

IN THE MUNICIPAL COURT OF OXFORD, MISSISSIPPI

CITY OF OXFORD

V.

NO. _____

DL# _____

SSN _____

**ORDER AND CONDITIONS PRECEDENT
FOR NON-ADJUDICATION OF DUI FIRST OFFENSE**

There came on to be heard before this Court the petition, ore tenus, of the above named defendant to have his/her qualifying DUI first offense non-adjudicated pursuant to Miss. Code Ann., Section 63-11-30(14). The named defendant has informed the Court, under oath, that he/she has never had any other DUI offense non-adjudicated pursuant to 63-11-30(14) in any jurisdiction AND has been charged with DUI pursuant to Miss. Code Ann. Sec. 63-11-30 (1) or (3).

That as part of his/her ore tenus petition, the above listed defendant has tendered to the Court a plea of GUILTY to the offense of DUI first offense as is evidenced by a WAIVER OF RIGHTS AND ENTRY OF GUILTY PLEA form attached as Exhibit "A". That the named defendant seeks to have his/her said DUI offense to be non-adjudicated upon the happening of certain conditions precedent. That the named defendant understands that should any one of the conditions precedent as imposed by the Court not be met, then at that point, and without further hearing, the names defendant will be finally adjudicated as **GUILTY OF DUI FIRST OFFENSE.**

It is therefore the Order of this Court, and that the defendant as conditions precedent to this DUI being non-adjudicated, the following each must be met, to wit:

1. Pay the sum of \$250.00 as a non-adjudication fee to the City of Oxford MS Municipal Court pursuant to Miss. Code Ann. 63-11-31. The amount due upon the commencement of the defendant's petition as herein contemplated.

2. Pay to The Oxford Municipal Court the fine for DUI first offense in the sum of \$1000.00 plus court costs and assessments for a total of \$_____. Said amount is due within 30 days of the date of this order, unless good cause for alternate payment is proven in advance;

3. Attend and successfully complete an alcohol safety education program as provided in Section 63-11-32 of the Miss. Code Ann.;

4. Fully comply with the provisions of Miss. Code Ann. Sec. 63-11-30 (14) (c) (i) (4) (a) or (b) as is applicable and upon which the Court has made a determination (Court must initial either a. b.) which are set fully as follows, to wit:

_____ a. The Court has determined that the person violated 63-11-30 with respect to alcohol or intoxication liquor then (defendant select by initialing):

_____ Install an ignition interlock device on every motor vehicle driven by the person, obtain an interlock restricted license, and maintain that license for one hundred twenty (120) days; or

_____ Suffer a one-hundred twenty-day suspension of the person's driver's license, whether the license is an in-state or out-of-state driver's license.

OR

_____ b. The Court has determined that the person violated 63-11-30 with respect to a substance other than alcohol that has impaired the person's ability to operate a motor vehicle then (defendant select by initialing):

_____ Submit to a one-hundred (120) period of non-adjudication which includes court-ordered drug testing at the person's own expense not less often than every thirty(30) days; or

_____ Suffer a one-hundred twenty-day suspension of the person's driver's license, whether the license is an in-state or out-of-state driver's license.

5. Once the interlock device has been installed, the defendant is to provide proof from the approved vendor that he/she has had no violations of the said interlock device during the period of his/her interlock restricted licensing and otherwise comply with Miss. Code Ann. Sec. 63-11-31 (3)(b)., OR provide copies of the drug tests, if applicable.

6. That at the end of the selected driver license status as provided for in Miss. Code Ann. Sec. 63-11-30 (14)(b)(i)(4)(a) or (b), the defendant will additionally provide to the Court a sworn affidavit affirmatively stating that he/she has not operated a motor vehicle in abrogation to his/her license status selection.

7. That the named defendant attend and complete a victim impact panel;

_____ 8. If initialed be the undersigned Judge, to pay restitution to _____ in the amount of \$_____.

_____ 9. If initialed be the undersigned Judge, to participate and complete a **Court approved** alcohol evaluation/counseling program at the Defendant's expense.

