

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA

vs.

CASE NO(s): 20-00101-CFFA

DIOVION LAVELLE SMITH

DEFENDANT

PLEA FORM

(Please initial all appropriate paragraphs and fill in blanks)

My full name is DIOVION LAVELLE SMITH and I am also known as N/A. I am 22 years of age. I have gone to school up to and including (education) 7th grade.

I am represented by a lawyer whose name is RAVEN E. SWORD. I have told my lawyer all the facts and circumstances about the charges against me. My lawyer has counseled and advised me on the nature of each charge; on any and all lesser included charges; and, on all possible defenses that I might have in this case.

My lawyer is fully informed in all issues in the case(s). My lawyer has informed me that (s)he has considered the statements of, or interviewed all witnesses relating to my case (including alibi witnesses and defenses available to me.) Furthermore my attorney has explained to me the right to inspect all physical evidence collected in my case and have DNA testing on any of the physical evidence that may prove my innocence. By entering this plea I waive my rights to conduct any DNA testing not already done.

At this time I wish to withdraw my prior plea of not guilty, if one has been entered and instead enter a plea of (please initial your selection):

 Guilty because I am guilty of the offense(s) as outlined on this plea form and in the plea colloquy; or,
 X Nolo contendere (no contest) to the offense(s) as outlined on this plea form and in the plea colloquy because it is in my best interest to the charge(s) of:

I. PRINCIPAL TO ATTEMPTED ROBBERY WITH A FIREARM

I have been advised that the statutory maximum sentence for the charges(s) to which I am pleading is 15 years imprisonment and/or a fine of \$.

I have also been advised that if there are minimum mandatory sentences of incarceration, I'll have to serve 34.8 months years in prison as part of any sentence, and/or pay a minimum mandatory fine of \$ 10,000.00. (Please write n/a if not applicable)

I understand that I will be required to pay mandatory costs that will be assessed against me and that the Court may assess additional discretionary costs. I also understand that the Court may require me to pay restitution and/or cost of investigation in this case.

I understand that I have the right to plead not guilty to any offense charged against me or if I have entered a plea of not guilty, to persist in that plea and proceed to trial. If I elect to proceed to trial, I understand that I have a right to be tried by a jury and at that trial I have the right to the assistance of counsel, the right to compel the production of evidence and the attendance of witnesses on my behalf, the right to confront and cross-examine witnesses against me and the right not to be compelled to incriminate myself. I have the right to take the witness stand at my sole option, and if I do not take the witness stand, I understand the jury, at my request, will be told this may not be held against me. **I understand that by pleading guilty I waive and give up my rights as listed in this paragraph and that there will be no trial.** I further understand that if I plead guilty, the judge may ask me questions about the offense(s) to which I have pleaded. I am not required to answer those questions and if I decline to answer those questions, my refusal may not be

used against me by the judge or anyone else. If I answer those questions under oath, on the record, and in the presence of counsel, the answers may later be used against me in the prosecution for perjury.

I am presently on probation/early prison release/parole. I understand that by pleading guilty or nolo contendere in this case it may cause revocation of my probation/early prison release/parole and that this could result in a sentence of imprisonment in that case. I further understand that if revoked, any sentence in this case may be consecutive to (in addition to) any sentence in the case in which probation/early prison release/parole is revoked.

I understand that if I plead guilty, I give up my right to a direct appeal. I further understand, however, that I do not give up my right to appellate review by collateral attack as that term has been explained to me by my lawyer.

Other than the agreement, if any, contained on this plea form, no promise or suggestion of any kind has been made to me, directly or indirectly, by my attorney or by any officer or agent of any branch of government, federal, state or local, to get me to enter this plea. No one, including my lawyer or any officer of any branch of government, federal, state or local, has subjected me to any force, threat, duress, intimidation or pressure to influence me in any way to enter this plea.

My lawyer has advised me that at trial the State could present evidence to establish the facts set forth in the probable cause affidavit and I agree that the Court may rely upon documents in the court's file, including the probable cause affidavit, for a factual basis for this plea.

My lawyer has advised me of considerations bearing on the choice of which plea(s) to enter, and the advantages and disadvantages of such plea(s), and the likely results thereof, as well as possible alternatives available to me. The PLEA AGREEMENT contained on this form was concluded by me and my attorney with my full and complete consent and agreement. I fully agree with the efforts of my attorney and to the terms of the plea agreement. **I BELIEVE THAT MY LAWYER HAS DONE ALL THAT A COMPETENT ATTORNEY COULD DO TO COUNSEL AND ASSIST ME. I AM SATISFIED WITH THE ADVICE AND HELP S/HE HAS GIVEN ME.** Even though I have been assisted and advised by my lawyer, the decision to plead guilty/nolo contendere (no contest) is mine alone and is made by me after considering the advice and counsel of my lawyer.

