

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA)	NO.
)	
vs.)	
)	
_____)	
Defendant.)	

GUILTY/NOLO CONTENDERE PLEA
(no plea bargain)
EXPLANATION OF DEFENDANT'S RIGHTS

You and you attorney have indicated that you wish to plead guilty/nolo contendere to certain criminal charges which the Commonwealth of Pennsylvania has brought against you which are filed at the above-captioned number(s).

You must fully understand that your plea must be voluntary and that nothing is being promised in exchange for your plea of guilty/nolo contendere. In your case there has been no plea bargain made between you and the Commonwealth.

By pleading guilty/nolo contendere, you are admitting that you committed the offense or offenses. By so pleading, you will give up the rights under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania as fully set forth hereafter.

If you intend to waive your constitutional rights and enter a plea of guilty/nolo contendere, pleas answer all of 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 question as fully as possible.

Initials: _____
Defendant

Attorney for Defendant

c) If these charge(s) are tried before a jury, I understand that I would have the following rights relative to the jury trial:

1. To find me guilty/nolo contendere, all twelve of the jurors must unanimously agree that I have been proven guilty/nolo contendere beyond a reasonable doubt.
2. I, with the assistance of my attorney, would have the right to participate in the selection of the jury from people who are my peers.
3. I could exclude from the jury all person who I could show were prejudice or biased against me for some reason would deny me a fair trial. I could also exclude up to 5 jurors without giving any reason in a case involving a misdemeanor and up to seven (7) jurors and in a case involving a felony.
4. Do you understand that if the charge is a felony, you would be permitted to challenge seven jurors and the Commonwealth would be permitted to challenge seven jurors? _____ Do you understand that if the charge is a misdemeanor, you would be permitted to challenge five jurors, and the Commonwealth would be permitted to challenge five jurors? _____

d) I have a right to request that these charges be tried before a judge without a jury in which case the judge would act as the judge and jury; and the judge would decide whether I have been proved guilty/nolo contendere.

e) In a trial before jury or before a judge without a jury, I have the following rights:

1. I have the right to confront my accusers which means that I have the right to see, hear and face in open court all witnesses called to testify against me. I or my attorney would have the right to cross-examine all the Commonwealth's witnesses.
2. I have the right to use the power and process of the Court to compel the production of evidence, including the attendance of witnesses in my favor.
3. I have the right to have the assistance of a lawyer at all stages of these criminal proceedings and in the event I could not afford to pay for a lawyer, a lawyer would be appointed by the Court to represent me free of charge.
4. I have the right against self-incrimination, which means that I could not be compelled to testify against myself. I would have the right to testify; however, only if I voluntarily decide to do so. If I don't take the witness stand and testify, the jury will be told that this may not be held against me.

5. I understand that by pleading "GUILTY/NOLO CONTENDERE", I am waiving all of my rights as a person accused of a crime (and in fact by pleading "GUILTY/NOLO CONTENDERE", I am incriminating myself.)

6. I also understand that if I plead "GUILTY/NOLO CONTENDERE" to the charges, the Court may impose the same punishment as if I had plead "NOT GUILTY/NOLO CONTENDERE", stood trial and been found guilty/nolo contendere.

7. I know that if I plead "GUILTY/NOLO CONTENDERE" to these charges, the maximum possible sentences are as follows:

Felonies of the First Degree - not more than 20 years of incarceration and a \$25,000.00 fine;

Felonies of the Second Degree - not more than 10 years of incarceration and a \$25,000.00 fine;

Felonies of the Third Degree - not more than 7 years of incarceration and a \$15,000.00 fine;

Misdemeanors of the First Degree - not more than 5 years of incarceration and a \$10,000.00 fine;

Misdemeanors of the Second Degree - not more than 2 years of incarceration and a \$5,000.00 fine;

Misdemeanors of the Third Degree - not more than 1 year of incarceration and a \$2,500.00 fine;

Summary Offenses - not more than 90 days of incarceration and a \$300.00 fine if no higher fine is established by statute;

For Drug Violations, the maximum fines could range from \$5,000.00 to \$250,000.00. Further, any person who possesses, sells, delivers, offers for sale, holds for sale, or gives away any controlled substance, in addition to any other penalty provided in this or any act, upon conviction for a violation of this act, shall have his or her operating privilege suspended. Said suspension shall be for a period of six months for a first offense, for a period of one year for a second offense, and for a period of two years for a third or subsequent offense.

