

Written Guilty Plea Colloquy

PERSONAL

Defendant's Name: _____

Address: _____

Age: _____ years. Education: Finished _____ grades in school.

I can read and write English.

I have never seen a doctor or been in a hospital for any mental problems — I can understand what is going on.

I am not under the influence of drugs or alcohol. I have not taken any medicine in the last week.

THE CHARGES

I admit I committed the crime(s) of _____, and I want to plead guilty.

My lawyer told me what the elements of the crime(s) are that the District Attorney must prove to convict me.

I know I can go to jail for up to _____ years and be fined \$ _____ for the crimes I committed.

NO PROMISES OR THREATS

Nobody promised me anything or threatened me or forced me to plead guilty. I, myself, have decided to plead guilty. I know what I say today is final.

PLEA BARGAIN OR AGREEMENT

There is no plea bargain or agreement of any kind.

There is no plea bargain of any kind, except that the District Attorney promised to:

Recommend a sentence of not more than _____ to _____ [years] [months].

Make no recommendations about my sentence.

Drop the charges of _____

Nobody else promised me anything if I plead guilty.

I know if the judge does not agree with the plea bargain or agreement, I can withdraw my guilty plea and have a trial before a judge and jury or before a judge alone.

RIGHTS AT TRIAL

I do not have to plead guilty, even if I committed the crimes. I have an absolute right to plead not guilty and have a trial. I can have a jury trial or, if I give up my jury trial rights, I can have a trial by a judge alone. When I plead guilty, I give up my right to have a trial. If I went to trial, I would have all the rights listed below plus others.

I am presumed to be innocent. That means that I start out innocent — and stay innocent unless the District Attorney proves I committed the crime(s). I do not have to prove anything.

To convict me, the District Attorney must prove more than that I probably committed the crimes. The District Attorney has to prove me guilty "beyond a reasonable doubt". A reasonable doubt is the kind of doubt which would cause a normal, reasonable person to hesitate or halt or refuse to take any action at all in something very important to them.

I have the right to remain silent. Nobody can make me testify or talk about the case. No one can hold it against me if I remain silent. However, if I want to, I can testify (tell my story) at the trial. Also, I may call other people who will be my witnesses and testify for me. If I plead guilty, I give up this right.

I give up many important rights if I plead guilty. For example, if I do not plead guilty and have a trial, all the witnesses for the District Attorney must come to court and testify under oath. My lawyer may cross-examine them. My lawyer can ask them questions to see if they are telling the truth and if what they say is correct. I give up this right to confront and cross examine witnesses and many other rights if I plead guilty. The witnesses do not have to come in to Court – the District Attorney just reads to the judge a summary of what happened.

JURY TRIAL OR TRIAL BY JUDGE

My lawyer has fully explained to me that I have a right to a jury trial. Nobody can take that right away from me. At a jury trial, twelve (12) people, all from Philadelphia, would be on the jury and hear the facts of my case.

If all twelve were convinced beyond a reasonable doubt that I was guilty, I would be found guilty.

If all twelve were not convinced beyond a reasonable doubt that I was guilty, I would be found not guilty.

If all twelve could not agree, I would not be convicted, although I might have another trial before a different jury.

I can help pick my jurors. Each juror would be questioned to make sure they would be fair. I can keep anyone off the jury who is shown to the judge to be unfair.

I can also keep [seven (7)] [_____ (____)] people off the jury without giving any reason why I don't want them on the jury, and so can the District Attorney. My lawyer and I would decide together which people we want to keep off the jury.

If I give up my right to a jury trial, I still can be tried by a judge alone without a jury. The same rules would apply, except the judge alone decides whether or not I have been proven guilty beyond a reasonable doubt.

If I plead guilty, I give up my right to a jury trial, and I also give up my right to have a trial by a judge who would decide the case alone without a jury.

PRE-TRIAL RIGHTS

I am also giving up my pre-trial rights. If I went to trial, before trial my lawyer could file motions, such as motions to keep out or "suppress" evidence. That means my lawyer could try to convince the judge that some of the evidence against me cannot be used at trial. This includes:

- (1) statements I made to the police or other people;
- (2) identifications people made of me; and
- (3) anything that the police or others seized to use against me.

If I plead guilty, I also give up speedy trial rights and my right under Rule 600 to be tried within 180 days from the filing of the complaint.

I am also giving up all other pre-trial rights I might have.

If I already had a hearing on pre-trial motions, when I plead guilty I give up my right to appeal the decisions on those motions.

APPEAL RIGHTS

If I am found guilty at a trial, I can appeal to a higher court. I can ask to have my conviction overturned and my case discharged because there was not enough evidence, because I did not get a speedy trial or for other reasons. I can ask for a new trial because a mistake was made before or during the trial.

I understand that if I plead guilty instead of having a trial, I give up almost all of my rights to appeal. If I plead guilty, my appeal rights will be very limited.

