

INSTRUCTIONS for Motion for Court Acceptance of Waiver of Defendant's Personal Appearance at Arraignment Pursuant to Fed. R. Crim. P. 10(b)

File the document as a motion and follow usual motion protocols.

These motions for waiver of appearance are disfavored for in custody defendants unless there are health matters or atypical circumstances that prevent the defendant's appearance.

For out of custody defendants, telephonic appearance in addition to the waiver will usually be required.

If a financial affidavit would ordinarily be required at the time of the arraignment (such as an arraignment where the defendant appeared in another district that did not require a financial affidavit), then counsel should bring an executed financial affidavit to the arraignment.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States of America,

Plaintiff,

v.

x,

Defendant.

No. CR-

**MOTION FOR COURT ACCEPTANCE
OF WAIVER OF DEFENDANT’S
PERSONAL APPEARANCE AT
ARRAIGNMENT PURSUANT TO
FED.R.CRIM.P. 10(b)**

The Defendant in the above case represents and hereby agrees that:

- (1) The Defendant’s attorney has provided the Defendant a copy of the indictment;
- (2) The Defendant’s attorney has explained to the Defendant the nature of substance of the charge(s), the maximum penalties applicable to the charge(s), any forfeiture allegation, and Defendant’s constitutional rights;
- (3) The Defendant understands that the Defendant has a right to appear personally at the arraignment to be advised of the charge or charges against the Defendant and to be present when the pretrial motions deadline and trial date are set;
- (4) The Defendant authorizes the Defendant’s attorney to appear at the arraignment on behalf of the Defendant. The Defendant hereby authorizes the Defendant’s attorney at the arraignment to enter on the Defendant’s behalf a plea of a not guilty to all charges against the Defendant as well as a denial of any forfeiture allegations on behalf of Defendant.

1 (5) Having conferred with the Defendant's attorney of record, the Defendant
2 hereby waives personal appearance and the reading of the indictment at the arraignment in
3 this case.

4 (6) The Defendant also hereby acknowledges that the Defendant is required to
5 personally appear at the trial of this matter and that the Defendant is responsible to
6 promptly obtain the trial date, time, and location from the Defendant's attorney, including
7 any updated trial date(s) as the case progresses.

8 (7) The Defendant requests that the Court accept this Waiver of Personal
9 Appearance at Arraignment. **The Defendant acknowledges that until and unless the**
10 **Court accepts this Waiver of Personal Appearance at Arraignment, the Defendant is**
11 **required to personally appear at the arraignment.**

12 [(8) The Defendant is out of custody and will follow instructions of counsel for
13 the Defendant's telephonic appearance at the arraignment.]

14 Therefore, the Defendant moves for this Court to accept this Waiver of Defendant's
15 Personal Appearance at Arraignment Pursuant to Fed. R. Crim. P. 10(b)

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17 Defendant's full and true name is: _____

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19 Date: _____

Defendant's signature

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22 Date: _____

Signature of Attorney for Defendant

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States of America,	No. CR-
Plaintiff,	ORDER
v.	
x,	
Defendant.	

This matter is before the Court on the Defendant’s Motion for Waiver of Personal Appearance at Arraignment and Entry of Not Guilty Plea (Doc. x). The Court finds that the requirements of Fed. R. Crim. P. 10(b) have been met. [The Court will accept the waiver of indictment subject to requiring that the Defendant be telephonically present at the arraignment.]

Accordingly,

IT IS ORDERED granting the Defendant’s Motion for Waiver of Personal Appearance at Arraignment and Entry of Not Guilty Plea (Doc. x).

IT IS FURTHER ORDERED accepting the Defendant’s Waiver of Personal Appearance at Arraignment.

IT IS FURTHER ORDERED affirming the arraignment hearing currently set for **xxxxxxxx a.m.** at 401 W. Washington St, Phoenix, AZ 85003, before Judge xxxxx in courtroom xxxxx. **Defendant’s counsel must appear at the Arraignment**, at which time Defendant’s Not Guilty Plea(s) will be entered, and Defendant’s trial date will be set.

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[IT IS FURTHER ORDERED that the Defendant’s counsel shall facilitate the Defendant’s telephonic appearance at the arraignment and the Defendant shall follow instructions of counsel for the Defendant’s telephonic appearance at the arraignment.]

The Court finds excludable delay under 18 U.S.C. § 3161(h)_____ from _____ to _____.