



**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA COURT OF COMMON PLEAS**

Tuesday, October 31, 2023

NOTICE TO THE BAR

TRIAL DIVISION – CRIMINAL

NEW GUILTY/NOLO PLEA FORM

Attached please find the new guilty/nolo plea colloquy form in both English and Spanish. These forms are effective Tuesday, October 31, 2023. Notification of Voting Rights are also included.

Thank you.

Honorable Lisette Shirdan-Harris
Administrative Judge, Trial Division

Honorable Rose Marie DeFino-Nastasi
Supervising Judge, Trial Division-Criminal



GUILTY PLEA COLLOQUY

COMMONWEALTH OF PENNSYLVANIA

v.

CRIMINAL DIVISION

Docket No. _____

PID #: _____

PART A *(To Be Completed by the Defendant)*

PERSONAL

1. What is your full name? _____

2. How old are you today? _____

3. What is the highest grade that you completed in school? _____

4. Can you read, write, and understand the English language? Yes_____ No_____

5. Have you ever been treated, or are you currently being treated, for a mental illness?
Yes_____ No_____ *(If the answer is "No," proceed to Question 6.)*

a. If the answer to number 5 is "Yes," please explain:

b. If you are presently being treated for a mental illness, do you feel that you have the ability to understand what you are doing today? Yes_____ No_____

6. Have you had any alcohol or taken any drugs or medication within the past 48 hours?
Yes_____ No_____ *(If the answer is "No," proceed to Question 7.)*

a. If the answer to number 6 is "Yes," please explain:

7. Are you under the influence of medication, drugs, alcohol, or any substance that would prevent you from understanding what is happening here today? Yes_____ No_____

THE OFFENSE(S)

8. Do you admit that you committed the offense(s) listed in the table below and wish to plead guilty to these offense(s)? Yes_____ No_____

COUNT	OFFENSE	GRADE	MAXIMUM TERM OF CONFINEMENT	MAXIMUM FINE
			<i>Total Max. Confinement:</i>	<i>Total Max. Fine:</i>

9. Has your attorney explained to you the elements of each of the above offense(s), and that, for each offense, the District Attorney would have to prove those elements beyond a reasonable doubt at trial in order to convict you for that offense?
Yes_____ No_____
10. Do you understand that, after pleading guilty to the above offense(s), you could be punished up to the maximum possible penalties listed above for each offense?
Yes_____ No_____
11. Has anybody promised you anything, threatened you, forced you, or coerced you in any manner to plead guilty?
Yes_____ No_____
12. Have you reviewed this form with your attorney and had the opportunity to ask your attorney any questions that you have about any parts of this form?
Yes_____ No_____

PLEA BARGAIN OR AGREEMENT

13. Check all of the following that apply:

☐ There is no plea bargain or agreement of any kind.

☐ The parties agree that they will jointly recommend the following total sentence:

☐ OTHER (*describe any other agreement between the parties*):

☐ RESTITUTION (*if applicable, submit restitution form prior to plea*): The parties agree that the defendant owes restitution in the amount of _____.

☐ The Commonwealth has agreed to drop the charges of: _____

14. Other than what is described above, has anybody promised you anything for pleading guilty?

Yes _____ No _____

15. Do you understand that, if the Judge does not agree with the plea bargain or agreement, you can withdraw your guilty plea and have a trial?

Yes _____ No _____

PART B *(To Be Reviewed, Initialed, and Signed by the Defendant)*

RIGHTS AT TRIAL

I understand that 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 by jury. When I plead guilty, I give up my right to have a trial. If I were to proceed 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 remain innocent unless the District Attorney proves I committed the crime(s). I do not have to prove anything.

To convict me, the District Attorney would have to prove more than that I “probably” committed the crimes. The District Attorney would have 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 pause 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 wanted to, I could testify (tell my story) at the trial. Also, I could call other people who would 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 would have to come to court and testify under oath. My lawyer could cross-examine them and 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. If I plead guilty, the witnesses would not be required to come into court. The District Attorney would just provide a summary to the Judge 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, 12 people, all from Philadelphia, would be on the jury and hear the evidence for 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. If I am the only defendant at my trial, I can generally keep the following number of people off the jury without giving any reason why I don't want them on the jury, and so can the District Attorney: 7 for non-capital felony cases; 5 for cases involving only misdemeanors; 20 for capital felony cases. (Those numbers would be reduced if my trial involves other defendants.) 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, and if the District Attorney does not demand that my trial be heard by a jury, I still could be tried by a Judge alone without a jury. The same rules would apply, except the Judge alone would decide whether or not I have been proven guilty beyond a reasonable doubt. If I plead guilty, I give up all of my trial rights.

Defendant's Initials

PRE-TRIAL RIGHTS

I am also giving up my pre-trial rights. If I were to proceed to a trial, my lawyer could file motions before the trial, 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 as evidence.

If I plead guilty, I also give up speedy trial rights and my right under Rule 600 to be tried within 365 days of the filing of the complaint. I am also giving up all other pre-trial rights that 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 could appeal to a higher court. I could 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 could 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 would be giving up almost all of my rights to appeal. If I plead guilty, my appeal rights would be very limited.

After I plead guilty, I could appeal only if:

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

After pleading guilty and getting sentenced, if I wish to argue on appeal that my guilty plea was not voluntary, or that my sentence was excessive, I must first raise those claims in a post-sentence motion. If I don't file a written post-sentence motion within 10 days of my sentencing, I lose the right to file the motion and to argue those claims on appeal.

PROBATION OR PAROLE RIGHTS

I know a guilty plea has the same effect as if I were to be found guilty after a trial. If I am on probation or parole, my guilty plea could result in a violation of my probation or parole. Therefore, in addition to my sentence in this case, I could get more time in prison for a violation of my probation or parole. This plea could also cause me to be sentenced as a second or third strike offender if I am ever convicted again and it could 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 could be concurrent with a sentence I am currently serving.

Defendant's Initials

RISK OF DEPORTATION

I understand that pleading guilty may have immigration consequences for people who are not United States citizens or were not born in the United States. These consequences can include detention, deportation, exclusion from the United States, or denial of other immigration benefits, including naturalization, change of status within the United States, or adjustment to permanent resident status (getting a green card). If I am not a United States citizen or was not born in the United States, I certify that I have discussed these possible immigration consequences of my guilty plea with my lawyer.

VOTING RIGHTS

I understand that if convicted of a felony offense and sentenced to a term of confinement in a penal institution, I will not be eligible to vote during that period of confinement and that my voting rights will be restored once I am released from confinement, unless I am convicted of any violation of the Pennsylvania Election Code, which will make me ineligible to vote for a period of four years following my conviction.

I understand that I will not be eligible to register or vote if: (A) I will be confined in a penal institution for a felony and will not be released from confinement before the next election as a result of this plea; or (B) I will be in a community confinement facility or other alternative correctional facility for conviction of a felony and will not be released before the date of the next election as a result of this plea.

SATISFIED WITH MY LAWYER

I am satisfied with the advice and services 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 am the one who made the decision 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) described in the table on Page 2 of this form (Part A, #8), 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 will no longer be able to claim that I was innocent and did not commit the crime(s).

Printed Name of Defendant

Signature of Defendant

Date

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

DEFENSE COUNSEL'S CERTIFICATION

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, or I read the form to the defendant, and the defendant 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 of the defendant's questions.
- (5) I see no reason why the defendant cannot and is not knowingly, intelligently and voluntarily giving up the defendant's 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

COMMONWEALTH'S CERTIFICATION

I certify that I am the assigned Assistant District Attorney in this case and that any plea agreements described herein are true and correct. No other promises have been made to the defendant in exchange for the defendant's Guilty Plea. The facts in this case would establish a sufficient basis to convict the defendant of the crime(s) described in the table on Page 2 of this form (Part A, #8).

For purposes of sentencing, I calculate the following to apply:

PRS

OGS

Guidelines Range

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 of the Guilty Plea that the defendant is entering before me. The defendant has exercised a knowing, intelligent, and voluntary Guilty Plea to the charge(s) described above. In addition, I have personally explained to the defendant, on the record:

- (1) the charge(s) to which the defendant is pleading guilty, and the maximum sentence(s) which could be imposed, as well as any mandatory minimum sentences;
- (2) that the defendant is presumed innocent and has a right to a trial by a jury; and
- (3) 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 everything being said and done here today, as well as whether the defendant is pleading guilty of the defendant's own free will.

Judge

Date



COLOQUIO DE DECLARACIÓN DE CULPABILIDAD

ESTADO DE PENNSILVANIA

contra

: Sección Penal

:
: Núm. de Causa _____
:
:
:
:

PID #: _____

PARTE A (A completar por el acusado)

PERSONAL

1. ¿Cuál es su nombre y apellido? _____

2. ¿Cuántos años tiene? _____

3. ¿Cuál es el último alto que completó en la escuela? _____

4. ¿Puede leer, escribir, y entender el idioma inglés? Sí _____ No _____

5. ¿Alguna vez ha recibido tratamiento, o recibe tratamiento en la actualidad, por una enfermedad de salud mental?

Sí _____ No _____ (Si la respuesta es "No," siga a la pregunta #6.)

a. Por favor explique si la respuesta a la número 5 fue "Sí":

b. Si en la actualidad recibe tratamiento por una enfermedad de salud mental, ¿siente que tiene la habilidad de poder entender lo que está haciendo hoy? Sí _____ No _____

6. ¿Ha bebido alcohol o ha tomado alguna droga o cualquier medicamento en las últimas 48 horas?

Sí _____ No _____ (Si la respuesta es "No," siga a la pregunta #7.)

a. Por favor explique si la respuesta a la número 6 fue "Sí":

7. ¿Está bajo los efectos de medicamentos, drogas, alcohol, o cualquier sustancia que le prevenga poder entender lo que ocurre aquí este día? Sí _____ No _____

DELITO(S)

CARGO	DELITO	CLASIFICACIÓN	PLAZO MÁXIMO DE CONFINAMIENTO	MULTA MÁXIMA
			Confinamiento máximo <u>total</u>:	Multa máxima <u>Total</u>:

8. ¿Admite que cometió el delito o los delitos listados en el cuadro anterior y que desea declararse culpable a dicho delito o delitos?
- Sí_____ No_____
9. ¿Su abogado le ha explicado los elementos de cada delito en el cuadro superior y que, por cada delito, la fiscalía tendría que comprobar dichos elementos más allá de una duda razonable en un juicio para poder declararlo culpable por dicho delito?
- Sí_____ No_____
10. ¿Entiende que, después de declararse culpable a los delitos en el cuadro superior, puede ser sancionado hasta el castigo máximo posible listado en cada delito?
- Sí_____ No_____
11. ¿Alguien lo ha amenazado, lo ha forzado, o lo ha coaccionado en alguna manera para que se declare culpable?
- Sí_____ No_____
12. ¿Ha revisado este formulario con su abogado y ha tenido la oportunidad de preguntarle a su abogado cualquier pregunta sobre cualquier parte de este formulario?
- Sí_____ No_____

CONVENIO DECLARATORIO O NEGOCIACIÓN DE LA CONDENA

13. Marque todo lo que aplique:

☐ No hay convenio declaratorio o negociación alguna.

☐ Las partes han acordado conjuntamente recomendar la siguiente condena total:

☐ OTRO (*describa cualquier acuerdo entre las partes*):

☐ INDEMNIZACIÓN (*de ser aplicable, entregue el formulario de indemnización antes de la declaración*): Las partes han acordado que el acusado debe indemnización en la cantidad de _____.

☐ El Estado ha aceptado retirar los cargos de: _____

14. ¿Alguien le ha prometido algo a cambio de su declaración de culpabilidad más allá de lo detallado en lo anterior?

Sí_____ No_____

15. ¿Entiende que si el juez no acepta el convenio declaratorio o negociación usted puede retirar su declaración de culpabilidad y tener un juicio?

Sí_____ No_____

PARTE B *(El acusado debe de revisar, escribir sus iniciales, y firmar el documento.)*

DERECHOS DE JUICIO

Entiendo que no estoy obligado a declararme culpable, aun si cometí los delitos. Tengo el derecho absoluto de declararme no culpable y de tener un juicio por jurado. Renuncio a mi derecho de tener un juicio al declararme culpable. Si fuese a juicio, tendría todos los derechos siguientes y algunos más.

Tengo la presunción de inocencia. Eso quiere decir que comienzo inocente y permanezco inocente al menos que la fiscalía compruebe que cometí el delito o los delitos. Yo no tengo que comprobar cosa alguna.

Para poder condenarme, la fiscalía tiene que comprobar aún más que “probablemente” cometí los delitos. La fiscalía tiene que comprobarme culpable “más allá de una duda razonable”. Una duda razonable es el tipo de duda que causaría a una persona normal y sensata pausar, dudar, o rehusar tomar acción en algo muy importante.

Tengo el derecho de permanecer en silencio. Nadie me puede obligar a testificar o hablar sobre el caso. Nadie puede actuar en mi contra si permanezco en silencio. Sin embargo, si lo quiero hacer, puedo testificar (contar mi versión) durante el juicio. Además, puedo presentar a otras personas para que sean mis testigos y testifiquen a mi favor. Renuncio a este derecho si me declaro culpable.

Renuncio a muchos derechos importantes al declararme culpable. Por ejemplo, si no me declaro culpable y tengo un juicio, todos los testigos de la fiscalía tendrían que venir al juzgado y testificar bajo juramento. Mi abogado puede contrainterrogarlos y hacerles preguntas para ver si dicen la verdad y para ver si lo que dicen es correcto. Renuncio a este derecho de carear y contrainterrogar a los testigos y a muchos otros derechos al declararme culpable. Si me declaro culpable, no se les requiere a los testigos venir a los juzgados. La fiscalía solamente proporcionaría un resumen de lo ocurrido ante el juez.

JUICIO ANTE JUEZ O JUICIO ANTE JURADO

Mi abogado me explicó que tengo el derecho de un juicio por jurado. Nadie me puede quitar ese derecho. En un juicio por jurado, 12 personas, todas de Filadelfia, se presentarían en el jurado y escucharían las pruebas en mi caso. Si a todos los doce se les convenciera más allá de una duda razonable que soy culpable, se me declararía culpable. Si todos los doce no estuvieran convencidos más allá de una duda razonable que soy culpable, se me declararía no culpable. Si todos los doce no llegaran a un acuerdo, no se me condenaría, pero puedo ser enjuiciado nuevamente ante un jurado diferente.

Puedo ayudar a elegir mis jurados. Cada jurado sería interrogado para estar seguro que serían justos. Puedo mantener a cualquier persona fuera del jurado si puedo demostrarle al juez que esa persona es injusta. Si soy el único acusado en mi juicio, generalmente puedo mantener al siguiente número de personas fuera de mi jurado sin tener que dar razón alguna del por qué no los quiero en el jurado; así también la fiscalía: 7 en casos de delitos graves que no presentan la pena capital; 5 en casos de delitos menos graves; 20 en delitos graves que presentan la pena capital. (Esas cifras se reducen si mi juicio involucra a otros acusados.) Mi abogado y yo decidiríamos juntos a cuales personas queremos mantener fuera del jurado.

Si renuncio mi derecho a un juicio por jurado, y si la fiscalía no exige que mi juicio sea ventilado ante un jurado, todavía puedo ser enjuiciado ante un juez sin un jurado. Se aplicarían las mismas reglas, excepto que el juez por si solo decidiría si se me ha comprobado culpable más allá de una duda razonable o no. Renuncio a todos mis derechos de juicio si me declaro culpable.

Iniciales del acusado

DERECHOS ANTES DEL JUICIO

También renuncio a mis derechos antes del juicio. Si procedo a juicio, mi abogado puede presentar peticiones antes del juicio, tal como peticiones para mantener fuera o excluir pruebas. Eso quiere decir que mi abogado trataría de convencer al juez que algunas pruebas en mi contra no pueden ser usadas durante el juicio. Esto incluye:

- (1) declaraciones que le hice a la policía o a otras personas;
- (2) identificaciones que personas hayan hecho de mí; y
- (3) cualquier cosa que la policía u otros decomisaron como prueba para usarlo en mi contra.

Si me declaro culpable, también renuncio a mis derechos de un juicio sin demora y a mis derechos bajo la Regla 600 de ser enjuiciado en menos de 365 días de la fecha en que se presentó la denuncia. También renuncio a todos los derechos antes del juicio que pudiese tener. Si ya tuve una audiencia de peticiones previas al juicio, al declararme culpable renuncio a mi derecho de apelar las decisiones sobre esas peticiones.

DERECHOS DE APELACIÓN

Si se me declara culpable en un juicio, puedo apelar a un tribunal con mayor jerarquía. Puedo pedir que mi condena sea anulada y mi caso sea desestimado porque no había suficientes pruebas, porque no obtuve un juicio sin demora, o por otras razones. Puedo pedir un juicio nuevo porque se cometieron errores antes o durante el juicio.

Entiendo que si me declaro culpable en vez de ir a juicio, renunciaría a casi todos mis derechos de apelación. Si me declaro culpable mis derechos de apelación serían muy limitados.

Después de declararme culpable, solo puedo apelar si:

- (1) No sabía lo que estaba haciendo cuando me declaré culpable, o alguien me forzó;
- (2) Estaba en el tribunal equivocado – el juez no tenía jurisdicción sobre mi caso;
- (3) La condena que el juez me dio fue ilegal o inapropiada; o
- (4) Mi abogado fue ineficaz.

Después de declararme culpable y ser condenado, si deseo presentar un recurso de apelación que mi declaración de culpabilidad no fue voluntaria, o que mi condena fue excesiva, debo de presentar dichas quejas en una petición pos-condenatoria. Si no presento una petición pos-condenatoria en menos de 10 días después de ser condenado, pierdo mi derecho de presentar la petición y de alegar dichas quejas bajo apelación.