That upon presentation to this Court prior to the expiration of 6 months from the date of the ORDER, evidence that each and all of the above conditions precedent have been completely met, then at that time the named defendant may be entitled to an **ORDER OF NON-ADJUDICATION** of his/her DUI offense.

The Mississippi Department of Public Safety is to accept and enter this order not inconsistent with Miss. Code Ann. Sec. 63-11-30 (14).

At the expiration of the one-hundred twenty (120) day interlock period, the vendor of that service is directed that it shall remove the interlock device at the request of the above listed Defendant and without further order of this Court.

So ordered this the _____ day of _____, 20____

MUNICIPAL COURT JUDGE

Agreed to by:

Defendant

Counsel for Defendant (if any)

Bela J. Chain III, Prosecutor

IN THE MUNICIPAL COURT OF THE CITY OF OXFORD, LAFAYETTE COUNTY,

OXFORD, MS. CITY OXFORD

VERSUS

CAUSE NO. _____

WAIVER OF RIGHTS AND ENTRY OF GUILTY PLEA

I, the undersigned, defendant, desire to plead guilty to the charge(s) of

DRIVING UNDER THE INFLUENCE 1st OFFENSE 2nd OFFENSE

I, understand that by pleading guilty to these charge(s) I will be found guilty and sentenced by the court, as per the laws of the State of Mississippi.

The sentence may include a fine, restitution, Court costs, and/or imprisonment in jail.

I further understand that by entering this plea I am giving up certain rights.

I am giving up the right to a trial.

I am giving up the right to call and/or subpoena witnesses to testify in my behalf, and to confront and cross-examine witnesses who may testify against me.

I am giving up the right to have a lawyer; I understand that if I cannot afford a lawyer, one may be appointed to represent me.

I am giving up the right to have the City of Oxford prove the charge(s) against me beyond a reasonable Doubt

I further understand that if I either plead guilty, or if I am convicted to another charge of Driving under the Influence (DUI) offense with a period of 5 years, my guilty plea in this case could cause me to get a more severe penalty for the later offense; further, that any third (3rd) or subsequent Driving under the influence (DUI) offense committed within a period of 5 years shall be a felony offense, AND THE VEHICLE BEING DRIVEN BY ME CAN BE CONFISCATED BY THE DEPARTMENT OF PUBLIC SAFETY.

I am giving up my right to object to the form and/or content of any testimony and evidence the City may introduce against me at a trial.

I understand that, if there were a trial, I would be allowed to testify, however, if I declined to testify, it could not be used against me,

I hereby certify under oath that there have been no threats or promises made to me in order to get me to enter this plea of guilty.

I further certify under oath that I have read and understand all of the above and that I desire to waive my rights and enter a plea of guilty.

ATTORNEY FOR THE DEFENDANT

DEFENDANT

SWORN TO AND SUBSCRIBED BEFORE ME, THIS _____, DAY OF _____, 20 _____

MUNICIPAL COURT JUDGE

The Court finds that the Defendant knowingly and intelligently, and not under duress, waived his/her rights and entered a plea of guilty.

**STATE OF MISSISSIPPI
COUNTY OF LAFAYETTE**

AFFIDAVIT OF NO PRIOR DUI CONVICTIONS

My name is _____, my driver's license number is _____
_____ and I hereby make this sworn affidavit under penalty of perjury.

I am requesting the Court to non-adjudicate my DUI first offense dated _____ pursuant to the provisions of Miss. Code Ann. Sec. 63-11-30 (14).

I have never been convicted of a DUI offense in any jurisdiction, **nor** have I ever had a DUI non-adjudicated in any jurisdiction.

I understand that in addition to the penalties for making a false affidavit in a court of law that, if any of the above be found to not be true, the DUI as above referenced will be adjudicated against me as a **guilty plea** without further court proceeding.

This the _____ day of _____, 20____

Defendant Signature

SWORN TO AND SUBSCRIBED BEFORE ME, this the _____ day of _____, 20____

JUDGE/CLERK/ NOTARY PUBLIC

My Commission Expires:
