

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : CRIMINAL DIVISION

vs. :

_____ : CC No. _____

GUILTY PLEA
EXPLANATION OF DEFENDANT'S RIGHTS

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

In order to have your plea accepted by this Court here today, you must waive your right to confront the prosecution witnesses against you and agree to permit the Attorney for the Commonwealth 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. The Commonwealth would not have to prove *beyond a reasonable doubt* each and every element of the offenses with which you are charged as would be required in a jury or non-jury trial.

Please be advised that you must fully understand that the Constitution of the United States of America and the Constitution of the Commonwealth of Pennsylvania give to you an absolute right to have a trial by judge or by jury.

If you intend to waive your Constitutional right to a trial by judge or 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 question 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. What is the highest grade that you have completed in school? _____

Answer either "Yes" or "No" to the following questions:

4. Do you read, write, and understand the English language? _____
5. Do you understand that if you have been charged with more than one offense, the Court may impose a separate, or consecutive, sentence for each offense? _____
6. Have you discussed with your attorney the elements of each charged offense? _____
7. Have you discussed with your attorney the factual basis of each charged offense?

8. Have you discussed with your attorney how the facts in your case prove the elements of each charged offense? _____
9. Do you understand that both the Constitution of the United States of America and the Constitution of the Commonwealth of Pennsylvania give you an absolute right to a trial by jury? _____

10. Do you understand that if you want a jury trial, you could take part in the selection of the jury under Court supervision along with your attorney and with the Assistant District Attorney assigned to prosecute your case? _____
11. Do you understand that you and your attorney and the Assistant District Attorney assigned to prosecute your case would select a jury from a panel of jurors randomly selected by computer from the voter registration lists and other legally approved lists of citizens of Allegheny County?

12. 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 cause certain persons on the jury panel from being a member of the jury in your case? _____
13. Both you 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 a fair and impartial juror in your case. Do you fully understand this? _____
14. Both you and the prosecution would each also 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. Do you fully understand this? _____
15. All twelve members of the jury finally selected would have to be satisfied that the Commonwealth had proven your guilt beyond a reasonable doubt on each and every element of the charges; that is, the vote of all twelve must be unanimous before you could be found guilty. Do you fully understand this?

16. You also may choose to be tried before a judge without a jury in what is called a non-jury or bench trial and that the judge, in addition to ruling on legal questions and defining the law as in jury trials would also sit as the trier of fact, the same as a jury in a jury trial; and it would be the judge who determines from the evidence presented whether the Commonwealth has proven you guilty beyond a reasonable doubt. Do you fully understand this? _____

17. 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 that all the members of the jury or the judge in a non-jury trial, would find you guilty beyond a reasonable doubt. Do you fully understand this? _____
18. In either a jury trial or non-jury trial, it is the burden of the Commonwealth to prove you guilty “beyond a reasonable doubt,” and 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 twelve jurors or to the satisfaction of the judge. Do you fully understand this? _____
19. 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 reasonable, prudent person to pause and hesitate before acting in a matter of importance in their own affairs. Do you fully understand this? _____
20. In either a jury trial or a non-jury trial, you have the absolute right to remain silent and need not present any evidence in your own behalf and 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. Do you fully understand this? _____
21. However, in either a jury trial or a non-jury trial before a judge, you have the right, if you so desire, to testify and present evidence on your behalf. You also 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 truthfulness of their testimony. Do you fully understand this? _____
22. By pleading guilty, you are giving up all of these rights described in the previous questions. Do you fully understand this? _____
23. Do you understand that if you are not a citizen of the United States, whether or not you have lawful immigration status, your plea or admission of guilt may result in detention, deportation, exclusion from the United States, or denial of naturalization or other immigration benefits? You have the right to seek advice from a lawyer about these issues before you admit guilt to any offense. You are not entitled to an immigration lawyer at public expense. Upon request, the court may allow you additional time to consult with an immigration attorney. Do you understand this? _____

24. When you plead guilty, 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. Do you fully understand this? _____
25. By pleading guilty, you are admitting you committed the crimes charged. You are stating that you do not challenge or dispute the charges against you. Do you fully understand this? _____
26. By pleading guilty, you give up the right not only to file pretrial motions, but also you abandon or give up any pretrial motions already filed and not yet decided and any pretrial motions in which decisions were already made. Do you fully understand this? _____
27. Do you understand that by pleading guilty, you also give up the right to present or assert any defenses on your behalf? _____
- These defenses might include alibi, self-defense, mental infirmity, or insanity. Have you discussed with your attorney why these defenses are not available in your case? _____
28. If you were convicted after a jury trial or non-jury trial, you could appeal the verdict to the appellate courts and raise any errors that were committed in the trial court, and this could result in a new trial or a dismissal. By pleading guilty, you are giving up this right. Do you fully understand this?

