - if you put "Emergency" in the title of your motion, the clerk will hand deliver the motion to the judge's office. The judge will determine if an "emergency" truly exists and he will determine when the "emergency" motion can be heard. "Emergencies" are exceedingly rare and use of the term should not be abused.

F. **Motion to Suppress** - will not be entertained on the day of trial unless the grounds for the motion were not known previously. In the vast majority of situations, these motions should be filed and set for hearing well before the final pre-trial case management conference in accordance with the Case Management Order.

G. **Motion for Adversary Preliminary Hearing** - hearings are generally set at 1:30 p.m. Let the judge know how much time is needed for the hearing.

H. **Motion to Withdraw as Counsel and Motion to Substitute Counsel** - must be made in writing, and must fully comply with the requirements of rules 2.505, Fla. R. Jud. Admin. or they will be denied instanter.

I. **Motion for Court Reporter to Transcribe** - motion must be in compliance with Rule 3.220, Fla.R.Crim.P. and indicate a time frame, but no fewer than 20 days within the proposed order by which the court reporter should have the transcript prepared (e.g., "within 30 days of the date of this order" or "by December 1, 2006").

J. **Motion for Competency Evaluation and Notice of Hearing** - this motion is an exception to the general rule. Please file the motion with the clerk along with one copy of the order for the judge to sign and envelopes for mailing the copies. The judge will fill in the date the evaluation is due and the date of the competency hearing. The judicial assistant will then make the appropriate number of photocopies.

K. **Motion for Furlough for Medical or Non-Medical Reason** - Need to include the position of the assistant state attorney and the Leon County Sheriff or his designee.

IV. SENDING PROPOSED ORDERS TO THE JUDGE AFTER A HEARING

A. After a hearing is held on an opposed motion, the judge may ask the prevailing party to prepare an order for his signature. If you prepare the order it can be e-mailed or mailed directly to the judge or it can be hand-delivered to the judge's box located in the third-floor reception area of the Courthouse.

B. If mailed or hand-delivered, put a note or cover letter on the proposed order saying the judge is expecting the order to be delivered directly to him.

V. SETTING A PLEA HEARING

A. Pleas for in-custody defendants are routinely set for 8:30 a.m. and are set by the clerk commensurate with the day assigned to the assistant state attorney. Defendants who are out-of-custody are encouraged to enter a plea at the time of their next court appearance rather than setting a plea at 8:30 a.m. and taking up a slot that is best left open for in-custody defendants.

B. Counsel should call the clerk's office directly at 577-4070 to set a plea. There is no paperwork to file and there is no need to call the judge's office.

C. Do not set a plea on the judge's docket <u>unless and until</u> full agreement has been reached by the parties. “Straight up” or “open pleas” are acceptable with sufficient notice to summons witnesses and are usually set for 1:30 p.m. on the day assigned to the assistant state attorney.

D. <u>Do not call the jail to transport prisoners</u> to the courtroom. The offices of the clerk and the bailiff's unit know their responsibilities in this regard - the people at the jail don't.

VI. HAS A PROPOSED ORDER BEEN SIGNED YET?

A. If you can't wait for your copy to come through the U.S. Mail, call the clerk at 577-4070 to find out whether they have received the signed original. Do not call the judge's office. Proposed orders rarely remain in the judge's office for more than an hour or two before being filed with the Clerk of Court.

VII. NORMAL PROGRESSION OF CASES IN DIVISION "C"

A. If a defendant is set for a plea on the "rocket docket" and does not take the plea offer, the case will proceed to Judge Dempsey's trial division docket. The following times may be adjusted during the months which Judge Dempsey is required to cover rocket docket.

B. 1-120 days old - **Case Management Conference(CMC)** - 2nd and 4th Monday and Wednesday at 9:00 a.m. (private counsel) or 9:30 a.m. (public defender) set on the day commensurate with the assistant state attorney assigned to the case. A case management report may be filed prior to the date of the case management conference in lieu of personal appearance by counsel of record. Defendant does not have to appear.

C. 120-150 days old - **Pre-trial Case Management Conference(PTCM)** - 2nd and 4th Thursday at 8:30 a.m. A case management report may be filed prior to the date of the case management conference in lieu of personal appearance by counsel of record. Defendant must be present unless his or her presence has been waived in writing pursuant to the Rules of Criminal Procedure.

