

GUILTY PLEA COLLOQUY INSTRUCTIONS

TO DEFENDANT:

If you choose to plead guilty or nolo contendere, this Guilty Plea Colloquy should be completed by you. By pleading guilty, you are agreeing and admitting that you committed each of the elements of the crimes. By pleading nolo contendere, you are stating that you do not contest the fact that the Commonwealth can prove you committed the crimes. In criminal law, a plea of nolo contendere has the same effect for sentencing purposes as pleading guilty and, therefore, everything contained in this Guilty Plea Colloquy also applies to a plea of nolo contendere. You should read this document carefully and review it with your lawyer. It is *IMPORTANT* that you understand, agree with and answer truthfully everything contained in this Guilty Plea Colloquy. If you understand and agree with what is said in a paragraph of this document, place your initials on the line provided. If you do not understand or agree with what is said in a paragraph, *DO NOT* place your initials on the line provided, and you should tell the judge what you do not agree with or understand.

TO THE DEFENDANT'S LAWYER:

You must explain the content and meaning of this Guilty Plea Colloquy Statement to the defendant. If, after your explanation, the defendant does not understand or agree with something, he/she should not initial that paragraph and you must inform the judge of this fact. If the defendant does not speak, understand, read or write the English language or suffers from some physical, emotional or mental problem or is under the influence of any substance which affects his/her ability to understand the content of this Guilty Plea Colloquy Statement, the defendant should not complete the Guilty Plea Colloquy Statement and the judge should be advised of this fact.

By placing my initials at the place provided, I am stating that I have read, understood and followed these instructions.

Defendant's Initials

Defense Attorney's Initials

that I cannot be found guilty of the crimes charged unless all twelve (12) jurors agree that the Commonwealth has proven that I have committed each element of these crimes beyond a reasonable doubt; or

- b. If I am tried before a judge alone without a jury that the judge would hear the facts and make a determination as to my guilt or innocence. I understand that before I could be found guilty, the judge must be convinced of my guilt beyond a reasonable doubt as to each and every element of the crimes charged.

- _____ 4. I understand, and my lawyer has explained to me, that if I plead not guilty and have either a jury or a non-jury trial that:

---I am presumed innocent of these crimes and that the Commonwealth has the burden of proving that I committed each of the elements of the crimes charged beyond a reasonable doubt. If the Commonwealth fails to do so, I cannot be found guilty of these crimes. A reasonable doubt is a doubt that would cause a reasonably careful and sensible person to hesitate before they act upon something that is important in their lives or affairs.

---that the Commonwealth must present witnesses who must testify under oath and that I or my lawyer can cross-examine or ask questions of each of these witnesses.

---that I do not have to testify or present any evidence and no one can force me to do so. If I choose not to testify or present any evidence, that cannot be used or held against me. However, if I want to testify and present evidence and witnesses, I may do so.

---I have the right to call witnesses and present evidence including, but not limited to, evidence that I didn't commit the crime charged; that I have an alibi; that there is a mistaken identity; that an insanity defense exists; that my acts were justified or there is other lawful excuse for my acts.

Motions Before Trial

- _____ 5. I understand, and my lawyer has explained to me, that before I enter a plea of guilty, or before my trial begins:

---I can file motions to ensure that I get a fair trial. These motions may include, but are not limited to, a motion to prevent the Commonwealth from presenting improperly obtained evidence at my trial including any statements that I may have made, test results, identifications and items taken from me or from some place or thing. If I file such a motion, the Commonwealth has the burden of proving that this evidence can be presented at my trial.

---I can file a motion to have the crimes charged dismissed if my trial was not started within three hundred sixty-five (365) days after the date that the criminal complaint was filed against me, not counting any delays caused by me or my lawyer and, if the judge grants my motion, the Commonwealth cannot charge me with those crimes again.

---If I was under the age of 18 when the crimes charged were committed and I have been charged as an adult, I can file a motion requesting that my case be transferred from criminal proceedings to juvenile proceedings.

