**In the Iowa District Court for Polk County**

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| **State of Iowa,**  *Plaintiff*,  v.  **,**  *Defendant*. | **Criminal No:**  **Order Following Hearing on Rule to Show Cause (Violation of a No-Contact Order)**  Defendant in custody. |

The above captioned case came on for a hearing to determine if Defendant should be found in contempt of court for violation of a no-contact order (NCO).

The State was represented by ***.***

Defendant appears in person and with counsel, ,

Defendant appears by and through counsel, ,

Defendant also appears with interpreter: .

Defendant waives their right to be present at stipulation and disposition

Defendant previously waived his/her right to an attorney.

Defendant waived reporting and record of these proceedings.

**Findings of the Court**

Defendant **STIPULATES** that he/she willfully violated the no-contact order on . Based upon the stipulation the Court finds by evidence beyond a reasonable doubt that the Defendant willfully violated the no-contact order.

Following an **EVIDENTIARY HEARING**, after considering the evidence and statements of counsel, the Court finds by evidence beyond a reasonable doubt that the defendant **willfully violated** the no-contact order on *.*

The Court finds that there is **insufficient evidence** to prove, beyond a reasonable doubt, that the Defendant willfully violated the no-contact order as alleged in the affidavit. This matter is dismissed. Bond is exonerated.

**Resolution**

The defendant is **FOUND IN CONTEMPT** of court. The defendant is sentenced to  days in jail. Credit is given for  days previously served. Mittimus shall issue immediately.

**DISPOSITION** is set for  at  a.m./p.m. in Room .

Other:

**Category B Restitution and Reasonable Ability to Pay Analysis**

Iowa law separates restitution into three categories. ***Victim Pecuniary Damages*** includes the damages done to a victim in the course of a crime as set out in Iowa Code § 910.1(3). ***Category A Restitution*** includes fines, surcharges and penalties. Defendant must pay all ***Victim Pecuniary Damages*** and ***Category A Restitution*** and that duty is not subject to a reasonable ability to pay analysis.

***Category B Restitution*** includes court costs, crime victim assistance program reimbursement, expenses incurred by public agencies under Iowa Code §321J.2(13)(b), medical assistance program restitution pursuant to Iowa Code chapter 249A, contributions to a local anti-crime organization and legal assistance fees, (including the expense of a public defender) pursuant to Iowa Code §815.9.

According to Iowa Code §910.2A, Defendant is presumed to have the reasonable ability to pay all ***Category B Restitution and is therefore ordered to pay all Category B Restitution.*** Defendant can challenge the obligation to pay ***Category B Restitution*** by filing a motion stating that defendant does not have a reasonable ability to pay ***Category B Restitution*** **within 30 days of this order** and asking for a hearing. The motion must be accompanied by a financial affidavit which must also be served on the prosecutor. If you fail to file a financial affidavit, you waive your claim that you have less than a full ability to pay Category B Restitution. The court shall then set a hearing. *“Financial* *affidavit”* means a signed affidavit under penalty of perjury that provides financial information about the defendant to enable the sentencing court or the department of corrections to make a determination regarding the ability of the offender to pay Category “B” Restitution. It includes the defendant’s income, physical and mental health, age, education, employment, inheritance, other debts, other amounts of restitution owed, family circumstances, and any assets subject to execution, including but not limited to cash, accounts at financial institutions, stocks, bonds, and any other property which may be applied to the satisfaction of judgments. The affidavit form for applying for court-appointed counsel is not sufficient for purposes of determining reasonable ability to pay. Before the court can modify this order, ***the defendant*** must prove that defendant does not have a reasonable ability to pay Category B Restitution.

**☐** Defendant requests a finding of less than a full ability to pay Category B Restitution. The Defendant furnished a completed financial affidavit to the Court and the prosecutor and has been subject to cross examination on the financial affidavit. Evidence of the amount of attorney fees was presented. The Court therefore makes the following finding with regard to Category B Restitution:

**☐ NO ABILITY TO PAY:**  Defendant has no ability to pay ***Category B Restitution*** in any amount.

**☐ PARTIAL ABILITY TO PAY:**  Defendant has the reasonable ability to pay, and is ordered to pay, up to $ for ***Category B Restitution***

**☐ FULL ABILITY TO PAY:**  Defendant has a full ability to pay, and is ordered to pay, all ***Category B Restitution***.

***Defendant is ordered to pay any and all assessed restitution, fines, surcharges, and court costs.*** All payments shall be made to Clerk of Criminal Court, Polk County Criminal Courts Building, 110 6th Avenue, or the Polk County Justice Center, 222 Fifth Avenue, Des Moines, Iowa 50309 or online at [www.iowacourts.gov](http://www.iowacourts.gov). Defendant shall call the Clerk of Court at 286-3772 to verify amounts owed. ***These amounts are delinquent 30 days after all costs are assessed.*** The Clerk shall pay down Category 2 Restitution according to Iowa Code §910.2(1). If there are multiple cases, the clerk shall divide Category 2 Restitution costs equally between cases where appropriate. If the Defendant fails to pay the total financial obligation due, the case will be transferred for collection. The State of Iowa may withhold any State income tax refund, vehicle registration and/or driver’s license issuance for unpaid court ordered financial obligations.

**Dismissal of Other Counts and Cases**

**DISMISSAL OF OTHER COUNTS AND CASES**. Upon the recommendation of the State, the following counts/cases are dismissed: . Pursuant to the plea agreement adopted by the court, Defendant is ordered to pay court costs on these counts/cases subject to the reasonable ability to pay analysis below and if victim restitution is due on any of these counts/cases, Defendant is ordered to pay such restitution. Iowa Code Section 901C.1 allows a defendant to file a motion to request that a dismissed case be expunged from the Clerk of Court’s public records.  Before the expungement may be granted, all of the following must be true:

1. All charges in the caseare dismissed.
2. At least 180 days have passed since the case was dismissed or the defendant proves, and the court finds, good cause to expunge the records sooner.
3. The dismissal was not based on a finding that the defendant was incompetent to stand trial nor was the defendant found not guilty by reason of insanity.
4. All court costs, fees, or other financial obligations ordered by the court have been paid.

Case Number(s)  being dismissed by this order are related cases to the charge for which Defendant is receiving a deferred judgment.

Any mittimus shall issue immediately.

**RECALL WARRANT**

***THE NO CONTACT ORDER IS STILL VALID AND IN EFFECT BETWEEN DEFENDANT AND PROTECTED PARTY.***

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Defendant was personally served with a copy of this order.

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In addition to all other persons entitled to a copy of this order, the Clerk shall provide a copy to the following: