

GUILTY PLEA COLLOQUY

INSTRUCTIONS TO DEFENDANT'S COUNSEL AND/OR DISTRICT ATTORNEY

IF THE DEFENDANT CANNOT READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE, THIS FORM SHOULD NOT BE USED AND THE DEFENDANT SHOULD APPEAR BEFORE THE COURT FOR THE ENTIRE PLEA COLLOQUY.

THIS FORM SHOULD BE COMPLETED AND SIGNED BY THE DEFENDANT. IF THE DEFENDANT SIGNS IT AND UNDERSTANDS WHAT THEY ARE DOING, DEFENSE COUNSEL SHALL SIGN IT BEFORE THE GUILTY PLEA IS TAKEN, THEN ENTER IT AS AN EXHIBIT IN THE RECORD AT THE TIME THE COURT ACCEPTS THE PLEA.

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

COMMONWEALTH

:

CASE NUMBER(S):

Vs

DIRECTIONS CONCERNING THE ENTERING OF A GUILTY PLEA

You are present before this Court because you or your lawyer has indicated your desire to plead guilty to some or all of the criminal offenses with which you have been charged.

Please answer all of the questions on these pages fully. Most of the questions are to be answered either YES or NO. Where facts are requested, please fill in those facts specified in the blank space provided after the question. If you do not understand the question, indicate this by marking an X in the blank space provided after the question you do not understand.

After you have completed this form and signed it, if there are any portions of it that you have indicated you do not understand, tell your attorney, the attorney for the Commonwealth or the Judge, so that you have a chance to have it explained to you.

If you are pleading No Contest, rather than Guilty, all references in this colloquy to your plea of guilty (or similar language) shall be interpreted to mean no contest.

1. What is your full name? _____

2. What is your address? _____

City _____ State _____ Zip Code _____

3. If you are known by any other names or aliases, list them:

4. Are you a United States Citizen? Y / N

5. Are you employed? Y / N if Yes, where? _____

6. How old are you? _____ Date of Birth ____/____/____

7. What grade did you complete in school? _____

8. Can you read, write and understand the English language? Y / N

9. Have you ever been a patient in a mental institution, or have you ever been treated for a mental illness? Y / N

10. Are you currently being treated for a mental illness? Y / N

11. If the answer to number 9 or 10 is Yes, please explain:

12. If you are presently being treated for a mental illness, do you still feel that you can cooperate with your attorney, understand what you are doing today, understand what these questions mean, and know why you must answer these questions? Y / N

13. Have you consumed any alcohol or taken any drugs or medicine or any other substances within the past twenty-four (24) hours? Y / N

14. If the answer to number 13 is Yes, please explain:

15. If the answer to number 13 is Yes, are you presently under the influence of alcohol, drugs, medicine or any other substance to a degree that you cannot understand these questions and answer them? Y / N

16. Do you understand that you are here to enter a guilty plea to some or all of the charges against you? Y / N
17. Has your attorney explained to you all of the elements of the crime(s) in question and the facts that must be established in order for you to be found guilty of the crime(s) to which you are entering your guilty plea? Y / N
18. Do you admit that you committed the crime(s) to which you are entering your plea of guilty? Y / N
19. Do you understand that you are presumed to be innocent and have the right to stand trial, however, by pleading guilty you waive your right to trial and you lose your presumption of innocence? Y / N
20. Do you understand that you have the absolute right to have your guilt or innocence determined in a trial before a jury which involves the following:
- a. That jury panels in York County are selected at random from the citizens of York County? Y / N
 - b. That you and your attorney would participate in selecting from this panel, the particular twelve (12) jurors who would hear the evidence and decide your guilt or innocence? Y / N
 - c. That only impartial and unprejudiced jurors would be qualified to sit and hear your case? Y / N
 - d. That the Commonwealth has the burden of introducing testimony or other evidence which will convince the twelve jurors unanimously of your guilt beyond a reasonable doubt, which is a doubt that would cause a reasonable, careful, and sensible person to hesitate before acting upon a matter of importance in his/her own affairs? Y / N
 - e. That your attorney can question those witnesses to test their credibility? Y / N
 - f. That you can testify, call witnesses, or introduce other evidence to contradict the Commonwealth's evidence and/or support your innocence, but you are not required to do so? Y / N
 - g. That if you do not testify, call witnesses, or introduce other evidence, no adverse inference may be drawn by the jury and you will still be presumed innocent? Y / N