- _____ 6. I understand, and my lawyer has explained to me, that by pleading guilty, I am giving up my right to file any of these pre-trial motions. If I did file any motions that have not yet been decided, by pleading guilty or nolo contendere, I am now giving up the right to have the Court rule on them. If the Court granted any motions filed by the Commonwealth or denied any motions filed by me, by pleading guilty or nolo contendere, I am giving up or losing my right to appeal the judge's decision to a higher court and I can never again raise any of the issues stated in these motions before any court.

Effect of Plea

- _____ 7. I understand, and my lawyer has explained to me, that if I plead guilty or nolo contendere to any of these charges:
- If I am pleading guilty, I understand that I am agreeing and admitting that I committed each element of these crimes. If I am pleading nolo contendere, I am not contesting that I committed each element of these crimes and I agree that the Commonwealth can prove that I committed each element of these crimes beyond a reasonable doubt. My pleas of guilty or nolo contendere will have the same effect as if I had a trial and was convicted of the crimes to which I have pled guilty or nolo contendere.
- If I was on probation, intermediate punishment, or parole at the time the crimes to which I am pleading guilty or nolo contendere were committed, my pleas in this case mean that I have violated probation/intermediate punishment/parole. I understand that if I have violated my probation or intermediate punishment that I can be re-sentenced to jail and if I violate my parole, I may be re-committed to jail to serve the remainder of my sentence(s) without credit for time on parole. I further understand any sentences that I am required to serve as a result of a probation, intermediate punishment or parole violation may be in addition to any sentence which I may receive as a result of this plea.
- _____ 8. I understand, and my lawyer has explained to me, that the judge is not bound to accept the terms of any plea agreement that I have with the Commonwealth or with anyone else and that the plea agreement is not binding on the Court unless and until it is accepted by the Court. If the judge decides not to accept the plea agreement, I understand that I will be allowed to withdraw or take back my plea of guilty or nolo contendere. I further understand that at any time prior to my sentencing, I may ask the Court for permission to withdraw my plea of guilty or nolo contendere but I must show a fair and just reason for doing so.
- _____ 9. I understand that if I am not a citizen of the United States of America, my guilty or nolo contendere plea and/or sentencing may affect my immigration status and could result in possible deportation by the Federal Government.

Representation by Counsel

- _____ 10. I have fully discussed this case with my lawyer including the facts and possible defenses I may have to these charges including, but not limited to: that I didn't commit the crimes charged; that I have been misidentified; that I have an alibi (I was someplace else when the crime was committed); that I was justified in committing the act (self-defense, defense of property or others) or that I had a mental disease or defect which made me incapable of knowing what I was doing or, if I did know, I was not capable of judging that the act was wrong (insanity).
- _____ 11. I understand, and my lawyer has explained to me, all the possible defenses I may have to these charges. I am satisfied that my lawyer knows all the facts and law concerning this case. I am fully satisfied with what my lawyer has done for me and what my lawyer is doing for me today concerning this case. I am fully satisfied that my lawyer has not failed to do anything which I have asked him to do nor has done anything of which I didn't approve. I agree that my lawyer has contacted, or attempted to contact, every witness or source of evidence of which I have advised him and that if contact was unsuccessful, I am satisfied that my lawyer has exhausted all possible leads to locate the witness or evidence.
- _____ 12. I am fully satisfied that my lawyer is ready and able to defend me in this case if I do not plead guilty or nolo contendere to these charges.
- _____ 13. I have not been pressured, forced or threatened to enter into this plea by my lawyer and that my lawyer has left the final decision on whether or not to enter this plea to me.

Knowing and Voluntary Plea

- _____ 14. I have gone to school for _____ years. I can read, write, speak and understand the English language.
- _____ 15. I UNDERSTAND, AND MY LAWYER HAS FULLY EXPLAINED TO ME, ALL THE FACTS AND RIGHTS WHICH I HAVE WHICH ARE CONTAINED IN THIS GUILTY PLEA COLLOQUY AND THAT BY PLEADING GUILTY OR NOLO CONTENDERE, I AM GIVING UP OR LOSING ALL OF THESE RIGHTS.
- _____ 16. I do not have any physical, emotional or mental problems which affect my ability to understand what I am doing today or the rights which have been explained to me today and I am not now under the influence of any narcotics, drugs, alcohol or any other substance.
- _____ 17. I have not been pressured, forced or threatened by anyone to plead guilty or nolo contendere to these charges and I have not been promised anything by anyone in return for pleading guilty or nolo contendere other than the plea agreement, if any, which has been presented to the judge in writing as part of this proceeding.
- _____ 18. I have had enough time to fully discuss my case and my decision to plead guilty or nolo contendere and everything contained in this guilty/nolo contendere plea colloquy with my lawyer and, by placing my initials on all the lines provided, I am saying that I understand, agree with, and answer truthfully everything contained in this guilty plea statement.