The Pennsylvania Sentencing Guidelines require the judge to consider the following range of sentences relative to the crime(s) to which you are pleading Guilty/nolo contendere. These Guidelines take into consideration the seriousness of the crimes and your prior criminal record. Based upon your prior criminal record, the guidelines established that your Prior Record Score is _____.

For the crime of _____ the Offense Gravity Score is _____ and the range of sentences provided by the Guidelines are as follows:

- a) MINIMUM GUIDELINE RANGE: _____
- b) AGGRAVATED GUIDELINE RANGE: _____
- c) MITIGATED GUIDELINE RANGE: _____

8. I understand that the sentence is up to the Court. I also understand that the Court is not bound by any agreement I or my attorney may have with the District Attorney's Office, however it is my understanding that I and my attorney and the District Attorney's Office have arrived at a plea bargaining agreement, which is as follows:

9. I have been convicted of the following crime(s):

CRIME	DATE	COUNTY OR STATE
SENTENCE		

10. I am not presently on probation or parole. I understand that by pleading "GUILTY/NOLO CONTENDERE" in this case may cause revocation of my probation or parole, and that this could result in any additional sentence for violation of my probation or parole. I further understand that if my parole or probation is revoked, any sentence resulting may be consecutive to, or in addition to, any sentence in the case.

11. I am _____ years of age.

My address is _____.

I have attended the following schools:

SCHOOL

GRADE COMPLETED

I have not been treated for any mental or emotional illness. (If you have been treated, list places, dates, discharge or other disposition)

12. My physical and mental health is presently satisfactory, except as follows:

13. At this time, I am not under the influence of any drugs or intoxicants, except as follows:

14. No threats or promises other than set forth in Paragraph 8 have been given or made upon me for the purpose of causing me to plead "GUILTY/NOLO CONTENDERE".

15. By pleading guilty/nolo contendere, I am admitting that I did those things with which I am charged in the District Attorney's information which I read with my attorney.

16. I understand that my attorney has filed the following pretrial motions on my behalf. _____

17. I understand that by entering a plea of guilty/nolo contendere I will be waiving or dropping these pretrial motions and that I will not be able to appeal the Court's rulings on any motions that have already been denied.

18. I understand that I may, within 10 days after my guilty/nolo contendere plea, file a motion with this court to withdraw my guilty/nolo contendere plea if I have reason to do so.

19. I understand that I may within 10 days after my sentence, file a motion to have my sentence modified, or I may within 10 days after my sentence, file a motion to challenge the jurisdiction of the court to impose sentence, the legality of my sentence or the voluntary nature of my plea.

20. I understand that issues raised in motions to this court may also be raised and considered by the appellate courts.

21. If I raise such motions of with this court and they are denied then I will have 30 days from the denial of my motions to appeal to the Superior or Supreme Court of Pennsylvania.

22. I understand that if I cannot afford counsel to represent me to file these motions or to appeal, the court will appoint counsel to represent me free of charge.

23. Do you fully understand that your plea must be voluntary and your rights to which you are giving up when you enter this plea must be voluntary, knowingly, and intelligently waived?

24. Has anybody forced you to enter this plea of guilty/nolo contendere? _____

25. Are you doing this of your own free will? _____

26. Have any promises been made to you to enter a plea of guilty/nolo contendere other than that which has been mentioned herein-- that is, that the Commonwealth will bring to the Court's attention the full extent of your cooperation or, if you entered into a plea bargain, the matters contained in the plea bargain? _____

27. Are you satisfied with the representation of your attorney? _____

28. Has your attorney gone over with you the meaning of the terms of this document? _____

29. Do you admit that you committed the crime(s) with which you are charged and to which you are pleading guilty/nolo contendere? _____

30. I OFFER MY PLEA OF GUILTY/NOLO CONTENDERE FREELY AND VOLUNTARILY AND OF MY OWN ACCORD AND FREE WILL AND WITH FULL UNDERSTAND OF ALL THE MATTERS SET FORTH IN THE DISTRICT ATTORNEY'S INFORMATION AND IN THIS PETITION AND IN THE CERTIFICATE OF MY LAWYER WHICH FOLLOWS:

I REQUEST TO ENTER MY PLEA OF "GUILTY/NOLO CONTENDERE"

Signed by me in the presence of my attorney this ___ day of _____, 199__

Attorney for Defendant

Defendant

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA)	NO.
)	
vs.)	
)	
_____)	
Defendant.)	

