

NO. 1531594R

THE STATE OF TEXAS

FILED  
THOMAS A WILDER, DIST. CLERK  
TARRANT COUNTY, TEXAS

IN THE CRIMINAL DISTRICT

VS.

JUN 29 2018

COURT NUMBER TWO OF

Richard Live Say

TIME 9:40  
BY [Signature] DEPUTY

TARRANT COUNTY, TEXAS

WRITTEN PLEA ADMONISHMENTS

On this 22nd day of June, 2018, pursuant to the requirements of law, you, the defendant in this cause, are hereby admonished in writing as follows:

1.  You are charged with the felony offense of 42-Insurance Fraud 44-Battery  
Offense Code: 42-2607021 44-2699041 Count: 2 & 4 (state waives 1, 3, 5-11)  
--OR--

The State is proceeding on the lesser-included offense of: \_\_\_\_\_  
Offense Code: \_\_\_\_\_ Count: \_\_\_\_\_

2. The plea recommendation is: See attached Exhibit A

3. If convicted of the above offense, you face the following range of punishment:

4-2 **FIRST DEGREE FELONY:** Imprisonment for life or any term of not more than 99 years or less than 5 years in the Texas Department of Criminal Justice; and in addition, a fine not to exceed \$10,000 may be assessed.

**SECOND DEGREE FELONY:** Imprisonment for a term of not more than 20 years or less than 2 years in the Texas Department of Criminal Justice; and in addition, a fine not to exceed \$10,000 may be assessed.

4-4 **THIRD DEGREE FELONY:** Imprisonment for a term of not more than 10 years or less than 2 years in the Texas Department of Criminal Justice; and in addition, a fine not to exceed \$10,000 may be assessed. (If the offense was committed before September 1, 1994, a term of confinement in a community correctional facility for a term of not more than one (1) year may be assessed in lieu of confinement in the institutional division).

**FIRST DEGREE FELONY ENHANCED:** Imprisonment for life or any term of not more than 99 years or less than 15 years in the Texas Department of Criminal Justice; and in addition, a fine not to exceed \$10,000 may be assessed.

**SECOND DEGREE FELONY ENHANCED:** Imprisonment for life or any term of not more than 99 years or less than 5 years in the Texas Department of Criminal Justice; and in addition, a fine not to exceed \$10,000 may be assessed.

**THIRD DEGREE FELONY ENHANCED:** Imprisonment for a term of not more than 20 years or less than 2 years in the Texas Department of Criminal Justice; and in addition, a fine not to exceed \$10,000 may be assessed.

not to exceed \$10,000 may be assessed.

**HABITUAL OFFENDER:** Life or any term of not more than 99 years or less than 25 years in the Texas Department of Criminal Justice.

**STATE JAIL FELONY:** Confinement for a term of not more than 2 years or less than 180 days in a state jail; and in addition, a fine not to exceed \$10,000 may be assessed.

**STATE JAIL FELONY PUNISHED AS THIRD DEGREE FELONY:** Imprisonment for a term of not more than 10 years nor less than 2 years in the Texas Department of Criminal Justice; and in addition, a fine not to exceed \$10,000 may be assessed.

**STATE JAIL FELONY PUNISHED AS SECOND DEGREE FELONY:** Imprisonment for a term of not more than 20 years or less than 2 years in the Texas Department of Criminal Justice; and in addition, a fine not to exceed \$10,000 may be assessed.

**STATE JAIL FELONY REDUCED TO CLASS A MISDEMEANOR UNDER PENAL CODE SECTION [ ] 12.44 (a):** confinement in the county jail for a term not to exceed one (1) year; OR **[ ] 12.44(b):** confinement in the county jail not to exceed one year; and/or a fine not to exceed \$4,000 under either 12.44 (a) or 12.44 (b).

**OTHER:** \_\_\_\_\_


4. **Jury Trial:** You are entitled to have a jury determine whether you are guilty or not guilty; and if guilty, to assess your punishment. Should you have more than one case pending, you may have the cases tried separately.