JIMMY RYCE / SEX OFFENDER WARNING: My lawyer has advised me that if I am now pleading to a "sexually violent offense" or if I have previously been convicted of a "sexually violent offense" as that term is defined in Section 394.912(9), Florida Statutes, my plea in this case could subject me to the provisions of the Jimmy Ryce Civil Commitment Act, Florida Statutes, Section 394.910, et seq., which allows the State to commit me to a secure treatment facility, for an indefinite period of time, as a person who has been convicted of a sex offense, and who is determined to be likely to commit a violent sexual offense in the future.

I have also being advised that if I am pleading to any sexually related offense, Florida law requires me to register as a sexual offender and such requirement will be a condition of the sentence.

IMMIGRATION AND NATURALIZATION WARNING: I understand that if I am not a United States Citizen, this plea and the resulting sentence will lead to my deportation pursuant to the laws and regulations governing the United States Department of Homeland Security / Immigration and Naturalization Services; and in some instances, depending on the nature of the offense, I will be mandatorily deported. I have consulted with my lawyer regarding this issue and I am satisfied with the answers he/she has given me.

DRIVER'S LICENSE SUSPENSION WARNING: I understand that if I am convicted of certain drug offenses, the Florida Department of Highway Safety and Motor Vehicles may administratively suspend my driving privileges without any input from the court.

I believe that I am competent to enter this plea and enter this plea knowingly, freely and voluntarily. My physical and mental health is presently satisfactory. The exception to this is (write any mental or physical conditions which affect your ability to understand this form) _____.

At this time I am not under the influence of any drugs or intoxicants (if you are under the influence of any drug or substance you must tell the court and/or your attorney prior to signing this form). At this time I am taking the following medications:

PLEA AGREEMENT

X The Defendant and the State, pursuant to the provisions of Fla.R.Crim.P. 3.171, agree as follows. My sentence has been negotiated in this case in that I will be:

X Adjudicated guilty _____ Adjudication of guilt will be withheld

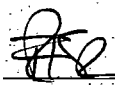
And I will be sentenced to: (please print legibly)

ADJ, 48 MONTHS DOC, COSTS. STATE DISMISS COUNT II.

The State and the Defendant stipulate and agree that the Defendant is entitled to _____ days credit for time I have already served in this/these cases(s) and I waive any other credit I may be entitled to. I agree that if the judge gives me credit for time served as stipulated, I waive/give up the right to complain or appeal concerning credit for time served.

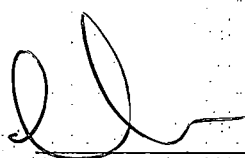
Both my attorney and I have signed this plea agreement in open court at the Kim C. Hammond Justice Center in Bunnell FL this _____ day of _____, 20_____.

Date: 11/30/21 Defendant's Signature: D. Smith



Attorney for Defendant¹

RAVEN SWORD
FL Bar No: 316632



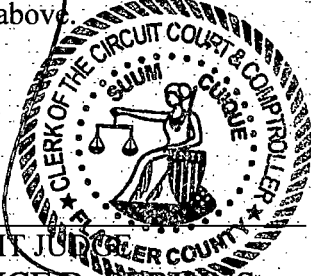
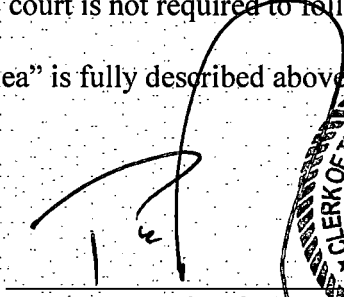
Assistant State Attorney²

MELISSA L CLARK
FL Bar No: 0499625

¹ By signing this form Defense counsel certifies that (s)he has explained this form to the defendant and answered all the defendant's questions including but not limited to the ramifications of entering the plea of guilty or no contest and the possible consequences of the plea, the terminology of the form if the defendant is unfamiliar with the terms used, and the defendant's exercise of his/her rights and the effect of waiving those rights.
² By signing this form the Assistant State Attorney certifies to this court that all exculpatory evidence, physical or otherwise, has been disclosed in discovery, including but not limited to any physical evidence which may be exculpatory in nature and that may be DNA tested.

ORDER ACCEPTING PLEA

The foregoing plea document was received and accepted in open court. The Defendant signed or acknowledged signing this document while under oath and subject to the penalties of perjury. The court finds the plea to be freely and voluntarily entered and that a factual basis exists in the record for the court to accept it. By accepting this plea(s), the court is not required to follow any state or defense recommendation stated herein, unless a "Conditional Plea" is fully described above.



CIRCUIT JUDGE
TERENCE R. PERKINS