

CLERK OF THE
DISTRICT COURT
TERRY HALPIN

2021 JAN 21 P 2:37

FILED
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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

STATE OF MONTANA,

Plaintiff,

vs.

MARK JULES KRAMLICH,

Defendant.

CAUSE NO. DC 20-0069

JUDGE ASHLEY HARADA

**ACKNOWLEDGMENT AND WAIVER OF
RIGHTS BY PLEA OF NO CONTEST AND
PLEA AGREEMENT**

ACKNOWLEDGMENT OF RIGHTS

I, MARK JULES KRAMLICH, the Defendant in the above-entitled matter, have had an opportunity to examine the charges brought against me, including the investigative file, and after consultation with my attorney and being fully advised, acknowledge my rights, and agree to plead NO CONTEST as hereinafter set forth.

I acknowledge that my attorney has explained to me and advised me of the following and I fully understand that:

AMJ

1. I am charged with the offenses of:

Count I: Criminal Possession of Dangerous Drugs (Felony)

Count II: Criminal Possession of Drug Paraphernalia (Misdemeanor)

AMJ

2. I understand the maximum possible penalties are as follows:

Count I: Punishable by imprisonment for a term of up to five years, a fine of up to \$5,000, or both.

Count II: Punishable by incarceration in the county jail for not more than 6 months, a fine of not more than \$500, or both.

AMJ

3. I have the right to plead Not Guilty, or to persist in that plea if it has already been made and thereby place the burden of proving my guilt on the prosecution which must prove my guilt beyond a reasonable doubt.

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- 4. I have the right to challenge the sufficiency of the Information and the Affidavit supporting it.
- 5. I have the right to object to any evidence that may have been obtained in violation of the United States Constitution, the Montana Constitution, and/or prevailing law.
- 6. I have the right to be represented by counsel at every state of the proceeding.
- 7. I have the right to a speedy and public trial by jury or judge and at that trial I have the following rights:
 - a. The right to effective assistance of counsel.
 - b. The right to confront and cross-examine witnesses against me.
 - c. The right to testify.
 - d. The right to call and have witnesses testify on my behalf.
 - e. The right not to be compelled to incriminate myself.
 - f. The right to have the charges proven beyond a reasonable doubt and to appeal a finding of Guilty.
 - g. The right to argue for any lesser included offense(s).
- 8. By pleading no contest, I give up all of the rights in Section 3 through Section 7 (b-g) listed above. By pleading no contest I waive my right to appeal or otherwise challenge my conviction by direct appeal.
- 9. I understand that I have the right to apply for sentence review if the Court imposes an incarceration sentence of one year or more.
- 10. I have had ample time and opportunity to discuss this case with my attorney to prepare a defense and I have received the full benefit of my attorney's advice and the possible outcome of a trial. I am satisfied with the services of my attorney, and my attorney has been fair to me and has represented me properly.
- 11. I am not suffering from any mental disease or defect or any emotional disability, nor am I acting under the influence of alcohol, drugs, or prescription medicine. I fully understand the consequences of signing this Agreement.
- 12. I have not been threatened, coerced, forced, intimidated, or influenced in any way.
- 13. I have entered into this Agreement freely and voluntarily and with full knowledge of its terms and conditions.
- 14. I understand that a plea agreement is an agreement between a Defendant and a Prosecutor that in exchange for a particular plea, the prosecutor will recommend a particular sentence and/or dismissal of certain charges.

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- 15. I understand that the Court may not participate in the making of such an agreement nor is the Court bound by the Agreement pursuant to Mont. Code Ann. § 46-12-211(1)(c).
- 16. I understand the Judge is not bound by any recommendations and can impose any sentence up to the maximum penalties for the above-listed offense(s). I understand I will not be allowed to withdraw my plea in the event the Judge rejects this Agreement. I understand that if the Court rejects the sentencing recommendation, I could be sentenced to the maximum punishments allowed by the applicable laws.
- 17. I understand that the sentence to be imposed is within the sole discretion of the sentencing judge and that the State does not make any promise or representation as to what the sentence will be.
- 18. I understand that if the Court does not impose the sentence recommended by the Prosecutor, the Court is not required to allow me to withdraw my plea of no contest.
- 19. I understand that at the sentencing hearing the victim(s) of the offense(s) has a statutory right that the State must honor and is not an attempt by the State to solicit testimony to undercut this Agreement. I understand and agree that if the victim(s) chooses to exercise this right that such testimony will not be a basis to withdraw my plea.
- 20. I understand that a presentence investigation report will be prepared.
- 21. I understand that the Court, after a separate hearing or at sentencing has the ability to award restitution to the victim(s) in this matter, which I may be required to pay as part of the sentence imposed by the Court.
- 22. I have considered the most severe sentence that could be imposed and understand that there are many indirect or collateral consequences of a plea, some of which include but may not directly apply to this offense(s), loss of freedom of association, registration as a violent offender, loss of driving privileges, the right to hold public office, difficulty in obtaining employment, loss of the right to possess a weapon and that this conviction may be used against me in a subsequent case.
- 23. I acknowledge that I have reviewed a full copy of the investigative file with my attorney and/or attorney's investigator. I have been advised about exculpatory evidence and inculpatory evidence.
- 24. I state without hesitation that my attorney has exhaustively explained to me every aspect of the case. In those discussions we went over my testimony and the testimony of all witnesses expected to testify on behalf of the State and on behalf of the Defense. My attorney explained to me what the State's theory of prosecution would be in the event this case went to trial. My attorney explained to me what all the physical and expert evidence would be. My attorney carefully advised me that if this case were to proceed to trial, based on the evidence, the jury could find me Not Guilty of any or all charges, Guilty of any or all charges, or the jury could possibly not reach a verdict which would result in a mistrial.