D. 150-180 days old - **Jury Selection Pre-trial(JSPT)** - 2nd and 4th Thursday at 9:30 a.m. This is the last docket before jury selection approximately two weeks later. Defendant must be present unless presence has been waived in writing pursuant to the Rules of Criminal Procedure. Counsel who will be trying the case must be present at the pre-trial conference and must be prepared to demonstrate compliance with the pre-trial order which was previously entered in the case.

E. Thursday before Monday jury selection - **Final Trial Pleas & Calendaring** - 2nd and 4th Thursday at 1:30 p.m. The 1:30 docket will be the last opportunity for the Defendant to enter a plea. All remaining trials will be set for jury selection the following Monday and trial the following 2 weeks. At the 4:00 docket, trial scheduling will be coordinated with Divisions A, B & C in courtroom 3A. Counsel and any out of custody defendants must be present at the 1:30 dockets.

ANY PLEAS ENTERED AFTER THE 1:30 DOCKET WILL BE OPEN PLEAS.

VII. APPENDIX

A. Order Setting Case Management Conference and Case Management Order
B. Notice of Pretrial Conference and Pretrial Order
C. Case Management Report
D. Suggested Format for Notice of Hearing
E. Suggested Format for Proposed Orders
F. Plea / Acknowledgment of Rights
G. Plea / Acknowledgment of Rights - VOP

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN
AND FOR LEON COUNTY, FLORIDA

APPENDIX A

STATE OF FLORIDA
vs.

Case No.

DEFENDANT-NAME,
Defendant.
_____/

SPN No.

Felony Division "C" - Dempsey

ORDER SETTING CASE MANAGEMENT CONFERENCE and CASE MANAGEMENT ORDER

Under the provisions of rule 2.545 Fla.R.Jud.Admin., the trial judge has a duty to control the progress of all assigned cases. Accordingly, the following case management order is entered in this case. The "Practice Manual" found at www.2ndcircuit.leon.fl.us is incorporated by reference and the requirements of its contents are applicable to these proceedings.

1. ***Case Management Conference***. A case management conference has been set for **TIME a.m. on DAY, DATE, in Courtroom 3-B** of the Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida. If a demand for discovery has been made, the state shall be in full compliance with rule 3.220, Fla.R.Crim.P., by not later than the 45th day after arraignment or the filing of a written plea of not guilty. Counsel then must confer to schedule depositions. By the 60th day and except for good cause defense counsel shall certify on a form provided by the court that there is no conflict in continued representation of the defendant. Defense counsel is obligated to report a conflict should one become apparent and to ensure appointment of conflict counsel when appropriate. All discovery, including depositions, must be completed by the 120th day after arraignment or filing of a written plea of not guilty.

The state must be prepared to advise that victims and other significant witnesses have been contacted and are available for further proceedings including trial.

The trial attorneys **shall** confer with each other before the case management conference and each shall be prepared to advise the judge whether the case will be resolved by a plea, a trial or by some other disposition (e.g., nolle prosequi, incompetence to stand trial). The defendant is not required to attend the case management conference.

2. ***Discovery***. Discovery issues must be brought to the judge's attention by appropriate motion filed within 10 days of becoming aware of the issue. The failure to seek the judge's assistance will preclude use of the issue as the basis for a continuance of trial. In any event, such issues shall be resolved within the 120-day time frame noted above.

3. ***Scheduling Case for Trial***. If the case is set for trial, it will be set for a jury selection or bench trial on a date certain. An 8:30 a.m. pre-trial case management conference will be held approximately 40 - 50 days prior to trial date. A 9:30 a.m. jury selection pre-trial conference will be held approximately 20 days prior to the trial date. Counsel and the defendant must be present at both pre-trial conferences unless the defendant files a written waiver of appearance in advance of the pre-trial conference dates. All plea offers shall be conveyed to defense counsel prior to the pre-trial conference so that at the pre-trial conference defense counsel can discuss the new plea offer with the defendant.

4. ***Continuances.*** Continuances will be granted only for good cause and only upon the filing of a written motion conforming to the requirements of rule 3.190(g), Fla.R.Crim.P. and rule 2.545(e), Fla.R.Jud.Admin. All motions shall contain the original signature of the moving attorney and the defendant pursuant to the requirements of rules 2.515(e) and 2.545(e), Fla.R.Jud.Admin. Motions for continuance filed after the pre-trial conference are highly disfavored and will be rigorously scrutinized.