29. Do you fully 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 in the appellate courts whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? _____
30. By pleading guilty, you give up certain rights of appeal; in a jury trial or a non-jury trial, you would have the right to appeal any errors that might arise in your case to the appellate courts. However, when you plead guilty, you limit the grounds for those appeals to four specific reasons:

1. that this Court did not have jurisdiction in your case. With rare exception, this Court only has jurisdiction where the crime was committed in Allegheny County;

2. that the sentence or probation imposed by this Court is illegal;
3. that your plea was not knowingly, intelligently, and voluntarily made; and
4. Challenge the competence or effectiveness of the attorney who represents you.

All other grounds for appeal are given up. Do you fully understand this? _____

31. In order to raise a claim on direct appeal that your attorney was ineffective or incompetent, it is necessary for you to first raise that claim in a post sentence motion, filed within ten (10) days of your sentencing. Otherwise, you cannot challenge the competence of your attorney until the post conviction stage. Do you fully understand this? _____
32. Do you understand that you have the right to file a motion seeking to withdraw your guilty plea at any time prior to the date of sentencing? _____
33. Do you understand that you must be sentenced within ninety (90) days of the date of the entry of your plea of guilty? _____
34. Do you understand you have the right within ten (10) days after you have been sentenced to file a motion seeking to withdraw your guilty plea? _____
35. If you were to file a motion seeking to withdraw your plea of guilty, either prior to sentencing or within ten (10) days after sentencing, that motion must be filed in writing. If you would fail to do so within these time periods, you would give up those rights. Do you fully understand this? _____
36. In order to appeal your conviction that results from your plea of guilty, you must file in writing your motion seeking to withdraw your plea, either prior to sentencing or within ten (10) days after sentencing and state one or more of the four (4) grounds listed below as the basis for a motion seeking to withdraw your plea:
 - (a) Your plea was not knowing, intelligent and voluntary;
 - (b) That your crime was not committed within the jurisdiction of this Court, i.e. not committed within Allegheny County;

- (c) That the sentence of this Court is illegal; and/or,
- (d) That your attorney was ineffective and incompetent.

If you do not file this motion within the proscribed time limits, you will have given up this right. Do you fully understand this? _____

37. If your motion seeking to withdraw your plea of guilty, which is filed prior to sentencing, is denied you would have ten (10) days from the date of sentencing to file with this Court a post-sentencing motion challenging the denial of your motion to withdraw your plea of guilty. Do you fully understand this?

38. Following the imposition of sentence upon you for your entry of a plea of guilty, you have the right to file post-sentencing motions with this Court which include:

- (a) a motion challenging the validity of a plea of guilty;
- (b) a motion challenging the denial of a motion seeking withdrawal of a plea of guilty;
- (c) a motion to modify sentence.

Do you fully understand these rights? _____

39. If you would file any post-sentencing motions, those motions must be decided by this Court within one hundred twenty (120) days of the date of filing of said motions, or within one hundred fifty (150) days of the date of filing of those motions if you sought and were granted a thirty (30) day extension, which extension only you can request. Do you fully understand this? _____

40. If your post-sentencing motions are not decided within one hundred twenty (120) days of the date of filing, or within one hundred fifty (150) days of the date of filing, if you sought and received a thirty (30) day extension, then said motions are deemed to have been denied by operation of law and cannot be reconsidered by the trial Court. Do you fully understand this? _____

41. Should your post-sentencing motion be denied by this Court or by operation of law, you will receive, either from the trial Court or from the Department of Court Records, an order of court advising you of your appellate rights, the right to assistance of counsel, if indigent, the right to proceed *in forma pauperis*, and the qualified right to bail. Any appeal to the Superior Court must be filed within thirty (30) days of the denial of your post-sentencing motion. Do you fully understand this? _____

