

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

COMMONWEALTH OF PENNSYLVANIA : NO.
VS.

:

PROBATION/PAROLE STIPULATION COLLOQUY

You have indicated your desire to stipulate to being in violation of your probation/parole/intermediate punishment.

Please fully answer all of the questions on these papers. If you do not understand a question, indicate that you do not understand by putting a question mark (“?”) in front of the number of the question you do not understand. The question will be explained to you.

Most of the questions are planned to be answered either “YES” or “NO”. Where facts are requested, please fill in those facts in the blank spaces provided.

When you have completed the questions, be sure to ask your attorney or your Probation Officer to explain any question you did not fully understand. The question will be explained and you must fully understand it and answer all of the questions before you sign at the bottom of the last page.

1. Can you read, write, and understand the English language?
_____ YES _____ NO
2. How old are you today? _____
3. How far have you gone in school (highest grade completed)? _____
4. Are you currently under the influence of any drugs or alcohol that would render you incapable of understanding what you are doing today? _____ YES _____ NO
5. Are you now being treated for mental illness? _____ YES _____ NO
6. If the answer to Question 5 is YES, please explain the details: _____

7. If you are presently being treated for a mental illness, do you still feel that you can understand what you are doing today? _____ YES _____ NO
8. If you are presently being treated for a mental illness, are you under the influence of any medications or drugs, which would affect your ability to understand what you are doing today?
_____ YES _____ NO
9. Do you know that you are here today because the Commonwealth has accused you of violating your probation/parole/intermediate punishment? _____ YES _____ NO
10. Has your probation officer given you written notice of your alleged violations, and do you understand what the Commonwealth is alleging that you have done to violate your probation/parole/intermediate punishment? _____ YES _____ NO

INITIALS

11. Do you admit that you did all of the things it is alleged you have done to be in violation of your probation/parole/intermediate punishment and are you willing to stipulate to being in violation today? _____YES _____NO

12. Do you know that you have a right to two probation/parole/intermediate punishment violation hearings, before your Original sentencing Judge that are referred to as Gagnon hearings? _____YES _____NO

If applicable, do you agree to waive your right to be sentenced by the Original sentencing Judge? _____ YES _____ NO

13. Do you understand that at your first hearing, the Gagnon One hearing, the Commonwealth would have to show that there was probable cause to believe that you had violated your probation/parole/intermediate punishment? At the second hearing, the Gagnon Two hearing, the Commonwealth would have to prove by a preponderance of the evidence that you were in violation of your probation/parole/intermediate punishment. Do you understand the Commonwealth's burden of Proof at these hearings?
_____ YES _____NO

14. Do you know that you are presumed innocent until found in violation?
_____ YES _____NO

15. In other words, do you understand that the Commonwealth must prove your violations by a preponderance of the evidence before you can be found to be in violation of your probation/parole/intermediate punishment? _____YES _____NO

INITIALS

16. Do you understand that it is the Commonwealth that has the burden of proving that you are in violation and that you have no burden of proving that you did not violate your probation/parole/intermediate punishment? _____YES _____NO
17. Do you know you have the absolute right to remain silent and the judge cannot hold it against you if you refuse to testify? _____YES _____NO
18. Do you understand the maximum exposure (penalty) you are facing for the alleged violation of your probation/parole/intermediate punishment? _____YES _____NO

After you have stipulated to being in violation of your probation and/or parole and the Judge has sentenced you for your violations, you still have a right to appeal your sentence if one or all of the following apply:

- (1) Your Stipulation was not voluntary, or knowing, or intelligent;
- (2) That the Judge's sentence is illegal because it is beyond the maximum penalties authorized by law;
- (3) That your attorney was not effective in representing you.

19. Do you understand your right to appeal and the three reasons for appeal?
_____YES _____NO

INITIALS

You have the right to file a post-sentence motion to modify sentence within 10 days from the day the order is signed. Your post-sentence motion may include a challenge to the validity of your stipulation. If you challenge the validity of your stipulation, you must state one or more of the reasons explained above. Filing a motion to modify sentence does not extend the time period for filing an appeal. You have the right to file an appeal within 30 days from the day the order is signed. You do not have to file a motion to modify in order to preserve the appeal issues raised during your Gagnon hearings, but may appeal directly to the Superior Court after sentence and within (30) thirty days.

You have the right to the assistance of counsel in preparing, filing, arguing and briefing this motion. You also have the right to assistance of counsel in filing, preparing, and arguing an appeal to the Superior Court, if the Court should deny your motion. If you cannot afford to hire counsel, one will be provided free of charge.

20. Do you understand the meaning of the various rights that have just been explained to you? _____YES _____NO
21. Has anybody forced you to enter this stipulation? _____YES _____NO
22. Are you doing this of your own free will? _____YES _____NO
23. Have any threats been made to you to enter this stipulation? _____YES _____NO
24. Do you understand that the decision to stipulate is yours and yours alone?
_____YES _____NO
25. Do you know that you do not have to stipulate to your violations and give up these rights that have been explained to you, and that no one can force you to stipulate?
_____YES _____NO
26. Do you understand that by stipulating and accepting the joint recommendation for sentencing, you are waiving or giving up your right to have a pre-sentence investigation and report? _____YES _____NO

INITIALS

I swear/affirm that I have completely read and understand the above document and having done so I stipulate to being in violation of my probation/parole/intermediate punishment. The signature and initials on this document are mine.

SIGNATURE OF DEFENDANT

DATE

I, _____, Esquire, state that I have advised my client of the meaning of this document; that it is my belief that the defendant understands what is set forth above; and that the defendant understands what he/she is doing by entering a stipulation.

SIGNATURE OF ATTORNEY

DATE

I understand that I have a right to have the stipulation, admission and waiver reviewed by counsel and hereby give up such right.

DEFENDANT

DATE