After I plead guilty, I can only appeal if:

- (1) I did not know what I was doing when I pled guilty, or somebody forced me to do it – it was not voluntary.
- (2) I was in the wrong court – the court did not have jurisdiction over my case; or
- (3) The sentence the judge gave me was for some reason illegal or improper.

Before I can appeal even these three things, I must ask my lawyer to file a motion with the trial judge to allow me to withdraw my plea and go to trial. I lose my right to appeal if I do not ask to withdraw my plea before sentencing. I have ten (10) days after sentencing to file a motion to complain about the sentence or I lose the right to do that.

PROBATION OR PAROLE RIGHTS (If on Probation or Parole)

I know a guilty plea has the same effect as if I went to trial and were found guilty. The guilty plea may violate my probation or parole. Therefore, in addition to my sentence in this case, I can get more time in jail for a violation of my probation or parole. This plea may also cause me to be sentenced as a second or third strike offender if I am ever convicted again and it will increase my prior record score. The sentence on this guilty plea may not run concurrent to (at the same time as) a state (back time) sentence for a parole violation. It can be concurrent with a sentence I am currently serving.

RISK OF DEPORTATION (If an Alien)

I know that if I am not a United States citizen, it is possible I may be deported if I plead guilty to the crime(s) charged against me.

SATISFIED WITH MY LAWYER

I am satisfied with the advice and service I received from my lawyer. My lawyer spent enough time on my case and I had enough time to talk with my lawyer about the case. My lawyer left the final decision to me and I decided myself to plead guilty.

FACTS OF MY CASE AND ELEMENTS OF THE CRIME(S)

The facts of the case have been read to me. The crimes and elements of the crime(s) have been explained to me. I committed the crime(s), and that is why I am pleading guilty.

GIVING UP DEFENSES

If I plead guilty, I am giving up the right to defend my case. I cannot come back to court later and say that I was not guilty. Once I plead guilty, I can no longer complain that I was innocent and did not commit the crime.

**I HAVE READ ALL OF THE ABOVE, OR MY LAWYER READ IT TO ME.
I UNDERSTAND IT. MY ANSWERS ARE ALL TRUE AND CORRECT.**

Print Name

Sign Name

CERTIFICATION OF DEFENSE COUNSEL

RE: Commonwealth v.

- (1) I am an attorney admitted to the Supreme Court of Pennsylvania.
- (2) I represent the defendant herein.
- (3) I know of 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 had. The defendant understands the information and my explanation.
- (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 listed on this form.

Attorney for Defendant

Date

Address

DISTRICT ATTORNEY'S CERTIFICATION

I certify that I am the assigned District Attorney in this case and that any plea negotiation agreements mentioned herein are true and correct as they are set forth above. I have asked the defendant if there is anything on the Guilty Plea Colloquy form or anything else about this case that the defendant does not understand, and the defendant has indicated that the defendant understands everything that is set forth. The defendant said that any questions he or she had have been answered by the defense attorney. I have set forth a summary of facts which would support a conviction of defendant.

Assistant District Attorney

Date

JUDGE'S CERTIFICATION

I certify that I am the Judge, having the jurisdiction to hear this case and that I am satisfied the defendant understands fully the nature and quality of the Guilty Plea that the defendant is entering before me. The defendant has exercised a knowing, intelligent, voluntary Guilty Plea to the charge mentioned above. In addition, I have personally explained to the defendant, on the record:

- (1) the charges to which the defendant is pleading guilty, and the maximum sentence which could be imposed, as well as any mandatory minimum sentences;
- (2) that the defendant is presumed to be innocent and has a right to a trial by jury or by a Judge without a jury;
- (3) the elements of the crime the District Attorney would be required to prove to convict the defendant at trial; and
- (4) that, by pleading guilty, the defendant is giving up all rights to trial and almost all rights to appeal.

I have asked the defendant on the record if the defendant understands that everything that is being said and done here today, as well as whether the defendant is pleading guilty of the defendant's own free will.

Judge

Date

Commonwealth of Pennsylvania
First Judicial District of Pennsylvania
County of: Philadelphia
1st Judicial District



**Colloquy for Plea of Guilty / Nolo
Contendere**

Docket No:

I, _____, the defendant in the above-captioned case, am charged with the following offense(s):

It is my desire to enter a plea to the following offense(s) as set forth below:

Offense	Plea	Permissible Range of Sentence			
		<u>Incarceration</u>		<u>Plea</u>	
		Minimum	Maximum	Minimum	Maximum

Additional Pages Attached

I understand the nature of the charges to which I am pleading guilty/nolo contendere.

I acknowledge that there is a factual basis for this plea.

I understand that I have a right to a trial by jury.

I understand that I am presumed innocent until I am proven guilty.

I am aware of the permissible range of sentences and/or fines for the offense(s) with which I am charged.

I understand that the judge is not bound by the terms of any plea agreement between myself, my attorney, and the attorney for the Commonwealth unless the judge accepts such agreement.

I knowingly, voluntarily, and intelligently make this plea of _____
(guilty/nolo contendere)

Signature of Defendant

Date