

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO. 592010CF001851AXXXXX

vs.

ANITA JANE SMITHEY,
Defendant.

PLEA AGREEMENT
(RULE 3.171)

The undersigned defendant withdraws the previously entered plea(s) of not guilty and tenders a plea of ☒ no contest as follows:

Case Number	Offense	Maximum Sentence	Mandatory Sentence	Probable Guidelines Range
592010CF001851AXXXXX	Second Degree Murder, Reclassified, with actual possession and discharge of a firearm causing death or great bodily harm minimum-mandatories (Life Felony; Fla. Stat. ss. 775.087(1), 775.087(2), 782.04(2), 784.045(1)(a)1).			

If my plea is guilty, I hereby acknowledge that I am in fact guilty of the foregoing offenses. When asked by the Judge, I will provide a factual basis to support my plea. If my plea is no contest, I believe such plea is in my best interest and recognize that the Judge will find me Guilty after being provided a factual basis.

The State of Florida and I have agreed upon the following sentence to be imposed as a condition of this plea: *In exchange for the Defendant's plea of No Contest, as charged, to the offense of Second Degree Murder, Reclassified, with the actual possession and discharge of a firearm causing death or great bodily harm (Life Felony, Fla. Stat. s. 775.087(1), 775.087(2), 782.04(2), 784.045(1)(a)1), the State of Florida agrees that the Defendant shall be adjudicated guilty and sentenced to a stipulated downward departure sentence of 2,369 days in custody (with credit for 2,369 days served¹), followed by 10 years of standard probation with the following special conditions of probation:*

- *no early termination of probation;*
- *substance abuse evaluation with follow-up treatment, as recommended;*
- *no alcohol consumption or possession;*
- *no controlled substance consumption or possession (including cannabis) without a valid prescription;*
- *if defendant has a valid prescription for any such controlled substance, it is to be provided to Probation;*
- *take all prescribed medication strictly in the manner in which it is prescribed;*
- *no possession of firearms or ammunition;*
- *may not ride in any vehicles in which firearms are located for any duration of time;*
- *may not be within any residence in which firearms are located for any duration of time;*
- *must abide by all conditions of the previously issued Injunction in Seminole County Clerk of the Court case number 2010DR2672;*

¹ Time Served calculation: May 4, 2010 (arrest date) through and including June 10, 2010 (bond date) = 38 days;
November 25, 2010 (violation of bond arrest date) through and including December 3, 2010 (bond date) = 9 days;
November 20, 2014 (conviction date), through and including March 29, 2021 (bond date) = 2322 days;
Total = 2,369 days

- *no contact (be it direct, indirect, via third party, or via electronic, telephonic, or any other means) with Robert Cline, Kathryn Cline, Belinda Cline, Eric Cline, or Stephanie Cline;*
- *forfeiture of the firearms, ammunition, and knife seized as part of law enforcement's investigation;*

Cost of Investigation payable to the Oviedo Police Department, 400 Alexandria Boulevard Oviedo, FL 32765, in the amount of \$3,263.45 (pursuant to Fla. Stat. s. 938.27) reduced to a judgment.

Cost of Prosecution payable to the Office of the State Attorney, 18th Judicial Circuit in and for Seminole County, Florida, Post Office Box 8006 Sanford, FL 32772-8006, in the amount of \$12,745.88 (pursuant to Fla. Stat. s. 938.27) reduced to a judgment.

The State has no objection to restitution payable to the State of Florida, Bureau of Victim Compensation, Crimes Compensation Trust Fund, PL-01 The Capitol, Tallahassee, FL 32399-1050, in the amount of \$25,000 (pursuant to Fla. Stat. ss. 775.089 and 960.17(2)) being reduced to a judgment provided the Court agrees and states on the record the reason(s) supporting the restitution being reduced to a judgment in lieu of being payable as a condition of probation.

The State of Florida has agreed to exercise its power and authority to waive the firearm minimum mandatories under Fla. Stat. s. 775.087(2) for purposes of his plea agreement only. However, if, at any point during the probationary period the Defendant is found to have willfully and substantially violated the terms of her probation and the Trial Court determines revocation of probation is appropriate, the Defendant is hereby on NOTICE that the State of Florida will not further waive said minimum mandatories and will take the position that the Defendant should be sentenced to a 25 year minimum-mandatory pursuant to Fla. Stat. s. 775.087(2).

I understand that if probation is a part of my sentence that the court may impose conditions of probation authorized by law, including restitution and public service and, unless conditions are specifically attached hereto, those conditions are by this agreement left to the discretion of the court. I further understand that statutory costs may be imposed as a part of my sentence unless those costs are waived by the court.

I have the right to plead not guilty and to be tried by a jury with the assistance of a lawyer, the right to compel attendance of witnesses on my behalf, the right to confront and cross examine witnesses against me, the right to present defenses to the jury, and the right to take the witness stand and testify on my own behalf. I also have the right not to take the witness stand and cannot be compelled to incriminate myself. I give up these rights by entering this plea.

I understand that if I enter a plea without reserving the right to appeal, I will give up my right to appeal all matters relating to the judgment, including the issue of guilt or innocence except for the limited review available by collateral attack. I also give up my right to appellate review on any pretrial rulings made by the court unless such right is specifically reserved in this agreement.

I understand that I may be asked questions by the judge under oath about this plea and that my answers, if untruthful, may be used against me later in a prosecution for perjury.

I enter this plea freely and voluntarily. No person has forced, threatened or coerced me into entering this plea.

I am satisfied with the representation my lawyer has given me and I have fully discussed my case and the contents of this agreement.

I have discussed the physical evidence that may be available in my case with my lawyer, including physical evidence that may tend to prove I did not commit the crime(s) charged, such as DNA evidence. I am satisfied there is no such evidence in my case or I hereby waive any claim of innocence that may be established by the physical evidence, including DNA testing.

I am relying upon no promises or assurances except as contained in this agreement.

I understand that if I enter a plea to a felony offense or a sex offense I must register as a convicted felon or as a sex offender as required by law. If I am pleading to a sex offense, I have been advised by my lawyer that my liberty may be restricted, including but not limited to, where I may live, where I may work and with whom I may have contact.

I understand that if I am pleading guilty or no contest to a sexually violent offense or a sexually motivated offense, or if I have previously been convicted of such an offense, I may be subject to involuntary civil commitment as a sexually violent predator upon completion of any prison or jail sentence imposed.

I understand that if I am not a United States Citizen, entry of this plea may subject me to deportation by the United States Immigration Service.

I do not suffer from any physical or mental disabilities to the degree that I am incapable of understanding this agreement, the nature of the proceeding against me, or assisting my lawyer in my behalf. I am not under the influence of alcohol or any drug at this time.

I hereby give up my right to a speedy trial.

If I am not in custody, I acknowledge that part of the plea agreement in this case includes my continued release pending sentencing on bond, pretrial release or release on recognizance. I understand that this portion of the plea agreement is conditioned upon the following requirements:

- 1) If a presentence investigation has been ordered, I must appear at the Department of Corrections office as directed by the court and schedule a presentence investigation not later than the first business day following the entry of my plea.
- 1) I must obey the order of the court requiring me to undergo drug or alcohol screening or for other evaluation if such an order has been made in my case.
- 2) I must appear on time for all appointments with the assigned probation officer and not be under the influence of any illegal drugs or alcohol.
- 3) I must appear in court on time for sentencing and not be under the influence of any illegal drugs or alcohol.

I realize that this agreement will be provisionally accepted upon entry of my plea and is subject to being accepted or rejected by the Judge at any time prior to the sentence being imposed, and if it is rejected for any reason other than for breach of this agreement, I may withdraw my plea and go to trial.

I acknowledge receipt of a copy of the notice for my sentencing date. I understand and agree that if I fail to comply with any of the conditions set forth above I will have breached my plea agreement. In that event, I will not be allowed to withdraw my plea and the judge may sentence me to any sentence authorized by law for the offense(s) to which I have pled.

STACEY STRAUB SALMONS
Assistant State Attorney

ANITA JANE SMITHEY
Defendant
Date of birth: _____ Age: _____

CERTIFICATE OF ASSISTANT STATE ATTORNEY

I hereby certify that I have disclosed items of physical evidence which may be favorable to the defendant, including any possible DNA evidence, by list or description or this information will be disclosed at the time of entry of the plea.

STACEY STRAUB SALMONS
Assistant State Attorney
Fla. Bar No. 351430

CERTIFICATE OF DEFENSE ATTORNEY

I certify that I have fully discussed this case and this plea agreement with the defendant including the nature of the charges, their elements, the evidence of which I am aware, any possible defenses, the maximum and minimum penalties which may be imposed, the probable guideline range and the defendant's right to appeal.

I am not aware of any DNA testing that may exonerate the defendant.

Whitney S. Boan
Counsel for Defendant
Fla. Bar No. _____

SWORN TO, SIGNED AND FILED IN OPEN COURT, IN MY PRESENCE AND
PROVISIONALLY ACCEPTED BY ME THIS _____ DAY OF _____, 2021.

Marlene Alva
Circuit Judge