

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

COMMONWEALTH OF PENNSYLVANIA : No. CP-01-CR-
Plaintiff :
VS. :
: :
_____, Defendant :
:

DUI ARD ORDER

AND NOW, this _____ day of _____, 20____, the defendant is admitted into the Accelerated Rehabilitative Disposition (ARD) Program and is placed on Probation for a period of _____ months, subject to standard rules and conditions of probation, DUI conditions, all conditions of DUI/ARD Supervision and the following special conditions:

Defendant is directed to pay the fees and costs and restitution set forth in his/her application and agreement, and to otherwise abide by conditions set forth therein. Further proceedings on the underlying charges shall be postponed during the term of the ARD Program. The defendant's bail is terminated and any money or other form of security deposited is returned in accordance with the rules pertaining to bail. The following conditions shall also apply, if checked:

- ____ Defendant's operating privileges shall be revoked for _____ months. The defendant is advised that if he/she drives at a time when his/her operating privilege is suspended or revoked as a condition of his/her acceptance to the ARD Program, he/she shall be guilty of an offense of Driving Under Suspension and sentenced to mandatory imprisonment and a mandatory fine. He/she could also be revoked from the ARD Program and, if subsequently convicted of the charges in this case, not receive any credit against any future driving suspension for the period of suspension served while in the ARD Program.
- ____ Defendant shall not consume alcohol or any non-prescribed controlled substances while on the ARD program.
- ____ Defendant has completed a CRN evaluation as directed by Probation Services.
- ____ Defendant must pay restitution in the amount of \$ _____ to _____.
- ____ Payments made by Defendant in this matter shall be applied to restitution prior to any other applicable fees and costs.
- ____ Defendant must pay costs of prosecution as set forth in the application.
- ____ Defendant must pay \$ _____ pursuant to Act 198 of 2002.
- ____ Defendant must pay \$50 surcharge in accordance with 75 Pa. C.S. Section 6506.
- ____ The Court accepts Defendant's attached ARD Admission Colloquy and finds that it has been knowingly and voluntarily made. Further, notwithstanding an order of expungement, records of this criminal case shall be retained in accordance with 75 Pa. C.S. §§ 1534(b), 1534(b.1), and 3807(f).
- ____ The Defendant will be evaluated by the Adams County Department of Probation Services for participation in the automated Reporting System and, if deemed appropriate, shall participate in and pay any fees associated with said program.
- ____ Other provisions: _____.

BY THE COURT:

Judge

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

COMMONWEALTH OF PENNSYLVANIA :
: :
vs. : CP-01-CR-_____ -20_____
: :
: :

ARD ADMISSION COLLOQUY

1. Age: _____
2. Highest level of education completed: _____
3. Can you read, write, speak and understand the English language? _____
4. Are you currently under the influence of any drugs, alcohol or medication or undergoing a mental health issue which impacts your ability to understand what you are doing today? _____
5. Do you understand that you are here to be admitted in the Accelerated Rehabilitative Disposition (ARD) Program? _____

6. Do you understand that if you are not a citizen of the United States, regardless of whether you have lawful immigration status, entry into the ARD Program 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 about these issues before you admit guilt to any offense. You are not entitled to an immigration attorney at public expense. Upon request the court may allow you additional time to consult with an immigration attorney. Do you understand this? _____

7. Do you understand that you have a right to a trial by Judge, and that by entering the ARD Program you are giving up that right? _____

8. Do you understand the elements of the crimes you have been charged with and what the Commonwealth would have to prove at trial? _____

9. Do you understand that you are presumed innocent and that by entering and completing the ARD Program you are waiving your right to have the Commonwealth of Pennsylvania prove each element of each crime beyond a reasonable doubt? _____

10. Do you understand that if the judge denies your admission into the ARD Program agreement, you will be permitted to withdraw your application, and you will be in the same position as if you had never applied? _____

11. Do you understand the terms and conditions of the ARD Program? _____

12. Do you understand that by entering the ARD program you are waiving any protections afforded by the Double Jeopardy provisions of the Pennsylvania and United States Constitutions, as well as Section 110 of the Pennsylvania Crimes Code, which may otherwise be applicable? _____

13. Do you understand that by that by entering the ARD program you are waiving any protections afforded by the Speedy Trial provisions of both the Pennsylvania and United States Constitutions, as well as Rule 600 of the Pennsylvania Rules of Criminal Procedure, which may otherwise be applicable? _____

14. Do you understand that failure to comply with the conditions of the ARD Program may result in revocation of the ARD Program, and that you will face trial on the original offense(s)? _____