5. **Indictment:** You do not have to stand trial until a grand jury has returned an indictment against you. When an indictment is returned you will be given at least ten days to consult with your attorney before trial. You may request that the indictment be read and explained to you in open court. You are not obligated to give evidence against yourself. You may require the State to prove the elements of the offense by competent, legal evidence beyond a reasonable doubt. You and your attorney may confront and cross-examine witnesses. You may subpoena witnesses into court to testify in your behalf.

6. **Plea Agreements:** A plea agreement or recommendation of punishment is not binding on the Court. The Court may set punishment anywhere within the range provided by law for this offense. If there is a plea agreement, the Court will inform you in open Court whether the agreement will be followed before making any finding on your plea. Should the Court reject the agreement, you will be permitted to withdraw your plea should you desire. Recommendations concerning conditions of community supervision are not binding on the Court.

7. **No Plea Agreement (Open Plea):** If you have plead guilty without benefit of a plea agreement, the plea proceeding is your trial. Should the Court find you guilty, your punishment can be set anywhere within the range of punishment prescribed by law for the offense. If you are eligible you may receive deferred adjudication or community supervision, but there is no assurance that you will. Once the Court has accepted your guilty plea, you cannot withdraw your plea without permission from the Court.

13. **Parole:** Neither the Court nor your attorney make any promises or representations about the amount of actual time you will serve on a sentence of incarceration in the Institutional Division or the State Jail Division of the Texas Department of Criminal Justice. Neither the Court nor your attorney makes any representation about the disposition of any parole revocation hearing.
14. **Preservation of Evidence:** Art. 38.43, TEX. CODE OF CRIMINAL PROCEDURE requires the State in this case to preserve evidence known to contain biological material that if subjected to scientific testing could establish or exclude a person as the perpetrator of the offense. This evidence must usually be preserved in a non-capital felony until either the defendant dies, or is released on parole or mandatory supervision. Such evidence may be destroyed if the State complies with the provisions of Art. 38.43(d) and the defendant does not object in writing. In addition pursuant to Art. 64.01, TEX. CODE OF CRIMINAL PROCEDURE, a convicted person may be entitled to forensic DNA testing.
15. **Victim Impact Statement:** If a victim impact statement has been returned to the prosecutor under Art. 26.13, TEX. CODE OF CRIMINAL PROCEDURE, the Court has reviewed a copy of that report, and has permitted the defendant or the defendant's counsel a reasonable time to read the statement, excluding the victim's name, address, and telephone number, comment on the statement, and, with approval of the court, introduce testimony or other information alleging a factual inaccuracy in the statement as required under Art. 56.03(e), TEX. CODE OF CRIMINAL PROCEDURE.
16. **Conviction for a Misdemeanor Involving Family Violence:** If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.

CAUSE NO. 1531594 

THE STATE OF TEXAS	§	IN THE CRIMINAL DISTRICT
VS.	§	COURT NO. 2
RICHARD K. LIVESAY	§	TARRANT COUNTY, TEXAS

**Exhibit A: Terms and Conditions of Plea Bargain**

1. Count 2—5 Years Texas Department of Criminal Justice—Correctional Institutional Division.
2. Count 4—5 Years Texas Department of Criminal Justice—Correctional Institutional Division.
3. \$15,195.36 Restitution paid up front before the plea.
4. Surrender Law License.
5. Testify truthfully in future proceedings regarding this criminal transaction.
6. State agrees to not prosecute any other offenses arising out of this criminal transaction.

Comes now the Defendant, in open Court, joined by my attorney and states:

(A) I am able to read the English language. I fully understand each of the above written plea admonishments given by the Court and I have no questions. If I am unable to read the English language, then my attorney or an interpreter for my attorney has read this entire document to me in my own language and I fully understand the entire document, as well as each of the above written pleas admonishments given by the Court and I have no questions.

(B) I give up and waive arraignment and formal reading of the indictment or felony information;

(C) I am aware of the consequences of my plea;

(D) I am mentally competent and my plea is knowingly, freely, and voluntarily entered. No one has threatened, coerced, forced, persuaded or promised me anything in exchange for my plea;

(E) I give up and waive any right I may have for further time to prepare for trial or do any further investigation;

(F) If I am proceeding by felony information, I give up and waive my right to indictment by a grand jury;

(G) If I am proceeding on an amended indictment or amended felony information, I give up and waive any right I may have for further time to prepare for trial and any other rights I may have under Arts. 28.10 and 28.11, TEX. CODE OF CRIMINAL PROCEDURE. I specifically do not object to the amendment.