Financial Obligations

- _____ 19. I understand that I must comply with all Court-ordered financial obligations.

Conditions of Supervision

- _____ 20. I understand that I will be subject to the following conditions of supervision:
1. I must not commit any violation of the law and must report any contact with law enforcement officials.
 2. I must refrain from any assaultive behavior or credible threat to cause bodily injury to another, including acts committed against a family or household member. I will not annoy or harass any victim or witness of my crime.
 3. I must agree to permit any Probation/Parole Officer, to search my person, enter into and search my residence, vehicle or any other property under my control without warrant at any time upon reasonable suspicion of violation and to ensure compliance with all conditions of my sentence.
 4. I may not possess or have control of a firearm or dangerous weapon on my person, in my residence or in my vehicle, unless otherwise waived by the court.
 5. I may not abscond and must report as directed by the Department of Probation Services. I must notify the Department of Probation Services of any change in address or employment within 15 days.
 6. I must not possess, manufacture, sell, deliver, or use any non-prescribed controlled substances, with the exception of possession and use of a non-prescribed controlled substance that is legally permitted to be possessed and used for medical or treatment purposes as certified by an approved physician.
 7. I must submit to urine testing or breathalyzer as required by the Department of Probation Services. Urine samples must be provided within two (2) hours of request and be of sufficient quality and quantity for chemical testing.
 8. If I have been placed on supervision for a DUI offense, I will be subject to the following conditions:
 - I will undergo a drug and alcohol evaluation and comply with all treatment recommendations in accordance with Act 122 of 1990.
 - I will successfully complete the Alcohol Highway Safety School.
 9. If I have been sentenced to Probation with Restrictive Conditions with the restrictive time being served on house arrest or in the Adams County Adult Correctional Complex (ACACC), I must comply with all rules and conditions of house arrest and the ACACC. I must not receive any formal misconducts while serving the restrictive time at the ACACC.

10. I must comply with all special conditions ordered by the Court within my most recent sentencing or supervised bail order on the case noted above.

Sex Offender Conditions of Supervision

____ 21. If Sex Offender Conditions are applicable to my case and if imposed by the Judge, I understand my supervision will be subject to any combination of these special Sex Offender Conditions, and that the Judge may impose additional conditions for the purpose of my rehabilitation and for public safety:

1. I shall obtain a sex offender evaluation from a certified sex offender treatment provider and follow through with all expectations and recommendations resulting therefrom and shall assume all responsibility for the costs of any required program. I shall provide written authorization for release of confidential information between my certified sex offender treatment provider and the Adams County Department of Probation Services.
2. I shall submit to regular polygraph examinations as directed by the treatment provider. I am responsible for the cost of this service.
3. If my offense involved a minor victim, I shall not frequent places where children congregate including but not limited to, playgrounds, swimming pools, schools, malls, arcades. I shall not engage in any activity or employment that will bring me in close contact with children unless I receive permission from my Probation Officer.
4. If my offense involved a minor victim, I am not permitted to reside with minor children without permission from the Court; this includes children within my family. I will not have any contact with minor children without permission from my Probation Officer, or a Court Order. If supervised contact is permitted, the individual who provides the supervision must first be approved by my Probation Officer and the treatment provider.
5. I will not possess pornographic materials of any kind, including photographs, movies, or computer generated images depicting or showing nudity. I shall not enter adult book stores, adult entertainment clubs, massage parlors or any other establishment, that promote sexual material or objectifies males or females.
6. I may not possess images of my victim(s) in any format.
7. I will sign and agree to the conditions of the Sex Offender Internet Capable Device and Internet Access Agreement.
8. For monitoring purposes, I am subject to search of cell phone, camera/video recorder, computer, gaming device and their accessories, and any other device capable of internet access. These items may be viewed and/or scanned at any time to detect pornographic or sexually explicit content. I will agree to have a technology monitoring device or program installed on any computer or device I am authorized to possess or to which I have access if my certified sex offender treatment provider recommends or if there is a violation of any of these sex offender conditions or the Sex Offender Internet Capable Device and Internet Access Agreement.
9. I will comply with all sex offender registration and statutory requirements if applicable. I must provide fingerprints, palm prints, DNA sample and photograph, pursuant to 42 Pa.C.S.A. 9799.23(a)(4).
10. I shall obtain permission from a Probation Officer before leaving the Commonwealth of PA.
11. I shall not receive mail at any other location than my home residence address without my Probation Officer's approval.
12. I am required to sign "Release of Information" forms as directed.

