

IN THE CIRCUIT COURT OF MORGAN COUNTY, ALABAMA

STATE OF ALABAMA,)	
)	
PLAINTIFF,)	
)	CASE NO. CC _____
VS.)	
)	
_____)	
)	
DEFENDANT.)	

**NOTICE AND WAIVER OF RIGHT TO APPEAL
AND RIGHT TO SEEK POST CONVICTION RELIEF**

NOTICE

Comes now the State of Alabama and serves notice upon the Defendant that under Alabama law and the applicable Rules of Court, the Defendant has a right to appeal any judgment of conviction or the imposition of any sentence ordered by this Court. The right to appeal is, simply, the Defendant's right to have the proceedings in the trial court reviewed by an appellate court for the purpose of correcting any reversible error that may have been made. The right to appeal is available to the Defendant whether he is convinced after trial, as a result of a blind plea or as a result of a plea entered in accord with a valid plea agreement.

In addition to the right to appeal, a criminal Defendant has the right to be represented by an attorney during the appellate process. Should the Defendant be unable to afford an attorney, the Court will appoint an attorney to represent him free of charge.

The Defendant is also entitled to obtain a copy of the official transcript of the proceedings in the trial court if he elects to exercise his right to appeal. Should the Defendant be unable to afford a copy of the transcript, one will be provided for him free of charge.

In most cases where the Defendant receives a sentence of 20 years or less, he is entitled to make an appeal bond, which would permit him to be released while his case is being reviewed by the appellate court. The amount and terms of such a bond would be left to the discretion of the trial court.

A criminal Defendant may also attack the validity of his conviction or sentence by the filing of certain post-judgement motions (i.e., Motion for New Trial, Motion in Arrest of Judgment, Motion to Withdraw Guilty Plea, etc.) or by filing with the trial court a Petition for Post Conviction Relief under Rule 32, ARCrP, or seeking post-conviction relief in Federal Court (i.e., Habeas Corpus).

WAIVER

After discussion and negotiation between the parties, after a full explanation of rights has been given to Defendant as evidenced by the attached Explanation of Rights form, and after such disclosure of information between the parties as each deems sufficient, it is agreed in this case, subject to acceptance by the Court that the Defendant knowingly and voluntarily agrees to waive his right to appeal or contest, directly or collaterally, his conviction or sentence on any ground, unless the Court should impose a sentence in excess of the statutory maximum or was without jurisdiction to enter the judgment or impose the sentence. This waiver is made a part of and is given in consideration of the plea agreement reached in this cause by the Defendant and the State of Alabama. It is intended to be a comprehensive and complete waiver of all appellate rights in this case. Defendant agrees not to seek an appeal bond, not to give notice of appeal, not to request a transcript of the proceedings, and not to request the appointment of appellate counsel. In addition to agreeing that he will never attack this conviction or sentence, Defendant agrees to seek to have dismissed with prejudice all pending post-judgment motions and/or petitions (including, but not limited to, petitions filed pursuant to Rule 32, ARCrP) and will not appeal any denial or dismissal of any such motions or petitions. Defendant acknowledges that the initiation, reinstatement, commencement or continued pursuit of any post-judgment attack upon his conviction or sentence, whether in the form of a direct appeal or collateral attack (i.e., Rule 32, Habeas Corpus, Comm Nobis, etc.), except upon the grounds stated above, would be barred by this waiver and would act to make the plea agreement reached in the above-styled case voidable by the District Attorney.

IN MAKING THIS WAIVER, THE DEFENDANT UNDERSTANDS THAT HE IS GIVING UP HIS RIGHT TO HAVE HIS CONVICTION AND SENTENCE REVIEWED BY AN APPELLATE COURT. HE ENTERS INTO THIS WAIVER FOR THE PURPOSE OF RECEIVING THE BENEFITS OF A NEGOTIATED PLEA, AND, AFTER CONSULTATION WITH HIS ATTORNEY, OR, IF HE IS ACTING PRO SE, AFTER HAVING HAD THE OPPORTUNITY TO CONSULT WITH THE COURT REGARDING ANY QUESTIONS ABOUT THIS WAIVER, HE BELIEVES THAT IF IT IS IN HIS BEST INTEREST TO EXECUTE THIS DOCUMENT. The Defendant states to the Court that he has read, or has had read to him, the matters and rights hereinabove set forth as well as those set forth in the attached Explanations of Rights form: that his attorney has discussed said matters and rights with him in detail, or, if he is acting pro se, the Court has afforded him an opportunity to ask questions about this waiver, and the Defendant fully understands its content and meaning: that he is not under the influence of any drugs, medicines or alcoholic beverages and has not been threatened or abused or offered any inducement or reward to get him to execute document.

Having read and understood the foregoing, I agree to:

_____ 1) waive my rights to appeal this case directly to an appellate court:
Initials

_____ 2) waive all my rights to challenge the conviction or sentence indirectly or collaterally by filing a separate
Initials action; and

_____ 3) dismiss, with prejudice, any pending proceedings attacking this conviction or sentence.
Initials

SHOULD YOU HAVE ANY QUESTIONS WHATSOEVER CONCERNING THIS DOCUMENT, DO NOT SIGN IT UNTIL YOU HAVE
ADDRESSED THOSE QUESTIONS TO THE COURT.

DATE

DEFENDANT

I am the attorney for the above-referenced Defendant, and I certify that the preceding notice and waiver were read by the Defendant in my presence, or were read to him by me, that I discussed such rights with the Defendant in detail and that a written copy of the above rights were given to the Defendant by me. Having gone over his rights and the consequences of this waiver, I am of the opinion that the Defendant understands his right to appeal and knowingly, intelligently and voluntarily waives said right.

DATE

ATTORNEY FOR DEFENDANT