(H) Should I be tried on more than one case, I agree that all may be heard and determined at the same time;

(I) I give up and waive all pretrial motions that may have been filed in my case;

(J) I am totally satisfied with the representation given to me by my attorney. My attorney provided me fully effective and competent representation;

(K) I give up and waive all rights given to me by law; whether of form, substance, or procedure under Art. 1.14, TEX. CODE OF CRIMINAL PROCEDURE;

(L) I give up and waive my right to a jury, both as to my guilt and assessment of my punishment. I give up and waive the right to appearance, confrontation, and cross-examination of witnesses. I consent to oral and written stipulations of evidence;

(M) I give up and waive my right not to incriminate myself, and agree to testify under oath and truthfully confess my guilt if requested by my attorney or the State's attorney;

(N) I give up and waive any and all rights of appeal in this case;

(O) If I am entering a plea to a sexual offense listed in Chapter 62, TEX. CODE OF CRIMINAL

June 5, 2015

PROCEDURE, my attorney has advised me concerning the sex offender registration requirements;

(P) I give up and waive the attendance and record of a court reporter under Rule 13.1, TEXAS RULES OF APPELLATE PROCEDURE;

(Q) I WAIVE REQUEST preparation of a pre-sentence investigation report;

(R) Should any proceeding in my case be heard by a magistrate, I have no objection to having a magistrate hear that proceeding;

(S) I request that the Court approve the plea recommendation set out above, and dispose of my case in accordance therewith.

(T)  I am a United States citizen.  
 I am not a United States citizen; and I understand that if I enter a plea of guilty or *nolo contendere* for this offense, I may be deported, excluded from admission to the United States, or denied naturalization under federal law.

X N G J  
DEFENDANT

I have fully reviewed and explained the above and foregoing court admonishments, rights, and waivers, as well as the following judicial confession to the Defendant. I am satisfied that the Defendant is legally competent and has intelligently, knowingly, and voluntarily waived his rights and will enter a guilty plea understanding the consequences thereof. If applicable, I certify that I have advised the Defendant about the registration requirements of Chapter 62, EX. CODE OF CRIMINAL PROCEDURE.

[Signature]  
ATTORNEY FOR DEFENDANT

JUDICIAL CONFESSION

Upon my oath I swear my true name is: Richard Kent Livesey  
and I am 49 years of age; I have read the indictment or information filed in this case and I committed each and every act alleged therein, except those acts waived by the State. All facts alleged in the indictment or information are true and correct. I am guilty of the instant offense as well as all lesser included offenses. All enhancement and habitual allegations set forth in the indictment are true and correct, except those waived by the State. All deadly weapon allegations are true and correct. All other affirmative findings made by the Court pursuant to this plea agreement are true and correct. I further admit my guilt on any unadjudicated offenses set forth in the plea recommendation set out above, and request the Court to take each into account in determining my sentence for the instant offense. I swear to the truth of all of the foregoing and further swear that all testimony I give in the case will be the truth, the whole truth and nothing but the truth, so help me God.

X N G J  
DEFENDANT

APPLICATION FOR COMMUNITY SUPERVISION

I swear and it is my testimony here in open court that I have never before been convicted of a felony offense in any court of the State of Texas or any other state. I request the Court to consider this my application for community supervision.

x n t j  
DEFENDANT

\*\*\*\*\*

Judicial confession and, if applicable, Application for Community Supervision sworn to and subscribed before me this 22 day of June 2015.

[Signature]  
DEPUTY DISTRICT CLERK  
TARRANT COUNTY, TEXAS

\*\*\*\*\*

In open court we join and approve the waiver of jury trial pursuant to Art. 1.13, TEX. CODE OF CRIMINAL PROCEDURE and the stipulations of evidence pursuant to Art. 1.15, TEX. CODE OF CRIMINAL PROCEDURE. We further agree and consent to the admission of guilt of any unadjudicated offense under Sec. 12.45, TEXAS PENAL CODE. It is agreed that the Court may take judicial notice of this document and the Court takes judicial notice of same.

