SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, HARBOR JUSTICE CENTER
NEWPORT BEACH FACILITY

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
08/05/2016
12:55 PM
ALAN CARLSON, Clerk of the Court
16HM08811

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. GABRIEL GAXIOLA [redacted] [redacted] AKA GABRIEL GAXIOLA MERCADO GABRIEL MERCADO GAXIOLA Defendant(s)	COMPLAINT No. LBPD 16-02672 BAC .20 BL

The Orange County District Attorney charges that in Orange County, California, the law was violated as follows:

COUNT 1: On or about July 10, 2016, in violation of Section 23152(a) of the Vehicle Code (DRIVING UNDER THE INFLUENCE OF ALCOHOL), a MISDEMEANOR, GABRIEL GAXIOLA did unlawfully drive a vehicle while under the influence of an alcoholic beverage.

COUNT 2: On or about July 10, 2016, in violation of Section 23152(b) of the Vehicle Code (DRIVING WITH BLOOD ALCOHOL .08% OR MORE), a MISDEMEANOR, GABRIEL GAXIOLA did unlawfully drive a vehicle while defendant's blood alcohol concentration was 0.08 percent (%) or more by weight of alcohol in defendant's blood.

OTHER ALLEGATION(S)

As to Count(s) 1 and 2, it is further alleged pursuant to Section 23538(b)(2) of the Vehicle Code (BLOOD ALCOHOL .20 PERCENT) that defendant GABRIEL GAXIOLA had a blood alcohol concentration of .20 percent or more, by weight.

/

I declare under penalty of perjury, on information and belief, that the foregoing is true and correct.

Dated 08-05-2016 at Orange County, California.
DM/LV 16H07517

TONY RACKAUCKAS, DISTRICT ATTORNEY

by: /s/ DANIELLE MOSH
DANIELLE MOSH, Deputy District Attorney

RESTITUTION CLAIMED

[X] None
[ ] $_____
[ ] To be determined

NOTICES:

The People request that defendant and counsel disclose, within 15 days, all of the materials and information described in Penal Code section 1054.3, and continue to provide any later-acquired materials and information subject to disclosure, and without further request or order.

Pursuant to Welfare & Institutions Code §827 and California Rule of Court 5.552, notice is hereby given that the People will seek a court order to disseminate the juvenile case file of the defendant/minor, if any exists, to all parties in this action, through their respective attorneys of record, in the prosecution of this case.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
VEHICLE CODE MISDEMEANOR GUILTY PLEA FORM

Court Use Only

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
HARBOR JUSTICE CENTER

JAN 25 2017

DAVID H. YAMASAKI, Clerk of the Court

BY: D. VALLE, DEPUTY

CASE NO. 16HM 0884 PEOPLE vs. Gabriel Gaxiola

1. My true full name is Gabriel Gaxiola [redacted]

2. I understand that I am pleading ☒ *GUILTY* / ☐ *NOLO CONTENDERE* and admitting the following offenses, prior convictions and special punishment allegations, with the maximum punishment indicated below:

CT	CHARGE	PRIORS (Date)	ALLEGATIONS	MAX SENTENCE JAIL/FINES
1	23152(a) VC	dismiss	23538(b)(2)	~~6 M~~
2	23152(b) VC		1 strike	6 Mo / $1000

3. I understand I am also charged with a violation of probation in Case No. _____ 3. ☒

RIGHTS AND WAIVERS

4. I understand I have the following constitutional rights, which I am waiving and giving up by entering my plea, and, if applicable, by my admission of a probation violation: 4 GG

4a. I have the right to be represented by an attorney at all stages of the proceedings until the case is completed. If I cannot afford an attorney, one will be appointed to represent me. (For defendants without an attorney: I am aware that there are dangers and disadvantages of representing myself and there may be a value in obtaining advice from an attorney in this matter but I knowingly and voluntarily waive and give up my right to an attorney and choose to represent myself.) 4a GG

4b. I have the right to a speedy and public trial by a jury or a judge, and if charged with a probation violation, the right to a hearing before a judge. I waive and give up this right. 4b GG

4c. I have the right to confront the witnesses against me and to cross examine them. I waive and give up this right. 4c GG

4d. I have the right to testify on my own behalf but I cannot be compelled to be a witness against myself and may remain silent if I choose. I waive and give up this right. 4d GG

4e. I have the right to present evidence and have the Court issue subpoenas to bring into Court all witnesses and evidence favorable to me, at no cost to me. I waive and give up this right. 4e GG

4f. Under the Fourth and Fourteenth Amendments to the United States Constitution, I have a right to be free from unreasonable searches and seizures. If I am granted probation, I waive and give up this right. I agree to submit my person and property, including any residence, premises, container, or vehicle under my control, to search and seizure at any time of the day or night by any law enforcement or probation officer, with or without a warrant, and with or without reasonable cause or reasonable suspicion. 4f. ☒

5. I understand I have the right to appeal an adverse ruling on a Penal Code section1538.5 suppression motion. I waive and give up this right. 5 GG

6. I understand that I have the right to have a delay in pronouncement of my sentence of not less than six hours and not more than five days after my plea. I waive and give up this right and agree to be sentenced at this time. 6 GG

7. ***Arbuckle waiver:*** I understand I have the right to be sentenced by the judge who accepts this plea. I waive and give up this right. 7 GG

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
VEHICLE CODE MISDEMEANOR GUILTY PLEA FORM

CASE NO. 16HM08811 PEOPLE vs. Gaxiola

8. I understand that I have the right to be present for the entry of the plea of guilty or nolo contendere, and I hereby waive and give up that right. 8. GG

9. I understand I have the right to reject probation, and I hereby waive and give up that right and accept probation on the terms and conditions ☐ as imposed by the court, or ☒ as contained in the attached Sentence Recommendation form. 9. GG

9a. If the judge does not wish to follow the Prosecutor's sentence recommendation, I may withdraw my plea. 9a. GG

