

**NOTE: READ THIS FORM CAREFULLY. IT IS THE SAME AS A CONTRACT. EVERY PARAGRAPH IS IMPORTANT. YOU ARE WAIVING CERTAIN RIGHTS YOU HAVE BY SIGNING THIS FORM AND ARE MAKING CERTAIN AGREEMENTS. IF YOU HAVE ANY QUESTIONS YOU MUST ASK YOUR ATTORNEY OR THE JUDGE.**

IN THE CIRCUIT COURT OF THE  
NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR Alachua  
COUNTY, STATE OF FLORIDA

STATE OF FLORIDA

Plaintiff,

vs.

Billy Carl Banks, Sr  
Defendant.

CASE NO: 03-1148 CF A

RECORDED FOR RECORD  
MARTIN CO., FL  
OCT 17 PM 3:42  
MARSHA FRYER  
CLERK OF CIRCUIT COURT

PLEA OF GUILTY/NO CONTEST/ADMISSION

Billy Carl Banks, Sr, the Defendant, enter a plea of GUILTY/NO CONTEST/ADMISSION in this/these case(s) as follows. I state that:

1. MY TRUE NAME IS: Billy Banks
2. I am 69 years old.
3. I have completed the 6<sup>th</sup> grade in school.

I can read, write and understand the English language, and have read this document and fully understand it. counsel read form to defendant M Tyre

I cannot read, however, this document has been fully read and explained to me, and I have signed it with full understanding.

I cannot read or understand the English language, however, an interpreter speaking my language has fully read and explained this document to me, and I signed it after it was read and explained to me, with full understanding.

4. I am represented by an attorney whose name is M Tyre

Def's initials BEB

5. ( X ) I have never been found to be insane or incompetent, or committed to a mental institution as mentally ill or incompetent, and have never been a patient in any hospital for mental illness.

(     .     ) I was previously found to be insane or incompetent or was a mental patient. I am now competent and in possession of all my faculties.

EXPLAIN: \_\_\_\_\_

6. I am not currently under the influence of drugs or alcohol.

**ATTORNEYS: DO NOT USE ABBREVIATIONS**

7. I understand that I am charged with  
Carry, Conceal or Transport Act  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I wish to withdraw my plea of not guilty and plead guilty/no contest for admit the VOP or VOCC) to the charge(s) of: No charged  
\_\_\_\_\_  
\_\_\_\_\_

I understand that the recommendations to the Judge for sentencing are as follows:

Guideline sentence of 1 year to 3 1/2 years DOC  
Concurrent JA  
State to Nolle prosequere 03-11416 CF PJ  
\_\_\_\_\_  
\_\_\_\_\_

I understand that the above terms are recommendations to the Court for sentencing, but are not binding on the Court. I am entering my plea on that basis and with that understanding.

I understand another Judge may impose sentence in this case.

I have 743 days as of 10/17/05 credit for time served in Jail. I AM WAIVING ALL OTHER CREDIT FOR TIME ALREADY SERVED.

I agree to pay costs/fines/restitution as follows:

