

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

vs.

NOEL CRUZ
Defendant.

FILED IN OPEN COURT
Jan 14, 2025 DATE
D.C.

CASE NO.: 01-2023-CF-003348-A
CRIMINAL DIVISION: DIVISION I

PETITION TO ENTER PLEA OF GUILTY/NOLO CONTENDERE
(The Defendant must initial each paragraph that pertains to him/her
and indicate not applicable [N/A] to those that do not)

1. N.C. My full name is NOEL CRUZ and I am also known as _____ I am 23 years of age. I have gone to school up to and including 11th grade.

2. N.C. I am represented by an attorney, who is ALEXIS J. GIANNASOLI. I have told my attorney all the facts and circumstances about the charges against me, motions I believe should be filed, defenses I believe I may have and witnesses I believe I may have (including alibi witnesses). My attorney and I have discussed the allegations and charges against me, the evidence in this case, including depositions, witnesses disclosed by the State, arrest reports and motions that may be filed on my behalf. My attorney and I have discussed the physical evidence in this case and whether any DNA associated with that physical evidence could exonerate me. I am satisfied that my attorney has sufficiently explained the State's case against me, as well as any defenses that I may have against the State's case against me. I understand that by entering this plea, I waive (give up) those issues and defenses. I am fully satisfied with my attorney's representation in these matters and I have no concerns about the adequacy of my attorney's investigation and preparation of my case.

Initial the paragraph that applies.

- a) N.C. I believe that my attorney is fully informed on all such matters. S/he has properly investigated all witnesses (including alibi witnesses), facts of this case, defenses available to me, and motions appropriate to file on my behalf.
- b) _____ Because I wish to accept the State's plea offer, at my request and with my agreement, my attorney has not fully investigated my case nor talked to all of the witnesses.

3. N.C. I wish to withdraw my prior plea of not guilty, if one has been entered, and plead guilty/nolo contendere to the charge(s) of:

CASE NUMBER	COUNT	CRIME	OFFENSE STATUTE NUMBER(S)*	DEGREE OF CRIME
01-2023-CF-003348-A	1	AGG ASSAULT W/ INTENT TO COMMIT FELONY	§784.021(1)(B)	3F(L6)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

*Cite entire statute number including applicable subsections



4. NC I understand that I have the right to plead not guilty to any offense charged against me or, if I have entered a plea of not guilty, to persist in that plea and proceed to trial. If I elect to proceed to trial, I understand that I have a right to be tried by a jury and at that trial I have the right to the assistance of counsel, the right to compel the production of evidence and the attendance of witnesses on my behalf, the right to confront and cross-examine witnesses against me, and the right not to testify if I so choose. I have the right to take the witness stand at my sole option, and if I do not take the witness stand, I understand the jury, at my request, will be told this may not be held against me. **I understand that by pleading guilty/nolo contendere to the charge(s) I waive and give up my rights as listed in this paragraph, and that there will be no trial.** I further understand that if I plead guilty/nolo contendere, the Judge may ask me questions about the offense(s) to which I have pleaded. I am not required to answer those questions and if I decline to answer those questions, my refusal may not be used against me by the Judge or anyone else. If I answer those questions under oath, on the record, and in the presence of counsel, the answers may later be used against me in a prosecution for perjury.

5. NC I understand that if I plead guilty/nolo contendere, I give up my right to a direct appeal. I further understand, however, that I do not give up my right to appellate review by collateral attack as that term has been explained to me by my attorney.

6. NC I have been advised that the statutory maximum possible sentence for the charge(s) to which I am pleading is 5 years imprisonment and/or a fine of \$ 5,000.

- a) The mandatory minimum penalty is _____.
- b) The Court cannot withhold adjudication of guilt.
- c) The Court cannot place me on probation.

7. NC If I am presently on probation/early prison release/parole, I understand that by pleading guilty or nolo contendere in this case it may cause revocation of my probation/early prison release/parole and that this could result in a sentence of imprisonment in that case. I further understand that if revoked, any sentence in this case may be consecutive to (in addition to) any sentence in the case in which probation/early prison release/parole is revoked.

8. MA believe that I am competent to enter this plea. My physical and mental health are presently satisfactory. The exceptions are:

9. NA At this time I am taking the following medications: _____

I am not under the influence of any drugs or intoxicants to the extent that my normal faculties are impaired.

10. NC My attorney has advised me of considerations bearing on the choice of which plea to enter, and the advantages and disadvantages of such plea, and the likely results thereof, as well as possible alternatives available to me. The PLEA AGREEMENT contained on Page 5 was concluded by me and my attorney with my full and complete consent and agreement. I fully agree with the efforts of my attorney and to the terms of the plea agreement. **I BELIEVE THAT MY ATTORNEY HAS DONE ALL THAT A COMPETENT ATTORNEY COULD DO TO COUNSEL AND ASSIST ME. I AM SATISFIED WITH THE ADVICE AND HELP S/HE HAS GIVEN ME.** Even though I have been assisted and advised by my attorney, the decision to plead guilty/nolo contendere is mine alone and is made by me after considering the advice and counsel of my attorney.

11. NC I am entering this plea freely, knowingly, intelligently and voluntarily because I believe it to be in my best interest to do so. (Initial the paragraph that applies.)

- a) I admit that I am guilty of the charge(s) I am pleading guilty to.
- b) I believe that the plea is in my best interest even though I say that I am innocent of the charges.
- c) NC I believe that the plea is in my best interest even though I neither admit nor deny that I am guilty of the charge(s) I am pleading nolo contendere to.

12. NC I understand that I will be required to pay statutorily mandated costs that will be assessed against me, and in some cases mandatory fines, and that the Court may assess additional discretionary costs, fines and restitution. I have no objection to the costs, fines and restitution, which have been fully disclosed to me by my attorney and are set forth in the Notice of Financial Obligations. A copy of the Notice can be obtained at www.circuit8.org.

13. ~~NA~~ I understand that the Court may require me to pay restitution or costs of investigation:

- a) _____ In the following amount(s): \$ _____
- b) _____ To be determined by the Court at a later hearing.

14. NC I understand that Probation & Parole Services, Department of Corrections, may be asked to conduct a pre-sentence investigation and submit a report to the Judge prior to my sentencing.

- a) _____ I request a pre-sentence investigation.
- b) NC I waive my right to a pre-sentence investigation.
- c) _____ I am not entitled to a pre-sentence investigation.

15. NC My attorney has advised me that at trial the State could present evidence to establish the facts set forth in the probable cause affidavit and I agree that the Court may rely upon documents in the court's file, including the probable cause affidavit, for a factual basis for this plea.

16. NC IMMIGRATION WARNING: I understand that if I am not a citizen of the United States, this plea may result in my detention and deportation/removal from the United States and/or stop me from being able to legally enter or re-enter the United States. I further understand that I have the right to seek individualized advice from my attorney about the effect this plea will have on my immigration status. Initial the applicable paragraph:

- a) _____ My attorney has advised me that I am pleading to a presumptively mandatory deportable offense. I fully understand the immigration consequences of pleading to a presumptively mandatory deportable offense. In some cases, detention and removal will be required.
- b) _____ My attorney has advised me that I am **not** pleading to a presumptively mandatory deportable offense. I fully understand that this plea may still subject me to removal proceedings and/or exclusion from the United States. In some cases, detention and removal will be required.
- c) NC My attorney has not provided me with any individualized advice about the immigration consequences of my plea.

17. NC JIMMY RYCE WARNING: My attorney has advised me that if I am now pleading to a sexually violent offense or if I have previously been convicted of a sexually violent offense as that term is defined in Section 394.912(9), Florida Statutes, my plea in this case could subject me to the provisions of the Jimmy Ryce Civil Commitment Act, Florida Statutes, Section 394.910, et seq., which allows the State to commit to a secure treatment facility, for an indefinite period of time, a person who has been convicted of a sex offense, and who is determined to be likely to commit a violent sexual offense in the future.

18. MA I have read and understand that the information contained in Attachment(s) _____, attached hereto and incorporated herein, pertaining to _____ applies to me and my case(s).

19. NA This document has been translated into _____ for the Defendant by _____ on _____, 20____.

20. NC The State and the Defendant stipulate and agree that the Defendant is entitled to credit for time I have already served in this/these case(s) as follows: 5 DAYS. I agree that if the Judge gives me credit for time served as stipulated, and if the Department of Corrections likewise gives me credit for time served as stipulated, I waive/give up the right to complain or appeal concerning credit for time served.

21. NC Unless otherwise agreed to in the PLEA AGREEMENT below, I recognize that if I have been told by my attorney that I might receive probation or a light sentence, this is merely his/her opinion or estimate and is not binding on the Judge. I further understand that if I am sentenced to incarceration in the county jail or state prison, that I cannot rely upon anyone's, **including my attorney's**, estimation of how much time I will actually serve as a result of my plea. I understand that credit for gain time, past or future, will be determined by the Department of Corrections, and that the Judge in this case has no control over that determination. Other than the terms of the PLEA AGREEMENT below, if any, no promise or suggestion of any kind has been made to me, directly or indirectly, by my attorney or by any officer or agent of any branch of government, federal, state or local, to get me to enter this plea, nor has anyone subjected me to any force, threat, duress, intimidation or pressure to influence me in any way to enter this plea.

PLEA AGREEMENT

22. MC The Defendant and the State, pursuant to the provisions of Fla.R.Crim.P. 3.171, agree as follows (NO ABBREVIATIONS):

- WITHHOLD OF ADJUDICATION
- COURT COSTS - *authorization of community service*
- A TERM OF PROBATION OF 36 MONTHS *w/ early term at 18 months if no*
- NO CONTACT WITH VICTIM *violations + all*
- COST OF PROSECUTION (FELONY: \$100 / MISDEMEANOR: \$50) *conditions complete*

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT I HAVE READ AND UNDERSTAND THIS ENTIRE DOCUMENT. THE INFORMATION IN EACH PARAGRAPH INITIALED BY ME IS TRUE. THE INFORMATION IN THE PARAGRAPHS NOT INITIALED BY ME DOES NOT APPLY TO ME OR MY CASE.

Signed and dated this 10 day of Jan, 2025.

Mark Gutz
Defendant

Signed by me this 10 day of Jan, 2025.

[Signature]
Defense Attorney #123811


Signed by me this 14 day of Jan, 2025.

Paul H. Whiss
Prosecuting Attorney

CERTIFICATE OF COUNSEL

The undersigned attorney for the Defendant certifies as follows:



1. To the best of my knowledge and belief, the statements, representations and declarations made by the Defendant in this petition are voluntary and in all respects accurate and true. S/he fully understands them.
2. I have read and explained to the Defendant the allegations contained in the Information(s), as well as the maximum penalty for each count. I have discussed with the Defendant the facts and circumstances about the charges and any lesser included offenses. I have explained to the Defendant the possible penalties to which s/he may be subjected as a result of this plea. (Initial the paragraph that applies.)

- a. I believe the Defendant and I are fully informed on all such matters. I have fully investigated this case and all witnesses for and against the Defendant (including alibi witnesses if any were revealed to me). I have discussed with the Defendant the defenses available to him/her and motions that might be filed on the Defendant's behalf.
-  b. Because the Defendant wishes to accept the State's plea offer, with the Defendant's agreement, I have not fully investigated his/her case or talked to all of the witnesses.

3. The plea of guilty/nolo contendere being entered by the Defendant is in accord with my understanding of the facts, the law and possible defenses. If the Defendant is to receive a sentence of incarceration, I have not promised the Defendant that s/he will serve a specific length of time incarcerated. I have made no promises to the Defendant that are not set forth in this agreement to induce him/her to enter this plea, nor have I threatened, coerced or intimidated the Defendant in any way to induce him/her to enter this plea.

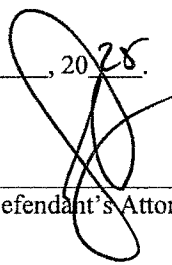
4. Having discussed this matter fully with the Defendant, it is my opinion that s/he is mentally and physically competent, and there is no mental or physical condition which would affect his/her understanding of these proceedings. I have no reason to believe that s/he is under the influence of drugs or alcohol at this time. The exceptions to this are listed in Paragraph 8.

5. I have explained to the defendant that if s/he is not a citizen of the United States, this plea may result in his/her detention and deportation/removal from the United States and/or stop him/her from being able to legally enter or re-enter the United States. I have further advised the defendant that s/he has the right to seek individualized advice from me about the effect this plea will have on his/her immigration status prior to entering the plea. Initial the applicable paragraph:

-  a. I have provided the defendant with **individualized** advice regarding his/her immigration status.
-  b. I have **not** provided the defendant with individualized advice regarding his/her immigration status.

6. I have explained to the Defendant the difference between a direct appeal and a collateral attack upon his/her conviction. I have advised the Defendant that if s/he is now pleading to a sexually violent offense or if s/he has previously been convicted of a sexually violent offense as that term is defined in Section 394.912(9), Florida Statutes, s/he may be subject to the provisions of the Jimmy Ryce Civil Commitment Act, Section 394.910, et. seq., Florida Statutes, which allows the State to commit to a secure treatment facility a person who has been convicted of a sex offense and who is determined to be likely to commit a violent sexual offense in the future.

Signed by me this 10 day of Jan, 2025.


#123811

Defendant's Attorney

ORDER ACCEPTING PLEA

Based upon the sworn testimony of the Defendant in open court, based upon my review of the court file(s), and based upon the dialogue between the Defendant, the Defendant's attorney, the Prosecuting Attorney, and the Judge, I find that the above plea was freely, knowingly, intelligently and voluntarily entered by the Defendant; I find that there is a factual basis to support the plea; and, I find that the Defendant was represented by a competent attorney with whom the Defendant says s/he is satisfied.

In addition to documents in the court file(s), I have relied upon the following information for a factual basis:

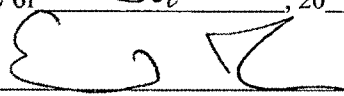
IT IS ORDERED AND ADJUDGED that the Defendant's plea be

accepted

rejected

accepted conditionally: _____

DONE AND ORDERED in open Court this 14 day of Jan, 2025.



Circuit Judge

DAVID P. KREIDER