

Disjunctive v. Conjunctive Pleading

A. Plea of Guilty and No Contest

- Where a defendant pleads guilty or no contest "to facts stated in the conjunctive, each factual allegation is taken as true." *United States v. Williams*, 47 F.3d 993, 995 (9th Cir. 1995). See also *United States v. Smith*, 390 F.3d 661, 665 (9th Cir. 2004), amended by 405 F.3d 726 (9th Cir. 2005) (same); *United States v. Velasco-Medina*, 305 F.3d 839, 852 (9th Cir. 2005) ("By pleading guilty to Count One, [the defendant] admitted the facts alleged therein"); *Albillo-Figueroa v. INS*, 221 F.3d 1070, 1073 n.2 (9th Cir. 2000) ("[The petitioner's] guilty plea constituted an admission of all elements of the offense charged."); *United States v. Harris*, 108 F.3d 1107, 1109 (9th Cir. 1997) ("[A] guilty plea conclusively proves the factual allegations contained in the indictment."); *United States v. Mathews*, 833 F.2d 161, 164 (9th Cir. 1987) (same); *United States v. Broce*, 488 U.S. 563, 570 (1988) ("[A guilty plea] is an admission that [the defendant] committed the crime charged against him.") (quoting *North Carolina v. Alford*, 400 U.S. 25, 32 (1970)). But see *Malta-Espinoza v. Gonzales*, 478 F.3d 1080, 1082 (9th Cir. 2007) (finding that where the complaint charged the offense conjunctively, but the underlying statute was phrased disjunctively, the complaint and abstract of judgment only prove that the defendant committed one of the conjunctively charged acts) (citing *United States v. Bonanno*, 852 F.2d 434, 441 (9th Cir. 1988)).

- A disjunctive plea does not unequivocally establish that each factual allegation was admitted as true. *United States v. Almazan-Becerra*, 482 F.3d 1085, 1089-90 (9th Cir. 2007).

2. Jury Verdict

- "Where a statute specifies two or more ways in which an offense may be committed, all may be alleged in the conjunctive in one count and proof of any one of those acts conjunctively charged may establish guilt." *United States v. Bonanno*, 852 F.3d 434, 441 (9th Cir. 1988) (determining whether evidence sufficient to support jury's guilty verdict).