5. ***Pretrial Motions***. All motions must be filed before they will be scheduled and, to the extent possible, will be heard at least 30 days prior to the week of trial. Every motion shall contain a certificate that opposing counsel has been contacted in compliance with Second Circuit Administrative Order 90-26. Motions not filed prior to the pre-trial conference will be deemed waived absent exigent circumstances.

6. ***Pleas***. If the case is to be resolved by a negotiated plea, the plea must be scheduled on the plea docket if the defendant is in custody or may be made at a case management conference if the defendant is not in custody. A plea of guilty or nolo contendere must be tendered on the written plea and acknowledgment of rights form available in the courtroom or through the Clerk's Office. For cases set for jury selection or trial, negotiated pleas will not be accepted after 3:30 p.m. on the Thursday proceeding jury selection, absent exceptional circumstances. Appropriate statutory reference numbers for all offenses, including lesser included offenses must be included on any plea form for purposes of the record.

7. ***Score sheets***. A preliminary score sheet shall be prepared by the state and provided to the defense at the same time discovery materials are conveyed. The state shall present a final score sheet to the judge at the time a plea is entered or upon a verdict of guilty by the jury or the judge.

8. ***Restitution.*** If restitution is to be ordered, the amount shall be announced at the defendant's sentencing. If not known, restitution will be ordered and a hearing set to determine the amount of restitution owed.

9. ***Withdrawal or Substitution of Counsel.*** All motions to withdraw and motions to substitute counsel must be made in writing, and must fully comply with the requirements of Rules 2.505, Fla.R.Jud.Admin. or they will be denied.

10. ***Deposition Transcripts.*** Consistent with Rule 3.220(h(2), Fla.R.Crim.P., deposition transcripts generally will not be approved prior to the pre-trial conference. The parties should have motions for necessary transcripts ready to be filed at the pre-trial conference for cases actually going to trial. Motions for transcripts made prior to the pre-trial conference must strictly comply with the rule; *pro forma* motions for transcripts made prior to the pre-trial conference will not be acceptable and will be denied.

11. ***Incorporation.*** This order applies to all case management conferences in all cases for this defendant which are pending as of this date whether or not the case number is listed above.

DONE AND ORDERED at Tallahassee, Florida on DATE.

_____

ANGELA C. DEMPSEY, CIRCUIT JUDGE

Copies provided to:
NAME, Assistant State Attorney
NAME, Counsel for Defendant

IN THE CIRCUIT COURT OF
THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

APPENDIX B

STATE OF FLORIDA

vs.

Case No.

DEFENDANT-NAME,
Defendant.
_____/

SPN No.

Felony Division "C" - Dempsey

NOTICE OF PRETRIAL CONFERENCE
and PRETRIAL ORDER

THIS ACTION is taken pursuant to rule 3.220(p), Fla.R.Crim.P.

IT IS ORDERED AND ADJUDGED:

1. A pretrial conference is scheduled for **Thursday, DATE, at 8:30 a.m. in Courtroom 3-B, Leon County Courthouse, Tallahassee, Florida,** to consider such matters as will promote a fair and expeditious trial.

2. Counsel for the parties must arrive at the pretrial conference at least **thirty (30) minutes early** and shall bring all photographs, diagrams, documents, exhibits or other items of tangible evidence (except firearms or contraband) to be introduced at trial. Counsel for the parties shall inspect these exhibits prior to the pretrial conference and shall be prepared to stipulate to the authenticity and admissibility or each item or be fully prepared to state an objection to a particular photograph, diagram, document, exhibit or other item of tangible evidence.

(see reverse side) Λ

3. Counsel for the parties who will try this case to the jury or judge must be present at the pretrial conference. The defendant also must be present unless the defendant personally waives his or her presence in writing. The defendant's failure to appear as required, in the absence of a written waiver, will result in the issuance of a capias for the defendant to be taken into custody to await trial.

4. Counsel for the parties must be prepared to discuss the following:

A. possibility of any pretrial motions being made on the day of jury selection or trial and what the motions will be;

B. any evidentiary problems that may become an issue at trial and suggested resolutions.

5. Counsel for the parties shall bring to the pretrial conference any proposed special jury instructions that may be requested. A diskette containing the proposed special jury instruction in MS Word format shall be provided to the judge at the time of the pretrial conference. The diskette will be returned to the proponent at the end of the trial.

