

**IN THE CIRCUIT COURT FOR THE 19TH JUDICIAL DISTRICT
MONTGOMERY COUNTY, TENNESSEE**

State of Tennessee ()
()
vs. (Case #: _____
()
_____ ()

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, consisting of two (2) pages and an attached Annex, is made and entered into by and between the District Attorney General, hereinafter referred to as the District Attorney, and the defendant named above. The following terms and conditions apply and form a summary of this agreement:

1. IDENTITY OF THE DEFENDANT:

Name: _____ Date of birth: ____/____/____
Street address: _____ SSAN: _____
City, State, Zip: _____ Phone: (____)_____

2. OFFENSE(S) COVERED BY THIS PRE-TRIAL DIVERSION:

Offense: _____ TCA: _____
Offense: _____ TCA: _____
Offense: _____ TCA: _____

3. SPECIAL TERMS OF THE DIVERSION PERIOD:

- a. Length of the Diversionary period: ____ years ____ months ____ days
- b. Total amount of restitution to be paid: \$_____
- ____ Victim information to be supplied by supplemental order **OR**
- To be paid to: _____
- Address: _____
- To be paid in the following manner: \$_____ per month to begin on
 ____/____/____. A Clerk's fee of 5% shall be paid on the restitution amount.
- c. Public Service Work to be performed: _____ hours
- d. Court costs of \$_____ are to be paid at the rate of \$_____ per month, with the first payment due not later than ____/____/____.
- e. The defendant shall (*check one*):
 - ____ Pay the full costs of diversion monthly
 - ____ Pay not less than \$_____ of the costs of diversion monthly
 - ____ Not pay diversion supervision costs, due to the indigency of the defendant

f. After \$_____ Court Costs is paid, payment of restitution shall begin. Payment of Court costs will resume after the payment of restitution in full.

g. The defendant shall abide by all terms of diversion contained in the attached Annex, and shall also perform the following special conditions during the term of this Pre-Trial Diversion (check those that apply):

_____ The defendant shall enroll and satisfactorily complete a program for Drug and Alcohol Abuse Counseling.

_____ The defendant shall enroll and satisfactorily complete a program for Sexual Offense Perpetrators Counseling.

_____ The defendant shall submit to unannounced biochemical sampling, as required by the Probation Officer, to detect drugs of abuse.

_____ Other (Specify): _____

_____ Other (Specify): _____

THE DEFENDANT ACKNOWLEDGES by his or her signature below that he or she has been given a copy of this Memorandum and Annex, has read them, and agrees to abide by their terms.

IN WITNESS WHEREOF, the Parties have hereunto affixed their signature on the _____ day of _____, 20____.

CIRCUIT COURT JUDGE, Division _____
MONTGOMERY COUNTY, TENNESSEE

APPROVED FOR ENTRY:

DISTRICT ATTORNEY GENERAL or
ASSISTANT DISTRICT ATTORNEY

ATTORNEY FOR DEFENDANT

DEFENDANT

ANNEX TO MEMORANDUM OF UNDERSTANDING FOR PRE-TRIAL DIVERSION

PURPOSE: This Annex recites the standard terms, conditions, understandings, and responsibilities applicable to all defendants who have entered into Pre-Trial Diversion under the provisions of Tennessee Code Annotated 40-15-101, et seq.

This Annex must be considered and utilized with the two page Memorandum of Understanding prepared for each particular defendant. If there is a difference between what is required in this Annex and requirements in the Memorandum, the defendant must comply with the requirements in his or her specific Memorandum.

DECLARATIONS

The defendant declares and acknowledges that;

1. He or she is the defendant named on the Memorandum of Understanding, and the indictment of the same docket number; that the address and identification information on page 1 of the Memorandum is correct; that the defendant has seen or been furnished a copy of the indictment; and has had the opportunity to consult with legal counsel prior to entering this Pre-Trial Diversion, and;
2. The defendant has been charged with committing the offense(s) specified in paragraph 2 on page 1 of the Memorandum of Understanding, and;
3. The defendant does not have any prior felony convictions, nor any conviction for a misdemeanor for which a sentence of confinement was actually served (other than for the offense of Driving Under the Influence in violation of TCA 55-10-401), and;
4. The defendant has received a copy of the Memorandum of Understanding and has received a copy of this Annex.

