

People v. THOMPSON, TOMMY DEE

Case No. 93M10221

DUI Advisement of Rights, Waiver, and Plea Form

First Offense Only - Vehicle Code §23152

Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial each applicable item only if you understand it. If you have any questions about your case, the possible sentence, or the information on this form, ask your lawyer or the judge.

RIGHT TO A LAWYER

- 1. I understand that I have the right to be represented by a lawyer throughout the proceedings... 1. [707]
2. I give up my right to a lawyer, and I choose to represent myself. (Does not apply if you have a lawyer.)... 2. [707]

NATURE OF THE CHARGES (Initial all sections you are charged with.)

I understand that I am charged with a violation of Vehicle Code section(s):

- 3. 23152(a) - Driving under the influence of alcohol or drugs, or both... 3. [707]
4. 23152(b) - Driving when my blood-alcohol level was .08 percent or higher... 4. [X]
5. 23152(d) - Driving a commercial vehicle when my blood-alcohol level was .04 percent or higher... 5. [X]
6. 23103 under 23103.5 - Reckless driving involving alcohol or drugs, or both... 6. [X]

CONSTITUTIONAL RIGHTS/WAIVER OF RIGHTS

- 7. RIGHT TO A JURY TRIAL - I understand that I have a right to a speedy, public jury trial... 7. [707]
8. I give up my right to a jury trial... 8. [707]
9. RIGHT TO CONFRONT WITNESSES - I understand that I have the right to confront and cross-examine all witnesses... 9. [707]
10. I give up my right to confront and cross-examine witnesses... 10. [707]
11. RIGHT AGAINST SELF-INCRIMINATION - I understand that I have the right to remain silent and not incriminate myself... 11. [707]
12. I give up my right to remain silent and to not incriminate myself... 12. [707]
13. RIGHT TO PRODUCE EVIDENCE - I understand that I have the right to present evidence and to have the Court issue subpoenas... 13. [707]
14. I give up my right to produce evidence and witnesses in my own behalf... 14. [707]

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

- 15. I understand that if I am not a citizen, a plea of guilty or no contest could result in deportation or exclusion from admission to this country... 15. [707]
16. I understand that a plea of no contest (nolo contendere) will have exactly the same effect in this case as a plea of guilty, but it cannot be used against me in a civil lawsuit... 16. [707]

**Sentences for Driving Under the Influence of Alcohol and/or Drugs (Section 23152)**

Offense	Minimum and maximum sentences when probation is granted (3 to 5 year probation term)	Minimum and maximum sentences without probation
First offense within 7 years	<p>Two options, both requiring attendance at an alcohol/drug program, a fine of \$390 to \$1,000, plus either:</p> <p>(A) 48 hours to 6 months in jail; or</p> <p>(B) A 90-day license restriction allowing driving for work and alcohol/drug program.</p> <p>Under option (A), the Court <i>may</i> also suspend my license for 6 months.</p> <p>Under <i>either</i> option, the Court <i>shall</i> suspend my license for 6 months if my vehicle requires a class 1 or class 2 (class A or class B) driver's license.</p>	96 hours to 6 months in jail, \$390 to \$1,000 fine, and a 6-month license suspension.
Second offense within 7 years	<p>Two options, both carrying a fine of \$390 to \$1,000, plus either:</p> <p>(A) 10 days to 1 year in jail and an 18-month license suspension; or</p> <p>(B) 48 continuous hours to 1 year in jail, an 18-month or 30-month alcohol/drug program, and a license restriction allowing driving only for work and alcohol/drug program for the duration of the program.</p>	90 days to 1 year in jail, \$390 to \$1,000 fine, and an 18-month license suspension.

**Sentences for Reckless Driving (Section 23103 under Section 23103.5)**

Nature of offense	Minimum and maximum sentences	Other
Reckless driving reduced from driving under the influence	If probation is <i>not</i> granted: 5 days to 90 days in jail, or \$145 to \$1,000, or both. If probation is granted: a maximum of 90 days in jail, or \$1,000 fine, or both.	If alcohol or drugs are involved, this conviction will act as a separate conviction for driving under the influence (DUI) if I commit a subsequent DUI offense within seven years.

17. I have read and understood the above chart which lists the minimum and maximum sentences for the offense(s) I am charged with . . . . . 17.
18. I understand that in addition to the fine imposed, the law requires the Court to add **assessments** which will **significantly increase the amount I must pay**. I understand that I may also be ordered (1) to make **restitution** to the victim, if the offense involved a victim, or to a Restitution Fund, and (2) to pay the **expenses** incurred by a public agency which responded to any incident caused by my vehicle at the time of my arrest. 18.
19. **If applicable** - I understand that if it is alleged that I recklessly drove **30 or more miles above the speed limit on a freeway**, or **20 or more miles above the limit on any other street or highway**, the Court shall impose an **additional consecutive term of 60 days in the county jail**. If this is my **first offense**, the Court shall also order me to complete an alcohol/drug program, even if probation is not imposed. . . . . 19.
20. **If applicable** - I understand that if I was **under the age of 21** at the time of my arrest, in addition to the penalties in the above chart, my driver's license shall be **suspended for one year** and I must **surrender** my license to the Court. If I do not have a valid license at the time of my conviction, the Court shall order the DMV to **delay** issuing a license to me for **one year** after I become eligible to drive . . . . . 20.
21. **If applicable** - I understand that if my blood-alcohol content was **.20 percent or above**, or if I **refused** to submit to a chemical test, the Court shall consider this in determining whether to enhance the penalties imposed on me, whether to grant probation, or whether to impose additional terms and conditions of probation. 21.
22. I understand that if I am convicted of a first violation of Vehicle Code §23152, the Court may order my vehicle **impounded** at my expense for up to **30 days** . . . . . 22.
23. I understand that the Department of Motor Vehicles (DMV) may restrict, suspend, or revoke my license under an administrative procedure which is separate from this criminal action. If such a procedure is used, the DMV may also require me to attend an alcohol/drug program before my license will be restored. I understand that the **DMV's action**, if any, will be **in addition** to the Court's sentence and that I **must obey it** . . . . . 23.

- 24. I understand that the DMV will not issue a restricted license or restore my driving privilege following a restriction, suspension, or revocation unless I have **proof of insurance** and maintain it for **three years**. The DMV will **suspend** my license: (1) until proof of insurance is provided by my insurance company to the DMV, and (2) upon my failure to maintain such proof during the three-year period . . . . . 24. TDT
- 25. I understand that the DMV may consider any of my **prior convictions** for driving under the influence or reckless driving which are **not charged** in this proceeding and impose a more severe license restriction, suspension, or revocation as a result of my uncharged conviction(s) . . . . . 25. TDT
- 26. I understand that any plea entered in this case may be grounds for **revoking probation or parole** which has been previously imposed on me in any other case . . . . . 26. TDT
- 27. I understand the charge(s) against me, and the possible pleas and defenses . . . . . 27. TDT

**PLEA(S)**

28. I hereby freely and voluntarily plead           **GUILTY**           to \_\_\_\_\_ (guilty or no contest) \_\_\_\_\_  
          23152(A)VC           \_\_\_\_\_ (list charge(s)) \_\_\_\_\_ 28. TDT

29. ~~I understand that I have the right to wait from six hours to five days prior to being sentenced. I give up this right and agree to be sentenced at this time . . . . .~~ 29. TDT

30. If applicable - I understand that I have the right to enter my plea before, and be sentenced by a judge. I give up this right and agree to enter my plea before, and be sentenced by \_\_\_\_\_  
**Harold J. Mulville**  
Temporary Judge 30. TDT

          SEP 01 1993            
Date

x           *Tommy Thyer*            
Defendant's Signature

**ATTORNEY'S STATEMENT**

I am the attorney of record for the defendant. I have gone over the form and addenda, if any, with my client. I have explained each of the defendant's rights to the defendant, and answered all of the defendant's questions with regard to this plea. I have discussed the facts of the defendant's case with the defendant, and explained the consequences of this plea, the elements of the offense(s), and the possible defenses. I concur in this plea and the defendant's decision to waive constitutional rights.

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
Attorney for Defendant

**INTERPRETER'S STATEMENT (IF APPLICABLE)**

I, \_\_\_\_\_, having been duly sworn, truly translated this form to the defendant in the \_\_\_\_\_ language. The defendant indicated that (s)he understood the contents of the form, and (s)he then initialed the form.

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
Court Interpreter

**COURT'S FINDINGS AND ORDER**

The Court, having reviewed this form and having questioned the defendant concerning the defendant's constitutional rights, finds that the defendant has expressly, knowingly, understandingly and intelligently waived his or her constitutional rights. The Court finds that the defendant's plea is freely and voluntarily made with an understanding of the nature and consequences thereof, and that there is a factual basis for the plea. The Court accepts the defendant's plea and the defendant is convicted on his or her plea.

The Court orders this form filed and incorporated in the docket by reference as though fully set forth therein.

DATE: 9/1/93 SIGNED: \_\_\_\_\_  
Judge of the Municipal Court

SIGNED: *Harold G. Nelson*  
Temporary Judge of the Municipal Court