

COURT EXHIBIT

No: _____

Date: _____

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

COMMONWEALTH OF PENNSYLVANIA

VS.

:
:
:
:
:
:

No. _____ CRIM _____

No. _____ CRIM _____

No. _____ CRIM _____

GUILTY PLEA COLLOQUY
EXPLANATION OF DEFENDANT’S RIGHTS

You or your attorney have indicated to the officers of this Court that you wish to plead guilty or nolo contendere to certain specific criminal charges which the Commonwealth of Pennsylvania has brought against you.

In order to have your plea accepted by this Court, you must waive your right to confront the prosecution witnesses against you and agree to permit a District Attorney to summarize the Commonwealth’s evidence against you.

You must fully understand that your plea(s) must be voluntary and no clemency is being promised in exchange for your plea, with the exception of any plea bargain or arrangement previously agreed to between your attorney and the District Attorney assigned to your case.

By pleading guilty to any charge you are admitting that you committed that offense. By pleading nolo contendere you are stating that you do not contest the charges against you. In either case, the Commonwealth would not have to prove each and every element of the crimes with which you are charged as would be required in a jury or non-jury trial.

Please be advised that you must fully understand that the Constitution of the United States of America and the Constitution of the Commonwealth of Pennsylvania give to you an absolute right to have a trial by jury.

If you intend to waive your Constitutional right to a trial by jury, please answer all the questions on this form. Most of the questions are designed to be answered “yes” or “no.” Where general information is requested, please answer the question as fully as possible.

If you do not understand the question, you should say so in writing on this form. You should also tell your attorney and the judge who hears your case so they can explain it to you. You must fully understand all of your rights before your plea can be accepted by the judge.

You should initial each page at the bottom after you have read, understood, and completed your answers to the questions on that page. When you have finished all of the questions, you must sign the form at the end.

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

COMMONWEALTH OF PENNSYLVANIA :
 VS. : No. _____ CRIM _____
 : No. _____ CRIM _____
 : No. _____ CRIM _____
 _____ :

CHARGE	GRADE	MAXIMUM PUNISHMENT	
		Years	Fine
1.			
2.			
3.			
4.			
5.			

Mandatory Sentencing Requirements, if any: (DUI, offenses committed with firearms, etc...)

Terms of plea agreement, if any: _____

PERSONAL INFORMATION

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? _____

THE CHARGES

5. Do you understand that if you have been charged with more than one offense the Court may impose a separate or consecutive sentence for each offense? _____
6. Have you discussed with your attorney the nature of the charges against you? _____
7. Have you discussed with your attorney the elements of each charged offense? _____
8. Have you discussed with your attorney the factual basis of each charged offense? _____
9. Have you discussed with your attorney how the facts in your case prove the elements of each charged offense? _____
10. Does the offense or any offense in which you are pleading guilty require registration under 42 Pa. C.S.A. Section 9799.01, et seq., entitled "Registration of Sexual Offender" which is Pennsylvania's version of Megan's Law/SORNA? (A list of the underlying offense and related Tiers can be found at 42 Pa. C.S.A. Section 9799.14)? _____ . If answer is Yes then the separate Megan's Law/SORNA Colloquy must be completed.

RIGHTS AT TRIAL

11. Do you understand the Constitution of the United States of America and the Constitution of the Commonwealth of Pennsylvania give you an absolute right to a trial? _____
12. Do you understand that for offenses in which the maximum period of incarceration is six (6) months or less, your right to a trial is limited to a non-jury trial? _____
13. Do you understand in all other cases you have the right to a jury trial or a non-jury trial?

14. Do you understand that if you want a jury trial, you would take part in the selection of the jury along with your attorney and the District Attorney assigned to prosecute your case?