Special Conditions

____ 22. If so directed by the Court, I shall be subject to and shall follow these special conditions:

- _____
- _____
- _____

Date

Defendant (Signature)

Defendant's Name (Printed)

Defendant's Street Address

City, State, Zip Code

Defendant's Age

Defendant's D.O.B.

Statement of Defendant's Attorney

I, _____, Esquire, Attorney for the Defendant affirm that I have fully advised the defendant of the content and meaning of this guilty plea colloquy and the defendant has indicated that he/she understands the content and the meaning of the same, I have fully discussed the defendant's decision to plead guilty or nolo contendere with him/her, I have explained to the defendant the elements of any possible penalties for the crimes to which he/she is pleading guilty or nolo contendere and I am satisfied that the defendant's pleas of guilty or nolo contendere are knowingly, voluntarily and intelligently entered.

Date

Defense Attorney's Signature

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

CR-

V.

The following represents all of the terms of my Plea Agreement with the Commonwealth which I accept.

- (a) My prior record score is _____.
- (b) The Defendant agrees to plead to the following charges in exchange for the following sentences:

| CR Number | (Count) | Plea | Offense Gravity Score | Sentence | |
|-----------|---------|------|--------------------------|----------|---|
| CR-_____ | -20 | () | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |
| CR-_____ | -20 | () | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |
| CR-_____ | -20 | () | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |
| CR-_____ | -20 | () | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |
| CR-_____ | -20 | () | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |
| CR-_____ | -20 | () | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |

- (c) The Defendant agrees that:
___ fines, if any, will be set by the Court up to maximum allowable by law;
___ the mandatory fine of _____ will be imposed;
___ Defendant shall pay a fine in the amount of _____.
- (d) The Defendant agrees to pay costs and all fees required by law, local rule of Court or administrating Order of Court.
- (e) The Defendant agrees to pay restitution on all charges to which pleas of guilty and/or nolo contendere are entered and on nol prossed charges as follows:

- (f) The Defendant agrees that conditions of probation/parole will be imposed. The following special conditions shall apply: _____. Additionally, this plea does not limit the Court's ability to impose other special conditions at the time of sentencing.
- (g) The Defendant agrees to the following additional terms of this plea agreement:

- (h) The Defendant agrees that sentencing shall occur:
___ at the time the plea is entered and accepted by the Court.
___ on _____.
- (i) The Defendant agrees that this agreement does not limit the Court's authority in the event the Defendant violates the terms of this sentence and is subject to re-sentencing or revocation. In such an event, the Defendant agrees that the court will have full authority to re-sentence the Defendant to the maximum provided by law including running the sentences consecutive to each other (one following the other).
- (j) The Defendant understands that there may be consequences of this plea which are imposed by law but not set forth in this agreement such as the suspension of motor vehicle operating privileges, limitations on the Defendant's ability to own or possess firearms or other collateral consequences. This agreement does not limit other ramifications which may be imposed by law. If the Defendant has any questions about such ramifications, the defendant agrees that they will raise any questions with the Court at the time of their plea. If the Defendant does not raise any questions with the Court, the defendant acknowledges they understand the consequences of their plea.