DERECHOS DE LIBERTAD VIGILADA Y DE LIBERTAD CONDICIONAL (PROBATORIA Y PAROLE)

Sé que una declaración de culpabilidad tiene los mismos efectos como si hubiese sido declarado culpable después de un juicio. Si estoy bajo libertad vigilada o libertad condicional (probatoria o parole), mi declaración de culpabilidad puede causar un incumplimiento de mi libertad vigilada o libertad condicional. Por lo tanto, además de mi condena en este caso, puedo recibir más tiempo de encarcelamiento por un incumplimiento de mi libertad vigilada o libertad condicional. Esta declaración de culpabilidad también puede causar que se me condene como un delincuente reincidente con un segundo o tercer “strike” si se me condena nuevamente y que puede aumentar mi número de antecedentes penales. La condena en esta declaración de culpabilidad no puede transcurrir concurrentemente (al mismo tiempo) con una condena estatal (el saldo de mi previa condena) por un incumplimiento de libertad condicional (parole). Sí puede ser concurrente con una condena que estoy cumpliendo en la actualidad.

RIESGO DE DEPORTACIÓN

Entiendo que el declararme culpable puede tener consecuencias de inmigración para las personas que no son ciudadanos de los Estados Unidos o que no nacieron en los Estados Unidos. Las consecuencias pueden incluir detención, deportación, exclusión de estancia o entrada a los Estados Unidos, o denegación de otros beneficios de inmigración, los cuales incluyen naturalización, cambio de estatus en los Estados Unidos, o ajuste a estatus de residencia permanente (obtener una *green card*). Si no soy ciudadano de los Estados Unidos o si no nací en los Estados Unidos, por el presente certifico que he consultado con mi abogado sobre estas posibles consecuencias de inmigración.

DERECHO AL VOTO

Entiendo que si soy condenado por un delito grave y soy sentenciado a un plazo de confinamiento en una institución penal, no cumpliré con los requisitos para poder votar durante ese plazo de confinamiento y que mi derecho al voto será restaurado cuando sea liberado de mi confinamiento, a menos que sea condenado de cualquier violación del Código electoral de Pensilvania, lo cual causaría una pérdida del derecho al voto por un plazo de cuatro años después de mi condena.

Entiendo que no cumpliré con los requisitos para poder registrarme para votar ni para poder votar si es que: 1) como resultado de esta declaración voy a ser confinado en una institución penal por un delito grave y no será liberado antes de la siguiente elección; o 2) como resultado de esta declaración voy a ser colocado en una instalación de confinamiento en la comunidad u otra instalación correccional alternativa por una condena de un delito grave y que no será liberado antes de la siguiente elección.

SATISFECHO CON MI ABOGADO

Estoy satisfecho con la asesoría y servicios que recibí de mi abogado. Mi abogado dedicó suficiente tiempo en mi caso, y he tenido suficiente tiempo para hablar con mi abogado sobre el caso. Mi abogado dejó que la decisión final fuera mía, y yo soy el que ha tomado la decisión de declararme culpable.

HECHOS DE MI CASO Y LOS ELEMENTOS DEL DELITO O DE LOS DELITOS

Me leyeron los hechos de mi caso. Me explicaron los delitos y los elementos de los delitos. He cometido el delito o delitos descritos en el cuadro de la página 2 de este formulario (Parte A, #8), y por eso me estoy declarando culpable.

RENUNCIO A MIS DEFENSAS

Si me declaro culpable, renuncio a mi derecho de defender mi caso. No puedo regresar a los tribunales más tarde y decir que no era culpable. Al declararme culpable, ya no puedo sostener que yo era inocente y que no cometí el delito o delitos.

**LEÍ TODO LO ANTERIOR, O MI ABOGADO ME LO LEYÓ.
LO ENTIENDO. MIS RESPUESTAS SON LEALES Y VERDADERAS.**

Nombre del acusado en letra de molde

Firma del acusado

Fecha

DEFENSE COUNSEL'S CERTIFICATION

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, or I read the form to the defendant, and the defendant 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 of the defendant's questions.
- (5) I see no reason why the defendant cannot and is not knowingly, intelligently and voluntarily giving up the defendant's 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

COMMONWEALTH'S CERTIFICATION

I certify that I am the assigned Assistant District Attorney in this case and that any plea agreements described herein are true and correct. No other promises have been made to the defendant in exchange for the defendant's Guilty Plea. The facts in this case would establish a sufficient basis to convict the defendant of the crime(s) described in the table on Page 2 of this form (Part A, #8).

For purposes of sentencing, I estimate the following to apply:

PRS

OGS

Guidelines Range

The final Guidelines Range will be determined by the Judge at the time of sentencing and may differ from the Commonwealth's estimated PRS, OGS, and Guidelines Range.

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 of the Guilty Plea that the defendant is entering before me. The defendant has exercised a knowing, intelligent, and voluntary Guilty Plea to the charge(s) described above. In addition, I have personally explained to the defendant, on the record:

- (1) the charge(s) to which the defendant is pleading guilty, and the maximum sentence(s) which could be imposed, as well as any mandatory minimum sentences;
- (2) that the defendant is presumed innocent and has a right to a trial by a jury; and
- (3) 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 everything being said and done here today, as well as whether the defendant is pleading guilty of the defendant's own free will.

Judge

Date



NOLO CONTENDERE PLEA COLLOQUY

COMMONWEALTH OF PENNSYLVANIA

v.

CRIMINAL DIVISION

Docket No. _____

PID #: _____

PART A *(To Be Completed by the Defendant)*

PERSONAL

1. What is your full name? _____

2. How old are you today? _____

3. What is the highest grade that you completed in school? _____

4. Can you read, write, and understand the English language? Yes_____ No_____

5. Have you ever been treated, or are you currently being treated, for a mental illness?
Yes_____ No_____ *(If the answer is "No," proceed to Question 6.)*

a. If the answer to number 5 is "Yes," please explain:

b. If you are presently being treated for a mental illness, do you feel that you have the ability to understand what you are doing today? Yes_____ No_____

6. Have you had any alcohol or taken any drugs or medication within the past 48 hours?
Yes_____ No_____ *(If the answer is "No," proceed to Question 7.)*

a. If the answer to number 6 is "Yes," please explain:

7. Are you under the influence of medication, drugs, alcohol, or any substance that would prevent you from understanding what is happening here today? Yes_____ No_____

THE OFFENSE(S)

COUNT	OFFENSE	GRADE	MAXIMUM TERM OF CONFINEMENT	MAXIMUM FINE
			<u>Total Max. Confinement:</u>	<u>Total Max. Fine:</u>

8. Do you wish to plead nolo contendere (or “no contest”) to the offense(s) listed in the table above?
- Yes_____ No_____
9. Has your attorney explained to you the elements of each of the above offense(s), and that, for each offense, the District Attorney would have to prove those elements beyond a reasonable doubt at trial in order to convict you for that offense?
- Yes_____ No_____
10. Do you understand that, after pleading nolo contendere to the above offense(s), you could be punished up to the maximum possible penalties listed above for each offense?
- Yes_____ No_____
11. Has anybody threatened you, forced you, or coerced you in any manner to plead nolo contendere?
- Yes_____ No_____
12. Have you reviewed this form with your attorney and had the opportunity to ask your attorney any questions that you have about any parts of this form?
- Yes_____ No_____

PLEA BARGAIN OR AGREEMENT

13. Check all of the following that apply:

☐ There is no plea bargain or agreement of any kind.