- h. That if the jury is not unanimously convinced of your guilt beyond a reasonable doubt, you cannot be found guilty? Y / N
- i. That if the jury is unanimously not convinced of your guilt beyond a reasonable doubt, you will be found not guilty? Y / N
21. Do you understand that you can request a Judge try your case instead of a jury, and although that request may not be granted, if it is granted, the following would apply:
- a. That the Judge assigned would act as both Judge and jury? Y / N
- b. That the same rules of law, evidence and procedure as in a jury trial, would be followed? Y / N
- c. That the Judge must be convinced of your guilt beyond a reasonable doubt before you can be found guilty, and if he is not convinced, you will be found not guilty? Y / N
22. Do you understand that in entering your guilty plea, you are accepting that you are properly before the Court on those offenses to which you plead, and that you give up and waive your right to raise, both before this Court or an Appellate Court, procedural or fundamental error, irregularities, or unlawful acts or violations of your Constitutional rights by the Commonwealth personnel in investigating, filing, proceeding with, and presenting at the trial the charges against you? Y / N
23. Do you understand that if you have raised any of these matters that your guilty plea will terminate your right to be heard on them? Y / N
24. Do you understand that you have the right to be represented by an attorney, if you cannot afford an attorney, one could be appointed to represent you without charge, before, during, and after trial and on appeal to the appellate courts? Y / N
25. Do you understand that if you cannot afford to pay proper costs necessary to present your position, these costs would be paid for you? Y / N
26. Do you understand that for a misdemeanor or felony, the Court may impose a sentence in accordance with the Sentencing Guidelines established by the legislature of the Commonwealth of Pennsylvania that place a suggested length of sentence for the type of crime and increase that length of sentence if the person sentenced has been previously convicted of other crimes, either as a juvenile or an adult, and that the maximum sentence

or sentences of confinement and/or fine or fines applicable to the crime or crimes to which you are entering your plea(s) are as follows:

CHARGE	Grade	MAXIMUM TERM OF CONFINEMENT	MAXIMUM FINE

(Either confinement or a fine or both may be imposed by the Court)

a. Do you understand that if you are being sentenced on more than one count, the sentences could be consecutive to each other? Y/ N

b. Do you understand that if you are currently serving another sentence, the sentence(s) you receive for your plea(s) today could be consecutive to any other sentences you are already serving? Y/ N

c. Do you understand that the total possible aggregate sentence you could receive for your plea(s) today, if all sentences were to be made consecutive, would be _____ (specify months or years and total fines)? Y/ N

27. Are you presently on probation or parole? Y/ N

28. If you are on probation or parole, do you understand your guilty plea means you have violated that probation or parole and you could be sentenced on the violation as a result of your guilty plea? Y/ N

29. Do you understand that if your guilty plea(s) is accepted and you are sentenced, if you come before a Court for sentencing on another crime, you may receive a more severe sentence because you will have been sentenced on this crime to which you are now pleading guilty?

Y / N

30. Have you and/or your attorney agreed with the Assistant District Attorney concerning the charges to which you will plead and/or the length of sentence that will be imposed on these charges in exchange for your guilty plea?

Y / N

31. If your answer to number 30 was Yes, state the agreement:

32. Are you aware that the Judge does not have to sentence you in accordance with the terms of the pleas and sentence that you, your attorney, and the Assistant District Attorney may have negotiated?

