

IN THE CRIMINAL COURT OF HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE,)	
)	
<i>Plaintiff,</i>)	SECOND DIVISION
)	
vs.)	
)	NO(s).
_____)	
)	
<i>Defendant.</i>)	

**WAIVER OF FOURTH AMENDMENT RIGHTS AS PART
OF PARTICIPATION IN DRUG RECOVERY COURT PROGRAM**

Comes now the Defendant in the above styled case(s), and states to the Court the following:

1. **Nature of the Rights I have:** I understand that I have constitutional and statutory rights that protect me from unreasonable searches and seizures.

I understand that these rights are guaranteed by, among other law, the Fourth Amendment to the United States Constitution and Article I, section 7 of the Tennessee Constitution.

I also understand that I can voluntarily give up these rights as part of a negotiated plea agreement or negotiated resolution of a probation or community corrections violation as an acceptable alternative to serving a sentence of incarceration. *See, e.g., United States v. Knights*, 534 U.S. 112 (2001); *State v. Turner*, 297 S.W.3d 155 (Tenn. 2009); *State v. Hamm*, 589 S.W.3d 765 (Tenn. 2019).

2. **Waiver of Rights:** For so long as I am a participant in the Hamilton County Drug Recovery Court program, or subject to a probationary order from the Hamilton County Drug Recovery Court, I do hereby waive and give up the rights listed above.

3. **Consent to Drug Screens Without Any Level of Suspicion:** I understand that I will be subject to drug screens to detect the use of unlawful and prohibited substances and drugs, including through the taking of samples of urine, blood, or hair. Although I understand that such drug screens constitute a “search,” I hereby consent to such searches and random drug screens without probable cause or any level of suspicion of use while I am a participant in the Drug Recovery Court program.

4. **Consent to Search Without Any Level of Suspicion:** I hereby consent to a search of my person, papers, personal effects, residence, cell phone, computer, or other electronic devices, vehicles, and other effects, without a warrant by any Drug Recovery Court Staff

member, treatment provider, any probation or community corrections officer, or law enforcement officer, at any time.¹

For as long as I am a participant in the Hamilton County Drug Recovery Court program or subject to a probationary order from the Hamilton County Drug Recovery Court, I agree that that the above searches may be conducted without a warrant and without probable cause or any level of suspicion.

5. **Use of Seized Evidence:** In granting this consent, I understand that the State may use any evidence seized during such a search as a basis for any later prosecution of me that may arise from said search. I also understand that the Drug Recovery Court may use any evidence seized during such a search as the basis for any sanction imposed by the Drug Recovery Court program, including an incarcerative sanction or removal from the program.
6. **Voluntary Waiver:** No person has threatened me or coerced me into granting this waiver of my Fourth Amendment rights.
7. **Advice of Legal Counsel:** I have spoken with my lawyer about the rights guaranteed me by the Fourth Amendment and the consequences of waiving those rights, as well as any advantages or disadvantages to agreeing to this waiver of rights. I understand the consequences and possible disadvantages of agreeing to this waiver, and I voluntarily agree to this waiver of my Fourth Amendment rights as set forth herein as a condition of my participation in the Hamilton County Drug Recovery Court program.
8. **Reclaiming My Rights:** I understand that this waiver of rights will no longer be effective, and that I will be able to reassert fully my Fourth Amendment rights, if I am removed from the Drug Recovery Court program.

Participant's Signature

Date

Participant's Attorney

Date

¹ See *State v. Hamm*, 589 S.W.3d 765, 777-78 (Tenn. 2019), *cert. denied*, No. 19-1059, 2020 WL 3492661 (U.S. June 29, 2020) (“we hold that probation search conditions that permit a search, without warrant, of a probationer’s person, vehicle, property, or place of residence by any Probation/Parole Officer or law enforcement officer, at any time, do not require law enforcement to have reasonable suspicion. . . . as a condition of defendant Angela Hamm’s probation, she signed a probation order that contained the condition, among other things, that ‘I agree to a search, without a warrant, of my person, vehicle, property, or place of residence by any Probation/Parole officer or law enforcement officer, at any time.’ Her signature on the document clearly illustrates that the defendant was ‘unambiguously’ aware of the search condition contained in the probation document, and the officer conducting the search was aware of her status as a probationer. Thus, the search of defendant Hamm’s residence was constitutionally reasonable. (citations omitted))).