9b. If I violate any of the terms of probation, I may be returned to court and sentenced up to the maximum punishment as indicated in 2 above. 9b GG

10. I have been advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If I continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving someone is killed, I can be charged with murder. 10 GG

CONSEQUENCES

11. I understand some of the possible consequences of my plea and admissions are as follows:

11a. I have read the attached punishment chart and understand the minimum and maximum penalties and consequences listed therein. 11a GG

11b. There will be state penalty assessments added to any fines imposed by the court. 11b GG

11c. I will be ordered to pay a minimum of $~~100~~ 150 and a maximum of $1,000 to the State Restitution Fund unless the court makes a finding of "compelling and extraordinary reasons" for waiving this fine. 11c GG

11d. I will be ordered to pay a minimum of $~~100~~ 150 and a maximum of $1,000 probation revocation restitution fine pursuant to PC 1202.44. The restitution fine will be stayed but will be payable upon revocation of probation. 11d GG

11e. If I am not a citizen of the United States the conviction for the offense(s) charged may or, with certain offenses, will have the consequence of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. 11e GG

11f. If I am charged and convicted of a similar offense in the future, my plea today may be used to increase my punishment for the new offense. 11f. GG

11g. If I am presently on probation or parole for any previous conviction, my plea today may cause me to be in violation of that probation or parole and result in additional penalties and/or punishment. 11g GG

11h. If I am convicted of driving under the influence and I was UNDER 21 at time of arrest, my driver's license will be suspended for one year. If I do not have a license, the Department of Motor Vehicles will delay issuing a license for one year after I become eligible to drive. 11h. ~~GG~~

11i. If I am convicted of driving under the influence and it involved a REFUSAL/OR BAC (Blood Alcohol Content) OVER .20; I will be required to attend a first offender program of at least nine months duration. 11i. GG

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
VEHICLE CODE MISDEMEANOR GUILTY PLEA FORM

CASE NO. 16HM0884 PEOPLE vs. Gaxiola

11j. **IGNITION INTERLOCK:** If I am convicted of a first or subsequent offense for driving under the influence, the court may order the installation of an ignition interlock device (IID) on any vehicle owned or operated by me for up to a three year period. If I am convicted of driving on a suspended license under Vehicle Code section(s) 14601.2, 14601.4 or 14601.5, with a prior conviction for same offenses or for violation of Vehicle Code section(s) 23103.5, 23152, or 23153, the Department of Motor Vehicles will require the installation of an ignition interlock device (IID) as a condition of a restricted license separate from any action by this court. 11j. GG

11k. The DMV may restrict or suspend my driver's license separate from any action by this court. 11k. GG

11l. If the court determines that it would be unsafe for me to operate a motor vehicle during a suspension period, the court may prohibit the issuance of a restricted driver license. 11l. GG

11m. For a conviction of Vehicle Code sections 23152 or 23153: the DMV will require completion of an alcohol/drug program in order to have my driving privilege reinstated, even if the court did not order such a program. 11m GG

11n. My driving privilege may not be restored until I provide the DMV satisfactory proof of successful completion of a licensed DUI program of the appropriate length required by law. 11n. GG

12. I understand that if I am the registered owner of the vehicle used in the offense and the offense is:

12a. Vehicle Code sections 23152 or 23153 (first conviction), the court may order my vehicle impounded up to 30 days at my expense. Upon a second conviction for violation of Vehicle Code sections 23152 or 23153, the court is **required** (absent unusual circumstances) to order my vehicle impounded for at least one day, but not more than 30 days; the court may also declare the vehicle a nuisance and order it sold after a hearing. 12a GG

12b. Vehicle Code sections of 23152 or 23153 (third conviction or more), the court may order my vehicle impounded up to 90 days at my expense. The court may declare the vehicle to be a nuisance and order it sold after a hearing. 12b GG

12c. Driving on a suspended license (Vehicle Code section 14601) or without a license (Vehicle Code section 12500), my vehicle will be subject to impoundment by the police and court for 6 months and up to one year, and may be subject to forfeiture as a nuisance. 12c GG

13. I understand I have the right to enter my plea before, and be sentenced by a judge. I waive and give up this right and agree to enter my plea before, and be sentenced by, a commissioner or temporary judge:

as assigned (enter name of Commissioner or Temporary Judge). 13. GG

PLEA

14. I offer my plea and admit the listed priors and allegations freely and voluntarily. No one has made any threats, used any force against me or my family or loved ones, and no one has made any promises to me other than as on the Sentence Recommendation form. M. GG

15. I make my plea with a full understanding of all the matters set forth in the charging document and in this form. I have read, understood, and personally initialed each item herein, and I understand that the signing and filing of this form is conclusive evidence that I have pleaded ☒ ***GUILTY*** / ☐ ***NOLO CONTENDERE*** to the charges set forth. 15. GG

16. Discussion with my attorney (*Leave this box blank if you are not represented by an attorney*). Before entering this plea, I have had a full opportunity to discuss with my attorney the facts of the case, the elements of the charged offenses and prior convictions (if any), any defenses that I may have, my constitutional and statutory rights and waiver of those rights, the consequences of this plea, and anything else I think is important to my case. 16. GG

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
VEHICLE CODE MISDEMEANOR GUILTY PLEA FORM

CASE NO. 16HM08814 PEOPLE vs. Garcia

17. I offer the following as a factual basis for my plea: On 7/10/16, in Orange County, I willfully and unlawfully drove a motor vehicle under the influence of alcohol, with a blood-alcohol content above .08%, to wit .20%.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: 1-25-17 SIGNED: X _____
(Defendant)

DEFENDANT'S ATTORNEY: I am the attorney of record for the defendant. I have explained each of the above rights to the defendant and answered all of the defendant's questions with regard to the plea. I have discussed the facts of the defendant's case with the defendant and explained the consequences of this plea, the elements of the offense(s), the possible defenses, and the sentence to be imposed. I concur in this plea and in the defendant's decision to waive his/her constitutional rights.