6. This order shall control this and all future pretrial conferences. The "Practice Manual" found at www.2ndcircuit.leon.fl.us is incorporated by reference and the requirements of its contents are applicable to these proceedings.

DONE AND ORDERED at Tallahassee, Leon County, Florida on DATE.

_____
ANGELA C. DEMPSEY
CIRCUIT JUDGE

Copies provided to:

Assistant State Attorney
Counsel for Defendant

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA

APPENDIX C

STATE OF FLORIDA vs. Case No. _____

SPN No. _____

_____/
DEFENDANT.

Felony Division "C" - Dempsey

CASE MANAGEMENT REPORT

The prosecution and defense submit this written report in lieu of attending the case management conference scheduled for _____. The report has been prepared by defense counsel, but it contains an accurate statement of the respective positions of both the State and Defendant. The prosecution and defense represent that this case will be resolved as follows:

1. _____ Plea negotiations have been completed. Defendant is in custody and will enter a plea on _____ _____ at 8:30 a.m. / 1:30 p.m. (circle one) or at the next case management conference if the defendant is not in custody.

2. _____ The prosecution and defense will be prepared for pre-trial case management at 8:30 a.m. on _____ or pretrial conference at 9:30 a.m. on _____ and jury selection on _____. Both will be prepared to conduct the trial during the week following the jury selection pre-trial conference and jury selection.

3. _____ In good faith, defense counsel states that the defendant cannot be located. The State requests that the Court issue a capias and order forfeiture of any bond.

4. _____ This case will be resolved by a dispositive motion which has been filed with the clerk. The parties ask the court to schedule it for a hearing on the next available motion calendar.

5. _____ The Defendant requests that the case management conference be continued to _____ _____ and hereby expressly waives the right to a speedy trial. ( ) This is a first request and the State does not object. ( ) This is <u>not</u> the first request and a Motion for Continuance signed by the defendant pursuant to rule 3.191(g), Fla.R.Crim.P. is attached.

6. _____ The State requests a continuance to _____ and has filed a motion pursuant to rule 3.191(g), Fla.R.Crim.P. ( ) The Defendant does not object. ( ) The Defendant objects. (Must see judge)

7. _____ The State will enter a written nolle prosequi or no information within 5 days of the date of this report.

8. _____ The Defendant has been accepted to one of the SAO Diversion Programs.

9. _____ Other:_____

10._____ MUST BE INITIALED. Defense counsel certifies that there is no conflict in continued representation of the defendant.

CERTIFICATE OF DEFENSE COUNSEL PREPARING REPORT

I hereby certify that I have conferred with counsel for the State, electronically, in person or by telephone, and that the representations made in this report are those of both the State and Defense Counsel. I further represent that I have provided a copy of this report to counsel for the State.

_____ _____
Date Signature

_____
Name (please print or type)

_____
Phone Fla. Bar #

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA

APPENDIX D

STATE OF FLORIDA

vs.

DEFENDANT-NAME,
Defendant.
_____/

Case No.

SPN No.

Felony Division "C" - Dempsey

NOTICE OF HEARING ON
DEFENDANT'S "TITLE OF MOTION"

PLEASE TAKE NOTICE that the above-styled cause is set for hearing on defendant's "TITLE OF MOTION." Said hearing will be held at TIME, on DAY, DATE, in Courtroom 3B of the Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida.

DONE AND ORDERED at Tallahassee, Florida on DATE.

_____
ANGELA C. DEMPSEY
CIRCUIT JUDGE

Copies Provided To:

NAME, Assistant State Attorney
NAME, Esquire, Counsel for Defendant

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA

APPENDIX E

STATE OF FLORIDA

vs.

DEFENDANT-NAME,
Defendant.
_____/

Case No.

SPN No.

Felony Division "C" - Dempsey

ORDER GRANTING

THIS CAUSE was considered on Defendant's "TITLE OF MOTION" filed on DATE. After reviewing the motion and the court file I find, and it is

ORDERED AND ADJUDGED that the "TITLE OF MOTION" is **GRANTED**.

DONE AND ORDERED at Tallahassee, Florida on DATE.

_____
ANGELA C. DEMPSEY
CIRCUIT JUDGE

Copies Provided To:

NAME, Assistant State Attorney
NAME, Counsel for Defendant

IN THE CIRCUIT COURT OF
THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

APPENDIX F

STATE OF FLORIDA
-vs-

CASE NO. _____ - CF -
_____ SPN #

PLEA AND ACKNOWLEDGMENT OF RIGHTS

I hereby enter a plea of [ ] GUILTY [ ] NO CONTEST to the following criminal offense(s):

Count I: _____ Max Penalty: _____

Count II: _____ Max Penalty: _____

Count III:_____ Max Penalty: _____

NOTE: Per SAO: [ ] Nolle prosequi as to Count(s) _____ [ ] No Information as to Count(s) _____
[ ] My plea is being entered [ ]with [ ] without an agreement with the State as to the final disposition and sentence

Count I: [ ] ADJUDICATION OF GUILT [ ] ADJUDICATION OF GUILT WITHHELD

_____ Days in Leon County Jail with credit for _____ days time served. [ ] Work / Study Release Authorized

_____ Mos. / Years. in Florida Department of Corrections with credit for _____ days time served in jail

[ ] Incarceration [ ] is [ ] is not a condition of probation or community control.

_____ Months [ ]Probation - [ ] Regular [ ]Felony Drug Offender [ ]Sex Offender; [ ] Community Control

[ ] Split community based supervision: _____ mos. com. control followed by _____ mos. probation

[ ] Special conditions of supervision: _____days: [ ] Jail Work Camp** [ ] County Work Program**

[ ] Batterers' Intervention Program** [ ] Curfew _____ a.m./p.m. to_____ a.m./p.m. daily

[ ] Do Not Use Drugs/Alcohol [ ] Substance Abuse Screening** and Counseling or Aftercare, if referred or recommended

[ ] No [ ] Peaceful contact with _____

Other:_____ **Note: **Must schedule within 30 days**

[ ] Restitution ordered in an amount to be determined at a hearing on_____.

[ ] Restitution ordered in total amount of $_____ payable at minimum of $_____ / mo.

[ ] Restitution surcharge waived. [ ] Cost of supervision set at $_____/month. [ ] C.O.S. is waived

Disposition as to remaining counts: [ ] concurrent [ ] consecutive to Count(s):_____

$_____Total Fine / Court Costs / Fees / Surcharges [ ] P.D. Application Fee Imposed, If Required

[ ] P.D. Lien of $_____imposed. 10-day hearing [ ] is [ ] is not requested.
[ ] Financial obligations associated with this case are reduced to judgment, for which let execution issue except as follows:
_____

(1) I understand the judge will place me under oath to question me about this plea. I must answer the Judge's questions truthfully, and if I make a false statement while under oath I could be prosecuted for perjury.

(2) I understand that a plea of "not guilty" means I deny that I am guilty; a plea of "guilty" means that I admit that I am guilty; and a plea of "no contest" means that I neither admit nor deny that I am guilty.

(3) I understand the nature of the charges to which I am pleading and I am aware of the maximum and minimum penalties. My lawyer has informed me of the facts the State would have to prove before I could be found guilty, and discussed with me any possible defenses that could be raised in my case. I am satisfied with my lawyer's advice. I understand, if convicted of a felony, that I will lose certain rights, including the right to vote.

(4) I understand if the Judge accepts this plea, I give up the right to formal discovery and depositions under Rule 3.220 of the Florida Rules of Criminal Procedure and my attorney will conduct no further investigation of the facts of my case. I give up the right to require the State to prove the charge against me beyond a reasonable doubt, the right to have a jury decide whether I am guilty or

not guilty, the right to see and hear the witnesses against me and to have my lawyer question those witnesses, the right to subpoena and present witnesses or other evidence of any defenses I may have, and to testify or remain silent as I choose.

(5) I understand by pleading guilty or no contest I am specifically giving up the right to an appeal of my guilt or innocence. The only matter I would be able to appeal are those relating to my sentence and the Judge's authority to hear my case. I understand I will have 30 days to file a notice of appeal and if not time filed I may lose the right to an appeal. I understand that if I cannot afford a lawyer for an appeal one can be appointed for me if I qualify.

(6) I understand that if I am not a United States citizen I may be deported pursuant to the laws and regulations governing the Immigration and Naturalization Laws of the United States of America and the Department of Homeland Security.