☐ The parties agree that they will jointly recommend the following total sentence:

☐ OTHER (*describe any other agreement between the parties*):

☐ RESTITUTION (*if applicable, submit restitution form prior to plea*): The parties agree that the defendant owes restitution in the amount of _____.

☐ The Commonwealth has agreed to drop the charges of: _____

14. Other than what is described above, has anybody promised you anything for pleading nolo contendere?

Yes _____ No _____

15. Do you understand that, if the Judge does not agree with the plea bargain or agreement, you can withdraw your plea of nolo contendere and have a trial?

Yes _____ No _____

PART B *(To Be Reviewed, Initialed, and Signed by the Defendant)*

RIGHTS AT TRIAL

I understand that I do not have to plead guilty or nolo contendere, even if I committed the crimes. I have an absolute right to plead not guilty and have a trial by jury. When I plead nolo contendere, I give up my right to have a trial. If I were to proceed 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 remain innocent unless the District Attorney proves I committed the crime(s). I do not have to prove anything.

To convict me, the District Attorney would have to prove more than that I “probably” committed the crimes. The District Attorney would have 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 pause 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 wanted to, I could testify (tell my story) at the trial. Also, I could call other people who would be my witnesses and testify for me. If I plead nolo contendere, I give up this right.

I give up many important rights if I plead nolo contendere. For example, if I do not plead nolo contendere and have a trial, all the witnesses for the District Attorney would have to come to court and testify under oath. My lawyer could cross-examine them and 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 nolo contendere. If I plead nolo contendere, the witnesses would not be required to come into court. The District Attorney would just provide a summary to the Judge 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, 12 people, all from Philadelphia, would be on the jury and hear the evidence for 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. If I am the only defendant at my trial, I can generally keep the following number of people off the jury without giving any reason why I don't want them on the jury, and so can the District Attorney: 7 for non-capital felony cases; 5 for cases involving only misdemeanors; 20 for capital felony cases. (Those numbers would be reduced if my trial involves other defendants.) 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, and if the District Attorney does not demand that my trial be heard by a jury, I still could be tried by a Judge alone without a jury. The same rules would apply, except the Judge alone would decide whether or not I have been proven guilty beyond a reasonable doubt. If I plead nolo contendere, I give up all of my trial rights.

Defendant's Initials

PRE-TRIAL RIGHTS

I am also giving up my pre-trial rights. If I were to proceed to a trial, my lawyer could file motions before the trial, 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 as evidence.

If I plead nolo contendere, I also give up speedy trial rights and my right under Rule 600 to be tried within 365 days of the filing of the complaint. I am also giving up all other pre-trial rights that I might have. If I already had a hearing on pre-trial motions, when I plead nolo contendere I give up my right to appeal the decisions on those motions.

APPEAL RIGHTS

If I am found guilty at a trial, I could appeal to a higher court. I could 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 could ask for a new trial because a mistake was made before or during the trial.

I understand that if I plead nolo contendere, I would be giving up almost all of my rights to appeal. If I plead nolo contendere, my appeal rights would be very limited.

After I plead nolo contendere, I could appeal only if:

- (1) I did not know what I was doing when I pled nolo contendere, or somebody forced me to do it;
- (2) I was in the wrong court – the court did not have jurisdiction over my case;
- (3) The sentence the Judge gave me was illegal or improper; or
- (4) My attorney was ineffective.

After pleading nolo contendere and getting sentenced, if I wish to argue on appeal that my nolo contendere plea was not voluntary, or that my sentence was excessive, I must first raise those claims in a post-sentence motion. If I don't file a written post-sentence motion within 10 days of my sentencing, I lose the right to file the motion and to argue those claims on appeal.

PROBATION OR PAROLE RIGHTS

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

Defendant's Initials

RISK OF DEPORTATION

I understand that pleading nolo contendere may have immigration consequences for people who are not United States citizens or were not born in the United States. Immigration will consider my nolo contendere plea a conviction, even if my plea is part of entering a diversionary program, I successfully complete the program, and the charges are later withdrawn. Other consequences can include detention, deportation, exclusion from the United States, or denial of other immigration benefits, including naturalization, change of status within the United States, or adjustment to permanent resident status (getting a green card). If I am not a United States citizen or was not born in the United States, I certify that I have discussed these possible immigration consequences of my nolo contendere plea with my lawyer.

VOTING RIGHTS

I understand that if convicted of a felony offense and sentenced to a term of confinement in a penal institution, I will not be eligible to vote during that period of confinement and that my voting rights will be restored once I am released from confinement, unless I am convicted of any violation of the Pennsylvania Election Code, which will make me ineligible to vote for a period of four years following my conviction.

I understand that I will not be eligible to register or vote if: (A) I will be confined in a penal institution for a felony and will not be released from confinement before the next election as a result of this plea; or (B) I will be in a community confinement facility or other alternative correctional facility for conviction of a felony and will not be released before the date of the next election as a result of this plea.

SATISFIED WITH MY LAWYER

I am satisfied with the advice and services 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 am the one who made the decision to plead nolo contendere.

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) described in the table of Page 2 (Part A, #8) have been explained to me. In pleading nolo contendere, I understand that I am consenting to being punished as if I were found guilty of the crime(s).

CONSEQUENCES OF PLEADING NOLO CONTENDERE

Although the effect of a plea of nolo contendere is the same as that of a plea of guilty, I understand that the significance of the plea is not the same. In pleading nolo contendere, I do not admit guilt but rather consent to being punished as if I were guilty. The consequences of entering a nolo contendere plea are exactly those of entering a guilty plea with one exception. As I am 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 me in a later 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 I had pled guilty or were found guilty of the crime(s) described in the table of Page 2 of this form (Part A, #8). I understand that I will have a criminal record of conviction for the crime(s) underlying my nolo contendere plea. If I plead nolo contendere, 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 nolo contendere, I will no longer be able to claim that I was innocent and did not commit the crime(s).

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

Printed Name of Defendant

Signature of Defendant

Date

DEFENSE COUNSEL'S CERTIFICATION

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, or I read the form to the defendant, and the defendant 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 of the defendant's questions.
- (5) I see no reason why the defendant cannot and is not knowingly, intelligently and voluntarily giving up the defendant's rights to trial and pleading nolo contendere.
- (6) I made no promises to the defendant other than any listed on this form.

Attorney for Defendant

Date

COMMONWEALTH'S CERTIFICATION

I certify that I am the assigned Assistant District Attorney in this case and that any plea agreements described herein are true and correct. No other promises have been made to the defendant in exchange for the defendant's plea of nolo contendere. The facts in this case would establish a sufficient basis to convict the defendant of the crime(s) described in the table on Page 2 of this form.

For purposes of sentencing, I estimate the following to apply:

PRS OGS Guidelines Range

The final Guidelines Range will be determined by the Judge at the time of sentencing and may differ from the Commonwealth's estimated PRS, OGS, and Guidelines Range.

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 of the plea that the defendant is entering before me. The defendant has exercised a knowing, intelligent, and voluntary plea of nolo contendere to the charge(s) described above. In addition, I have personally explained to the defendant, on the record:

- (1) the charge(s) to which the defendant is pleading nolo contendere, and the maximum sentence(s) which could be imposed, as well as any mandatory minimum sentences;
- (2) that the defendant is presumed innocent and has a right to a trial by a jury; and
- (3) that, by pleading nolo contendere, 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 everything being said and done here today, as well as whether the defendant is pleading nolo contendere of the defendant's own free will.

Judge

Date



COLOQUIO DE DECLARACIÓN NOLO CONTENDERE

ESTADO DE PENNSILVANIA

contra

: Sección Penal

:
: Núm. de Causa _____
:
:
:
:

PID #: _____

PARTE A (A completar por el acusado)

PERSONAL

1. ¿Cuál es su nombre y apellido? _____
2. ¿Cuántos años tiene? _____
3. ¿Cuál es el último grado que completó en la escuela? _____
4. ¿Puede leer, escribir, y entender el idioma inglés? Sí _____ No _____
5. ¿Alguna vez ha recibido tratamiento, o recibe tratamiento en la actualidad, por una enfermedad de salud mental?
Sí _____ No _____ (Si la respuesta es "No," siga a la pregunta #6.)

a. Por favor explique si la respuesta a la número 5 fue "Sí":

b. Si en la actualidad recibe tratamiento por una enfermedad de salud mental, ¿siente que tiene la habilidad de poder entender lo que está haciendo hoy? Sí _____ No _____

6. ¿Ha bebido alcohol o ha tomado alguna droga o cualquier medicamento en las últimas 48 horas?
Sí _____ No _____ (Si la respuesta es "No," siga a la pregunta #7.)

a. Por favor explique si la respuesta a la número 6 fue "Sí":

7. ¿Está bajo los efectos de medicamentos, drogas, alcohol, o cualquier sustancia que le prevenga poder entender lo que ocurre aquí este día? Sí _____ No _____

DELITO(S)

CARGO	DELITO	CLASIFICACIÓN	PLAZO MÁXIMO DE CONFINAMIENTO	MULTA MÁXIMA
			Confinamiento máximo <u>total</u>:	Multa máxima <u>total</u>:

8. ¿Desea declararse nolo contendere (o “sin oposición”) al delito o los delitos listados en el cuadro anterior?
- Sí_____ No_____
9. ¿Su abogado le ha explicado los elementos de cada delito en el cuadro superior y que, por cada delito, la fiscalía tendría que comprobar dichos elementos más allá de una duda razonable en un juicio para poder declararlo culpable por dicho delito?
- Sí_____ No_____
10. ¿Entiende que, después de declararse nolo contendere a los delitos en el cuadro superior, puede ser sancionado hasta el castigo máximo posible listado para cada delito?
- Sí_____ No_____
11. ¿Alguien lo ha amenazado, lo ha forzado, o lo ha coaccionado en alguna manera para que se declare nolo contendere?
- Sí_____ No_____
12. ¿Ha revisado este formulario con su abogado y ha tenido la oportunidad de preguntarle a su abogado cualquier pregunta sobre cualquier parte de este formulario?
- Sí_____ No_____

CONVENIO DECLARATORIO O NEGOCIACIÓN DE LA CONDENA

13. Marque todo lo que aplique:

☐ No hay convenio declaratorio o negociación alguna.

☐ Las partes han acordado conjuntamente recomendar la siguiente condena total:

☐ OTRO (*describa cualquier acuerdo entre las partes*):

☐ INDEMNIZACIÓN (*de ser aplicable, entregue el formulario de indemnización antes de la declaración*): Las partes han acordado que el acusado debe indemnización en la cantidad de _____.

☐ El Estado ha aceptado retirar los cargos de: _____

14. ¿Alguien le ha prometido algo a cambio de su declaración de nolo contendere más allá de lo detallado en lo anterior?

Sí_____ No_____

15. ¿Entiende que si el juez no acepta el convenio declaratorio o negociación usted puede retirar su declaración de nolo contendere y tener un juicio?

Sí_____ No_____

PARTE B *(El acusado debe de revisar, escribir sus iniciales, y firmar el documento.)*

DERECHOS DE JUICIO

Entiendo que no estoy obligado a declararme nolo contendere, aun si cometí los delitos. Tengo el derecho absoluto de declararme no culpable y de tener un juicio por jurado. Renuncio a mi derecho de tener un juicio al declararme nolo contendere. Si fuese a juicio, tendría todos los derechos siguientes y algunos más.