- \$255.00 court costs (felony cases).
  - [\$ 50.00 for the Crimes Compensation Fund.]
  - [\$ 3.00 for the Additional Court Cost Clearing Trust Fund.]
  - [\$ 2.00 for the County Criminal Justice Education Fund.]
  - [\$200.00 for the Local Government Criminal Justice Trust Fund.]
- \$10 5.00 for the Local Government Criminal Justice Trust Fund. (Misdemeanor cases).
  - [\$ 50.00 for the Crimes Compensation Fund.]
  - [\$ 3.00 for the Additional Court Cost Clearing Trust Fund.].
  - [\$ 2.00 for the County Criminal Justice Education Fund.]
  - [\$ 50.00 for the Local Government Criminal Justice Trust Fund.]
- \$ 105.00 for the Local Government Criminal Justice Trust Fund. (Criminal traffic cases).
  - [\$ 50.00 for the Crimes Compensation Fund.]
  - [\$ 3.00 for the Additional Court Cost Clearing Trust Fund.].
  - [\$ 2.00 for the County Criminal Justice Education Fund.]
  - [\$ 50.00 for the Local Government Criminal Justice Trust Fund.]
- \$135.00 Additional mandatory court costs in DUI cases.
- \$ 3.00 for County Delinquency Prevention Fund.
- \$ 3.00 for County Teen Court Program.
- \$ \_\_\_\_\_ additional court costs to the \_\_\_\_\_ County court facility fund. [Up to \$150.00 for felony, misdemeanor and traffic cases. For offenses committed on or after May 30, 1997.]
- \$ \_\_\_\_\_ Public Defender Fees to the County.
- \$ \_\_\_\_\_ Special Public Defender Fees to the County.
- \$ 40.00 Public Defender Application Fee.
- \$ \_\_\_\_\_ Alcohol and Drug Abuse Trust Fund plus a 5% surcharge (For violations of Chapter 893, F.S. 316.193, 856.011, 856.015, Chapters 562, 567 and 568. An amount up to the statutory fine.)
- \$ \_\_\_\_\_ Cost of Extradition or transport payable to the \_\_\_\_\_ County Sheriff.
- \$ \_\_\_\_\_ Fine plus 5% surcharge.
- \$20.00 in addition to any fine actually imposed, for the Crime Stoppers Trust Fund. (For offenses committed on or after July 1, 1998.)
- \$ \_\_\_\_\_ Cost of Prosecution to \_\_\_\_\_.
- \$ \_\_\_\_\_ Cost of Investigation to \_\_\_\_\_.
- \$100.00 FDLE Statewide Criminal Analysis Lab. (F.S. Chapter 893.13 offenses only.)
- \$15.00 (In misdemeanor cases only where unlawful use of alcohol or drugs is involved.)
- \$ \_\_\_\_\_ as reimbursement to the County for medical care, treatment, hospitalization, or transportation while in custody in the county jail.
- \$ \_\_\_\_\_ as reimbursement for the costs taxed to the county in this case.
- \$50.00 per day, times \_\_\_\_\_ days in custody, to the County for liquidated damages for incarceration and correctional costs.
- \$50.00 per day, times \_\_\_\_\_ days in custody, to the State of Florida for liquidated damages for incarceration and correctional costs.
- Restitution in the following amounts to the following payees:

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I UNDERSTAND THAT EVEN IF I DO NOT AGREE TO FEES, COSTS AND RESTITUTION, THEY STILL MAY BE IMPOSED BY THE JUDGE.

If I have agreed to make restitution I understand that if I am placed on probation or community control, the restitution will be a condition of that probation or community control.

If I am placed on probation or community control, the repayment of public defender fees, special public defender fees, costs, fines, surcharges and the public defender application fee, will be a condition of my probation or community control whether or not I am adjudicated guilty.

I understand that if I am convicted of sale, possession or trafficking in drugs; conspiracy to sell, possess or traffic in drugs; a D.U.I. offense; theft of a motor vehicle; or theft of any parts or components of a motor vehicle, my drivers license will be revoked by the Court. If I have any questions about this or about the length of the revocation, I will ask the judge or my lawyer.

I understand that if I am convicted of a DUI offense, the law requires the impoundment or immobilization of the motor vehicle driven by me, or that was in my physical control, subject to certain very limited exceptions. The law also requires that my license be revoked by the court for 6 months to 1 year for a first offense; no less than 5 years for a second conviction within 5 years; no less than 10 years for a third conviction within 10 years; and permanently for a fourth conviction or a conviction for DUI Manslaughter.

I UNDERSTAND THAT NO ONE CAN ASSURE ME OF HOW MUCH GAIN TIME OR ANY OTHER FORM OF EARLY RELEASE CREDIT I WILL RECEIVE ON A PRISON SENTENCE, NOR MY ELIGIBILITY FOR ANY FORM OF EARLY RELEASE. ANY REPRESENTATIONS REGARDING THOSE ISSUES ARE NOT BINDING ON THE COURT. I UNDERSTAND I WILL NOT BE ABLE TO SET ASIDE THIS PLEA, THE JUDGMENT OR SENTENCE AS A RESULT OF INCORRECT REPRESENTATIONS TO ME CONCERNING THESE ISSUES. I UNDERSTAND THAT I SHOULD ASSUME I WILL SERVE EVERY DAY OF ANY JAIL OR PRISON SENTENCE IMPOSED.

9. A) CRIMES SUBJECT TO "THE SENTENCING GUIDELINES":

For crimes committed before January 1, 1994: I understand that the Judge has complete discretion to sentence me to any sentence within the permitted range of the Sentencing Guidelines. Counsel for the State and my attorney will make their recommendations to the Judge as to what sentence they feel is appropriate but the recommendations are not binding on the Judge. The Judge may sentence me either within the grid of the Sentencing Guidelines that I fall in, or one grid higher or lower without needing to justify his or her reasons. Therefore, I may not receive the sentence that is recommended or that I hope for, and that will not be grounds for me to withdraw my plea. I enter my plea on that basis and with that understanding.

