

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b> STREET ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i>
PLAINTIFF: <b>People of the State of California</b>  DEFENDANT:	
<b>ADVISEMENT AND WAIVER OF RIGHT TO COUNSEL (Faretta Waiver)</b>	CASE NUMBER:

Fill out this form if you wish to act as your own attorney (*in propria persona* or “pro per”). Initial the box for each item only if you understand and agree with it, and sign and date the form at the end where it says “*Defendant’s Signature*”. If you have any questions about anything on this form, ask your attorney, if you have one, or the judge. The judge may ask you questions about your decision to give up your right to be represented by a professional attorney.

**CONSTITUTIONAL RIGHTS**

1. I am the defendant in the above-entitled case. I can read and write. I understand my constitutional rights including the following:

**Initials**

- A. **Right to an Attorney** – I understand that I have an absolute right to be represented by an attorney at all stages of the proceedings and, if I do not have the money to pay for an attorney, that one will be appointed for me by the Court at no cost.
- B. **Right to A Speedy Trial and Public Jury Trial** – I understand that I have a right to a speedy and public trial by a jury of twelve citizens drawn from the community.
- C. **Right to Subpoena Witnesses and Records** – I understand that I have the right to the reasonable use of the subpoena power of the Court, at no cost to me, to subpoena any witnesses or any documents that I may need in my defense.
- D. **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 at the time of trial.
- E. **Right Against Self-Incrimination** – I understand that I cannot be compelled to testify at the trial, but that I have the right to testify at my trial if I wish to do so.
- F. **Right to be Released on Bail** – I understand that I may have the right to be released from jail pending trial on reasonable bail.
- G. **Right to Self-Representation** – I understand that I have a right to act as my own attorney and may waive my right to the assistance of a professional attorney. I further understand that if I choose to act as my own attorney, I will have to conduct my own defense WITHOUT THE ASSISTANCE OF A PROFESSIONAL ATTORNEY.

**BACKGROUND**

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 Attended: \_\_\_\_\_
  - 2) High School Graduate  Yes  No
  - 3) Additional Formal Education (if any): \_\_\_\_\_
  - 4) Legal Education (if any): \_\_\_\_\_
- C. Employment Experience: \_\_\_\_\_

D. I have previously acted as my own attorney in the following criminal matters:  Never

<i>Case</i>	<i>Court</i>	<i>Year</i>	<i>Result</i>
<i>Case</i>	<i>Court</i>	<i>Year</i>	<i>Result</i>
<i>Case</i>	<i>Court</i>	<i>Year</i>	<i>Result</i>

**DANGERS AND DISADVANTAGES OF SELF-REPRESENTATION**

**Initials**

3. I understand that there are many dangers and disadvantages in not having a professional attorney represent me. I understand that among those dangers and disadvantages are the following:
- A. I understand that if I act as my own attorney, it will be necessary for me, WITHOUT THE ASSISTANCE OF A PROFESSIONAL ATTORNEY, to follow all of the requirements of the criminal law, criminal procedure, law of evidence, and rules of court.
  - B. I understand that the case against me will be handled by a prosecutor who is an experience trial attorney, and that I will not be entitled to special consideration or assistance by the prosecutor prior to or during the course of the trial.
  - C. I understand that if I act as my own attorney, it will be necessary for me WITHOUT THE ASSISTANCE OF A PROFESSIONAL ATTORNEY, to conduct my own trial, consisting of, but not limited to: making pretrial 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 the appropriate motions after trial, and representing myself at the time of the probation or sentencing hearing.
  - D. I understand that I will not and cannot expect to receive any special consideration or assistance from the Court. I further understand that the Court is not permitted to and will not answer any questions I may have concerning how I should proceed, what law might apply or the correct procedure.
  - E. I understand that if I wish to ask the Court for funds to be used in my defense, I will have to show good cause.
  - F. I understand that if I ask for any additional money over the initial amount granted by the Court, I must use that money only for my defense and 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 more 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 own 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.

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| K. | I understand that I must 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 serious 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. | <b>Initials</b><br><input style="width: 50px; height: 25px;" type="text"/> |
| L. | I understand that if at some point an appointed attorney does take over my case, that attorney may be at a disadvantage and that such a disadvantage will not be considered an issue on appeal.  | <input style="width: 50px; height: 25px;" type="text"/>                    |
| M. | I understand that misconduct occurring outside of court may also result in restriction or termination of my right to act as my own attorney. I also understand that acting 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.  | <input style="width: 50px; height: 25px;" type="text"/>                    |
| N. | I understand that any defendant who is represented by an attorney prior to being convicted may complain as part of a timely appeal that the attorney's assistance was ineffective. 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.   | <input style="width: 50px; height: 25px;" type="text"/>                    |

**CHARGES AND CONSEQUENCES**

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| 4. | I understand that I am giving up having a professional attorney explain to me what crimes I am charged with, and any possible legal defenses I may have to those crimes.  | <input style="width: 50px; height: 25px;" type="text"/> |
| 5. | I understand that I am giving up having a professional attorney explain to me how and which charges and enhancements require proof of general criminal intent, which charges require proof of a specific intent or mental state, and what state of mind may apply to any defenses I may have. | <input style="width: 50px; height: 25px;" type="text"/> |
| 6. | I understand that I am giving up having a professional attorney determine what facts must be proved before I can be found guilty and that if I do not know what those facts are, I will have to learn about those facts on my own.  | <input style="width: 50px; height: 25px;" type="text"/> |
| 7. | I understand that I am giving up having a professional attorney determine, if I am convicted, what post-trial motions and sentencing options I may have, and to present those motions and options to the Court.   | <input style="width: 50px; height: 25px;" type="text"/> |

**COURT'S ADVICE AND RECOMMENDATIONS**

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| 8.  | 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 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.                                 | <input style="width: 50px; height: 25px;" type="text"/> |
| 9.  | 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 upon 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. | <input style="width: 50px; height: 25px;" type="text"/> |
| 10. | I understand all that I have read and understood 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.  | <input style="width: 50px; height: 25px;" type="text"/> |

**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 a professional attorney represent me.**

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_  
*Defendant's Signature*

