

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

COMMONWEALTH OF PENNSYLVANIA :
 :
 V. : NO.
 :
 :

WRITTEN NOLO CONTENDERE PLEA COLLOQUY

You and your attorney have indicated that you wish to plead nolo contendere to certain criminal charges that have been brought against you. In order for the Court to accept your plea of nolo contendere, the Court must first determine whether you are pleading nolo contendere knowingly and voluntarily. To enable the Court to make this determination, you must answer the questions in this written plea colloquy.

You should read this form carefully and answer each question truthfully. If you do not understand a question ask your attorney or the Court for clarification. Please initial each page in the space provided at the bottom after you have answered all the questions on that page. Please sign and date the last page in the spaces provided when you have answered all the questions.

PERSONAL

1. What is your full name? _____
 2. How old are you today? _____
 3. How far did you go in school? _____
 4. Can you read, write and understand the English Language? _____
- Explain, if necessary _____

Initials: _____
Defendant Attorney

THE CHARGES

5. You have indicated a willingness to plead nolo contendere to the following charges:

Do you understand that these are the charges to which you will be pleading nolo contendere? _____

6. Each charge has elements. The elements of an offense are what the prosecution must prove in order for you to be found guilty. The charges to which you will be pleading nolo contendere have the following elements:

Do you understand the elements of the charges? _____

7. Each charge to which you are pleading nolo contendere has the following possible maximum prison sentence and maximum fine:

Do you understand what the maximum prison sentence/fine is that could be imposed for each offense? _____

8. A criminal charge may have a mandatory minimum prison sentence and a mandatory minimum fine. In your case, the following charges carry mandatory minimum sentences:

Do you understand what the mandatory minimum prison sentence or fine is that must be imposed (if any)? _____

Initials: _____
Defendant

Attorney

9. Do you understand the possible range of sentences and fines that could be imposed for each offense? _____

10. Do you understand the charges to which you are pleading nolo contendere? _____

PLEA AGREEMENT

11. In exchange for your plea(s) of nolo contendere to _____, the Commonwealth has agreed to the following:

_____ Is this your understanding of the plea agreement? _____

12. If the judge refuses to accept your plea agreement, you will be allowed to withdraw your plea, a new judge will be assigned to your case, and you may start again with an untried information against you.

Do you understand this? _____

RIGHTS AT TRIAL

13. You do not have to plead nolo contendere, even if you committed the crime(s). You have an absolute right to plead not guilty, and no one can force you to enter any plea other than not guilty.

Do you understand this? _____

14. If the offense for which you are charged carries a maximum sentence of more than 6 months, you have an absolute right to a jury trial.

Do you understand this? _____

15. If the offense with which you are charged carries a maximum sentence of 6 months or less, or if both you and the attorney for the Commonwealth agree to give up the right to a jury trial, you can have a trial in front of a judge instead of a jury. This is called a “non-jury trial” and in such a trial the judge would decide the facts, as well as the law.

Do you understand this? _____

Initials: _____
Defendant

Attorney

16. If you were to have a trial, the law protects you in the following ways:
- i. You would be presumed to be innocent. This means that you are considered to be innocent of the charges unless the Commonwealth proves that you committed the crimes.
 - ii. To convict you, the Commonwealth would have to prove that you are guilty beyond reasonable doubt. A reasonable doubt is the kind of doubt that would cause a normal, reasonably prudent person to hesitate before acting in a matter of great importance in his or her own affairs.
 - iii. You have the right to remain silent. You cannot be forced to testify or to talk about your case. If you decide to remain silent at trial, no one can hold it against you.
 - iv. You have the right to testify (tell your side of the story) at trial.
 - v. You have the right to call other people to testify for you at trial.
 - vi. Commonwealth witnesses would have to take an oath and testify against you.
 - vii. Your lawyer could question Commonwealth witnesses to test whether they are telling the truth.

If you went to trial, you would have all of the rights and protections listed above in i.-vii.