(7) I understand that if the offense to which I am entering this plea is a sexually violent offense or an offense that was sexually motivated, or if I have been previously convicted or if convicted in the future of such an offense in any state or federal court, I may be subject to involuntary civil commitment as a sexually violent offender when my sentence is completed. Further, I understand that I have been advised of the registration and other requirements of sections 775.21, 943.0435 and 944.607 of the Florida Statutes, as well as the nature and application of the part V, chapter 394, Florida Statute, also known as the "Jimmy Ryce Act," all of which may be amended from time to time.

(8) I understand if I enter a plea of guilty or no contest to a charge involving a controlled substance (drugs), my driver's license, or my ability to obtain one may be suspended or revoked.

(9) I understand if I am placed on probation I will be required to pay a monthly cost of supervision fee. Additionally, if I am placed on Felony Drug Offender Probation, I will have a curfew, I may be required to attend drug treatment or counseling and I must pay for analysis of my blood or urine. If I am placed on Community Control, I understand that this is "house arrest" and that I cannot leave my approved residence without express permission from my community control officer. I understand the Department of Corrections will place various conditions and restrictions on me and will contact my employer to verify information. ***I acknowledge and fully understand that if I violate the terms of any community supervision, and the violation(s) are found to be willful and substantial, I later may be sentenced to the maximum penalty permitted by law as indicated on the reverse of this plea and rights form.***

(10) I understand that under Florida law I must pay a $40.00 public defender application fee for my request for an appointed lawyer and the judge may assess an attorney's fee against me for the services of my appointed lawyer.

(11) I understand that by entering a plea to a felony, I will have to register pursuant to law, and that my failure to do so would be a crime. I also understand that if I am convicted of a felony, I will not be able to possess a firearm, I may not be able to vote until my civil rights are restored and I may be unable to get a professional license.

(12) My lawyer has explained to me that this plea and sentence may be used against me in the future to enhance criminal penalties imposed against me if I commit another crime in this or any other jurisdiction and including, but not limited to, for being a Prison Releasee Reoffender, a Habitual Felony Offender, a Habitual Violent Felony Offender or a Three-time Violent Felony Offender.

(13) I SWEAR OR AFFIRM that I have read this entire form carefully or have gone over it with my attorney (if represented) and I understand all of the rights, duties and responsibilities explained in it. I affirmatively state that I am not under the influence of drugs, alcohol or medicine and that I am entering this plea voluntarily and of my own free will. I further state I am entering this plea because I acknowledge my guilt or I believe it is in my best interest to do so. I have asked my attorney (if represented) all of the questions I have about my case and this plea and I have received complete and satisfactory answers to each of them.

SWORN TO AND ENTERED ON THE RECORD,
AND FILED IN OPEN COURT ON_____. _____
(Date) DEFENDANT

I hereby certify I am counsel for the Defendant and I have informed the Defendant of the nature of each charge, the maximum penalty, any applicable minimum penalty, the required elements of proof, and any possible defense. I believe the Defendant understands the rights and duties explained in this plea form and the Defendant is entering this plea freely and voluntarily with a full and complete understanding of the consequences.

_____/_____
ATTORNEY / FL Bar No.

Plea Accepted in Open Court.
Plea Colloquy Performed By:

_____|____/____ 20_____
JUDGE Mo. / Day / Year

Rev. 7 / 12 / 07 - ACD

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA

APPENDIX G

STATE OF FLORIDA
vs.

Case No.: _____- CF -_____
_____ _____
(YEAR) (NUMBER)
(DEF)
(COUNTS)

_____ SPN No.: _____
DEFENDANT.

ADMISSION TO A VIOLATION OF PROBATION OR COMMUNITY CONTROL AND ACKNOWLEDGMENT OF RIGHTS

I admit that by the allegations contained in the affidavit of violation I violated the terms and conditions of probation or community control previously imposed for the following underlying criminal offense(s):

Count_____ Offense_____
Count_____ Offense_____
Count_____ Offense_____
Count_____ Offense_____
Count_____ Offense_____
Count_____ Offense_____
Count_____ Offense_____

I understand that my admission **[ ]** is **[ ]** is not entered with the agreement of the State Attorney; that my supervision is to be **[ ] REVOKED [ ] REINSTATED [ ] MODIFIED**; that I am to be **[ ] ADJUDICATED GUILTY or**
[ ] ADJUDICATION of GUILT is to remain WITHHELD; and the disposition of the case is as follows:

[ ] Original conditions of supervision are reimposed and [ ] are not modified. [ ] are modified as noted.