Each party acknowledges that the discovery requirements as listed under TEX. CODE OF CRIM. PROC. art. 39.14 have been complied with.

The State verifies that a Victim Impact Statement was:

- received in this case and provided to the court for its consideration.
- not received in this case.

The Court has given the Defendant the admonishments set out in paragraphs numbered through 16, above. In addition, the Court finds that the Defendant is mentally competent and that his plea is intelligently, freely and voluntarily entered. In the event the Defendant has not sworn to a judicial confession, the Court has received sworn testimony and/or a stipulation of evidence sufficient to show that the Defendant is guilty of the offense(s) beyond a reasonable doubt. If applicable, the Court finds that the attorney for the Defendant has advised the Defendant about the registration requirements of Chapter 62, TEX. CODE OF CRIMINAL PROCEDURE.

[Signature]  
ATTORNEY FOR DEFENDANT State Bar ID # 24051154

[Signature]  
ATTORNEY FOR STATE State Bar ID # 24063541

[Signature]  
JUDGE WAYNE F. SALVANT  
CRIMINAL DISTRICT COURT NO. 2

June 5, 2015



THE STATE OF TEXAS

§

IN THE CRIMINAL DISTRICT

COURT NUMBER TWO

VS.

§

TARRANT COUNTY, TEXAS

Richard Kent Livesey, DEFENDANT

§

TRIAL COURT'S CERTIFICATION OF DEFENDANT'S RIGHT OF APPEAL FILED  
THOMAS A WILDER, DIST. CLERK  
TARRANT COUNTY, TEXAS

I, Judge of the trial court, certify this criminal case:

\_\_\_\_\_ is not a plea-bargain case, and the defendant has the right of appeal.

JUN 22 2013

\_\_\_\_\_ is a plea-bargain case, but matters were raised by written motion filed and ruled on before trial and not withdrawn or waived, and the defendant has the right of appeal.

TIME 9:44am  
BY [Signature] DEPUTY

\_\_\_\_\_ is a plea-bargain case, but the trial court has given permission to appeal, and the defendant has the right of appeal.

is a plea-bargain case, and the defendant has NO right of appeal.

\_\_\_\_\_ the defendant has waived the right of appeal.

\_\_\_\_\_ involves another appealable order (specify): \_\_\_\_\_

[Signature]  
Judge

6/22/13  
Date Signed

\_\_\_\_\_ I have been informed of the above certification by the trial court and waive the receipt of a copy thereof.  
(OR)

\_\_\_\_\_ I have received a copy of this certification. I have also been informed of my rights concerning any appeal of this criminal case, including any right to file a pro se petition for discretionary review pursuant to Rule 68 of the Texas Rules of Appellate Procedure. I have been admonished that my attorney must mail a copy of the court of appeals' judgment and opinion to my last known address and that I have only 30 days in which to file a pro se petition for discretionary review in the court of criminal appeals. TEX. R. APP. P. 68.2. I acknowledge that, if I wish to appeal this case and if I am entitled to do so, it is my duty to inform my appellate attorney, by written communication, of any change in the address at which I am currently living or any change in my current prison unit. I understand that, because of appellate deadlines, if I fail to timely inform my appellate attorney of any change in my address, I may lose the opportunity to file a pro se petition for discretionary review.

x n t [Signature]  
Defendant  
Mailing Address \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Fax Number (if any): \_\_\_\_\_

[Signature]  
Defendant's Counsel  
State Bar of Texas ID# 24051154  
Mailing Address: 3100 W. 7th St #420, FTW TX 76107  
Telephone Number: 817-336-5600  
Fax Number (if any): 817-336-5610

\*A defendant in a criminal case has the right of appeal under these rules. The trial court shall enter a certification of the defendant's right to appeal in every case in which it enters a judgment of guilt or other appealable order. In a plea bargain case - that is, a case in which a defendant's plea was guilty or nolo contendere and the punishment did not exceed the punishment recommended by the prosecutor and agreed to by the defendant - a defendant may appeal only (A) those matters that were raised by written motion filed and ruled on before trial, or (B) after getting the trial court's permission to appeal. Tex. R. App. P. 25.2(a)(2).

Appendix D to rules of Appellate Procedure.