

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YUMA

STATE OF ARIZONA,

Plaintiff,

vs.

COREY DELANEY CLARK,

Defendant.

No. S1400CR200700336

Division: I (REEVES)

PLEA AGREEMENT

The State of Arizona and the defendant hereby agree to the following disposition of this case:

Plea: The defendant agrees to plead **GUILTY** to:

COUNT ONE: AGGRAVATED HARRASSMENT (DV), INVOLVING DOMESTIC VIOLENCE, A CLASS SIX FELONY, IN VIOLATION OF A.R.S. §§13-2921.01 (A) (1), 13-2921.01 (B), 13-2921.01 (C), 13-2921.01, 13-2921, 13-3601, 13-701, 13-702, 13-801 AND 13-901, COMMITTED ON THE 19TH DAY OF AUGUST, 2006, THROUGH THE 22ND DAY OF AUGUST, 2006.

This is a **NON** dangerous **NON** repetitive offense under the criminal code.

Terms: On the following understandings, terms and conditions:

1. The crime carries a presumptive sentence of 1 year; a minimum sentence of .5 years (.33 years if trial court makes exceptional circumstances finding); and a maximum sentence of 1.5 years (2 years if trial court makes exceptional circumstances finding).

If the defendant is sentenced to prison, the defendant shall also be sentenced to serve a term of community supervision equal to one-seventh of the prison term to be served consecutively to the actual period of imprisonment. If the defendant fails to abide by the conditions of community supervision, the defendant can be required to serve the remaining term of community supervision in prison.

Probation **IS** available. Restitution of economic loss to the victim and waiver of extradition for probation revocation procedures will be required.

The maximum fine that can be imposed is \$150,000.00 plus **80%** surcharge. Special conditions regarding the sentence imposed by statute (if any) are:

2. The parties stipulate to the following additional terms, subject to court approval at the time of sentencing as set forth in paragraph 7:

THE DEFENDANT SHALL BE PLACED ON PROBATION. THIS OFFENSE SHALL REMAIN UNDESIGNATED PENDING SUCCESSFUL COMPLETION OF PROBATION.

TO BE GUILTY OF AGGRAVATED HARRASSMENT PER DOMESTIC VIOLENCE, PURSUANT TO A.R.S. §13-2921.01 (A) (1), A PERSON MUST COMMIT HARRASSMENT AS PROVIDED IN 13-2921 AND ANY OF THE FOLLOWING APPLIES:

1. A COURT HAS ISSUED AN ORDER OF PROTECTION AGAINST HARASSMENT AGAINST THE PERSON AND IN FAVOR OF THE VICTIM OF HARASSMENT AND THE ORDER HAS BEEN SERVED AND IS STILL VALID.
2. THIS A DOMESTIC VIOLENCE CASE PURSUANT TO 13-3601 (A) (4). THE VICTIM ESMUNDO TEJADA IS DEFENDANT'S FATHER-IN-LAW.

THE PARTIES STIPULATE TO THE FOLLOWING FACTUAL BASIS, AND THE DEFENDANT ACKNOWLEDGES THAT, IF THIS CASE WERE TO PROCEED TO TRIAL, THE STATE COULD PROVE THE ABOVE ELEMENTS BEYOND A REASONABLE DOUBT:

THE DEFENDANT WAS SERVED WITH AN ORDER OF PROTECTION S1400D0200600744 ON JULY 22, 2006 PROHIBITING HIM FROM CONTACTING ESMUNDO TEJADA INCLUDING BY PHONE. THE DEFENDANT CALLED ESMUNDO TEJADA'S RESIDENCE ON AUGUST 19, 2006, AUGUST 20, 2006 AND AUGUST 21, 2006 IN VIOLATION OF ORDER OF PROTECTION.

VICTIM NOTIFICATION STATUS

- Victim was notified of plea agreement.
 Victim was not notified because:
 No Victim.

CC 3. The following charges are dismissed, or if not yet filed, shall not be brought against the defendant. COUNT TWO, COUNT THREE, COUNT FOUR AND COUNT FIVE. AND YUMA COUNTY SUPERIOR COURT NUMBER S1400CR200700337.

CC 4. This agreement serves to amend the complaint, indictment, or information to charge the offense to which the defendant pleads, without the filing of any additional pleading. However, if the plea agreement is rejected by the court or withdrawn by either party, or if the conviction is subsequently reversed, the original charges and any charges that are dismissed by reason of this plea agreement are automatically reinstated.

CC 5. The defendant agrees that this agreement shall not be binding on the State should the defendant be charged with or commit a crime between the time of this agreement and the time for sentencing in this cause; nor shall this agreement be binding on the State until the State confirms all representations made by the defendant and his attorney, to-wit: _____

CC 6. Unless this plea is rejected by the court or withdrawn by either party, the defendant hereby waives and gives up any and all motions, defenses, objections or requests which the defendant has made or raised, or could assert hereafter, to the court's entry of judgment against him and imposition of a sentence upon him consistent with this agreement. By entering this agreement, the defendant further waives and gives up the right to appeal.