CERTIFICATE OF COUNSEL

The undersigned, as a lawyer and counselor for the above named defendant hereby certifies:

1. I have read and fully explained to the defendant the allegations contained in the District Attorney's Information in this case.
2. To the best of my knowledge and belief the statements, representations and declarations made by the defendant in the foregoing petition are all in respect accurate and true.
3. I have explained the maximum penalty for each count to the defendant, and consider him to be competent to understand the charges against him and the effect of his petition to enter a plea of "GUILTY/NOLO CONTENDERE".
4. The plea of "GUILTY/NOLO CONTENDERE" offered by the defendant in the petition to enter of guilty/nolo contendere accords with my understanding of the facts he related to me and is consistent with my advice to the defendant.
5. In my opinion the plea of "GUILTY/NOLO CONTENDERE" as offered by the defendant in the petition to enter plea of guilty/nolo contendere is voluntarily and understandingly made. I recommend that the court accept the plea of "GUILTY/NOLO CONTENDERE".
6. Having discussed this matter carefully with the defendant, I am satisfied, and I hereby certify, in my opinion that he is mentally and physically competent; there is not mental or physical condition which would affect his understand of these proceedings; further, I state that I have no reason to believe that he is presently operating under the influence of drugs or intoxicants. (Any exceptions to this should be stated by counsel on the record.)

Signed in the presence of the defendant above named and after full discussion of the contents of this Certificate with the defendant, this ___ day of _____, 199___.

Attorney for Defendant

- g) If the maximum sentence is 2 years or longer, the filing of an appeal to a higher court will ordinarily not delay a commencement of a sentence, although the court does have discretion to allow bail pending appeal to a higher court. If the maximum sentence is less than 2 years, the defendant has the same right to bail as before verdict pending the outcome of any appeal to a higher court.

I hereby acknowledge that I have read the above document consisting of 13 pages.

(Defendant)

I have reviewed the above procedures with my client and have assured myself that he/she understands these post sentence procedures.

(Attorney for Defendant)

FAYETTE COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA)	NO.
)	
vs.)	
)	
_____)	
Defendant.)	

SUPPLEMENTAL EXPLANATION OF POST SENTENCE PROCEEDINGS

(FOR USE WHEN DEFENDANT HAS ENTERED A PLEA OF GUILTY/NOLO
CONTENDERE OR OF NO CONTEST)

I. Post Sentence Motion addressed to the sentencing court.

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 Sentencing 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 Court 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 a motion challenging the validity of a guilty/nolo contendere or no contest plea, a motion challenging the denial of a motion to withdraw a plea of guilty/nolo contendere or of no contest, a motion to modify sentence, a motion challenging the legality of the sentence, a motion challenging the jurisdiction of court.
- (d) If you financially qualify, a post sentence motion may be filed without payment of costs (In Forma Pauperis), and there is the same right to assigned counsel as has existed through sentencing.
- (e) If a post sentence motion is filed, the sentencing court must render a decision on the motion within 120 days (unless that 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 will automatically be denied and the sole potential remedy would be through appeal to a higher court.

- (f) If the maximum sentence is 2 years or longer, the filing of a post sentence motion will ordinarily not delay commencement of sentence, although the judge does have discretion to allow bail pending appeal to a higher court.

If the maximum sentence imposed is less than 2 years, the defendant has same right to bail as before verdict pending the outcome of any post sentence motion or appeal to a higher court.

II. Appeal to a Higher Court.

- (a) 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 of the Court at the County Court House, with notice to the trial judge, the court reporter and the prosecutor.
- (b) 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 (30) days of the disposition of the post trial motions.
- (c) If no post sentence motion was filed, the Notice of Appeal must be filed within thirty (30) days of the date of sentencing.
- (d) Issues which can be raised on appeal include: The denial by the sentencing court of a motion to withdraw a plea of guilty/nolo contendere or of no contest, a motion to modify sentence, challenging the legality of the sentence or to the jurisdiction of the court.
- (e) 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.
- (f) If you financially qualify, an appeal may be filed without the payment of costs (In Forma Pauperis), and there is the same right to assigned counsel as existed through sentencing.

- g) If the maximum sentence is 2 years or longer, the filing of an appeal to a higher court will ordinarily not delay a commencement of a sentence, although the court does have discretion to allow bail pending appeal to a higher court. If the maximum sentence is less than 2 years, the defendant has the same right to bail as before verdict pending the outcome of any appeal to a higher court.

I hereby acknowledge that I have read the above document consisting of 13 pages.

(Defendant)

I have reviewed the above procedures with my client and have assured myself that he/she understands these post sentence procedures.

(Attorney for Defendant)