15. Do you agree to abide by all of the terms and conditions of the ARD Program? _____

16. Do you understand that successful completion of the ARD Program will be used as an element of any subsequent offense for Driving Under the Influence (DUI) under Section 3802(h) of the Vehicle Code? _____

17. Do you understand that in a proceeding on a subsequent DUI offense under Section 3802(h) of the Vehicle Code the Commonwealth will not be required to prove the conduct that gave rise to your admission in ARD? _____

18. Is it your decision to enter the ARD Program? _____

19. Have you been threatened or forced to enter the ARD Program? _____

20. Have any promises been made to you to enter the ARD Program other than the terms and conditions of ARD Program? _____

I affirm that I have reviewed the entire ARD Colloquy as well as the terms and conditions of the ARD Program, and that I understand their full meaning and legal effect. I affirm that I have not been forced, threatened or coerced in any way to forgo my rights to trial and enter into the ARD Program, and that no promises have been made to me other than the terms and conditions of the ARD Program. With this understanding of my rights, I am hereby knowingly, intelligently, and voluntarily waiving my rights to trial and seeking admission into the ARD Program.

Date

Defendant

I affirm that I have reviewed the ARD Colloquy as well as the terms and conditions of the ARD Program with my client. It is my belief that my client fully comprehends all of his rights and is knowingly voluntarily and intelligently waiving those rights to be admitted into the ARD Program.

Date

Counsel for Defendant

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

COMMONWEALTH OF PENNSYLVANIA, : No. CP-01-CR-
Plaintiff :
VS. :
_____, :
Defendant :
_____, :

ACCELERATED REHABILITATIVE DISPOSITION PROGRAM: DUI
APPLICATION, AGREEMENT, MOTION AND ORDER

I, the defendant above named, hereby apply for admission into the Accelerated Rehabilitative Disposition Program, hereinafter called the ARD Program, and hereby represent and agree as follows:

1. **Speedy trial and related rights:** I understand my right to have the criminal charges against me disposed of in a speedy manner. I also understand that provisions of Pa.R.Crim.P. 600 give me the right to have trial commence within 365 days from the date on which charges were filed against me, and that violation of speedy trial rights and/or the provisions of Rule 600 may give me the right to have all criminal charges dismissed. Further, I understand that prosecution of the charges will be postponed during my participation in the ARD Program and that the Commonwealth must be given the right to prosecute me if I am removed from the ARD Program some time in the future. In this regard, I understand the following:

a) if I violate conditions of the ARD Program, the court may remove me from the ARD Program and place my case back on the trial list.

b) if I am removed from the ARD Program, any delay caused by participation in and administration of the ARD Program will not be counted against the Commonwealth for Rule 600 and constitutional speedy trial provision purposes. I agree that if my trial begins beyond the time period permitted by the rule and constitutional provisions, I will give up any right to claim the benefit of speedy trial and Rule 600 provisions in regard to the time period during which I am on the ARD Program. I agree that I have waived my right to file any Omnibus Pretrial Motions under Pa.R.Crim.P. 578, both prior to my admission to the ARD program and, if applicable, in the event I am removed from the ARD program. In this regard, I understand that important rights may be given up or waived, represent that I am aware of and understand those rights, and voluntarily, knowingly and intelligently choose to waive or give up those rights. If I am, for any reason, refused admission after waiving such rights, my waiver shall be invalidated.

2. **Financial responsibilities:** As a condition of the ARD Program, I agree to pay the sum of \$ _____, in accordance with a payment schedule established by the Adams County Clerk of Courts. In addition, I understand that there may be extraordinary expenses associated with my case which are not included in the standard fee, however, which would constitute court costs as defined by statute and collectable by law. I agree that the Adams County Clerk of Courts may include these extraordinary costs as part of my financial responsibilities and agree to pay the same as a condition of my ARD admission. I acknowledge that failure to satisfy my financial responsibilities within the time period of my ARD admission shall be grounds for revocation and removal from the ARD Program and/or the initiation of contempt proceedings to be filed against me. I understand that this lump sum is comprised of various fees, charges, costs and perhaps restitution. I understand that money paid by me will be periodically distributed to various entities entitled thereto, and that it would be difficult for the Clerk of Courts to refund any money after distribution had occurred. I agree that I shall have neither a right of accounting nor refund as to any money paid by me, should I be removed from the ARD Program nor shall I be entitled to future credit. All money shall become the property of the entity entitled thereto,

as established by the Clerk of Courts. I agree that in addition to paying all ARD program fees, costs and expenses, I will also pay restitution and costs of prosecution as follows: Restitution: _____

Costs of prosecution: _____

I understand that the aforementioned restitution and/or costs of prosecution may only be estimates based upon information presently available. If the Commonwealth subsequently requests to amend these amounts, it shall provide me with written notice of the amount requested and give me the opportunity to agree or disagree with the request. If I agree, the request shall be submitted to the Court for entry of an amended order, but if I disagree the Commonwealth may request that the Court set the matter for hearing.