15. Do you understand that both the defense and prosecution would have the right to “challenge” members of the jury panel and that this means you and the prosecution would have the right to keep certain persons on the jury panel from being a member of the jury in your case? _____
16. Both you and the prosecution would have as many challenges “for cause” as the court would approve. For cause means a good reason why the challenged person could not be an impartial juror in your case. Do you understand this? _____
17. Both you and the prosecution would each also have a number of “peremptory challenges.” A preemptory challenge is one in which no reason has to be given to prevent a prospective juror from being a member of your jury. If you are charged with felonies, both you and the prosecution have seven peremptory challenges. If you are charged with a misdemeanor(s), both you and the prosecution each have five peremptory challenges. Do you fully understand this? _____
18. Do you understand that all twelve members of the jury finally selected would have to be satisfied that the Commonwealth had proven your guilt beyond a reasonable doubt on each charge; that is, the vote of all twelve must be guilty before you could be found guilty? _____
19. Do you understand you may also choose to be tried before a judge without a jury in what is called a “non-jury” trial and that the judge, in addition to ruling on legal questions and defining the law as in jury trials, would also sit as a trier of fact like a jury does in a jury trial; and it would be the judge who determines from the evidence presented whether the Commonwealth has proven you guilty beyond a reasonable doubt? _____
20. Do you understand that in either a jury or non-jury trial, you enter the courtroom clothed with the presumption of innocence and that presumption remains with you until such time, if ever, that a jury in a jury trial or judge in a non-jury trial, would find you guilty beyond a reasonable doubt? _____
21. Do you understand in either a jury trial or non-jury trial before a judge, it is the burden of the Commonwealth to prove you guilty “beyond a reasonable doubt,” and to do this the Commonwealth must prove each and every element of the crime or crimes with which you are charged “beyond a reasonable doubt” to the satisfaction of all twelve jurors in a jury trial or to the satisfaction of the judge in a non-jury trial? _____
22. Do you understand a reasonable doubt is an honest doubt arising from the evidence presented or from the lack of evidence and it is the kind of doubt that would cause a reasonable, prudent person to pause or to hesitate before acting in a matter of the highest personal importance? _____

23. Do you understand that in either a jury trial or a non-trial before a judge, you have the absolute right to remain silent and need not present any evidence on your own behalf and there is no burden placed on you to prove your own innocence or, for that matter prove anything since the burden is always on the Commonwealth to prove you guilty beyond a reasonable doubt? _____
24. Do you understand that in either a jury trial or non-jury trial before a judge, you have the right, if you so desire, to testify and to have witnesses testify on your behalf and you would have the right to present any relevant evidence that would tend to help to prove your innocence and to challenge the evidence and testimony presented by the prosecution? _____
25. Do you understand you would also have the right either yourself or through your attorney to cross-examine or question any witnesses presented by the Commonwealth in order to test their credibility and the truthfulness of their testimony? _____

EFFECT OF PLEA

26. Do you understand by pleading guilty or nolo contendere you are giving up all of these trial rights described in the previous questions? _____
27. Do you understand that when you plead guilty or nolo contendere, the Commonwealth would not have to prove each and every element of the crime or crimes with which you are charged by the presentation of witnesses and/or other evidence, but the District Attorney could simply present a summary of the evidence against you? _____
28. Do you understand by pleading guilty, you are admitting you committed the crime or by pleading nolo contendere, you are stating that you do not challenge or dispute the charges against you? _____
29. Do you understand by pleading guilty or nolo contendere, you give up the right not only to file pretrial motions, but also you abandon or give up any pretrial motions already filed and not yet decided and any pretrial motions in which decisions have been made?

30. Do you understand that by pleading guilty or nolo contendere, you also give up the right to present or assert any defenses on your behalf? _____
31. If you were convicted after a jury trial or non-jury trial before a judge, you could appeal the verdict to a higher court and raise any errors that were committed in the trial court and this could result in a new trial or dismissal. Do you understand that by pleading guilty or nolo contendere you are giving up this right? _____

32. Do you fully understand that if you were convicted after a jury trial or non-jury trial before a judge, you could challenge in this Court and in the appellate courts whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? _____

33. By pleading guilty or nolo contendere, you give up certain rights of appeal; in a jury trial or a non-jury trial before a judge, you would have the right to appeal any errors that might arise in your case to the Superior Court of Pennsylvania. However, when you plead guilty or nolo contendere, you limit the grounds for those appeals to three specific reasons:

1. that this Court did not have jurisdiction in your case. With rare exceptions, this Court only has jurisdiction when the crime was committed within the geographical boundaries of Indiana County;
2. that the sentence imposed by this Court is illegal;
3. that your plea was not knowingly, intelligently, and voluntarily made; and

Do you understand all other grounds, except for those listed above, for appeal are given up by entering this plea? _____

34. Do you understand that you have the right to file a motion seeking to withdraw your guilty plea or your nolo contendere plea at any time prior to the date of sentencing?

35. Do you understand that you must be sentenced within ninety (90) days of the date of the entry of your plea of guilty or your plea of nolo contendere; or within (120) for Megan's Law/SORNA cases? _____

36. Do you understand that after you have been sentenced, you may file a motion to withdraw your guilty plea or your plea of nolo contendere, however, you must demonstrate a manifest injustice in order to be entitled to relief? _____

37. Do you understand that a motion to withdraw your guilty plea or your plea of nolo contendere, either prior to sentencing or after sentencing, must be filed in writing with the Court? _____

38. Do you understand if your motion seeking to withdraw your plea of guilty or nolo contendere, which is filed prior to sentencing, is denied you would have ten (10) days from the date of sentencing to file with this Court a post-sentence motion challenging the denial of your motion to withdraw your plea of guilty or your plea of nolo contendere?

39. Following the imposition of sentence upon you for your entry of either a plea of guilty or plea of nolo contendere, you have the right to file post-sentence motions with this Court which include:

1. A motion challenging the validity of a plea of guilty or nolo contendere;

2. A motion challenging the denial of a motion seeking to withdraw a plea of guilty or nolo contendere;
3. A motion to modify sentence.

Do you fully understand these rights? _____

40. If you would file any post-sentence motions, those motions must be decided by this Court within one hundred twenty (120) days of the date of the filing of said motions, or within one hundred fifty (150) days of the filing of those motions if you sought and were granted a thirty (30) day extension, which extension only you can request. Do you understand this? _____

41. If your post-sentence motions are not decided within one hundred twenty (120) days of the date of filing, or within one hundred fifty (150) days of the date of filing, if you sought and received a thirty (30) day extension, then said motions are deemed to have been denied by operation of law and cannot be reconsidered by this Court. Do you fully understand this? _____

42. If this Court would deny your post-sentence motion either within the one hundred twenty (120) or one hundred fifty (150) day time periods, you would have the right to file with this Court a motion to reconsider the denials of your post-sentencing motions; however, any motion to reconsider the denial of post-sentence motions must be filed by you and decided by this Court within either the one hundred twenty (120) or one hundred fifty (150) day time limits. If such a motion to reconsider the denial of post sentencing motion is not filed by you or, if filed, not decided by this Court within one hundred twenty (120) or one hundred fifty (150) day time limits, then any appellate rights that you have begin to run from the last day of either time limit. Do you understand this? _____

43. Should your post-sentencing motion be denied by this Court or by operation of law, you will receive, either from this Court or from the Clerk of Courts, an Order of Court advising you that the motion was denied. Any appeal to the Superior Court must be filed within thirty (30) days of the denial of your post-sentencing motion. Do you understand this? _____

44. Do you understand that if you wish to file any of these motions with this Court or an appeal to the Superior Court of Pennsylvania and cannot afford an attorney to assist you to do so, this Court will appoint an attorney to assist you to do so at no cost to you?