DATED: 1-25-17 SIGNED: _____
(Attorney of Record)

INTERPRETER'S STATEMENT: Having been sworn or having a written oath on file, I certify that I translated this form to the defendant in the _____ language. The defendant stated that (s)he understood the contents of this form and then (s)he initialed and signed the form.

DATED: _____ SIGNED: _____
(Court Interpreter)

FOR THE PEOPLE:

DATED: 1/25/17 SIGNED: _____

Right Thumb Print

_____
(Bailiff's Signature and Badge #)

SENTENCE RECOMMENDATION FORM – VEHICLE CODE

CASE NO. _____ PEOPLE vs. _____

SENTENCING CONSEQUENCES FOR SELECTED VEHICLE CODE VIOLATIONS

VEHICLE CODE VIOLATION	MINIMUM SENTENCE	MAXIMUM SENTENCE
23152(a) or (b)* 23152(e) 23152(f)	If probation granted, either option A) or B) may be imposed in addition to penalty C): A) 48 hours in jail, a fine of $390 and attendance at an alcohol/drug program B) a fine of $390 and attendance at an alcohol/drug program C) 6 month suspension of license Without probation: 96 hours in jail, a fine of $390, and 6 month license suspension. *Jail time not to interfere with work schedule. *Commercial driver's license shall be suspended for 12 months if the offense occurred in a vehicle requiring a class A or B driver's license.	6 months jail and $1000 fine
23152(a), (b), (e), or (f) * - within 10 years of one prior conviction for 23152, 23153 or 23103 per VC 23103.5	If probation granted, either option A) or B) may be imposed: A) 10 days in jail, a fine of $390 and 2 year suspension of license B) 96 hours in jail, a fine of $390 and attendance at an 18 month alcohol/drug program and 2 year suspension of driver's license Without probation: 90 days in jail and a fine of $390 and 2 year suspension of license. * Commercial driver's license shall be revoked for life if the offense occurred in a vehicle requiring a class A or B driver's license.	1 year jail and $1,000 fine
23152(a), (b), (e) or (f) - within 10 years of two prior convictions for 23152, 23153 or 23103 per VC 23103.5	If probation granted either option A) or B) may be imposed: A) 120 days in jail, a fine of $390, habitual traffic offender designation for 3 years and an 18 month alcohol/drug program, if not previously completed, 3 year revocation of license and habitual traffic offender designation for 3 years. B) 120 days in jail, a fine of $390, habitual traffic offender designation for 3 years and an 18 month alcohol/drug program, if not previously completed and 3 year revocation of license. 30 months in driving under the influence program upon special request and good cause shown. 30 days in jail in lieu of the 120 days. Without probation: 120 days in jail, a fine of $390, 3 year revocation of driver's license and habitual traffic offender designation for 3 years.	1 year jail and $1,000 fine; habitual traffic offender designation for 3 years
23152(a), (b), (e) or (f) - within 10 years of three prior convictions for 23152, 23153 or 23103 per VC 23103.5	If probation granted: 180 days in jail, a fine of $390, habitual traffic offender designation for 3 years and may require an 18 month alcohol/drug program, if not previously completed and 4 year revocation of license. Without probation: 180 days in jail, a fine of $390 and habitual traffic offender designation for 3 years and 4 year revocation of license.	1 year jail and $1,000 fine; habitual traffic offender designation for 3 years
23153(a), (b), (e) or (f)	If probation granted: 6 days jail, a fine of $390 and attendance at an alcohol/drug program and 1year suspension of license. *If Blood Alcohol Content (BAC) is less than.20% - 3 months with 30 hours of education, counseling and interview program required. *If Blood Alcohol Content (BAC) is more than .20% or if defendant refused to submit to test, 9 months with 60 hours of education, counseling and interview program required. Without probation: 90 days in jail and a fine of $390 and 1 year suspension of license.	1 year jail and $1,000 fine
23153(a), (b), (e) or (f) - within 10 years of one prior conviction for 23152, 23153 or 23103 per VC 23103.5	If probation granted, either option A) or B) may be imposed: A) 120 days in jail and a fine of $390 and 3 year revocation of license B) 30 days in jail, a fine of $390 and18 or 30 month attendance at a driving-under –the –influence program and 3 year revocation of license. Without probation: 120 days in jail, a fine of $390 and 3 year revocation of license.	1 year jail and $5,000 fine Option B) $1000 max fine
23103 pursuant to V.C. 23103.5 * *This conviction will serve as a prior DUI conviction if I commit one or more DUI offenses within 10 years.	If probation granted: 9 month participation in an alcohol and drug treatment program If probation not granted: 5 days in jail and/or a fine of $145	90 days jail and/or $1,000 fine

Defendant's Signature

SENTENCE RECOMMENDATION FORM – VEHICLE CODE

CASE NO. _____ PEOPLE vs. _____

DRIVING WHILE UNDER THE INFLUENCE ENHANCEMENTS	INCREASE IN PUNISHMENT
Willful refusal to submit to or to complete a blood-alcohol chemical test. [V.C. 23577]	First offense of V.C. 23152 - 48 hours in jail added to any other sentence Second offense of V.C. 23152 - 96 hours in jail added to any other sentence Third offense of V.C. 23152 - 10 days in jail added to any other sentence Fourth or subsequent offense - 18 days in jail added to any other sentence First offense of V.C. 23153 - 48 hours in jail added to any other sentence Second offense of V.C. 23153 - 96 hours in jail added to any other sentence
Driving a vehicle 30 or more miles per hour over the speed limit on a freeway in a reckless manner OR driving a vehicle 20 or more miles per hour over the speed limit on any street or highway in a reckless manner. [V.C. 23582]	On 1st offense defendant must attend an education and counseling program. 60 days in jail in addition to any other sentence
One or more passengers in the vehicle was/were a minor under the age of 14 years. [V.C. 23572]	First offense of V. C. 23152 – 48 continuous hours in jail added to any other sentence – no stay of sentence allowed. Second offense of V.C. 23152 – 10 days in jail added to any other sentence – no stay of sentence allowed Third offense of V.C. 23152 – 30 days in jail added to any other sentence – no stay of sentence allowed Fourth or subsequent offense – 90 days in jail added to any other sentence – no stay of sentence allowed.
Multiple victims injured or killed [V.C. §23153]	1 year state prison addition on any felony conviction.
Blood Alcohol Content [V.C §23578]	3 months of 30 hours program activities, educational counseling, interview sessions, in addition to enhanced penalties and conditions of probation that may be taken into consideration.