For crimes committed from January 1, 1994 through June 30, 1997: I understand that the Judge has complete discretion to sentence me to any sentence up to the "maximum prison months" computed under the Sentencing Guidelines. Counsel for the State and my attorney will make their recommendations to the Judge as to what sentence they feel is appropriate but the recommendations are not binding on the Judge. Therefore, I may not receive the sentence that is recommended or that I hope for, and that will not be grounds for me to withdraw my plea. I enter my plea on that basis and with that understanding.

For crimes committed July 1, 1997 through September 30, 1998: I understand that the Judge has complete discretion to sentence me to any sentence up to the "maximum prison months" computed under the Sentencing Guidelines. (I also understand that if I have at least one prior felony conviction and my Sentencing Guidelines score sheet only permits a non-state prison sanction, the Judge may still sentence me up to 22 months in prison.) Counsel for the State and my attorney will make their recommendations to the Judge as to what sentence they feel is appropriate but the recommendations are not binding on the Judge. Therefore, I may not receive the sentence that is recommended or that I hope for, and that will not be grounds

for me to withdraw my plea. I enter my plea on that basis and with that understanding.

The Sentencing Guidelines have been fully explained to me by my lawyer. I understand I may also ask the Judge about them at the time I enter this plea.

If I should score differently under the Sentencing Guidelines than I expected, that will not be grounds for me to withdraw this plea; it will be up to the Judge as to whether he or she will allow me to withdraw the plea. I enter my plea on that basis and with that understanding.

The Judge will allow me to withdraw my plea if he or she feels he or she wishes to sentence me outside the Sentencing Guidelines unless the following occurs: if I am released from jail until sentencing, if I fail to appear in Court when required or if I commit a new criminal offense, then I will NOT be able to withdraw my plea, the Sentencing Guidelines will not apply, and the State will be free to ask that I be sentenced to the maximum possible sentence. Further, I could be prosecuted for the new crime, and for failure to appear, and be subject to contempt of court.

B) CRIMES SUBJECT TO "THE CRIMINAL PUNISHMENT CODE":

For crimes committed October 1, 1998 and after: I understand that the Judge has complete discretion to sentence me to any sentence computed under the Criminal Punishment Code. Counsel for the State and my attorney will make their recommendations to the Judge as to what sentence they feel is appropriate but the recommendations are not binding on the Judge. Therefore, I may not receive the sentence that is recommended or that I hope for, and that will not be grounds for me to withdraw my plea. I enter my plea on that basis and with that understanding.

The Criminal Punishment Code and its score sheet have been fully explained to me by my lawyer. I understand I may also ask the Judge about them at the time I enter this plea.

If I should score differently than I expected under the Criminal Punishment Code, that will not be grounds for me to withdraw this plea; it will be up to the Judge as to whether he or she will allow me to withdraw the plea. I enter my plea on that basis and with that understanding.

10. I understand:

a) that if I plead guilty or no contest to these charges the mandatory minimum penalty provided by law is none and the maximum possible penalty is 15 years DOC

(BUT NOTE: I understand that if I am charged with a crime that occurred on January 1, 1994 or thereafter, that under the Sentencing Guidelines and the Criminal Punishment Code, the statutory maximum penalty may not apply. The maximum possible penalty would depend on how my prior record and present offenses are scored, and may exceed the statutory maximum.)

b) that if I am determined by the Judge to be a non-violent habitual felony offender, and if the Judge sentences me as such, I could receive up to a maximum sentence of \_\_\_\_\_ years imprisonment. If I am sentenced as a habitual felony offender, I would not be entitled to receive any basic gain time or take advantage of certain other early release provisions and would serve a greater portion of the total sentence.

c) that if I am determined by the Judge to be a violent habitual felony offender, and if the Judge sentences me as such, I could receive up to a maximum sentence of \_\_\_\_\_ years imprisonment and I would receive a mandatory minimum of \_\_\_\_\_ years imprisonment. If I am sentenced as a violent habitual felony offender, I would not be entitled to receive any basic gain time or take advantage of certain other early release provisions, and would serve a greater portion of the total sentence.

d) that if I am determined by the Judge to be a violent career criminal, and if the Judge sentences me as such, I could receive up to a maximum sentence of \_\_\_\_\_ years imprisonment and I would receive a mandatory minimum of \_\_\_\_\_ years imprisonment. If I am sentenced as a violent career criminal, by law I must serve 100 percent of the sentence imposed. [For offenses committed on Oct. 1, 1996, or after.]

e) that if I am determined by the Judge to be a three-time violent felony offender, (the "Three Strikes Law") and sentenced as such, I would receive a mandatory minimum sentence of \_\_\_\_\_ years imprisonment. If I am sentenced as a three-time violent felony offender, by law I must serve 100 percent of the sentence imposed.

f) that if I am determined by the Judge to be a prison releasee reoffender, and if the Judge sentences me as such, I would receive a minimum sentence of \_\_\_\_\_ years imprisonment. If I am sentenced as a prison releasee reoffender, by law I must serve 100 percent of the sentence imposed.

11. I understand that if I am placed on probation, or community control, I must comply with all general and special conditions of probation or community control. If I violate probation or community control, even in a technical way, I can be rearrested and charged with the violation. At a hearing on that violation I understand I will be tried by the Judge and not a jury and that the standard of proof is much lower than proof beyond a reasonable doubt. If the Prosecution were to satisfy the Court of a violation, I understand I could be sentenced to prison.

12. Sex Offenses:

a) The Jimmy Ryce Act.

I understand if I am pleading to any "sexually violent offense" the Jimmy Ryce Act will apply to me. A "sexually violent offense" is any one of the following:

murder while engaged in sexual battery;

kidnaping of a child under the age of 13 and, in the course of that offense, committing either: a sexual battery; or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

false imprisonment upon a child under the age of 13 and, in the course of that offense, committing either: a sexual battery; or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

sexual battery;

lewd, lascivious, or indecent assault or act upon or in presence of the child; or

Def's initials BEB

any attempt to commit any of the offenses listed above, or criminal solicitation or conspiracy involving any of those offenses.

I understand that if I am pleading to any of those offenses, I can be held in confinement indefinitely after my jail or prison sentence ends.

I also understand that even if the offense I am entering a plea to is not a "sexually violent offense", I can still be held in confinement indefinitely after my jail or prison sentence ends if it is determined later that in my prior record I have a conviction for:

a felony offense in effect at any time before October 1, 1998, which is comparable to any of the "sexually violent offenses" listed above, or any federal conviction or conviction in another state for a felony offense that in this state would be a "sexually violent offense"; or

any criminal act that, either at the time of sentencing for the offense or later, during civil commitment proceedings, is determined beyond a reasonable doubt to have been sexually motivated.

b) I understand that if I am convicted of committing, or attempting to commit, any violation of chapter 794, chapter 800, section 782.04, section 784.045, section 812.133, or section 812.135, that the court will order that my blood be drawn for a DNA test and my DNA profile will be placed in a law enforcement data bank.

c) I understand that if I am sentenced for a sex offense that my name, address, photograph, and other personal information may be posted on the Internet and in other public places as part of a community notification of where I am living and working.

d) I understand that if I am sentenced for a sex offense, and if I am placed on probation or community control, that by statute I will be required to follow certain conditions of supervision that I may find embarrassing or unpleasant. The judge may add other terms of supervision that I may also find embarrassing or unpleasant.

13. I understand that no statement made in connection with this plea will be admissible in any civil or criminal proceeding against me except as a basis for perjury.

14. I agree that there is a factual basis for the charges against me. I understand that once the plea is accepted by the Court, there will not be a trial or further determination of my guilt or innocence of these charges.

15. I understand that I have the right to be represented by a lawyer at every stage of the proceedings, and that if I cannot afford a lawyer, one would be appointed for me.

16. I understand that by pleading Guilty, or No Contest, or by entering an Admission, I am giving up the following constitutional rights:

a) I am giving up my right to a trial and to have my case decided by a jury and my right of assistance of counsel at trial. (If this is a violation of probation or community control - I am giving up my right to a hearing before the Judge).

b) I am giving up my right to confront, cross-examine and ask questions of the State's witnesses.

c) I am giving up my right to call witnesses and make them come to court and testify for me.

Def's initials

BEB

d) I am giving up my right to testify if I choose, and also my right to remain silent and not to testify or incriminate myself. I realize if I did not testify, that fact could not be used against me.

e) I am giving up my right to make the State prove me guilty by presenting evidence beyond a reasonable doubt. (In violation of probation or community control cases, the standard of proof is the greater weight of the evidence.) I realize that at a trial, I would not need to prove my innocence, or testify, or call any witnesses.

f) I am giving up my right to appeal all matters connected with the judgment and sentence, including the issue of guilt or innocence. I understand that I am not waiving my right to appeal a void or voidable judgment and my right to review by appropriate collateral attack.

g) I am not waiving my right to appeal any sentence outside the Sentencing Guidelines unless specifically contained within the plea agreement.

I WISH TO GIVE UP THESE CONSTITUTIONAL RIGHTS AND PLEAD GUILTY/NO CONTEST (OR ADMIT A VIOLATION OF PROBATION OR COMMUNITY CONTROL).

17. No one has tricked me, or coerced me, or has made any threats against me to get me to give up these rights and enter this plea. No one has made any promises or representations to me, other than those in this document to get me to give up these rights. The only promises or representations made to me are those listed in this document, and any other promises or representations are not binding on the Court or the Prosecution.

18. I specifically

( ) admit that I am guilty of the charge or charges I am pleading Guilty/No Contest/ admitting to.

( X ) believe the plea is in my best interest even though I am innocent of the charge, charges, or violations, or may have defenses to them.

19. I have discussed this case and everything in this document with my attorney, and I am satisfied with the representation I have received from my attorney. I have told my attorney all the facts and circumstances known to me about the charges. My attorney counseled and advised me on the nature of each charge, on any and all lesser included charges, and on all possible defenses that I may have in this case.

20. I offer my plea freely and voluntarily with full understanding of all the matters in the Information/Indictment/Violation Affidavit and in this document.

21. If I am not an American citizen, I understand that this plea could be used by the Immigration and Naturalization Service as a basis to deport me whether or not I am adjudicated guilty or whether adjudication of guilt is withheld, and whether the crime is a misdemeanor or felony.

22. If I am on probation or community control in another case, this plea can form the basis of a violation of that probation or community control.

23. I understand a conviction of a crime can cause me to lose local, State or Federal licenses, the right to vote, and can prevent me from getting certain licenses.

DATED at Stuart, Florida, this 17 day of Oct, 2005.

Def's initials: BEB



X Billy E Bantao Jr  
DEFENDANT

I certify that as an interpreter in the \_\_\_\_\_ language, that I have read this document word-for-word to the Defendant who understands the \_\_\_\_\_ language. The Defendant states he/she fully understands the contents of this document and the he/she signed it freely and voluntarily.

\_\_\_\_\_  
INTERPRETER

I, M. Tye, am the attorney for the Defendant.

~~I~~ I have read the contents of this document word-for-word to the Defendant, and explained it fully to him/her.

~~I~~ I have not read this document to the Defendant, but I have fully explained the contents of this document to him/her.

I have fully explained the allegations contained in the charging document(s). I have explained the maximum penalty for each count pled to by the Defendant. I consider him/her competent to understand the charges against him/her and the effect of this plea entered by this document. I have explained to him/her the right of appeal and the difference between a direct appeal and a collateral attack.

M. Tye  
ATTORNEY

I certify the Defendant personally appeared before the Court this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, and after being sworn under oath, advised the Court that he/she read this document (or had someone read it to him/her), and the he/she fully understands all matters contained in it, and that the plea was made freely and voluntarily.

Brandi Kotace  
CLERK

The State of Florida has made known to the victim and the arresting authority the plea negotiated in this case. They:

are in agreement with the terms,

Def's initials B E B

✓

have been informed of their right to appear at sentencing to present their input,

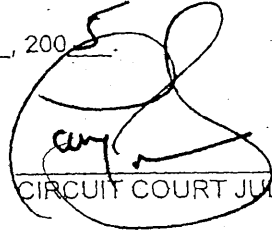
and the State of Florida recommends that the plea negotiation be approved by the Court.

STATE OF FLORIDA

By: Kathryn Nelson

The Court determines that the plea is freely and voluntarily entered, upon a knowing and intelligent waiver of the Defendant's rights, and that there is a factual basis for it. The plea is accepted.

DONE this \_\_\_\_\_ day of 10-17, 2005.



CIRCUIT COURT JUDGE

forms - criminal/plea form v1-20-2000

Def's initials DEB