

NOTICE TO THE DEFENDANT OF THE PLEA BARGAIN OFFERED BY THE PROSECUTOR PRIOR TO PRELIMINARY HEARING

This is “notice” to the defendant of the plea bargain offered by the prosecutor for the State of Oklahoma:

The penalty range for the offenses you are charged with is:

You may want to make a *counter-offer* but that does not mean that the prosecutor will accept it. Usually, the prosecutor will reject your counter-offer.

The prosecutor usually *withdraws the plea bargain recommendation* if you do not accept it today or if you put on the preliminary hearing and do not waive it.

The recommendation could get worse or it could get better but the recommendation will be withdrawn if you do not accept it or if you do not waive the preliminary hearing.

If you are innocent of the offense, then you should not waive a preliminary hearing.

A preliminary hearing is your one chance to hear the evidence and to challenge the evidence by arguing a motion to suppress evidence if it was obtained in violation of your constitutional rights.

Additionally, if you have a preliminary hearing or do not waive it, then the state may seek to *add additional counts or enhance the offense* by up-grading to a more serious offense when it is possible to do so **but this is not always possible.**

You should use your “independent judgment” about what is in your long term and total best interest. At some point in time, the vast majority (but not all and some not till after preliminary hearing and motions) of criminal cases are plea bargained for the best deal that can be obtained, some after preliminary hearing and after motion hearings and some before. Some cases are plea bargained after the preliminary hearing and after a motion hearing on the transcript of the preliminary hearing and some cases are plea bargained with out a preliminary hearing.

You are the one who will have to live with the result **if the plea bargain gets worse** and therefore you should use your “independent judgment” about what is in your long term and total best interest. However, if you do not have a hearing, then you will never know for certain if the case could have been beaten at preliminary hearing.

You are the one who gets to make the final decision on whether to accept or reject the plea bargain offered.

The standard at a preliminary hearing is not beyond a reasonable doubt but only a standard of “probable cause” that a crime was committed and that you committed it. However, the evidence must meet constitutional standards to be legally admissible and the preliminary hearing is your primary chance or primary opportunity to challenge the constitutional admissibility of the evidence.

If you put on the preliminary hearing, then the Judge will listen to the evidence and make a determination if there is sufficient probable cause that a crime occurred and that you committed it. If there is insufficient evidence, then the case is dismissed. Additionally, the court will listen to arguments about the admissibility or inadmissibility of any evidence obtained in violation of your constitutional rights.

If there is enough evidence, then you will be given another court date in front of the assigned Judge and then your lawyer can order a copy of the transcript of the preliminary hearing which costs money which you pay for (unless you are a qualifying pauper) and then file written motions in front of the assigned Judge based upon the transcript. The transcript is the written record of the testimony at the preliminary hearing and it is prepared by the court reporter.

If you are innocent you should not waive your preliminary hearing and you do have a right to a jury trial or a judge trial in your case and that is your decision. If you are going to go to trial, do not waive the preliminary hearing. Normally, it is best not to enter a plea of guilty to something you did not do. It could be perjury to lie to a court.

Plea bargaining is a serious matter. Ultimately, it is your right to have a preliminary hearing because that is the primary chance to hear and challenge the evidence. However, by putting on the preliminary hearing you will be rejecting the offer of the plea bargain by the prosecutor and the deal may get worse or better. You should think carefully about what you are doing and use your “independent” judgment about what is in your long term total best interest.

I state that I have received, read, & understand this notice of this plea bargain offered:

Date Signed:

Defendant

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