VEHICLE CODE VIOLATION	FIRST OFFENSE	SECOND OR SUBSEQUENT OFFENSE
14601.3(a)	30 days jail and $1000 fine	If within 7 yrs. of prior conviction of 14601.3(a) 180 days jail and a fine of $2,000

VEHICLE CODE VIOLATION	MINIMUM SENTENCE	MAXIMUM SENTENCE
14601(a)	5 days jail and $300 fine	6 months jail and $1,000 fine
14601(a) - within 5 yrs. of a prior conviction for 14601, 14601.1, 14601.2 or 14601.5	10 days jail and $500 fine 10 days jail required if probation granted	1 year jail and $2,000 fine
14601.1(a)	$300 fine	6 months jail and/or $1,000 fine
14601.1(a) within 5 yrs. of a prior conviction for 14601, 14601.1, 14601.2 or 14601.5	5 days jail and $500 fine	1 year jail and $2,000 fine
14601.2(a) or (b)	10 days jail, $300 fine 10 days jail required if probation granted DMV will require ignition interlock device	6 months jail and $1,000 fine
14601.2(a) or (b) within 5 yrs. of a prior conviction for 14601, 14601.1, 14601.2 or 14601.5	30 days jail, $500 fine and ignition interlock device 30 days jail required if probation granted DMV will require ignition interlock device *If I was designated as a habitual traffic offender within three years of this conviction, I will serve an additional 180 days jail and pay a fine of $2,000.	1 year jail and $2,000 fine
14601.2(a) or (b) within 7 yrs., but over 5 yrs., from a prior conviction for 14601, 14601.1, 14601.2 or 14601.5	10 days jail and $300 fine 10 days jail required if probation granted DMV will require ignition interlock device	6 months jail and $1,000 fine
14601.4(a)	Shall be imprisoned in county jail and shall not be released upon work release, community service, or other release program before the minimum period of time prescribed in 14601.2 is served. If probation is granted, shall serve at least the minimum time of imprisonment specified under 14601.2 as a term of probation. DMV will require ignition interlock device.	
14601.5(a) or (b)	$300 fine or 6 months jail With prior conviction for certain offense(s), DMV will require IID	6 months jail and $1,000 fine
14601.5(a) or (b) within 5 yrs.of a prior conviction for 14601, 14601.1, 14601.2 or 14601.5	10 days jail and $500 fine With prior conviction for certain offense(s), DMV will require IID	1 year jail and $ 2,000 fine
20002(a)	None required under the statute	6 months jail and/ or $1000 fine
12500(a)	None required under the statute	6 months jail and $1,000 fine

_____
Defendant's Signature

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
MISDEMEANOR SENTENCE RECOMMENDATION

Court Use Only
(optional)

CASE NUMBER 16HM08911 PEOPLE VS Gaxiola, Gabriel

☒ Count(s) _____ dismissed on motion ~~of the~~ people. court

☐ Count(s) _____ sentence suspended.

☒ Count(s) 1 ~~stayed pursuant to PC 654.~~

TERMS

☒ Imposition ☐ Execution of sentence is suspended. 3 years

☐ Formal ☒ Informal PROBATION as to Count(s) 2.

☒ Violate no laws ☒ Obey all orders and rules of Court, Probation Department & Jail.

☐ Submit to search and seizure.

☐ Consume no alcoholic beverages and do not be present in any establishment where alcohol is primary item of sale.

☐ Do not drive with a measurable amount of alcohol in blood system.

☒ Submit to a chemical test of blood on demand of any peace officer or probation officer.

☐ Use no unauthorized drugs, narcotics or controlled substances and submit to chemical testing on demand of probation officer or police officer.

☐ Cooperate with Probation Department in any plan for counseling or treatment.

☐ Seek training, schooling, employment and maintain residence as approved by the Probation Department.

☐ Do not associate with anyone disapproved of by your probation officer.

☐ Do not knowingly own, use or possess any type of dangerous or deadly weapon ☐ Term of 10 years .

☐ Court orders weapon destroyed.

☒ Do not drive without a valid driver's license in your possession.

☒ Do not drive without valid insurance.

☒ Use TRUE NAME and Date of Birth at all times.

☒ Carry valid government issued identification card at all times.

☐ Provide the Court with your current address, telephone number, employer's name, address and telephone number. Immediately notify the Court of any changes.

☒ Disclose probation terms upon request of Probation or Law Enforcement Officer.

FINES AND FEES Credit for jail time served

☒ Pay a fine of $ 390 + Penalty Assessment on count 2.

☐ Pay a fine of $_____ + Penalty Assessment on count _____.

☒ Commit on fine(s) on count(s) 2 for 2 days.

☐ Pay $_____ Court Costs on count(s) _____.