45. Do you understand if there is a mandatory minimum sentence applicable and this mandatory sentence is sought by the Commonwealth, then this Court has no discretion to impose a lesser sentence and must impose at least the minimum sentence that is required by law? _____

46. Do you understand that if you are entering a plea of guilty or a plea of nolo contendere to a charge under the Controlled Substance, Drug, Device, and Cosmetic Act, that

independent of any sentence this Court may impose, the Department of Transportation may have the right, upon receipt of notice of this conviction, to impose an additional penalty upon you, in the form of suspension of your driver's license for a period of time ranging anywhere from ninety (90) days to two (2) years? _____

47. Do you understand that if you are entering a plea of guilty or a plea of nolo contendere to a charge under the Vehicle Code: Driving Under Influence of Alcohol, a Controlled Substance, or both, that independent of any sentence this Court may impose, the Department of Transportation may have the right upon receipt of notice of this conviction, to impose an additional penalty upon you, in the form of the suspension of your driver's license, by way of example, for a period of twelve (12) months or eighteen (18) months? _____
48. Do you understand that any term of imprisonment imposed as a result of your plea may be imposed separately, or consecutively, with any other state or federal term of imprisonment you are currently serving? _____
49. Do you understand that the conviction that will result from your plea may serve as a violation of any term of state or federal probation or parole? _____
50. Do you understand that a violation of your state or federal probation or parole could result in imposition of a further separate, or consecutive, term of imprisonment?

RIGHT TO AN ATTORNEY

51. Do you understand that you have the right to be represented by an attorney and that, if you cannot afford an attorney, one would be appointed to represent you before, during, and after trial and on appeal to the appellate Courts? _____
52. If you did not understand any part of this form, has your attorney advised you on such matters? _____
53. Have you had enough time to consult with your attorney before reading this document and entering your plea of guilty or nolo contendere? _____
54. Have you fully discussed this case with your lawyer including the facts and possible defenses that you may have to the charges? _____
55. Have you and your attorney reviewed the meaning of the terms of this document?

56. Are you satisfied with your attorney's representation of you in this case? _____

KNOWING AND VOLUNTARY PLEA

57. Have any other promises been made to you to enter a plea of guilty or nolo contendere other than the plea agreement? _____
58. Has anybody forced or threatened you to enter this plea? _____
59. Have you ever had any physical or mental illness that would affect your ability to understand these rights or affect the voluntary nature of your plea? _____
60. Are you presently taking any medication that might affect your thinking or free will? _____
61. Have you had any narcotics or alcohol in the last forty-eight (48) hours? _____
62. Do you understand if you are entering a plea of guilty you admit that you committed the crime(s) with which you are charged and to which you are pleading guilty? _____
63. Do you understand if you are entering a plea of nolo contendere, you admit that you are not challenging the charges against you? _____
64. Are you doing this of your own free will? _____
65. Do you understand that if there is a plea bargain in this case the terms of the plea bargain will be stated on the record before the judge and that you will be bound by the terms of the plea bargain as they appear on the record? _____
66. Do you understand that this Court is not bound by any plea bargain, including possible sentences, which have been entered into by you and the District Attorney? _____
67. Do you understand your rights? _____

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK

I AFFIRM THAT I HAVE READ THE ABOVE DOCUMENT IN ITS ENTIRETY, I UNDERSTAND ITS FULL MEANING, AND I AM NEVERTHELESS WILLING TO ENTER A PLEA TO THE OFFENSES SPECIFIED. I FURTHER AFFIRM THAT MY SIGNATURE AND INITIALS ON EACH PAGE OF THE DOCUMENT ARE TRUE AND CORRECT.

Date: _____

Signature of Defendant

CERTIFICATION OF DEFENSE COUNSEL

I certify that:

1. I am an attorney admitted to the Supreme Court of Pennsylvania.
2. I represent the defendant herein.
3. I know no reason why the defendant cannot fully understand everything that is being said and done here today.
4. The defendant read the above form in my presence and appeared to fully understand it; I have gone over the form completely with the defendant, explained all of the items on the form, and answered any questions he or she had.
5. I see no reason why the defendant cannot and is not knowingly, intelligently, and voluntarily giving up his or her rights to trial and pleading guilty.
6. I made no promises to the defendant other than any that appear of record in this case.

Date: _____

Attorney for Defendant