Tengo la presunción de inocencia. Eso quiere decir que comienzo inocente y permanezco inocente al menos que la fiscalía compruebe que cometí el delito o los delitos. Yo no tengo que comprobar cosa alguna.

Para poder condenarme, la fiscalía tiene que comprobar aún más que “probablemente” cometí los delitos. La fiscalía tiene que comprobarme culpable “más allá de una duda razonable”. Una duda razonable es el tipo de duda que causaría a una persona normal y sensata pausar, dudar, o rehusar tomar acción en algo muy importante.

Tengo el derecho de permanecer en silencio. Nadie me puede obligar a testificar o hablar sobre el caso. Nadie puede actuar en mi contra si permanezco en silencio. Sin embargo, si lo quiero hacer, puedo testificar (contar mi versión) durante el juicio. Además, puedo presentar a otras personas para que sean mis testigos y testifiquen a mi favor. Renuncio a este derecho si me declaro nolo contendere.

Renuncio a muchos derechos importantes al declararme nolo contendere. Por ejemplo, si no me declaro nolo contendere y tengo un juicio, todos los testigos de la fiscalía tendrían que venir al juzgado y testificar bajo juramento. Mi abogado puede contrainterrogarlos y hacerles preguntas para ver si dicen la verdad y para ver si lo que dicen es correcto. Renuncio a este derecho de carear y contrainterrogar a los testigos y a muchos otros derechos al declararme nolo contendere. Si me declaro nolo contendere, no se les requiere a los testigos venir a los juzgados. La fiscalía solamente proporcionaría un resumen de lo ocurrido ante el juez.

JUICIO ANTE JUEZ O JUICIO ANTE JURADO

Mi abogado me explicó que tengo el derecho de un juicio por jurado. Nadie me puede quitar ese derecho. En un juicio por jurado, 12 personas, todas de Filadelfia, se presentarían en el jurado y escucharían las pruebas en mi caso. Si a todos los doce se les convenciera más allá de una duda razonable que soy culpable, se me declararía culpable. Si todos los doce no estuvieran convencidos más allá de una duda razonable que soy culpable, se me declararía no culpable. Si todos los doce no llegaran a un acuerdo, no se me condenaría, pero puedo ser enjuiciado nuevamente ante un jurado diferente.

Puedo ayudar a elegir mis jurados. Cada jurado sería interrogado para estar seguro que serían justos. Puedo mantener a cualquier persona fuera del jurado si puedo demostrarle al juez que esa persona es injusta. Si soy el único acusado en mi juicio, generalmente puedo mantener al siguiente número de personas fuera de mi jurado sin tener que dar razón alguna del por qué no los quiero en el jurado; así también la fiscalía: 7 en casos de delitos graves que no presentan la pena capital; 5 en casos de delitos menos graves; 20 en delitos graves que presentan la pena capital. (Esas cifras se reducen si mi juicio involucra a otros acusados.) Mi abogado y yo decidiríamos juntos a cuales personas queremos mantener fuera del jurado.

Si renuncio mi derecho a un juicio por jurado, y si la fiscalía no exige que mi juicio sea ventilado ante un jurado, todavía puedo ser enjuiciado ante un juez sin un jurado. Se aplicarían las mismas reglas, excepto que el juez por si solo decidiría si se me ha comprobado culpable más allá de una duda razonable o no. Renuncio a todos mis derechos de juicio si me declaro nolo contendere.

Iniciales del acusado

DERECHOS ANTES DEL JUICIO

También renuncio a mis derechos antes del juicio. Si procedo a juicio, mi abogado puede presentar peticiones antes del juicio, tal como peticiones para mantener fuera o excluir pruebas. Eso quiere decir que mi abogado trataría de convencer al juez que algunas pruebas en mi contra no pueden ser usadas durante el juicio. Esto incluye:

- (1) declaraciones que le hice a la policía o a otras personas;
- (2) identificaciones que personas hayan hecho de mí; y
- (3) cualquier cosa que la policía u otros decomisaron como prueba para usarlo en mi contra.

Si me declaro nolo contendere, también renuncio a mis derechos de un juicio sin demora y a mis derechos bajo la Regla 600 de ser enjuiciado en menos de 365 días de la fecha en que se presentó la denuncia. También renuncio a todos los derechos antes del juicio que pudiese tener. Si ya tuve una audiencia de peticiones previas al juicio, al declararme nolo contendere renuncio a mi derecho de apelar las decisiones sobre esas peticiones.

DERECHOS DE APELACIÓN

Si se me declara culpable en un juicio, puedo apelar a un tribunal con mayor jerarquía. Puedo pedir que mi condena sea anulada y mi caso sea desestimado porque no había suficientes pruebas, porque no obtuve un juicio sin demora, o por otras razones. Puedo pedir un juicio nuevo porque se cometieron errores antes o durante el juicio.

Entiendo que si me declaro nolo contendere en vez de ir a juicio, renunciaría a casi todos mis derechos de apelación. Si me declaro nolo contendere mis derechos de apelación serían muy limitados.

Después de declararme nolo contendere, solo puedo apelar si:

- (1) No sabía lo que estaba haciendo cuando me declaré nolo contendere, o alguien me forzó;
- (2) Estaba en el tribunal equivocado – el juez no tenía jurisdicción sobre mi caso;
- (3) La condena que el juez me dio fue ilegal o inapropiada; o
- (4) Mi abogado fue ineficaz.

Después de declararme nolo contendere y ser condenado, si deseo presentar un recurso de apelación que mi declaración de nolo contendere no fue voluntaria, o que mi condena fue excesiva, debo de presentar dichas quejas en una petición pos-condenatoria. Si no presento una petición pos-condenatoria en menos de 10 días después de ser condenado, pierdo mi derecho de presentar la petición y de alegar dichas quejas bajo apelación.