Do you understand this? _____

17. By pleading nolo contendere, you are giving up the rights and protections set forth in question #14.

Do you understand this? _____

18. By pleading nolo contendere, the Commonwealth does not have to prove its case and does not have to present witnesses. Rather, the attorney for the Commonwealth may present to the Court a summary of what happened. By entering a plea of nolo contendere you are agreeing not to contest the Commonwealth's summary of the evidence.

Do you understand this? _____

Initials: _____

Defendant

Attorney

19. In a jury trial, twelve (12) randomly-selected people from Centre County would be on the jury and would hear the facts of your case.

Do you understand this? _____

20. For you to be found “guilty” at a jury trial, all twelve jurors would have to be convinced of your guilt beyond reasonable doubt.

Do you understand this? _____

21. For you to be found “not guilty” at a jury trial, all twelve jurors would have to agree that the Commonwealth failed to prove you guilty beyond reasonable doubt.

Do you understand this? _____

22. If all twelve jurors could not agree whether you are guilty or not guilty, you would not be convicted but you might have another trial in front of a different jury.

Do you understand this? _____

23. You can help pick your jurors. You can keep anyone off the jury who is shown to the judge to be prejudiced or unfair.

Do you understand this? _____

24. You can also keep a number of people off of the jury without giving any reason at all, and so can the prosecutor. You and your lawyer would decide together which people to keep off the jury.

Do you understand this? _____

25. By pleading nolo contendere, you give up your right to a jury trial and you give up the possibility of a trial by a judge sitting without a jury.

Do you understand this? _____

Initials: _____

Defendant

Attorney

PRE-TRIAL RIGHTS

- 26. Under the law, you have the right to file certain pre-trial motions that might improve your chances of being found not guilty. These include the right to file a motion to suppress evidence to try to convince the judge that some of the evidence against you should not be used at trial. By pleading nolo contendere you give up all of your pre-trial rights.

Do you understand this? _____

- 27. If you have already had a hearing on pre-trial motions, by pleading nolo contendere you give up your right to appeal the decisions made on those motions.

Do you understand this? _____

POST-SENTENCE RIGHTS

- 28. If you are found guilty at trial, you can file a post-sentence motion with the Court within ten (10) days of imposition of sentence. In a post-sentence motion, you can ask the Court for various forms of help, including asking the Court to overturn the verdict of “guilty”, requesting a new trial due to irregularities in your trial, and asking the Court to modify whatever sentence it imposed on you.

Do you understand this? _____

- 29. If you are found guilty at trial, you can also appeal your conviction to a higher Court within thirty (30) days of sentence. You can ask the higher Court to overturn your conviction because there was not enough evidence, because a mistake was made before or during the trial, because you did not get a speedy trial, or for other reasons.

Do you understand this? _____

- 30. Do you understand that if you can not afford an attorney to assist you with these motions or appeals, the Court will, at your request, appoint an attorney to assist you?

Do you understand this? _____

Initials: _____
Defendant

Attorney

31. By pleading nolo contendere instead of having a trial, you give up almost all of your rights to appeal.

Do you understand this? _____

32. After you plead nolo contendere, you can appeal to a higher Court for only four (4) reasons:

- i. that you were in the wrong Court-the Court that sentenced you did not have jurisdiction over your case;
- ii. that the judge imposed an illegal or improper sentence on you;
- iii. that the attorney who represented you was incompetent or ineffective; and
- iv. that you did not know what you were doing when you pled nolo contendere, or that someone forced you to plead nolo contendere-that your guilty plea was not entered knowingly, intelligently, and voluntarily.