CC 7. The parties hereto fully and completely understand and agree that by entering into a plea agreement, the defendant consents to judicial fact finding by preponderance of the evidence as to any aspect or enhancement of sentence, and that any sentence either stipulated or recommended herein in paragraph two is not binding on the court. The court may consider any of the aggravating factors listed in § 13-702(C). In making the sentencing determination, the court is not bound by the rules of evidence. It is the court's duty to impose sentence upon the defendant, and that any sentence either stipulated to or recommended herein in paragraph two is not binding on the court. If after accepting this plea the court concludes that any of the plea agreement's provisions regarding the sentence or the term and conditions of probation are inappropriate, it can reject the plea. If the court decides to reject the plea agreement provisions regarding sentencing, it must give both the state and the defendant an opportunity to withdraw from the plea agreement. In case this plea agreement is withdrawn, all original charges will automatically be reinstated. The defendant in such case waives and gives up his

right to a probable cause determination on the original charges.

6 If the court decides to reject the plea agreement provisions regarding sentencing and neither the state nor the defendant elects to withdraw the plea agreement, then any sentence either stipulated to or recommended herein in paragraph two is not binding on the court, and the court is bound only by the sentencing limits set forth in paragraph one and the applicable statutes.

9. This plea agreement in no way affects any forfeiture proceeding pursuant to A.R.S. §13-2301 et. seq, §13-3105, §13-4301 et. seq., §28-597.01, §32-1993, if applicable, nor does the plea agreement in any way compromise or abrogate any civil proceedings, including but not limited to actions pursuant to A.R.S. §13-2301 et. seq. or §13-4301 et. seq, or the provisions of A.R.S. §13-2314(G) or A.R.S. §13-4310(C).

10. I have read or it has been read to me and I understand the provisions of this agreement. I have discussed the case and my constitutional rights with my lawyer. I understand that by pleading GUILTY I will be waiving and giving up my right to a determination of probable cause, to a trial by jury to determine guilt and to determine any fact used to impose a sentence within the range stated above in paragraph one, to confront, cross-examine, compel the attendance of witnesses, to present evidence in my behalf, my right to remain silent, my privilege against self-incrimination and the presumption of innocence and right to appeal. I agree to enter my plea as indicated above on the terms and conditions set forth herein. I fully understand that if, as part of this plea agreement, I am granted probation on the terms and conditions thereof are subject to modification at any time during the period of probation. I understand that if I violate any of the written conditions of my probation, my probation may be terminated and I can be sentenced to any term or terms stated above in paragraph one, without limitation.

I have personally and voluntarily placed my initials on each line of paragraphs one through ten and signed the signature line below to indicate I read and approved all of the previous paragraphs in this agreement, both individually and as a total binding agreement.

10-2-07
DATE

[Signature]
DEFENDANT- COREY DELANEY CLARK

DATE

COURT INTERPRETER-

I have discussed this case with my client in detail and advised him of his constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

10/2/07
DATE

[Signature]
DEFENSE COUNSEL- RICHARD GELLER

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interest of justice.

02 OCT 2007
DATE

[Signature]
PROSECUTOR- GREGORY BYRD

CA# 2006-DV-1780

1 LAW OFFICE OF RICHARD B. GELLER
2 209 WEST SECOND STREET
3 YUMA, ARIZONA 85364
4 Phone: 928.376.0068
5 Fax: 928.376.0088
6 AZ BAR No. 021091

7 ATTORNEY FOR DEFENDANT

FILED

2007 OCT -1 PM 4:12

BEVERLY FRAME
CLERK OF SUPERIOR COURT
YUMA ARIZONA 85364

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9 IN AND FOR THE COUNTY OF YUMA

10 STATE OF ARIZONA,

11 Plaintiff,

12 VS.

13 COREY DELANEY CLARK,

14 Defendant

CASE NO. S1400CR2007000336

NOTICE OF DEFENSES

15
16 COMES NOW the defendant, Kara M. Hodgin, by and through Richard B. Geller,
17 counsel undersigned, and pursuant to Rule 15.2 of the Arizona Rules of Criminal Procedure,
18 defendant discloses the following:

19 I. DEFENSES

20 The defendant gives notice that he shall assert the following defenses:

- | | | |
|----|---------------------------------------|--|
| 21 | ___ 1. Alibi | ___ 17. Mistaken identification |
| 22 | ___ 2. Insanity | ___ 18. Lack of culpable means rea |
| 23 | <u>X</u> 3. Insufficiency of evidence | ___ 19. Invalidity of prior conviction |
| 24 | ___ 4. Entrapment | ___ 20. Jurisdiction |
| 25 | ___ 5. Good character | ___ 21. No sexual interest |
| 26 | ___ 6. Denial | ___ 22. Illegal arrest |
| 27 | ___ 7. Illegal search and seizure | ___ 23. Defense of third person |
| 28 | ___ 8. Self-defense | ___ 24. Double jeopardy |
| | ___ 9. Fabrication | ___ 25. Affirmative defense |

1 Copy of the foregoing delivered/placed
2 In box of the following this ___ day of September, 2007:

3 Yuma County Attorney's Office
4 Hand Delivered

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