

IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, * No. _____
*
v. * _____
*
_____, * _____
*
Defendant * _____

GUILTY PLEA
EXPLANATION OF DEFENDANT'S RIGHTS

Charge(s) and Grade(s) of Offenses:

- 1. _____ F _____ or M _____
- 2. _____ F _____ or M _____
- 3. _____ F _____ or M _____
- 4. _____ F _____ or M _____
- 5. _____ F _____ or M _____

Maximum Punishment: (Check and complete mandatory minimum, if applicable.)

- 1. Years _____ Fine _____
Mandatory Minimum: _____
Sentencing Guidelines Standard Range: _____
- 2. Years _____ Fine _____
Mandatory Minimum: _____
Sentencing Guidelines Standard Range: _____
- 3. Years _____ Fine _____
Mandatory Minimum: _____
Sentencing Guidelines Standard Range: _____
- 4. Years _____ Fine _____
Mandatory Minimum: _____
Sentencing Guidelines Standard Range: _____
- 5. Years _____ Fine _____
Mandatory Minimum: _____
Sentencing Guidelines Standard Range: _____

Initials

Total Years_____

Total Fine_____

Total Mandatory Minimums:_____

The above listed charges are those to which I intend to plead guilty or nolo contendere.

You or your attorney have indicated to the officers of this Court that you wish to plead guilty or *nolo contendere* to certain specific criminal charges which the Commonwealth of Pennsylvania has brought against you.

In order to have your plea accepted by the Court here today, you must waive your right to confront the prosecution witnesses against you and agree to permit an Assistant District Attorney to summarize the Commonwealth's evidence against you. You must agree to stipulate to the authenticity and accuracy of any Crime Laboratory reports presented by the Commonwealth and to the chain of custody of any of the Commonwealth's evidence involved in your case.

You must fully understand that your plea must be voluntary and no clemency is being promised in exchange for your plea, with the exception of any plea bargain or arrangement previously agreed to between your attorney and the Assistant District Attorney assigned to your case.

By pleading guilty to any charge, you are admitting that you committed that offense. By pleading *nolo contendere*, you are stating that you do not contest the charges against you. In either case, the Commonwealth would not have to prove each and every element of the crimes with which you are charged as would be required in a jury or non-jury trial.

You must fully understand that the Constitutions of the United States of America and the Commonwealth of Pennsylvania give you an absolute right to have a trial by a jury.

If you intend to waive your Constitutional right to a trial by jury, please answer all the questions on this form. Most of the questions are designed to be answered "yes" or "no". Where general information is requested, please answer the questions as fully as possible.

If you do not understand the question, you should say so in writing on this form. You should also tell your lawyer and the Judge who hears your case so they can explain it to you. You must fully understand all of your rights before the Judge can accept your plea.

You should initial each page at the bottom after you have read, understood, and completed your answers to the questions on that page. When you have finished all of the questions, you must sign the form at the end.

1. What is your full name?_____

2. How old are you today?_____

3. How far did you go in school?_____

Initial

4. Can you read, write and understand the English language? _____
5. Do you now or have you ever had any physical or mental illness that would affect your ability to understand these rights or affect the voluntary nature of your plea? _____
6. Are you presently taking any medication, which might affect your thinking or your free will? _____
7. Have you had any narcotics or alcohol in the last forty-eight (48) hours? _____
8. Have you been processed at the Central Booking Center? _____
9. Have the charge(s), and the elements of each, to which you are pleading been explained to you that would have to be proven by the Commonwealth if you were to go to trial?

 - (a) If so, who explained the charges and the elements of each charge to you?

 - (b) Do you understand the nature of the charges to which you are pleading guilty?

10. Do you understand that the Constitutions of the United States of America and the Commonwealth of Pennsylvania give you an absolute right to have a trial by jury?

11. Do you understand that if you do desire a jury trial, you would participate in the selection of that jury with your attorney and the Assistant District Attorney assigned to prosecute your case? _____
12. Do you understand that you, your attorney and the Assistant District Attorney assigned to prosecute your case would select a jury from a panel of jurors randomly picked by computer from the voter registration lists, driver license registration lists and other legally approved lists of citizens of Cambria County? _____
13. Do you understand that both the defense and prosecution would have the right to "challenge" members of the jury panel, and that this means you and the prosecution would have the right to keep certain persons on the jury panel from being a member of the jury in your case?