I affirm that I have read the above document in its entirety and that it represents my entire agreement with the Commonwealth and I understand its full meaning and I wish to enter a plea as set forth in this document to the offense or offenses specified.

Date

Defendant

I, _____, Esquire, attorney for the above-named Defendant, state that I have advised my client of the contents and meaning of this document and that this document represents my client's entire agreement with the Commonwealth.

Attorney for Defendant

On behalf of the Commonwealth, I acknowledge that this agreement represents the entire agreement between the Commonwealth and the Defendant.

District Attorney or Assistant District Attorney

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

CR-

V.

STATEMENT OF POST-SENTENCE RIGHTS

- ___ 1. I am able to speak, read, write and understand the English language and I am not now under the influence of any drugs, alcohol or other substance which would affect my ability to understand the post-sentence rights contained in this document. By placing my initials on the line provided next to each of the paragraphs in this document, I agree that I have read, understood and, if represented, my lawyer has explained to my satisfaction the content and meaning of each paragraph.
- ___ 2. I have the right to file post-sentence motions with this Court. If I choose to file such a motion, it must be in writing and must specify the issues which I intend to raise. Such a motion must be filed with the Adams County Clerk of Courts Office within ten (10) days of the date of my sentence. A post-sentence motion may include: a motion challenging the jurisdiction of the Court; a motion challenging the legality of the sentence; a motion asking that the Court modify the sentence imposed; a motion asking that I be permitted to withdraw my plea because it was not voluntarily, knowingly and intelligently entered; or a motion challenging the denial of any motion which I may have had to withdraw my plea(s).
- ___ 3. If I file a post-sentence motion, this Court must decide it within one hundred twenty (120) days of the date that it is filed, unless this Court extends the deadline for up to thirty (30) additional days at my request for good cause. If this Court does not decide my post-sentence motion within this time period, it will automatically be considered denied by operation of law.
- ___ 4. If I file a post-sentence motion, after it is decided, either by Court opinion or by operation of law, I have a right to appeal that decision to the Pennsylvania Superior Court. This appeal may include issues raised in my post-sentence motion and/or other properly preserved issues. If I decide to appeal, a written Notice of Appeal must be filed with the Adams County Clerk of Courts Office within thirty (30) days of the date of denial of my post-sentence motions. If I fail to file a Notice of Appeal with the Pennsylvania Superior Court, I will forever give up or lose my right to appeal to a higher Court on any issues involving my case, my plea or sentencing.

- ___ 5. I also understand that I have the right to appeal directly to the Pennsylvania Superior Court. If I choose to appeal directly to the Pennsylvania Superior Court, I may raise all properly preserved issues which may include those raised in the motion set forth in paragraph 2 above. In order to appeal directly to the Pennsylvania Superior Court, I must file a written Notice of Appeal with the Adams County Clerk of Courts Office within thirty (30) days of the date I am sentenced. If I fail to file a Notice of Appeal within the time required, I will forever give up or lose my right to appeal to a higher Court on any of the issues involving my case, my plea or sentencing.
- ___ 6. If I decide to file a post-sentence motion and/or a direct appeal to the Pennsylvania Superior Court, I have the right to be represented by an attorney. If I cannot afford an attorney, upon my timely request to this Court, one will be provided to me free of charge at no cost or expense to me. I also understand that I have the right to proceed in forma pauperis. I understand that means that I will not be required to pay any costs normally associated with a post-sentence motion and/or an appeal if I am unable to afford those costs.
- ___ 7. I understand I have a qualified right to bail pending the decision on my post-sentence motion(s) and/or appeal to the Pennsylvania Superior Court. Any such bail is conditioned upon my filing a post-sentence motion and/or an appeal to a higher Court.
- ___ 8. I understand that issues raised before or during trial shall be deemed preserved for appeal whether or not I elect to file a post-sentence motion.

Date

Signature of Defendant

STATEMENT OF DEFENDANT'S ATTORNEY

I represent the defendant in the above-captioned case. I have explained the post-sentence rights contained in this document to the defendant and I am satisfied that the Defendant understands these rights.

Date

Signature of Attorney