Y / N

33. Do you understand if the Judge does not accept that plea agreement, you may withdraw your guilty plea?

Y / N

34. Do you understand that if your plea is accepted today, sentencing in this case, including probation violation or parole violation sanction or sentence, may be imposed by any judge as assigned by the District Court Administrator?

Y / N

35. Other than the plea agreement negotiated for you by yourself or your attorney stated in question 31, have any other promises been made to you to convince you to enter a plea of guilty?

Y / N

36. Has anybody forced, threatened, or coerced you directly or indirectly to enter guilty plea(s)?

Y / N

37. Are you doing this of your own free will?

Y / N

38. After you enter your guilty plea(s) and it is accepted by the Court, you still have the right to appeal your conviction. Your appeal for a guilty plea is limited to one or all of four (4) grounds: 1) your guilty plea(s) was not voluntary; 2) the Court did not have jurisdiction (no

authority) to accept your plea, because, in other words, the crimes to which you are pleading guilty did not occur in York County; 3) the judge's sentence is illegal because it is beyond the maximum penalties authorized by law; and 4) your attorney was not effective in representing you. Do you understand the four (4) reasons for an appeal? Y / N

39. In order to appeal your conviction after a guilty plea, you must file a written document called a Petition to Withdraw Guilty Plea and state any or all of the grounds in question 38 as the reason for your petition to withdraw your plea. If you want the Court to reconsider or reduce your sentence, you must file a written document called a Motion for Reconsideration of Sentence. This must be done within **ten (10) days** from the date you are sentenced. If you cannot afford an attorney to represent you or if your basis of appeal is that the attorney who represented you at your guilty plea was ineffective, you have the right to have another attorney appointed to your case to raise the claims in question 38 or reconsideration of sentence.

If your petition to withdraw your guilty plea or motion for reconsideration of sentence is denied, you then have **thirty (30) days** to file an appeal of that denial with the Superior Court of Pennsylvania. If you do not file a Petition to Withdraw Guilty Plea or Notice of Appeal to the Superior Court within thirty (30) days, you give up your right to ever again raise the issue that your sentence was improper or that your guilty plea was not voluntarily or intelligently entered. Do you understand the meaning of the various appeal rights that have just been explained? Y / N

40. Do you understand that before sentencing, you may have the right to: a) make any relevant statement on your own behalf, b) have your attorney do so; and c) have the right to examine the pre-sentence investigation report presented to the Court and the right to correct any error or omissions of such report. Y / N

41. Have you had an adequate opportunity to talk to your attorney before reading this form and deciding to enter your guilty plea(s)? Y / N

42. If you did not understand any part of this form, has your attorney advised you on such matters? Y / N

43. Are you satisfied with your attorney's representation of you in this case? Y / N

44. Is it your decision and your decision alone to enter a guilty plea(s)? Y / N

45. Do you thoroughly understand that you do not have to enter a guilty plea, but if you do, you give up all rights as previously explained? Y / N

Date Defendant's signature

I _____, Esquire, Attorney for the above named defendant, represent to the Court that I have advised my client of the meaning of this Guilty Plea Colloquy; that it is my belief that they understand the questions and have voluntarily and knowingly answered the questions; that I have discussed their rights to go to trial and would do so if they wished; and that the defendant fully understands what they are doing by entering their plea of guilty and the possible consequences thereof.

Attorney for the Defendant

DIRECTIVE TO REPORT

I understand that if I am placed on probation, parole or intermediate punishment or receive a sentence of time served by the Court, I must report to the York County Probation Department located at the York County Judicial Center, 2nd Floor, 45 N. George Street, York, PA within two (2) business days.

I further understand that if I fail to report to the Probation Department within two (2) business days, a probation/parole warrant will be issued for my arrest and I may be incarcerated if found to have willfully failed to appear.

Date

Defendant's signature