

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF PLACER

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, and Address): TELEPHONE NO.: FAX NO.: EMAIL ADDRESS:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF PLACER <input type="checkbox"/> 10820 Justice Center Drive <input type="checkbox"/> 2501 N. Lake Blvd. P.O. Box 619072 P.O. Box 5669 Roseville, CA 95661-9072 Tahoe City, CA 96145	
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA DEFENDANT:	
ADVISEMENT AND WAIVER OF RIGHT TO COUNSEL (FARETTA WAIVER)	CASE NUMBER:

Instructions:

Fill out this form if you wish to act as your own attorney (*in propria persona* or “pro per”). Initial the box for each applicable item only if you understand and agree with it, and sign and date the form on page 4. If you have any questions about anything on this form, ask your attorney, if you have one, or the judge. The judge may not be able to answer your questions, because judges are not permitted to provide legal advice.

CONSTITUTIONAL RIGHTS

Initials

1. I am the defendant in the above-entitled case, and I certify to the Court that I can read and write. I understand my constitutional rights include the following:
 - A. Right to an Attorney: I understand that I have the right to be represented by an attorney at all stages of the proceedings and, if I cannot afford to hire an attorney, one will be appointed for me by the Court. _____
 - B. Right to a Speedy Trial and Public Jury Trial: I understand that I have a right to a speedy trial and a public trial by a jury of twelve citizens. _____
 - C. Right to Confront and Cross-Examine Witnesses: I understand that I have the right to confront in open court all witnesses who will be called to testify against me, and I have the right to cross-examine those witnesses. _____
 - D. Right to Subpoena Witnesses and Records: I understand that I have the right to the reasonable use of the subpoena power of the Court to subpoena any witnesses or any records that I may need in my defense. The right to use the court process is generally at no cost. _____
 - E. Right Against Self-Incrimination: I understand that I have the right to testify at my trial, but that I cannot be compelled to testify at the trial unless I choose to testify. _____
 - F. Right to be Released on Bail: I understand that I may have the right to be released from jail on reasonable bail pending the trial. The right to bail is dependent upon several factors to be determined by the Judge and those factors may include the current charges, my prior record or lack thereof and any other relevant factors such as community safety and risk of flight. _____
 - G. Right to Self-Representation: I understand that I have a right to act as my own attorney and the right to waive my right to be represented by an attorney. I further understand that if I am permitted to represent myself, I will have to conduct my own defense without the assistance of an attorney or the court. _____

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2. In support of my petition to proceed in propria persona (also referred to as “pro per”), I offer the Court the following biographical information:

A. Age: _____ Year of Birth: _____

B. Education:

1) High School Graduate: Yes _____ No _____

2) Additional Formal Education (if any):

3) Legal Education (if any):

C. Employment Experience:

D. I have previously acted as my own attorney in the following criminal matters:

_____ Not applicable

Case	Court	Year	Result

Case	Court	Year	Result

DANGERS AND DISADVANTAGES TO SELF-REPRESENTATION

Initials

3. I understand there are many dangers and disadvantages in representing myself. Among those dangers and disadvantages of not having an attorney are the following:

A. I understand that if I am permitted to represent myself it will be necessary for me, without the assistance of an attorney or the court, to follow all the rules of criminal law, criminal procedure, the law of evidence, and rules of court. _____

B. I understand the case against me will be handled by a prosecutor who is an experienced trial attorney and that I will not be entitled to special consideration or assistance by the prosecutor during the course of the trial. _____

C. I understand that if I am permitted to represent myself, it will be necessary for me without the assistance of an attorney or the court, to conduct my own trial consisting of, but not limited to: making pre-trial motions; selecting a jury; making an opening statement; cross-examining the witnesses for the prosecution; subpoenaing and presenting my own witnesses; making appropriate objections and motions during the course of the trial; preparing and presenting proposed jury instructions to the Court; making the final argument; and in the event of a conviction, making appropriate motions after trial and representing myself at the time of the probation and sentencing hearing. _____

D. I understand that I cannot and will not receive any special consideration, guidance or assistance from the Court. I further understand that the Court is not permitted to answer any questions I have concerning how I should proceed or what law might apply in my case. _____

E. I understand that if I wish to ask the Court for funds to hire an investigator or for other expenses used in my defense, I will have to file declaration to show good cause for the funds. _____