AGREEMENT

IT IS AGREED between the parties that the prosecution of the defendant on the above specified charge(s), is suspended for the period specified in paragraph 3(a) of the Memorandum of Understanding, upon the defendant's full compliance with the conditions in the Memorandum of Understanding and this Annex as hereinafter set out:

1. The defendant is placed under the supervision of the Tennessee Department of Correction, and its supervisors, such supervision being subject to the provisions of the laws of this State, for the full period of probation specified in paragraph 3(a) of the Memorandum of Understanding.
2. The defendant shall make a full and truthful report to the Probation Officer in person and/or in writing as directed by the said officer.
3. The defendant shall report all arrests, in any jurisdiction, including traffic violation, regardless of disposition, to the Probation Officer.
4. The defendant shall allow the Probation Officer to visit the defendant's residence and place of employment.
5. The defendant shall carry out all instructions given by the Probation Officer whether oral or in writing.
6. If at any time it is necessary to communicate with the defendant's Probation Officer and he or she is not accessible, the defendant will direct the communication to the Probation Manager at the address and telephone number shown on page 4 of this Annex.
7. The defendant shall obtain the written permission from the Probation Officer before contracting any major debts.
8. The defendant shall pay, in addition to Court costs, the diversion supervision fees (if any) specified in paragraph 3(e) of the Memorandum of Understanding, during this probation period. If diversion supervision fee payments have been specified, they shall be paid directly to the agency supervising the defendant.
9. The defendant will procure the consent of the Probation Officer before changing residence or telephone number from that specified in paragraph 1 of the Memorandum of Understanding, and prior to departing the State of Tennessee for any purpose.

10. The defendant shall not use intoxicants of any kind to excess; nor use narcotic drugs, marijuana included; nor visit places where intoxicants or drugs are unlawfully sold, unlawfully dispensed or unlawfully used. If specified in paragraph f of the Memorandum of Understanding, the defendant shall furnish upon demand of the Probation Officer a blood, breath, or urine sample or biochemical testing to detect drugs of abuse, including alcohol.
11. The defendant shall not associate with persons of ill repute and will not frequent establishments whose prime purpose is the selling of alcoholic beverages. The defendant also shall not operate a motor vehicle after consuming any alcoholic beverages.
12. The defendant shall not be away from the place of residence at late or unusual hours of the night, such hours to be determined by the Probation Officer, who will also give permission for night employment.
13. The defendant shall obey the laws of the United States or any State in which he or she may be, as well as any municipal ordinances. The defendant will not commit any criminal act or offenses and shall at all times behave in a manner consistent with good citizenship.
14. The defendant will seek gainful employment if unemployed; if employed the defendant will continue to work diligently at a lawful occupation and support dependents, if any, to the best of his or her ability.

This Memorandum of Understanding may be modified by mutual consent at any time before its termination.

SUCCESSFUL COMPLETION OF THE DIVERSION PERIOD

It is agreed by and between the District Attorney and the defendant that this Memorandum of Understanding is in partial satisfaction of the requirements of TCA 40-15-101, et seq., with regard to Pre-Trial Diversion, and upon successful completion of the terms of the Memorandum of Understanding and this Annex by the defendant, the Court shall dismiss with prejudice any warrant or charge against the defendant specified in paragraph 2 of the Memorandum of Understanding, upon the expiration of 90 days after the expiration of the period of suspension as herein specified, provided no termination of the said Memorandum of Understanding has been filed under the provisions of TCA 40-15-105(d). The defendant, following such dismissal, may petition the Court according to law for expungement of such records of the proceedings as may lawfully be expunged.

FAILURE TO SUCCESSFULLY COMPLETE THE DIVERSION PERIOD

The Memorandum of Understanding shall be terminated and the prosecution may resume as if there had been no Memorandum of Understanding if the defendant breaches any of the terms and conditions of said Memorandum of Understanding and the defendant or the District Attorney files a notice that said Memorandum of Understanding is terminated. By the execution of this Memorandum of Understanding, any applicable Statutes of Limitation shall be tolled during the pendency of the diversion period and the defendant waives any right to a speedy trial and any right to be indicted or tried at any particular term of Court.

The Memorandum of Understanding shall be tendered to the Judge of Criminal Court hearing this case. By his signature upon the Memorandum of Understanding the trial Judge enters into this agreement for the purpose of approving, ratifying, and consenting to the terms and conditions herein set out.

DEFENSE ATTORNEY: _____

PROBATION OFFICER: _____