Do you understand that when you plead nolo contendere you can only appeal to a higher Court for one or more of the four reasons listed above? _____

CONSEQUENCES OF PLEADING NOLO CONTENDERE

33. Although the effect of a plea of nolo contendere is equivalent to a plea of guilty, the significance of the plea is not the same. In pleading nolo contendere; you do not admit your guilt, but merely consent to being punished as if you were guilty. The consequences of entering a nolo contendere plea are exactly those of entering a guilty plea with one exception. As you are not admitting facts by entering a nolo contendere plea, the entry of a nolo contendere plea in this criminal proceeding could not be used against you in a subsequent civil proceeding to determine the existence of those facts. In all other respects, the consequences of a nolo contendere plea are the same as if you had pled guilty or were found guilty of those offenses. You will have a criminal record of conviction for the offenses underlying your nolo contendere plea.

Do you understand this? _____

Initials: _____
Defendant

Attorney

34. If, as part of your sentence, you are placed on probation or parole, you will have to obey certain rules and regulations as part of your probation/parole. If you violate these rules or regulations, the judge can order that you serve time in prison. Do you understand this? _____ If as part of your sentence you are directed to pay fines, costs or restitution, the Probation Department may obtain a judgment against you for any amounts owed and the failure to pay these amounts may subject you to either a violation of your probation or parole conditions or a contempt proceeding for your failure to pay.

Do you understand this? _____

35. If you are currently on probation or parole, pleading nolo contendere to these charges may constitute a violation of your probation/parole and may result in revocation of your probation/parole and time in prison.

Do you understand this? _____

36. If you are not a United States citizen, pleading guilty to the crime(s) charged against and might affect your immigration status and might result in deportation.

Do you understand this? _____

37. If you are pleading guilty to multiple charges and if a plea agreement does not specify whether the sentences on those charges are to run concurrently (at the same time) or consecutively (one after the other), any sentences imposed could run consecutively (one after the other).

Do you understand this? _____

38. If there is a plea agreement in your case, the judge is not bound by the terms of that agreement unless the judge accepts it.

Do you understand this? _____

39. If there is a plea agreement in your case and the judge refuses to accept it, you will be permitted to withdraw your plea, a new judge will be assigned to your case and you will begin with an untried information against you.

Do you understand this? _____

VOLUNTARY NATURE OF YOUR NOLO CONTENDERE PLEA

40. Has anyone forced you to enter this plea of nolo contendere? _____

41. Have any threats been made to you to cause you to plead nolo contendere? _____
42. In exchange for your plea of nolo contendere, has anything been promised to you other than what is in the plea agreement? _____
43. Are you pleading nolo contendere because you believe that doing so is in your best interest? _____
44. Have you had enough time to consult with your attorney about your case? _____
45. Are you satisfied with your attorney's representation of you? _____
46. Have you ever had a mental illness that would affect your ability to understand your rights or these proceedings, or that would affect your ability to act voluntarily in entering this plea? _____
47. Are you presently taking medication that might cause you to not understand your rights or these proceedings, or that might affect your ability to act voluntarily? _____
48. Are you presently under the influence of alcohol or controlled substance? _____

FACTS OF YOUR CASE AND GIVING UP DEFENSES

49. When you enter a plea of nolo contendere, you cannot contest the Commonwealth's claim that there is a factual basis for the charges underlying your plea.
- Do you understand this? _____
50. By pleading nolo contendere to the offenses listed in question #5, you are not admitting to any facts supporting the crimes with which you are charged, but you agree to stand mute to the Commonwealth's contention that there exists a factual basis to have charged you with those offenses.
- Do you understand this? _____

Initials: _____
 Defendant

 Attorney

51. By pleading nolo contendere, you are giving up the right to defend your case. The Court may proceed to sentence you immediately or it may order that a pre-sentence report be prepared for sentencing at a later date.

Do you understand this? _____

52. Do you have any questions of your attorney or the Court? _____

53. Are you entering this plea of nolo contendere of your own free will? _____

I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of nolo contendere to the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct, and are evidence of my voluntary desire to plead nolo contendere at this time.

DATE DEFENDANT

As the attorney for the defendant, I hereby certify that I have advised my client of his rights and of the meaning of the questions contained in this form.

DATE DEFENDANT