42. 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 to do so, the trial Court will appoint an attorney for you at no cost to you. Do you fully understand this? _____
43. When you plead guilty, and your plea is accepted by this Court, all that remains is for the judge to sentence you on the charges to which you are pleading; but if your plea is rejected, you have the right to proceed with a trial. Do you fully understand this? _____
44. Have you and your attorney discussed the maximum possible sentences which this Court could impose? _____
45. If there is a mandatory minimum sentence applicable and this mandatory sentence is sought by the Commonwealth, then this Court has no discretion to impose a lesser sentence and must impose at least the minimum sentence that is required by law. Do you fully understand this? _____
46. Are you aware that if the offenses with which you are charged do not require a mandatory sentence under the statutory law of Pennsylvania, this 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? _____
47. Do you understand that if you are entering a plea of guilty to the charge of Violation of the Vehicle Code: Driving Under the Influence of Alcohol, a Controlled Substance or both that independent of any sentence this Court might impose, the Department of Transportation has the right, upon receipt of notice of this conviction, to impose an additional penalty upon you? _____
48. Do you understand that any term of imprisonment imposed as a result of your plea may be imposed separately or consecutively, with any other sentence you are currently serving? _____
49. Do you understand that your plea of guilty or nolo contendere violates any period of parole or probation that you are currently serving, either state or federal, as long as the crime or crimes you were convicted of or plead to occurred during those periods of probation or parole? _____

50. Do you understand that if your plea of guilty or nolo contendere violates a period of parole or probation, either state or federal, you would be subjecting yourself to an additional penalty for the violation of those periods of parole and/or probation and a new sentence could be issued for each violation and those sentences could be imposed consecutively to the sentence imposed upon you for your plea of guilty or nolo contendere in this case? _____
51. Are you eligible to participate in "Re-Entry Plan" services Pursuant to 42 Pa. C.S. § 9756? _____
52. Are you eligible for a RRRI (Recidivism Risk Reduction Incentive) sentence through the PA Dept. of Corrections? _____
53. 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, your plea will be rejected. Do you fully understand this? _____
54. Has anybody forced you to enter this plea? _____
55. Are you doing this of your own free will? _____
56. Have any threats been made to you to enter a plea? _____
57. Has anyone (including your attorney) promised you anything in exchange for the guilty plea other than the terms of any plea bargain? _____
58. Do you understand that if there is a plea bargain in this case, the terms of the plea bargain will be stated on the record before the judge and that you will be bound by the terms of the plea bargain as they appear of record? _____
59. Do you understand that the Court is not bound by any plea bargain entered into by you and the District Attorney? _____

60. If the Court rejects the plea bargain after hearing a summary of the evidence, you would then have a right to withdraw your plea and you would have the option of entering a straight plea with no plea bargain involved or, have a trial by jury if you so desire. Do you fully understand this? _____
61. Is there a plea bargain in this case? _____
62. Are you satisfied with the legal advice and legal representation of your attorney? _____
63. Have you had ample opportunity to consult with your attorney before entering your plea, and are you satisfied that your attorney knows all of the facts of your case and has had enough time within which to check any questions of fact or law which either you or your attorney may have about the case?

64. Has your attorney gone over with you the meaning of the terms of this document? _____
65. Do you have any physical or mental illness that affects your ability to understand these rights or the voluntary nature of your plea? _____
66. Are you presently taking any medication which affects your thinking or your free will? _____
67. Have you had any drugs or alcohol in the past forty-eight (48) hours? _____
68. If you are entering a plea of guilty, you admit that you committed the crime(s) with which you are charged. Do you fully understand this? _____

69. Do you understand your rights? _____

I AFFIRM THAT I HAVE READ THE ABOVE DOCUMENT IN ITS ENTIRETY, I UNDERSTAND ITS FULL MEANING, AND I AM STILL NEVERTHELESS WILLING TO ENTER A PLEA TO THE OFFENSES SPECIFIED. I FURTHER AFFIRM THAT MY SIGNATURE AND INITIALS ON EACH PAGE OF THIS DOCUMENT ARE TRUE AND CORRECT.

DATE: _____

Signature of Defendant

CERTIFICATION OF DEFENSE COUNSEL

I certify that:

- (1) I am an attorney admitted to the Supreme Court of Pennsylvania.
- (2) I represent the defendant herein.
- (3) I know no reason why the defendant does not fully understand everything that is being said and done here today.
- (4) The defendant read the above form in my presence and fully understands it; I have gone over the form completely with the defendant, explained all of the items on the form and answered any questions he or she had.
- (5) I see no reason why the defendant cannot and is not knowingly, intelligently, and voluntarily giving up his or her rights to trial and pleading guilty.
- (6) I made no promises to the defendant other than any that appear of record in this case.

DATE: _____

Attorney for Defendant

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: _____

Signature: _____

Name: _____

Attorney No. (if applicable): _____