14. Do you understand that both the defense and the prosecution would have as many challenges "for cause" as the Court would approve? "For cause" means a good reason why the challenged person could not be an impartial juror in your case. _____

Initials

(5, 6, 7, 8)

15. Do you understand that both you and the prosecution would each have a number of "peremptory challenges"? A "peremptory challenge" is one in which no reason has to be given to prevent a prospective juror from being a member of your jury. If you are charged with felonies, both you and the prosecution each have seven "peremptory challenges." If you are charged only with misdemeanors, both you and the prosecution each have five "peremptory challenges"? _____
16. Do you understand that all 12 members of the jury finally selected by you, your attorney and the District Attorney would have to be satisfied that the Commonwealth had proven your guilt beyond a reasonable doubt on each charge? That is, their vote for your conviction would have to be unanimous before you could be found guilty. _____
17. Do you understand that you may also choose to be tried before a Judge without a jury in what is called a "non-jury" trial, and that the Judge, in addition to ruling on legal questions and defining the law as he does in jury trials, would sit as a trier of fact, much like a jury does, and determine from the evidence presented whether the Commonwealth has proven you guilty? _____
18. Do you understand that in either the jury trial or non-jury trial before a Judge, you enter the courtroom clothed with the presumption of innocence, and that presumption remains with you until such time, if ever, that a jury or Judge in a non-jury trial would find you guilty? _____
19. Do you understand that in either a jury trial or a non-jury trial before a Judge, it is the burden of the Commonwealth to prove you guilty "beyond a reasonable doubt"? To do this the Commonwealth must prove each and every element of the crime or crimes with which you are charged "beyond a reasonable doubt" to the satisfaction of all 12 jurors in a jury trial or to the satisfaction of the Judge in a non-jury trial? _____
20. Do you understand that a reasonable doubt is an honest doubt arising from the evidence presented or from the lack of evidence, and it is the kind of doubt that would cause a reasonably prudent person to pause or to hesitate before acting in a matter of the highest importance to themselves? _____
21. Do you understand that in either a jury trial or a non-jury trial before a Judge, you have the absolute right to remain silent and not to present any evidence in your own behalf and that there is no burden placed on you to prove your own innocence or, for that matter, to prove anything since the burden is always on the Commonwealth to prove you guilty "beyond a reasonable doubt"? _____
22. Do you understand that in either a jury trial or a non-jury trial before a Judge, you have the right, to testify and to have witnesses testify on your behalf? You would have the right to present any relevant evidence, which would help to substantiate your innocence and to contradict the evidence and testimony presented by the prosecution. You would have the right either yourself, or through your attorney, to cross examine or question any witnesses presented by the Commonwealth in order to test their credibility and the accuracy of their testimony. _____

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23. Do you fully understand that by pleading guilty or *nolo contendere* you are giving up all of these rights described in the previous questions? _____
24. Do you understand that when you plead guilty or *nolo contendere* the Commonwealth would not have to prove each and every element of the crime or crimes with which you are charged by the presentation of witnesses and/or other evidence, but the Assistant District Attorney could simply present a summary of the evidence against you? _____
- (a) Do you understand that a Judge can accept the District Attorney's summary as being the true facts? _____

When you appear before the Judge to offer your plea, pay close attention to the District Attorney's summary of the evidence because the Judge may question you regarding it.

25. Do you understand that by pleading guilty you are admitting you committed the crime or by pleading *nolo contendere* you are stating that you do not contest the charges against you? _____
- (a) Do you understand that when you plead guilty or *nolo contendere*, you give up the right to remain silent and you can be questioned about the facts of the case?