_____
_____
_____
_____
_____

[ ] $40.00 P.D. Application Fee [ ]Sentencing/Restitution Hearing:
_____
(DATE and TIME)

[ ] Financial obligations associated with this case are reduced to a judgment lien, for which let execution issue.
Exception(s)
_____:_____

By this admission, I acknowledge and understand:

(1) That the judge will place me under oath, question me about my plea and I must answer the judge's questions truthfully. If I make a false statement while under oath I may be prosecuted for perjury.

(2) That my admission means that I will not challenge the evidence against me. I understand that if the judge accepts this admission there will be no hearing and I will be sentenced in accord with the law.

(3) That I understand the nature of the violation(s) and the allegation(s) to which I am admitting.

(4) That my lawyer has informed me of the facts the government must prove before I could be found in violation of supervision and has discussed with me all possible defenses that could be raised.

(5) That no one has promised, misadvised or misrepresented anything to me or threatened or forced or coerced me in any way to enter this admission. I am entering this plea voluntarily and of my own free will.

(6) That I am represented by an attorney at law (if applicable), that he/she has answered all of the questions I have posed to him/her. And, I am satisfied with his/her legal advice, service and representation.

(7) That I understand that I have the right to an evidentiary hearing; the right to have legal counsel assist me at any hearing and, if I qualify, an attorney would be appointed to assist me if I could not afford to hire one; the right to formal discovery; the right to require the government to prove the allegations against me; the right to see and confront witnesses against me and to have my lawyer question those witnesses; the right to subpoena and present my own witnesses or any defenses I may have; the right to testify or remain silent as I choose; and, the right to an appeal within 30 days of the entry of the judgment and sentence and that if I cannot afford a lawyer for my appeal, one may be appointed for me if I request one to be appointed and if I qualify

(8) That if I am not a United States citizen I may be deported pursuant to the laws and regulations governing the Immigration and Naturalization Laws of the United States of America and the Department of Homeland Security.

(9) That if the offense to which I am entering this admission is a sexually violent offense or an offense that was sexually motivated, or if I have been previously convicted of such an offense anywhere, I may be subject to involuntary civil commitment as a sexually violent offender upon completion of my sentence. Further, If I enter a plea to a sex offense, I have been advised of the registration and other requirements of sections 775.21, 943.0435 and 944.607 of the Florida Statutes, as well as the nature and application of the part V, chapter 394, Florida Statute, also known as the "Jimmy Ryce Act," all of which may be amended from time to time.

(10) That I understand that if I am placed on probation or community control I will be required to pay all fees associated with my probation or community control supervision.

Further, if I violate my probation or community control I understand that I may be sentenced to the maximum period of incarceration if I am found to be in willful violation of the terms or conditions of my supervision.

(11) I understand that by entering a plea to a felony, I will have to register pursuant to law, and that my failure to do so would be a crime. I also understand that for being convicted of a felony, I will not be able to possess a firearm, I will not be eligible to vote until my civil rights are restored, that I may not be able to apply for a license to practice the profession of my choice, and the conviction, even if adjudication of guilt is withheld, may be used in the future to enhance a sentence I receive for committing any new crime in this or any other jurisdiction.

(12) That I understand the judge will assess fees against me for the services of the public defender if I have been represented by the office of the public defender or appointed conflict counsel.

(13) **I SWEAR OR AFFIRM** that I have read this entire form carefully or have gone over it with my attorney (if represented) and I understand all of the rights, duties and responsibilities explained in it. I affirmatively state that I am not under the influence of drugs, alcohol or medicine and that I am entering this admission voluntarily and of my own free will. I further state that I am entering this admission because I acknowledge my guilt or that I believe it is in my best interest to do so.

SWORN TO AND ENTERED ON THE RECORD
AND FILED IN OPEN COURT ON _____
(Date) DEFENDANT

I CERTIFY that I am counsel of record for the defendant, that I have informed the defendant of the nature of the allegations against him/her, of the elements of proof and any possible defenses. I believe the defendant understands the rights and duties explained in this plea and acknowledgment form and that the defendant is entering this plea freely and voluntarily with a full and complete understanding of the consequences.

_____
COUNSEL FOR THE DEFENDANT

I ACCEPT the defendant's admission and will enter a judgment and sentence as pronounced in open court.

_____ ____/____/20_____
CIRCUIT JUDGE DATE

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