☒ Pay $50 Alcohol Abuse Education Fee. (VC 23645)

☒ Pay $50 Alcohol Testing Penalty (PC 1463.14)

☒ Pay $100 Alcohol Assessment Fee. (VC 23649)

☐ Pay $50 Lab fee + Penalty Assessment (PC 1463.14/HS 11372.5)

☐ Pay $150 Drug Program Fee + Penalty Assessment (HS 11372.7)

☐ Pay $ _____ Domestic Violence Discretionary Fee for all Orange County Domestic Violence Shelters. (PC 1203.097)

☐ Pay $_____ Domestic Violence Prevention Fund. (PC 1203.097(a)(5))

THE FOLLOWING FEES ARE NOT CONDITIONS OF PROBATION:

☒ Pay $ 150 State Restitution Fine (minimum of $100.00) on count(s) 2. (PC 1202.4(b)(1))

☒ Pay $ 150 Probation Revocation Restitution Fine (minimum of $100.00). Restitution fine stayed. Effective upon revocation of probation. (PC 1202.44)

☒ Pay the following fees:

- Criminal Conviction Assessment Fee(s) $30/misdemeanor; $35/infraction (per convicted count). (GC 70373(a)(1))
- $40.00 Court Operations Fee (per convicted count) (PC 1465.8)
- Additional fees as required by law

☐ $10 Local Crime Prevention Fund (PC 1202.5)

☒ Pay Booking Fees as ordered by the Court.

☐ Pay costs of formal probation as directed by Probation Officer.

☐ Fines/Fees to be paid forthwith.

☒ Fines/Fees to be paid through Court Collections ☒ forthwith

☐ by _____.

☐ Fines/Fees to be paid through Probation.

Additional program fees may be applicable and paid through the program.

JAIL

☐ Serve _____ days Orange County Jail on Count _____.

☐ Serve _____ days Orange County Jail on Count _____.

☐ Jail to be served through the City of _____.

☒ Credit for 2 actual + ~~2~~ = total 4.

☒ Work release denied ☒ Electronic Confinement denied

☒ County Work Program denied

☐ JAIL STAYED to _____ at _____am/pm. Report to ☐ Theo Lacy ☐ Orange County Jail-Intake Release Center.

☐ May be released to an authorized representative of the _____ program to serve remainder of jail sentence.

☐ Serve _____ weekends at _____ Jail (no good time or work time to be applied to original sentence).

☐ Sentence(s) to run consecutive / concurrent to each other /any other sentence / Case No:_____.

☐ Jail stayed to_____ pending successful completion of

☐ DUI Court (except any statutory minimum term which may be served on SEC during the term of DUI Court as imposed by the Court.)

☐ Probation ☐ Community Service ☐ Cal Trans

☐ Cal Trans/Physical Labor by _____.

☐ Receive day for day credit. If program not completed, full jail sentence to be imposed with no credit for time served.

☐ To be served in State Prison concurrently.

☐ Book and release and show proof by _____.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
MISDEMEANOR SENTENCE RECOMMENDATION

CASE NUMBER 16HM0884 PEOPLE VS Gaxiola

COMMUNITY SERVICE / OTHER PROGRAMS

☐ Complete _____ ☐ hours ☐ days of ☐ Comm. Service
☐ Cal Trans ☐ Cal Trans/Physical Labor
☐ In lieu of fines ☐ In lieu of jail
☐ Complete Graffiti Removal as to count(s) _____.
☐ Proof of completion due to the Clerk's Office by_____.

ALCOHOL & DRUG/PROGRAMS/DRIVERS LICENSE

Complete 1st Offender Program:
☐ 3 month program ☒ 6 month ☐ 9 month OK L.A. CO. class
☐ Complete Multiple Offender – 18 month
☐ 12 hour program

☒ Attend Victim Impact Counseling. Proof of completion due to the Clerk's Office by May 10, 17
☐ Attend and complete _____ ☐ self help and/or Alcoholics Anonymous meetings ☐ self help and/or Narcotics Anonymous meetings ☐ per day ☐ per week ☐ per month. Proof due by _____.
☐ Court designates defendant a Habitual Offender. (VC 13350(b))
☐ Driving privilege suspended for 1 year pursuant to:
☐ VC 13202 (Vehicle conviction related to controlled substances)
☐ VC 13202.5 (Alcohol / Drugs under the age of 21)
☐ VC 13202.6 (Vandalism)
☐ Driving privilege suspended for _____ year(s) pursuant to VC 13352(a)(3) (2nd DUI conviction w/in 10 years)
☐ Driving privilege revoked for _____years pursuant to VC 13352(a)(5)
☐ Complete Youthful Alcohol & Drug Deterrence Program and show proof to the Clerk's Office by _____.
☐ Enroll and complete PC 1210 program. Proof of enrollment due by _____. Refer to PC 1210 Addendum
☐ Register with local law enforcement within 5 days from today or within 5 days upon release from custody pursuant to:
☐ HS 11590 (narcotics offense)
☐ PC 186.30 (gang related offense)
☐ PC 457.1 (arson offense) – Lifetime registration
☐ PC 290 (sex offense) – Lifetime registration
☐ Submit to AIDS testing. Proof due to Department _____ by _____.
☐ Attend and complete AIDS Prevention Education. Proof of completion due to the Clerk's Office by_____.

DOMESTIC VIOLENCE

☐ Complete Batterers' Treatment Program. (52 weeks active participation required)
☐ Alcohol/Drug Component
☐ Total abstinence from alcohol and drugs
☐ Test alcohol and drugs (blood or urine only)
☐ Parenting component
☐ One year Child Abuser's Program.
☐ Health Care Agency Perinatal Program.

DOMESTIC VIOLENCE, continued

☐ Other program(s) _____ ☐ weeks ☐ months ☐ years active participation required.
☐ Proof of enrollment due to the Court by_____.
☐ Comply with Court protective order.
☐ Defendant owns/possesses firearm(s). Relinquishment hearing set on _____.
☐ Surrender all firearms within 24 hours as required by law and file proof of surrender form within 48 hours with the Court.

RESTITUTION

☐ Make Restitution in the amount of $ _____ or as determined through ☐ Victim Witness ☐ Probation, with interest at the rate of 10% ☐ from the date of sentencing ☐ from the date of loss.
☐ Pay $ _____ to Victim Witness Emergency Fund by _____. (PC 1203.1(j))
☐ Pay cost of counseling to the victim and/or children in the amount of $_____.
☐ Submit a new financial disclosure form if money is still owing on a restitution order or fine 120 days before the scheduled release from probation. File the form with the court at least 90 days before the scheduled release from probation.
☐ Complete and return Statement of Assets form by _____.

ADDITIONAL TERMS & CONDITIONS

☐ Have no contact with _____.
☐ Stay _____ ☐ miles ☐ yards away from _____.
☐ Obey all rules of Court ordered program. Do not leave the program without Court approval.
☐ Probation to ☐ terminate ☐ be modified to informal status upon_____.

ADDENDUMS

☐ PC 1210 with Disclosure ☐ Gang ☐ Graffiti ☐ DUI Court
☒ DNA terms
☐ _____

DEFERRED ENTRY OF JUDGMENT (PC1000)

☐ All checked terms and conditions will be imposed, if terminated from the PC1000 Program.

REPORT ☒ forthwith ☐ by stay date to:

☒ Collections	☐ Clerk's Office	☐ Probation
☐ OneOC	☒ Alcohol Liaison	☒ DNA
☐ District Attorney	☐ Victim Witness	

OTHER _____

NOTICE TO DEFENDANT: After successful completion of probation, or if not placed on probation, any time after the lapse of one year from the date of pronouncement of judgment, you may petition the court to dismiss the charges under Penal Code Section 1203.4. This notice does not apply to any protective orders.

I have read, I understand, and I accept these terms and conditions of probation.

Date: 1-25-17 Defendant's Signature: _____ D.A. / C.A. Signature: _____

Defense Counsel Signature: _____

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ORANGE

MINUTES

Case : 16HM08811 M A
Name : Gaxiola, Gabriel

Date of Action	Seq Nbr	Code	Text
07/26/16	1	FIFCI	Own Release Recognizance filed.
08/05/16	1	FLDOC	**Original Complaint filed on 08/05/2016 by Orange County District Attorney.**
	2	FLNAM	Name filed: Gaxiola, Gabriel
	3	FLCNT	MISDEMEANOR charge of 23152(a) VC filed as count 1. Date of violation: 07/10/2016.
	4	FLCNT	MISDEMEANOR charge of 23152(b) VC filed as count 2. Date of violation: 07/10/2016.
	5	FLALG	23538(b)(2) VC added as other allegation as to count 1.
	6	FLALG	23538(b)(2) VC added as other allegation as to count 2.
	7	CLADD	**At the request of People, case calendared on 08/23/2016 at 08:30 AM in H8 for ARGN .**
	8	FI959	Accusatory pleading filed by the prosecutor pursuant to Penal Code section 959.1.
08/10/16	1	TXBKF	**Request for Booking Fees Received from Laguna Beach Police Department in the amount of $195.00, date of arrest 07/10/2016.**
08/23/16	1	HHELD	**Hearing held on 08/23/2016 at 08:30:00 AM in Department H8 for Arraignment .**
	2	OFJUD	Judicial Officer: Richard Pacheco, Commissioner
	3	OFJA	Clerk: J. Ramos
	4	OFBAL	Bailiff: L. Abbott
	5	OFREP	Court Reporter: None
	6	APDDA	People represented by Anthony Schlehner, Deputy District Attorney, present.
	7	AP856	Appearance made by Felipe Plascencia, Retained Attorney, by telephone, pursuant to Rule 856.
	8	APDNC	Defendant not present in court.
	9	WVDFP	Defendant's presence is waived .
	10	ADWRA	Defendant waives reading and advisements of legal and constitutional rights.
	11	PLNGA	**To the Original Complaint defendant pleads NOT GUILTY to all counts.**
	12	CLSET	**Pre Trial set on 09/14/2016 at 08:30 AM in Department H1.**

MINUTES

Case : 16HM08811 M A
Name : Gaxiola, Gabriel

Date of Action	Seq Nbr	Code	Text
08/23/16	13	CLSET	**Jury Trial set on 09/20/2016 at 08:30 AM in Department H1.**
	14	FIDOC	Informal Arraignment by Attorney filed.
	15	CPGTO	Copy of Informal Arraignment by Attorney form mailed to attorney of record.
	16	COACL	Attorney advised of requirement to send confirmation letter within 3 days.
	17	DSROR	Court orders defendant released on own recognizance.
	18	NTPRT	Prosecuting Attorney Notice printed.
	19	OFMCD	Minutes entered by D. Valle on 08/23/2016.
09/14/16	1	HHELD	**Hearing held on 09/14/2016 at 08:30:00 AM in Department H1 for Pre Trial .**
	2	OFJUD	Judicial Officer: Julian W Bailey, Judge
	3	OFJA	Clerk: L. Sanchez
	4	OFBAL	Bailiff: C. H. Joyce
	5	OFREP	Court Reporter: None
	6	APDDA	People represented by Nathaniel Wayne Barrett, Deputy District Attorney, present.
	7	APNDC	Defendant not present in Court represented by Felipe Plascencia, Retained Attorney.
	8	FICON	Request for Continuance - Misdemeanor filed.
	9	WV977	Defendant's appearance is waived pursuant to Penal Code 977(a).
	10	CLVAC	**Jury Trial vacated for 09/20/2016 at 08:30 AM in H1.**
	11	CLCON	**Pre Trial continued to 10/27/2016 at 08:30 AM in Department H1 at request of Defense.**
	12	WVTGN	Defendant enters general time waiver.
	13	DSOCN	Defendant's release on own recognizance continued.
10/27/16	1	HHELD	**Hearing held on 10/27/2016 at 08:30:00 AM in Department H1 for Pre Trial .**
	2	OFJUD	Judicial Officer: Carlton P. Biggs, Judge
	3	OFJA	Clerk: K. Rodriguez
	4	OFBAL	Bailiff: C. H. Joyce
	5	OFREP	Court Reporter: None

MINUTES

Case : 16HM08811 M A
Name : Gaxiola, Gabriel

Date of Action	Seq Nbr	Code	Text
10/27/16	6	APDDA	People represented by Anthony Schlehner, Deputy District Attorney, present.
	7	APNDC	Defendant not present in Court represented by Felipe Plascencia, Retained Attorney.
	8	WV977	Defendant's appearance is waived pursuant to Penal Code 977(a).
	9	FICON	Request for Continuance - Misdemeanor filed.
	10	CLCON	**Pre Trial continued to 12/14/2016 at 08:30 AM in Department H1 at request of Defense.**
	11	WVTGN	Defendant enters general time waiver.
	12	DSOCN	Defendant's release on own recognizance continued.
12/14/16	1	HHELD	**Hearing held on 12/14/2016 at 08:30:00 AM in Department H1 for Pre Trial.**
	2	OFJUD	Judicial Officer: Julian W Bailey, Judge
	3	OFJA	Clerk: L. Sanchez
	4	OFBAL	Bailiff: T. Hartman
	5	OFREP	Court Reporter: None
	6	APDDA	People represented by David McMurrin, Deputy District Attorney, present.
	7	APNDC	Defendant not present in Court represented by Felipe Plascencia, Retained Attorney.
	8	FICON	Request for Continuance - Misdemeanor filed.
	9	WV977	Defendant's appearance is waived pursuant to Penal Code 977(a).
	10	CLCON	**Pre Trial continued to 01/25/2017 at 08:30 AM in Department H1 at request of Defense.**
	11	CLSET	**Jury Trial set on 04/11/2017 at 08:30 AM in Department H1.**
	12	WVTDT	Defendant waives time to 04/11/2017.
	13	TEXT	Day 0 of 10
	14	DFOTN	Defense Counsel to notify defendant appear on 04-11-17.
	15	DSOCN	Defendant's release on own recognizance continued.
01/25/17	1	HHELD	**Hearing held on 01/25/2017 at 08:30:00 AM in Department H1 for Pre Trial.**
	2	OFJUD	Judicial Officer: Julian W Bailey, Judge

MINUTES

Case : 16HM08811 M A
Name : Gaxiola, Gabriel

Date of Action	Seq Nbr	Code	Text
01/25/17	3	OFJA	Clerk: L. Sanchez
	4	OFBAL	Bailiff: J. Pritchard
	5	OFREP	Court Reporter: None
	6	APDDA	People represented by Gordon Valiant Dunn, Deputy District Attorney, present.
	7	APDWRA	Defendant present in Court with counsel Plascencia, Felipe , Retained Attorney.
	8	ADAWV	Defendant advised of and waives the following:
	9	ADCAP	- The right to court appointed counsel if financially unable to retain counsel.
	10	ADRTT	- The right not to testify, be called as a witness, or admit guilt.
	11	ADRTF	- The right to testify in own defense.
	12	ADJCT	- The right to a trial by Court or Jury.
	13	ADCXW	- The right to confront and cross-examine witnesses.
	14	WVRSI	- The right against self-incrimination.
	15	WVRSP	Defendant waives the right to subpoena and present evidence.
	16	ADMAX	Defendant advised of maximum possible sentence.
	17	ADCSQ	Defendant advised of consequences of violating probation.
	18	ADCZS2	The defendant understands that, if he/she is not a citizen of the United States the conviction for the offense(s) charged may or, with certain offenses, will have the consequence of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
	19	ADCRWG	The defendant has been advised of constitutional rights, waivers and consequences in writing pursuant to the guilty plea form. The defendant makes the plea with a full understanding of all the matters set forth in the charging document and in the guilty plea form, that defendant has read, understood and personally initialed each item herein. Defendant understands that the signing and filing of the guilty plea form is conclusive evidence that defendant has pleaded GUILTY to the charges set forth.

MINUTES

Case : 16HM08811 M A
Name : Gaxiola, Gabriel

Date of Action	Seq Nbr	Code	Text
01/25/17	20	PLPAFV	The defendant offers his/her plea, and admits the listed priors and allegations freely and voluntarily. No one has made any threats, used any force against the defendant or his/her family or loved ones, and no one has made any promises to him/her other than as on the Sentence Recommendation form.
	21	PLWTH	**Defendant's motion to WITHDRAW NOT GUILTY PLEA to count(s) 1, 2 granted.**
	22	PLTXT	Upon Court's own motion:.
	23	CDCDM	Count(s) 1 DISMISSED - Other reason.
	24	PLGCT	**To the Original Complaint defendant pleads GUILTY as to count(s) 2.**
	25	PLTXT	Other Allegations of Vehicle Code 23538(b)(2) as to Count 1 and 2 are Stricken by the People. .
	26	PLFBA	Court finds factual basis and accepts plea.
	27	PLFWR	Court finds defendant intelligently and voluntarily waives legal and constitutional rights to jury trial, confront and examine witnesses, and to remain silent.
	28	DFSIS	Defendant states that the initials and signature on the Waiver of Rights form are his.
	29	FIWWR	Defendant's written waiver of legal and constitutional rights for guilty plea received and ordered filed.
	30	WVTIM	Defendant waives statutory time for Sentencing.
	31	PLRIS	Defendant requests immediate sentencing.
	32	ADDUI	Pursuant to Vehicle Code Section 23593(a), defendant was advised that being under the influence of alcohol or drugs, or both, impairs the ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and, as a result of that driving, someone is killed, you can be charged with murder.
	33	PRISS	No legal cause why judgment should not be pronounced and defendant having Pled Guilty to count(s) 2, Imposition of sentence is suspended and defendant is placed on 3 Year(s) INFORMAL PROBATION on the following terms and conditions:

MINUTES

Case : 16HM08811 M A
Name : Gaxiola, Gabriel

Date of Action	Seq Nbr	Code	Text
01/25/17	34	PRVNL	Violate no law.
	35	PROBY	Obey all orders, rules, and regulations, and directives of the Court, Jail, and Probation.
	36	PRSCT	Submit to a chemical test of your blood on demand of any peace officer, probation officer, or mandatory supervision officer.
	37	PRVDL	Do not drive without a valid driver's license in your possession.
	38	PRINS	Do not drive without proof of valid auto liability insurance or financial responsibility as required by law.
	39	PRTNO	Use true name and date of birth only at all times.
	40	PRCVP	Carry valid government issued identification at all times.
	41	PRDTC	Disclose terms and conditions of probation when asked by any law enforcement or probation officer.
	42	PRFIN	Pay FINE of $390.00 plus penalty assessments as to count(s) 2.
	43	FSCJF	**$250.00 credited for time served on $390.00 fine as to count(s) 2.**
	44	PRSRF	Pay mandatory state restitution fine of $150.00 pursuant to Penal Code 1202.4 or Penal Code 1202.4(b).
	45	PRFAA	Pay $50.00 Alcohol Abuse Education FEE pursuant to Vehicle Code section 23645.
	46	PRFBP	Pay $50.00 DUI Lab/Blood Alcohol Penalty pursuant to Penal Code 1463.14(b).
	47	PRFEE	Pay $100.00 Alcohol & Drug Assessment Program fee pursuant to Vehicle Code 23649.
	48	PRRFS	Pay $150.00 Probation Revocation Restitution Fine pursuant to Penal Code 1202.44. Restitution fine stayed, to become effective only upon revocation of probation.
	49	SESEC	Pay $40.00 Court Operations Fee per convicted count pursuant to Penal Code 1465.8.
	50	SECCA	Pay Criminal Conviction Assessment Fee per convicted count of $30.00 per misdemeanor/felony and $35.00 per infraction pursuant to Government Code 70373(a)(1).
	51	PROTC	Defendant ordered to report to the Harbor - Newport Beach Facility Collections Department forthwith. Defendant ordered to cooperate with and pay as directed by the Collections Department.

MINUTES

Case : 16HM08811 M A
Name : Gaxiola, Gabriel

Date of Action	Seq Nbr	Code	Text
01/25/17	52	FIDOC	Request for Booking Fees filed.
	53	COBKG	Court grants booking fees paid to Laguna Beach Police Department $195.00.
	54	PRAP1	Attend and complete 6 month Level 2 First Offender Alcohol Program as to count(s) 2.
	55	DFOAP	Defendant may attend an equivalent out of county alcohol program.
	56	PRMAD	Attend and complete Victim Impact Counseling as to count(s) 2.
	57	STPRF	Victim Impact Counseling stayed to 05/10/2017 for proof of completion.
	58	STMLD	Proof of Victim Impact Counseling to be mailed or submitted to Harbor Justice Center - Newport Beach Facility, 4601 Jamboree Road, Newport Beach, CA 92660 or placed in the "Drop Box" at any Superior Court of California, County of Orange, Justice Center. Proof must be received no later than 05/10/2017.
	59	PRDNAC	As a condition of my plea and for the purpose of crime prevention and detection, I voluntarily consent and agree to provide a state DNA sample and prints for the State DNA Database pursuant to Penal Code 296.1 and a local DNA Database sample, prints and photograph for the local Orange County District Attorney DNA Database with the understanding that my DNA samples will be forensically analyzed and will be permanently retained, along with my DNA profile(s), prints and photograph, all of which will be subject to continual searches, anytime in the future, against other DNA profiles, prints and photographs in any local, state, national or international law enforcement database. I also voluntarily agree to provide sample(s) immediately or, if in custody, within 72 hours of my release.
	60	FIPSA	Addendum to Defendant's Terms and Conditions of Probation "DNA Terms" filed.
	61	DFRPT2	Defendant ordered to report to Alcohol Liaison and Room 102A to provide DNA sample forthwith.
	62	PRATC	Defendant accepts terms and conditions of probation.
	63	DSTUP	Defendant's release status updated to reflect: Released.
	94	OFMCD	Minutes entered by D. Valle on 01/25/2017.

MINUTES

Case : 16HM08811 M A
Name : Gaxiola, Gabriel

Date of Action	Seq Nbr	Code	Text
01/25/17	95	REMRC	Remittance from receipt # 15301056 received in the amount of $999.00.
	96	DMABS	DD1-CGQ sent to DMV. Return Code: 800
	97	FXDACT	Collections Referral activity deleted from case.
	98	DOJABS	DOJ Initial Abstract sent.
02/09/17	1	FIENR	Proof of Enrollment filed as to 6 months First Offender Alcohol Program imposed on 01/25/2017.
05/02/17	1	FICOM	Proof of Completion filed as to Victim Impact Counseling imposed on 01/25/2017.
07/19/17	1	FICOM	Proof of Completion filed as to 6 months First Offender Alcohol Program imposed on 01/25/2017.
01/24/20	1	PBCMP	Case evaluated for expired probation(s). Probation updated for applicable grant(s) of probation.
	2	CSCLS	**Case closed.**
09/08/22	1	FIPPV2	Notice of possible probation violation from Los Angeles, case number 2MN02194, filed.
	2	CONAT	No action taken.
09/09/22	1	CSCLS	**Case closed.**
12/22/22	1	TXRNF	Copy request received, not filed.
	2	CPGTO	Certified Copy of Prior packet mailed to T. Tertzakian Metropolitan Operations Office of the City Attorney Hydee Felstein Soto Los Angeles, CA .
12/23/22	1	CSCLS	**Case closed.**
10/05/23	1	TXRNF	Request for Records Search and/Or Copies received, not filed.
	2	CPGTO	Copy of Prior packet mailed to State of California, Department of Justice.Commission on Peace Officer Standards and Training.
10/06/23	1	CSCLS	**Case closed.**