- (b) Have you talked to your attorney and discussed whether you should plead guilty or *nolo contendere*? _____
- (c) On the basis of that discussion, what did you decide to do? _____
26. Do you understand that by pleading guilty or *nolo contendere* you also give up the right to pre-trial motions, such as Motions for Discovery which would require the Commonwealth to divulge what evidence it has against you; Motions for Suppression by which you could challenge the admissibility of the evidence the Commonwealth plans to use against you; and Motions to Quash in which you could challenge the legality of your arrest and the proceedings against you? _____
27. Have you discussed with your attorney the permissible range of sentences and/or fines that can be imposed for the offenses charged? _____
- (a) Do you understand what the maximum sentence and fines are that could be imposed against you? _____

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(25c)

(b) Do you understand that if you are presently on probation or parole, by pleading guilty or *nolo contendere* you will be in direct violation of your parole or probation, and the Judge who put you on probation or parole can revoke it and, regarding parole, may sentence you to serve any unserved time remaining on your sentence or, regarding probation, may sentence you for up to the maximum guidelines and may deviate from the guidelines; however, if the Court does so, both the District Attorney and you would have a right to appeal such deviation?

28. Are you aware that if the offenses with which you are charged do not require a mandatory sentence, under the statutory law of Pennsylvania, the Court is not bound by the sentencing guidelines and may deviate from the guidelines? However, if the Court does so, both the District Attorney and you would have a right to appeal such deviation? _____
29. Do you understand that if following the entry of your guilty plea you have been convicted of a second or subsequent violation of Driving Under the Influence, at 75 Pa.C.S.A. Section 3802, the Court shall order that an approved interlock ignition device be installed on any motor vehicle that you own? _____
30. Do you understand that if your plea involves a violation of Driving Under the Influence, at 75 Pa.C.S.A. Section 3802, the Pennsylvania Department of Transportation will suspend your driver's license? The length of suspension will be at least one year and may be longer, depending on your existing driving record? _____
31. Do you understand that if your plea involves a violation of the Controlled Substance, Drug Device and Cosmetic Act that your driver's license will be suspended? [75 Pa.C.S.A. Section 1532(c)] _____
32. Do you understand that if your plea involves a violation of a crime as defined in the DNA Detection of Sexual and Violent Offenders Act that you are required to submit to DNA sampling, which will be held by the State Police? [35 Pa.C.S.A. Section 7651.101]

33. Do you understand that if your plea involves a violation of a crime as defined in Megan's Law (Registration of Sexual Offenders) that you are required to register with the State Police for a minimum period of 15 years? [42 Pa.C.S.A. Sections 9799.12-9799.15] _____
34. Do you understand that if you are not a citizen of the United State of America by entering a plea of guilty or *nolo contendere* you run the risk of being deported to your native country? _____
35. Do you understand that your plea may disqualify you from possessing a firearm? _____

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36. Do you understand that the Court is not bound by any plea bargain or agreement entered into by you and the District Attorney? However, if the Court would refuse such plea bargain after hearing a summary of the evidence, you would have a right to withdraw your plea and your case would be reassigned to another Judge before whom you would have the option of entering a straight plea (with no plea bargain involved) or have your case heard by the Judge in a non-jury trial and, of course, you would still have the right to a trial by jury if you so desire? _____
37. Do you understand that if you were convicted after a jury trial or non-jury trial before a Judge, you could appeal the verdict to a higher court and raise any errors that were committed in the Trial Court, and that this could result in your being awarded a new trial or discharged, and that by pleading guilty, you are giving up this right? _____
38. Do you understand that if you were convicted after a jury trial or a non-jury trial before a Judge, you could challenge in this court and/or the Appellate Courts whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? _____
39. Do you understand if you wish to withdraw your guilty plea, which the Judge may or may not permit, you must file such motion before sentencing? _____
40. **APPEAL RIGHTS - POST SENTENCE MOTIONS**

It is not necessary to first file a Post Sentence Motion with the sentencing court in order to be able to appeal to a higher court. However, you have the right to file such a motion if you choose to do so. If you do file a Post Sentence Motion with the sentencing court, the following provisions apply:

- (a) A post sentence motion must be in writing;
- (b) A post sentence motion must be filed with the Clerk of Courts for the County within ten (10) days of sentencing;
- (c) A post sentence motion must state "with specificity and particularity" the relief requested which could include:
 - (1) A motion challenging the validity of a guilty plea or no contest plea;
 - (2) A motion challenging the denial of a motion to withdraw a plea of guilty or of no contest;
 - (3) A motion to modify sentence;
 - (4) A motion challenging the legality of the sentence;
 - (5) A motion challenging the jurisdiction of the Court.