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- MP 25. My attorney also discussed any potential lesser included offenses which might apply. I understand that there are no lesser-included offenses applicable in this case.
- MP 26. My attorney has also informed me of all offers provided by the Yellowstone County Attorney's Office.
- MP 27. My attorney left the decision totally to me advising only of the consequences of going to trial.
- MP 28. I believe it is in my best interest to plead no contest.
- MP 29. I understand that this Agreement is limited to the Yellowstone County Attorney's Office and cannot bind other state, local, or federal prosecuting authorities.
- MP 30. This Agreement encompasses all of the understandings of the parties. No other promises have been made to me other than those specified in this Agreement.
- MP 31. I acknowledge receiving a copy of this Agreement.
- MP 32. I understand that at the Change of Plea Hearing in this matter the Court may require me to be sworn and to testify regarding the above facts.

DATED this 24 day of January, 2021.

Mark Jules Kramlich
Mark Jules Kramlich

AGREEMENT

- 1. I agree to enter a no contest plea to the offense(s) of:
 Count I: Criminal Possession of Dangerous Drugs (Felony)
 Count II: Criminal Possession of Drug Paraphernalia (Misdemeanor)
- 2. The parties agree to recommend that I receive the following sentence:
 Count I: Imposition of sentence deferred for five (5) years, and payment of a \$500 fine to the City of Billings Drug Forfeiture Fund.
 Count II: Dismissed at sentencing.
- 3. I agree to enter my plea pursuant to this Agreement and understand that if I fail to appear or change my plea on the scheduled dated that the State may withdraw from the Agreement and a warrant may be issued for my arrest.

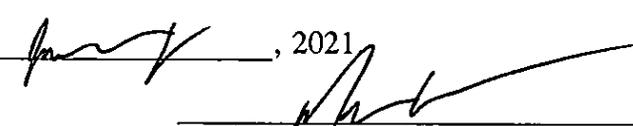
1 OTHER PROVISIONS

2 It is further understood and agreed that:

- 3 1. The Prosecutor will abide by the terms of the pretrial Agreement throughout all proceedings
4 relevant to the determination of sentence including sentence review and parole proceedings.
5 2. The Prosecutor shall not be bound to make the agreed-upon recommendation and may either
6 withdraw from the Agreement or make a different recommendation in the event that I
7 misrepresent material facts concerning my record, or a Court finds probable cause of
8 additional criminal conduct or violation of bail conditions by me prior to sentencing. If I
9 have already pled Guilty, I shall not be allowed to withdraw my plea.
10 3. I agree that should I abscond pending sentencing, I will be responsible for the costs incurred
11 by the State in transporting me back to Yellowstone County.

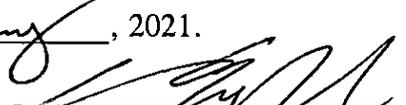
12 No additional promises, agreements, or conditions have been entered into other than those set
13 forth in this Agreement. In the event of withdrawal or termination of this Agreement, any
14 statements made herein shall not be admissible in any proceeding.

15 DATED this 21 day of January, 2021

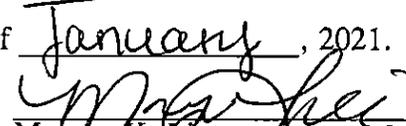
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17 _____
18 Mark Jules Kramlich

19 I certify that the Defendant has read the Agreement and I have advised the Defendant of the
20 Agreement and explained it to him. I am satisfied that he understands all of his rights and that his
21 plea of Guilty is being voluntarily made, that he understands he is waiving such rights by entry of
22 said plea, and that he is not suffering from any physical, mental or emotional disability, and that he
23 is not under the influence of any drugs or intoxicants, to the best of my knowledge and belief.

24 DATED this 21 day of January, 2021.

25 
26 _____
27 Caleb A. Egbert
28 Attorney for Defendant

29 Reviewed and accepted this 21st day of January, 2021.

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31 _____
32 Morgan K. Cox
33 Deputy County Attorney
34 Yellowstone County, Montana