

IN THE COUNTY COURT OF PIKE COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

vs.

Cause No. _____

DEFENDANT

(MS/DL.: _____; Date of Birth: _____)

PETITION FOR NONADJUDICATION FOLLOWING ENTRY OF GUILTY PLEA

COMES NOW the DEFENDANT and petitions this Court for nonadjudication of his/her driving under the influence (DUI), first offense charge pursuant to Miss. Code Ann. § 63-11-30(14). As grounds for this Petition, the DEFENDANT shows this Court the following:

- On or about _____, 20____ he/she was arrested and charged with a violation of Miss. Code Ann. § 63-11-30(1) (Applicable boxes checked):
 - ___ a. under the influence of any other substance that has impaired the person's ability to operate a motor vehicle;
 - ___ b. Is under the influence of any drug or controlled substance, the possession of which is unlawful under the Mississippi Controlled Substances Law; or
 - ___ c. Has an alcohol concentration in the person's blood, based upon grams of alcohol per one hundred (100) milliliters of blood, or grams of alcohol per two hundred ten (210) liters of breath, as shown by a chemical analysis of the person's breath, blood or urine administered as authorized by this chapter, of:
 - ___ i. Eight one-hundredths percent (.08%) or more for a person who is above the legal age to purchase alcoholic beverages under state law;
 - ___ ii. Two one-hundredths percent (.02%) or more for a person who is below the legal age to purchase alcoholic beverages under state law; or
 - ___ iii. Four one-hundredths percent (.04%) or more for a person operating a commercial motor vehicle.
- He/she is a first offender is a candidate for nonadjudication under § 63-11-30(14)(b). See attached Affidavit Of Defendant, attached herewith as Exhibit A;
- The DEFENDANT has entered a plea of guilty to the DUI First Offense charge pursuant to § 63-11-30(14)(a).

The DEFENDANT moves this Court, after entry of the plea of guilty, to withhold adjudication of guilt, defer sentencing, and enter an order imposing certain requirements set forth in § 63-11-30(14) on him/her; a proposed ORDER OF CONDITIONS TO COMPLETE FOR NONADJUDICATION is presented herewith;

As part of this Petition, the DEFENDANT shall (Applicable boxes checked):

- X Pay the non-adjudication fee of \$250.00, which is imposed under § 63-11- 31(2)(b)(ii);
- X Pay the fine of \$1000.00 plus all state and local assessments;
- X Attend and complete an alcohol safety education program as provided in § 63-11-32;
- ___ Install an ignition interlock device on every motor vehicle driven by him/her, obtain an interlock restricted license, and maintain that license for one hundred twenty (120) days, failure to obtain an interlock restricted license will result in a ninety-day driver's license suspension pursuant to Section 63-11-31. Further, if the defendant elects to take the suspension, they shall provide proof of the suspension to the court;
- ___ Obtain from the interlock vendor proof that he/she has not had violations of an ignition interlock device; and,
- X Participate in Non-adjudication monitoring at a cost of \$50 per month with the Court Amicus Officer until the non-adjudication is completed.

Upon the successful completion of all of the above conditions, the DEFENDANT respectfully moves this Court to enter a FINAL ORDER OF NONADJUDICATION, and for the clerk of this Court to forward the record of this nonadjudicated case to the Department of Public Safety.

RESPECTFULLY SUBMITTED on the _____ day of _____, 20_____.

Defendant

By: _____

Counsel for Defendant:

EXHIBIT A

AFFIDAVIT OF DEFENDANT

My name is _____, and I am the DEFENDANT in a "*Petition For Nonadjudication*" of my DUI First Offense charge in the County Court of Pike County, MS, which is being presented and filed by my attorney.

I am a resident of _____ County, Mississippi. My current address is _____
_____. My phone number is _____.

By this Affidavit, I swear and affirm that I am a first offender as contemplated by Miss. Code Ann. § 63-11-30(14), have not previously been the subject of a nonadjudicated DUI case as contemplated by Miss. Code Ann. § 63-11-30(14), and I do not have another charge of DUI pending before this or any other court.

The above stated facts and statements are true and correct, so sworn and affirmed this the _____ day of _____, 20_____.

Defendant

STATE OF MISSISSIPPI
COUNTY OF _____

PERSONALLY came and appeared before me, the undersigned authority in and the jurisdiction aforesaid, the above named defendant, who after being by me first duly sworn, stated on his/her oath that the matters, facts and averments set forth in the above and foregoing document are true and correct as therein stated.

SWORN TO AND SUBSCRIBED BEFORE ME, on this the ___ day of _____, 20_____.

My Commission Expires:

NOTARY PUBLIC

(SEAL)

IN THE COUNTY COURT OF PIKE COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

vs.

Cause No. _____

DEFENDANT

(MS/DL.: _____; Date of Birth: _____)

ORDER OF CONDITIONS TO COMPLETE FOR NONADJUDICATION

CAME ON TO BE HEARD in the above styled and numbered cause of action, which is a PETITION FOR NONADJUDICATION pursuant to Miss. Code Ann. § 63-11-30(14). The Court, after considering same, finds and orders as follows:

- (1) The DEFENDANT is a first offender and is a candidate for nonadjudication under § 63-11-30(14)(b);
- (2) This Court will withhold adjudication of guilt and defer sentencing to a subsequent date, contingent upon the follow conditions and requirements as set forth below: (Applicable boxes checked):

- Pay the non-adjudication fee of \$250.00, which is imposed under § 63-11- 31(2)(b)(ii);
- Pay the fine of \$1,000.00 plus all state and local assessments;
- Attend and complete an alcohol safety education program as provided in § 63-11-32;
- Install an ignition interlock device on every motor vehicle driven by him/her, obtain an interlock restricted license, and maintain that license for one hundred twenty (120) days, failure to obtain an interlock restricted license will result in a ninety-day driver’s license suspension pursuant to Section 63-11-31. Further, if the defendant elects to take the suspension, they shall provide proof of the suspension to the court;
- Obtain from the interlock vendor proof that he/she has not had violations of an ignition interlock device; and,
- Participate in Non-adjudication monitoring at a cost of \$50 per month with the Court Amicus Officer until the non-adjudication is completed.

The DEFENDANT’S attorney shall submit and supply written proof of the completion of all of the above conditions and requirements as soon as completed. Upon the successful completion of all of the above conditions, this Court shall sign and enter a FINAL ORDER OF NONADJUDICATION, and for the clerk of this Court to forward the record of this nonadjudicated case to the Department of Public Safety.

This matter is set for non-adjudication final review on the ___ day of _____, 20__.

SO ORDERED AND ADJUDGED, this the _____ day of _____, 20__.

County Court Judge

IN THE COUNTY COURT OF PIKE COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

vs.

Cause No. _____

DEFENDANT

(MS/DL.: _____; Date of Birth: _____)

FINAL ORDER OF NONADJUDICATION

CAME ON TO BE HEARD in the above styled and numbered cause of action, which is a PETITION FOR NONADJUDICATION pursuant to Miss. Code Ann. § 63-11-30(14). The Court, after considering same, finds and orders as follows:

The DEFENDANT has successfully completed all conditions and requirements pursuant to the previous *Order Of Conditions To Complete For Nonadjudication* § 63- 11-30(14).

Therefore, it is ordered that the DEFENDANT'S Driving Under the Influence (DUI), First Offense charge, is hereby NONADJUDICATED.

Further, it is ordered that that the clerk of this Court shall forward a certified copy of this Order and the record of this nonadjudicated case to the Department of Public Safety.

SO ORDERED AND ADJUDGED, this the ____ day of _____, 20__.

County Court Judge