3. Probation: I understand that I shall be placed on probation for up to nine months, subject to standard rules and conditions of probation, DUI conditions, all conditions of DUI/ARD Supervision, and special conditions:

I acknowledge that the conditions have been explained to me and that I understand them and that violation of any condition shall constitute grounds for my removal from the ARD Program.

4. Successful completion: I understand that the charges against me will be dismissed if I successfully complete the ARD Program. However, if I am charged with Driving Under the Influence of Alcohol and or Controlled Substances after my admission in the ARD Program, I understand that my participation in the ARD Program shall be considered a prior conviction for purposes of my driving record and more severe criminal penalties.

5. License Suspension: I understand that my operating privileges shall be revoked or suspended _____ month(s), and that I must comply with any in-patient treatment ordered by the court. Failure to do so shall be grounds for my removal from the ARD Program.

6. Removal from the Program: I understand that the District Attorney may request my removal from the ARD Program if I do not comply with the terms and conditions as described in this application. I waive the right to have the judge who placed me in the ARD Program rule on the Commonwealth's request and agree that any judge may decide the matter. I understand that a judge may order that process should issue for my arrest so that I would be produced and be given a chance to speak on the matter. I waive the right to be personally present and agree that a judge may remove me from the ARD Program, in my absence, if I have been given reasonable notice and an opportunity to appear.

7. Extensions: I understand that the statutorily authorized time for probation authorized by the rules for a DUI offense is twelve months. If I am, for any reason, unable to comply with the conditions of the ARD Program within the time of my probation, I understand that I may be given an opportunity to apply for consensual removal from and readmission in to the ARD Program. However, my readmission is at the sole discretion of the Commonwealth, is not a right, and must be approved by the Court. If I make such a request in the future, I agree that the acknowledgments and waivers I am presently making shall be incorporated into the request.

8. No prior Convictions or ARD or Pending Criminal Charges: In consideration for my admission to the ARD Program, I hereby affirm and acknowledge that I have not been convicted of nor arrested for a misdemeanor or felony criminal offense in the Commonwealth of Pennsylvania or in any other state or federal jurisdiction; that I have never been placed on the Accelerated Rehabilitative Disposition Program in this or any other jurisdiction; that I have not previously been admitted to a pre-disposition program similar to ARD in this or in any other state; that I have not been convicted of Driving Under the Influence or similar statute in Pennsylvania or another state or placed on the ARD program for Driving Under the Influence within the last ten years from date of this offense in Pennsylvania or in another state and that I do not have any pending misdemeanor or felony criminal charges pending in the Commonwealth of Pennsylvania or in any other state or federal jurisdiction. I understand that should this information be incorrect, that I may be removed from the ARD Program and,

further, that I may be prosecuted subject to the provisions of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities. I further understand and agree that my obligation to disclose this information to the Commonwealth and the Court is continuous and ongoing up to and including the time that the Court admits me into the ARD Program. I further understand that should I be charged with a criminal offense as described in this paragraph while in the ARD Program, the Commonwealth may use this criminal offense as a basis to request the Court to remove me from the ARD Program.

9. Legally present in United States: In consideration for my admission into the ARD Program, I hereby affirm and acknowledge that I was legally present in the United States at the time I was charged with the offense and currently I legally reside in the United States. I understand that should this information be incorrect, that I may be removed from the ARD Program and, further, that I may be prosecuted subject to the provisions of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

10. Bail: I understand that once the Judge grants my motion for entry into the ARD Program, bail shall be terminated and any money or other form of security deposited shall be returned to me in accordance with the rules pertaining to bail.

11. ARD Admission Colloquy: I understand that the ARD Admission Colloquy is a condition of eligibility for admission into ARD. I understand that I will be bound by the terms of the ARD Admission Colloquy, if relevant, at any future criminal proceeding, except as provided in 75 Pa. C.S. § 3807(g).

12. Expungement: I understand that it is my responsibility to pursue expungement and pay any necessary or applicable fees associated with expungement. I further understand that notwithstanding any order of expungement, records of this criminal case shall be retained in accordance with 75 Pa. C.S. §§ 1534(b), 1534(b.1), and 3807(f).

I hereby request the Commonwealth of Pennsylvania to admit me into the Accelerated Rehabilitative Disposition Program.

Defendant

Attorney for Defendant

MOTION BY COMMONWEALTH

AND NOW, this _____ day of _____, ___, I hereby move the defendant's admission into the ARD Program in accordance with his/her application agreement.

District Attorney/Assistant District Attorney