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- F. I understand that if I ask for any additional money over the initial amount granted by the Court (if an initial amount is granted), I will be required to keep and show the Court receipts for anything I have purchased with the money granted to me. _____
- G. I understand that if I am in jail, it will be difficult for me to contact witnesses and investigate my case. I understand that I will have limited access to a telephone, which will make preparations for trial more difficult, and that I will be provided no more access to legal research or legal information than any other inmate who acts as his or her attorney and that access is limited. _____
- H. I understand that no continuance of the trial will be allowed without a showing of good cause, and that such requests made just before trial will most likely be denied. _____
- I. I understand that depending on the stage of my case, if I change my mind and request an Attorney to handle my case, the Court may deny this request and I may have to proceed with trial without an attorney. _____
- J. I understand that in conducting the trial, I may be limited in my movements in the courtroom. All documents, for example, will be handed to witnesses when necessary through the bailiff. I may be required to remain in my seat at counsel table and may not have free movement in the courtroom. _____
- K. I understand that I may not act disrespectfully in court. I understand that the Judge may terminate my right to act as my own attorney in the event that I engage in misconduct or obstruct the conduct and progress of the trial. I understand that if my right to act as my own attorney is terminated, I may have to be represented by an attorney, appointed by the Judge, who will then take over the case at whatever stage the case may be in. _____
- L. I understand that if at some point an appointed attorney does take over my case, that attorney may be in a disadvantaged position and that such a disadvantage will not be considered an issue on appeal. _____
- M. I understand that any misconduct by me occurring outside of court may result in restriction or termination of my right to act as my own attorney. I also understand that my right to act as my own attorney will not shield me from disciplinary actions within the jail, and that I will be subject to the same disciplinary measures as all other inmates for misconduct occurring in the jail. _____
- N. I understand that by acting as my own attorney, I am giving up any right to claim on appeal that I had ineffective assistance of counsel. _____

CHARGES, CONSEQUENCES AND OTHER MATTERS

Initials

- 4. I understand that I am giving up having an attorney explain to me what crime(s) I am charged with, the elements of the charged crime and any possible legal defenses I might have to those charges. _____
- 5. I understand that I am giving up having an attorney explain to me which charges require proof of general criminal intent, which charges require proof of specific intent or mental state, and which state of mind may apply to any defenses I may have. _____
- 6. I understand that I am giving up having an attorney to determine what facts must be proved before I can be found guilty. _____

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- 7. I understand that if I am convicted, I am also giving the right to have an attorney determine any post-trial motions and sentencing options I may have, and to present these motions and options to the Court. _____

- 8. I understand that the judge will not provide any advice to me and the judge does not act as a substitute for the fact that I do not have an attorney. _____

- 9. I understand that it is the advice and recommendation of this Court that I do not act as my own attorney and that I accept a court-appointed attorney. I understand that if I accept a court-appointed attorney, a trial attorney will be assigned to defend me. I understand that the attorney would be able to investigate my case, file pretrial motions, conduct the trial, and generally advise me on what to do. _____

- 10. I understand that this written request to act as my own attorney will be filed with and become part of the court case file. I further understand that on any appeal that may be taken from a conviction, or on the filing of a petition for an extraordinary writ, this request will be forwarded to any court of appeal and will be considered by that court in determining whether I knowingly and intelligently waived my right to an attorney. _____

- 11. I understand all that I have read and understood and all that the Court has told me. Having in mind all that I have been advised and all of the dangers and disadvantages of acting as my own attorney, it is still my request that I act as my own attorney. _____

I hereby certify that I have read, understood, and considered all of the above warnings included in this petition, and I still want to act as my own attorney. I freely and voluntarily give up my right to have an attorney represent me.

Dated: _____ Signed: _____
Defendant's Signature

INTERPRETER'S STATEMENT (if applicable)

I, having been duly sworn or having a written oath on file, certify that I truly translated this Advisement and Waiver of Right to Counsel (*Faretta* waiver) form to the defendant in the language indicated below. The defendant stated that he or she understood the contents of the form, and then initialed and signed the form.

_____ Spanish _____ Other (specify) _____

Dated: _____ Signed: _____
Court Interpreter's Signature

Type or Print Name

_____ The court finds that the defendant has been advised of his or her constitutional rights and the dangers and disadvantages of self-representation. The defendant has made a voluntarily, knowing, and intelligent waiver of the right to counsel. The court grants the defendant's request for self-representation.

_____ The court denies the defendant's request for self-representation.

Dated: _____ Signed: _____
Judge of the Superior Court