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- (d) If a post sentence motion is filed, the sentencing court must render a decision on the motion within 120 days (unless the deadline is extended by the Court for a maximum of 30 additional days on request of the defendant and for good cause). If the decision on a post sentence motion is not rendered within this time period, the post sentence motion will automatically be denied and the sole potential remedy would be through appeal to a higher court.
- (e) Appeals to a higher court following the imposition of a sentence are taken to the Pennsylvania Superior Court (except in capital cases where the appeal is taken directly to the Pennsylvania Supreme Court). The appeal is initiated by the filing of a Notice of Appeal with the Clerk of Court at the County Courthouse, with notice to the trial judge, the court reporter and the prosecutor.
- (f) If a post sentence motion was filed, the appeal to the higher court cannot be commenced until disposition of the post-sentence motion. The disposition of the post sentence motion occurs when the trial judge rules on the motion or when the motion has been automatically denied because the trial judge did not rule on the motion within the time limits described above. The Notice of Appeal must be filed within thirty days of the disposition of the post trial motions.
- (g) If no post sentence motion was filed, the Notice of Appeal must be filed within thirty days of the date of sentencing.
- (h) It is not necessary that issues raised on appeal were also raised in a post sentence motion, so long as they were preserved by motion or objection before or during the sentencing hearing; however, challenges to the legality of the sentence or jurisdiction of the Court can be raised at any time.

Do you understand your post sentence motion and appeal rights? _____

- 41. Do you understand that if you wish to file any of these motions with this Court or an appeal to the Superior Court of Pennsylvania and cannot afford an attorney to assist you, this Court will appoint an attorney for you at no cost if you financially qualify? _____
- 42. Do you understand the defendant has the same right to bail as before verdict/plea pending the outcome of post sentence motions or appeal to a higher court? Bail is discretionary with the Court and will not ordinarily delay commencement of the sentence. _____
- 43. Do you understand that when you plead guilty or *nolo contendere* and your plea is accepted by the Court, all that remains is for the Court to sentence you on the charges to which you are pleading; but if your plea is rejected, your case will be sent back for reassignment to another courtroom and another Judge for trial? _____
- 44. Do you fully understand that your plea must be voluntary and your rights must be voluntarily, knowingly and intelligently waived? If anyone has promised you anything other than the terms of a plea bargain, your plea will be rejected. If anyone has forced you or attempted to force you in any way to plead guilty or *nolo contendere*, your plea will be rejected. Do you understand this? _____

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45. Has anyone forced you to enter this plea of guilty? _____
46. Are you doing this of your own free will? _____
47. Have any threats been made to you to enter a plea of guilty? _____
48. Have any promises been made to you to enter a plea of guilty other than any plea agreement that has been negotiated for you by yourself or your attorney? _____
49. Have any promises or assurances been made to you by your attorney or anyone else that you would receive a sentence of probation or a specific term of incarceration? _____
50. Are you satisfied with the representation of your attorney? _____
51. Have you had ample opportunity to consult with your attorney before entering your plea of guilty? _____
52. Only if you plead guilty, answer the following: Do you admit that you committed the crimes with which you are charged and to which you are pleading guilty? _____
53. Only if you plead *nolo contendere*, answer the following: Do you understand that although you are not admitting the truth of the Assistant District Attorney's summary of the facts, the Judge is permitted to accept them as true and to sentence you based on them? _____

I affirm that I have read the above document in its entirety, and I understand its full meaning, and I am still nevertheless willing to enter a plea of guilty/*nolo contendere* (CIRCLE ONE) of the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct.

Defendant (Please Print)

Defendant (Please Sign)

As attorney for the defendant, I hereby certify that:

1) I have advised my client of his/her rights and of the meaning of the questions contained in this form, and it is my belief that the defendant understands these rights and that it is his/her voluntary decision to plead guilty/*nolo contendere* (CIRCLE ONE).

2) I have advised my client of the substance of all plea discussions held with the District Attorney's Office and promptly related and explained to the defendant all plea offers, both written and oral, communicated to me by the District Attorney's Office.

3) To the extent possible, I have determined and advised my client, in advance of the entry of this plea, as to the possible collateral consequences that might ensue from accepting this plea.

Attorney for Defendant (Please Print)

Attorney for Defendant (Please Sign)