DERECHOS DE LIBERTAD VIGILADA Y DE LIBERTAD CONDICIONAL (PROBATORIA Y PAROLE)

Sé que una declaración de nolo contendere tiene los mismos efectos como si hubiese sido declarado culpable después de un juicio. Si estoy bajo libertad vigilada o libertad condicional (probatoria o parole), mi declaración de nolo contendere puede causar un incumplimiento de mi libertad vigilada o libertad condicional. Por lo tanto, además de mi condena en este caso, puedo recibir más tiempo de encarcelamiento por un incumplimiento de mi libertad vigilada o libertad condicional. Esta declaración de nolo contendere también puede causar que se me condene como un delincuente reincidente con un segundo o tercer “strike” si se me condena nuevamente y que puede aumentar mi número de antecedentes penales. La condena en esta declaración de nolo contendere no puede transcurrir concurrentemente (al mismo tiempo) con una condena estatal (el saldo de mi previa condena) por un incumplimiento de libertad condicional (parole). Sí puede ser concurrente con una condena que estoy cumpliendo en la actualidad.

RIESGO DE DEPORTACIÓN

Entiendo que el declararme nolo contendere puede tener consecuencias de inmigración para las personas que no son ciudadanos de los Estados Unidos o que no nacieron en los Estados Unidos. Las consecuencias pueden incluir detención, deportación, exclusión de estancia o entrada a los Estados Unidos, o denegación de otros beneficios de inmigración, los cuales incluyen naturalización, cambio de estatus en los Estados Unidos, o ajuste a estatus de residencia permanente (obtener una *green card*). Si no soy ciudadano de los Estados Unidos o si no nací en los Estados Unidos, por el presente certifico que he consultado con mi abogado sobre estas posibles consecuencias de inmigración.

DERECHO AL VOTO

Entiendo que si soy condenado por un delito grave y soy sentenciado a un plazo de confinamiento en una institución penal, no cumpliré con los requisitos para poder votar durante ese plazo de confinamiento y que mi derecho al voto será restaurado cuando sea liberado de mi confinamiento, a menos que sea condenado de cualquier violación del Código electoral de Pensilvania, lo cual causaría una pérdida del derecho al voto por un plazo de cuatro años después de mi condena.

Entiendo que no cumpliré con los requisitos para poder registrarme para votar ni para poder votar si es que: 1) como resultado de esta declaración voy a ser confinado en una institución penal por un delito grave y no seré liberado antes de la siguiente elección; o 2) como resultado de esta declaración voy a ser colocado en una instalación de confinamiento en la comunidad u otra instalación correccional alternativa por una condena de un delito grave y que no seré liberado antes de la siguiente elección.

SATISFECHO CON MI ABOGADO

Estoy satisfecho con la asesoría y servicios que recibí de mi abogado. Mi abogado dedicó suficiente tiempo en mi caso, y he tenido suficiente tiempo para hablar con mi abogado sobre el caso. Mi abogado dejo que la decisión final fuera mía, y yo soy el que ha tomado la decisión de declararme nolo contendere.

HECHOS DE MI CASO Y LOS ELEMENTOS DEL DELITO O DE LOS DELITOS

Me leyeron los hechos de mi caso. Me explicaron los delitos y los elementos de los delitos en el cuadro de la página 2 de este formulario (Parte A, #8). Al declararme nolo contendere, reconozco que doy mi consentimiento de que se me sancione como si se me hubiese declarado culpable del delito o delitos.

CONSECUENCIAS DE UNA DECLARACIÓN NOLO CONTENDERE

A pesar que los efectos de una declaración de nolo contendere son los mismos que una declaración de culpabilidad, entiendo que el significado de la declaración no es igual. Al declararme nolo contendere, no admito culpabilidad sino doy mi consentimiento a ser sancionado como si fuera culpable. Las consecuencias de presentar una declaración de nolo contendere son exactamente las mismas de una declaración de culpabilidad con una sola excepción. Dado que no admito los hechos al presentar una declaración de nolo contendere, la presentación de una declaración de nolo contendere no puede ser usada en contra de mí en un proceso civil subsecuente para determinar la existencia de dichos hechos. En todo otro aspecto, las consecuencias de una declaración de nolo contendere en este proceso penal son las mismas como si me hubiese declarado culpable o se me hubiese declarado culpable del delito o delitos detallados en el cuadro de la página 2 de este formulario. (Parte A, #8). Entiendo que tendré un registro de antecedentes penales por la condena subyacente a mi declaración de nolo contendere.

RENUNCIO A MIS DEFENSAS

Si me declaro nolo contendere, renuncio a mi derecho de defender mi caso. No puedo regresar a los tribunales más tarde y decir que no era culpable. Al declararme nolo contendere, ya no puedo sostener que yo era inocente y que no cometí el delito o delitos

**LEÍ TODO LO ANTERIOR, O MI ABOGADO ME LO LEYÓ.
LO ENTIENDO. MIS RESPUESTAS SON LEALES Y VERDADERAS.**

Nombre del acusado en letra de molde

Firma del acusado

Fecha

DEFENSE COUNSEL'S CERTIFICATION

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, or I read the form to the defendant, and the defendant 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 of the defendant's questions.
- (5) I see no reason why the defendant cannot and is not knowingly, intelligently and voluntarily giving up the defendant's rights to trial and pleading nolo contendere.
- (6) I made no promises to the defendant other than any listed on this form.

Attorney for Defendant

Date

COMMONWEALTH'S CERTIFICATION

I certify that I am the assigned Assistant District Attorney in this case and that any plea agreements described herein are true and correct. No other promises have been made to the defendant in exchange for the defendant's plea of nolo contendere. The facts in this case would establish a sufficient basis to convict the defendant of the crime(s) described in the table on Page 2 of this form.

For purposes of sentencing, I estimate the following to apply:

PRS

OGS

Guidelines Range

The final Guidelines Range will be determined by the Judge at the time of sentencing and may differ from the Commonwealth's estimated PRS, OGS, and Guidelines Range.

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 of the plea that the defendant is entering before me. The defendant has exercised a knowing, intelligent, and voluntary plea of nolo contendere to the charge(s) described above. In addition, I have personally explained to the defendant, on the record:

- (1) the charge(s) to which the defendant is pleading nolo contendere, and the maximum sentence(s) which could be imposed, as well as any mandatory minimum sentences;
- (2) that the defendant is presumed innocent and has a right to a trial by a jury; and
- (3) that, by pleading nolo contendere, 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 everything being said and done here today, as well as whether the defendant is pleading nolo contendere of the defendant's own free will.

Judge

Date