

CAUSE NO. _____

THE STATE OF TEXAS

*

IN THE COUNTY OF COURT

*

VS.

*

AT LAW NO. __ OF

*

*

CAMERON COUNTY, TEXAS

AFFIDAVIT OF PLEA IN ABSENTIA

_____, Defendant herein, hereby, enters this plea in absentia as provided by Article 27.14(b) of the Texas Code of Criminal Procedure.

Before the undersigned authority, _____, appeared and stated the following under oath:

Waiver of Appearance. I understand that I have the right to be present in Cameron County, Texas on the above entitled cause and to defend myself, however, I am fully mentally competent and completely understand the offense and charges and I wish to enter this plea in absentia and consent to the case being called in my absence and my attorney, _____ to appear on my behalf and with my full consent.

I have excused and read and understood the attached documents including defendant's statement of admonition, plea of _____ and waiver of jury and waiver of confrontation.

Plea Bargain. I understand that my attorney and the State's attorney have reached a plea bargain:

Exchange for my plea of _____ and further understand that the Judge is not bound by our plea agreement and does NOT have to follow our plea agreement.

Offense. I understand that I have been charged with _____, which is a misdemeanor offense for which the maximum punishment is a fine of _____ to this offense.

Plea. To the offense of _____, I hereby enter the plea of _____.
Waiver of Jury Trial. I understand that I have the right to have this case tried by a jury. By entering this plea, I knowingly and voluntarily waive my right to a jury trial in this matter.

Address. I further respectfully request that such notification be mailed to me at the following address: _____

Defendant

1 AN ACT
2 relating to allowing for certain criminal proceedings in the
3 absence of certain defendants.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 27, Code of Criminal Procedure, is
6 amended by adding Article 27.19 to read as follows:

7 Art. 27.19. PLEA BY CERTAIN DEFENDANTS.

8 (a) Notwithstanding any other provision of this code, a court
9 shall accept a plea of guilty or nolo contendere from a defendant
10 who is confined in a penal institution if the plea is made:

11 (1) in accordance with the procedure established by
12 Article 27.18; or

13 (2) in writing before the appropriate court having
14 jurisdiction in the county in which the penal institution is
15 located, provided that:

16 (A) the defendant is notified by the court of
17 original jurisdiction of the right to counsel and the procedures
18 for requesting appointment of counsel, and is provided a reasonable
19 opportunity to request a court-appointed lawyer;

20 (B) if the defendant elects to proceed without
21 counsel, the defendant must waive the right to counsel in
22 accordance with Article 1.051;

23 (C) the defendant must waive the right to be
24 present at the taking of the plea or to have counsel present, if the

1 defendant has counsel; and

2 (D) if the defendant is charged with a felony,
3 judgment and sentence are rendered in accordance with the
4 conditions and the procedure established by Article 42.14(b).

5 (b) In this article, "penal institution" has the meaning
6 assigned by Section 1.07, Penal Code.

7 SECTION 2. Article 42.14, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 42.14. IN ABSENCE OF DEFENDANT. (a) In a misdemeanor
10 case, the [The] judgment and sentence [in a misdemeanor case] may be
11 rendered in the absence of the defendant.

12 (b) In a felony case, the judgment and sentence may be
13 rendered in the absence of the defendant only if:

14 (1) the defendant is confined in a penal institution;
15 (2) the defendant is not charged with a felony
16 offense:

17 (A) that is listed in Section 3g(a)(1), Article
18 42.12; or

19 (B) for which it is alleged that:

20 (i) a deadly weapon was used or exhibited
21 during the commission of the offense or during immediate flight
22 from the commission of the offense; and

23 (ii) the defendant used or exhibited the
24 deadly weapon or was a party to the offense and knew that a deadly
25 weapon would be used or exhibited;

26 (3) the defendant in writing before the appropriate
27 court having jurisdiction in the county in which the penal

1 institution is located:

2 (A) waives the right to be present at the
3 rendering of the judgment and sentence or to have counsel present;

4 (B) affirms that the defendant does not have
5 anything to say as to why the sentence should not be pronounced and
6 that there is no reason to prevent the sentence under Article 42.07;

7 (C) states that the defendant has entered into a
8 written plea agreement with the attorney representing the state in
9 the prosecution of the case; and

10 (D) requests the court to pronounce sentence in
11 the case in accordance with the plea agreement;

12 (4) the defendant and the attorney representing the
13 state in the prosecution of the case have entered into a written
14 plea agreement that is made a part of the record in the case; and

15 (5) sentence is pronounced in accordance with the plea
16 agreement.

17 (c) A judgment and sentence may be rendered under this
18 article in the absence of the defendant only after the defendant is
19 notified by the court of original jurisdiction of the right to
20 counsel and the defendant requests counsel or waives the right to
21 counsel in accordance with Article 1.051.

22 (d) In this article, "deadly weapon" and "penal
23 institution" have the meanings assigned by Section 1.07, Penal
24 Code.

25 (e) If a defendant enters a plea of guilty or nolo
26 contendere under Article 27.19, the attorney representing the state
27 may request at the time the plea is entered that the defendant

1 submit a fingerprint of the defendant suitable for attachment to
2 the judgment. On request for a fingerprint under this subsection,
3 the county in which the defendant is confined shall obtain a
4 fingerprint of the defendant and use first-class mail or other
5 means acceptable to the attorney representing the state and the
6 county to forward the fingerprint to the court accepting the plea.

7 SECTION 3. Article 27.19, Code of Criminal Procedure, as
8 added by this Act, and Article 42.14, Code of Criminal Procedure, as
9 amended by this Act, apply to a plea entered or to a judgment and
10 sentence rendered in a criminal case on or after the effective date
11 of this Act, regardless of whether the offense for which the plea is
12 entered or judgment and sentence are rendered is committed before,
13 on, or after that date.

14 SECTION 4. This Act takes effect September 1, 2009.

H.B. No. 107

President of the Senate

Speaker of the House

I certify that H.B. No. 107 was passed by the House on April 22, 2009, by the following vote: Yeas 147, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 107 on May 23, 2009, by the following vote: Yeas 138, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 107 was passed by the Senate, with amendments, on May 21, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor