

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA

CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

VS.

CASE NO.

GUILTY PLEA COLLOQUY AND POST-SENTENCE RIGHTS

Please answer all questions "yes", "no", or "n/a" for not applicable. Your attorney is required to review this document with you and answer your questions regarding the consequences of your decision to plead guilty. If, after reviewing this document, you have any questions that have not been answered, please inform the Court.

I. GENERAL INFORMATION:

1. Can you read, write, speak and understand the English language? _____
2. If you cannot, are you using the services of an interpreter? _____
3. Right now, are you in any way under the influence of alcohol, drugs, or medication? _____
4. If you are taking any medication, does it affect your ability to understand these questions or why you are here today? _____
5. Have you ever been or are you now being treated for mental illness? _____
6. Does that illness or its treatment affect your ability to understand these questions or why you are here today? _____
7. Do you understand that you are here today to enter a plea of guilty to some or all of the criminal charges against you? _____
8. Are you a United States Citizen? _____
9. Do you understand that if you are not a United States Citizen, there may be immigration consequences as a result of your guilty plea? _____

II. TRIAL RIGHTS:

10. Do you understand that you do not have to plead guilty? _____
11. Do you understand that you have a right to a trial by jury and by pleading guilty you are giving up that right? _____
12. Do you understand that if you decided to go to a jury trial that a jury would consist of twelve citizens from Lancaster County? _____
13. And that you and your attorney can participate in the selection of the jury? _____
14. And that in order to convict you, all twelve members of the jury must agree unanimously that you are guilty? _____
15. Do you understand that if you decided to go to trial either by judge or by jury, that it is the Commonwealth's burden to prove you guilty? _____
16. Do you understand that you do not have to prove anything at trial? _____
17. Do you understand that your attorney can speak on your behalf to the jury in the form of an opening and closing statement? _____
18. Do you understand that your attorney can cross-examine witnesses on your behalf? _____
19. Do you understand that you have the right to testify at trial? _____
20. Do you understand that you have the right not to testify at trial? _____
21. Do you understand that if you choose not to testify at trial that it cannot be used against you that you did not testify and the Court would instruct the jury not to use it against you? _____
22. Do you understand that you have a right to present evidence to contradict the Commonwealth's case, but you are not required to do so? _____
23. Do you understand that if you filed any pre-trial motions (such as a suppression motion), that you are giving up your right to be heard on them by pleading guilty? _____
24. Do you understand that if you were to go to trial and could not pay proper costs, such as to subpoena a witness, that those costs would be paid for you? _____

25. Do you understand that you are presumed to be innocent until proven guilty by the Commonwealth beyond a reasonable doubt? _____
26. Do you understand that at a trial the Commonwealth must prove each element or each part of each crime beyond a reasonable doubt? _____
27. Do you understand that you have a right to be represented by an attorney? _____
28. Do you understand that if you cannot afford an attorney, that the Court would appoint one to represent you free of charge before, during, and after trial and on appeal? _____

III. SENTENCING:

29. Do you understand that judges in Pennsylvania are required to review the sentencing guidelines? _____
30. Do you understand that the sentencing guidelines are based on a defendant's prior convictions and the seriousness of the current offense(s)? _____
31. Has your attorney reviewed the sentencing guidelines with you on your case? _____
32. Do you also understand that every crime in Pennsylvania has a maximum sentence? _____
33. Do you understand that the Court cannot sentence you to more than the maximum sentence, but can sentence you to less than the maximum sentence? _____
34. Do you understand that the maximum sentences you are facing are as follows: _____ ?

CHARGE & GRADING	MAXIMUM INCARCERATION	MAXIMUM FINE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

35. Do you understand that the total possible sentence you could receive for your plea today if you were sentenced to the maximum and all sentences were consecutive would be

_____ and \$ _____ ? _____
(specify months or years)

36. Have you, your lawyer, and the District Attorney entered into any negotiated plea agreement? _____

37. If the answer is "yes", do you understand that the judge can reject the proposed plea agreement? _____

38. Do you understand that if the judge rejects the proposed plea agreement, you will be permitted to withdraw your guilty plea? _____

39. Do you understand that once you withdraw your guilty plea, you are in the same position as if no agreement had ever taken place? _____

40. Do you understand that if you withdraw your guilty plea, you still have a right to a trial by judge or by jury? _____

41. Do you understand that if the judge rejects the plea agreement and you withdraw your guilty plea, your attorney may attempt to renegotiate the proposed plea agreement with the District Attorney and re-present it to another judge? _____

42. However, do you understand that you may not present the same previously rejected plea agreement to another judge without informing that judge of the rejection or changing the plea agreement? _____

43. Do you understand that nothing that you say in the courtroom when you withdraw your plea can be used against you at a trial? _____

44. Do you understand the terms of the plea agreement? _____

45. If there is not a plea agreement, do you understand that it is the judge who will determine your sentence? _____

46. Do you understand that if being sentenced on more than one count, the sentences could be consecutive to one another? _____

47. Do you understand that if you are currently serving another sentence, the sentence you receive for this charge could be consecutive to any other sentence you are already serving? _____

48. Do you understand that if you are on probation or parole, your guilty plea will mean that you have violated the supervision, that supervision can be revoked, and that you could be sentenced anew for the violation? _____

IV. VOLUNTARINESS:

49. Is it your decision to plead guilty? _____

50. Have you been threatened or forced to plead guilty? _____

51. Are you making the decision to plead guilty of your own free will? _____

52. Have any promises been made to you to enter this guilty plea other than the terms of the plea agreement? _____

53. Do you understand that a guilty plea has the same effect as a conviction by a jury or a judge hearing the case without a jury? _____

54. After reviewing all of this information, do you still wish to plead guilty? _____

V. APPEAL RIGHTS:

55. Do you understand that after you plead guilty you have the right to appeal to the Superior Court within thirty (30) days? _____

56. Do you understand that by pleading guilty, you are limiting your appeal rights? _____

57. Do you understand that after you plead guilty, your appeal rights are limited to three issues? _____

58. The first issue is whether this Court has the jurisdiction to hear your case. In other words, did this offense happen in Lancaster County. Do you understand the first appeal issue? _____

59. The second issue is the voluntariness of your plea. In other words, is your decision to plead

guilty a knowing, intelligent, and voluntary decision on your behalf. Do you understand the second appeal issue? _____

60. The third issue is the legality of the sentence. In other words, does the sentence you receive fit within what the legislature says you can get for an offense of this nature. Do you understand the third issue? _____

61. Do you understand that, after pleading guilty, you are limited to these three issues on appeal? _____

62. You have the option of appealing to this Court by filing what is called a "Post-Sentence Motion". Do you understand that the Post-Sentence Motion must be filed within ten (10) days of your sentencing date? _____

63. Do you understand that the Post-Sentence Motion must be in writing, filed at the Clerk of Courts, and state specifically what grounds you are claiming on your appeal? _____

64. Do you understand that if you cannot afford an attorney to file the appeal, that if you qualify one will be appointed to represent you on the appeal? _____

65. Do you understand that if you miss the ten (10) day deadline to appeal to this Court, that you have thirty (30) days from the date of sentencing to appeal to the next level of Court (the Pennsylvania Superior Court)? _____

66. Do you understand that with any appeal to the Pennsylvania Superior Court, you are limited to the same three issues described in paragraphs 56, 57, and 58? _____

67. Do you understand that if this is an open plea without a plea agreement, you have a fourth issue on appeal? _____

68. Do you understand that in that case, the fourth issue on appeal is the discretionary aspects of the Court to sentence you as it did? _____

69. Do you understand that if you wish to challenge the Court's discretion, you must do so by filing a Post-Sentence Motion to this Court within ten (10) days? _____

70. Do you understand that if you fail to challenge the Court's discretion within ten (10) days, you will not be permitted to raise that issue on further appeal? _____

71. Do you understand that by filing a Post-Sentence Motion to this Court, your appeal to the higher court cannot commence until this Court rules on your motion? _____

72. Do you understand that if you file a Post-Sentence Motion to this Court, the Court must decide on your motion within 120 days? _____

73. Do you understand that if the Court does not grant or deny your Post-Sentence Motion within 120 days, then it is deemed denied by operation of law? _____

74. Do you understand that if you file a Post-Sentence Motion and this Court denies the motion or it is deemed denied by operation of law, that you have thirty (30) days from that date of denial to file an appeal to the Pennsylvania Superior Court? _____

75. Do you understand that in the appeal to the Pennsylvania Superior Court, you will still be limited to the three issues outlined in paragraphs 56, 57, and 58 and, if applicable, the fourth issue outlined in paragraph 67? _____

VI. CONCLUSION:

76. Have you had sufficient time to review this information with your attorney? _____

77. If you did not understand any part of this form, has your attorney explained it to you so that you now understand? _____

78. After reviewing all of this information with your attorney, do you still wish to enter a guilty plea? _____

I affirm that I have reviewed the entire document with my attorney and I am aware of the consequences of my guilty plea. With a full understanding of my rights as explained in this document, I am voluntarily pleading guilty and signing this Guilty Plea Colloquy.

Date

Defendant

Interpreter (if any)

I, _____, Esquire, Attorney for _____, state that I have reviewed this document fully with my client. It is my belief that my client fully comprehends the consequences of pleading guilty and is pleading guilty of his/her own free will.

Date

_____, Esq.
Attorney for Defendant