

Rule 590. PLEAS, PLEA AGREEMENTS AND WRITTEN COLLOQUIES.

- (1) The Court will be available for the purpose of taking guilty or nolo contendere pleas from time to time as designated by the Court Administrator. Those times shall include each Thursday afternoon that court is in session unless otherwise rescheduled with advance notice to the District Attorney and the criminal defense bar. Pleas will also be taken immediately after the Call of the Criminal Trial List.
- (2) **Plea Agreements** - Whenever a guilty plea or nolo contendere plea agreement is reached between the parties, a Plea Agreement Form substantially in the form set forth in Form 590 shall be filled out. Said form shall be signed by the District Attorney or Assistant District Attorney, defense counsel, and the defendant. A copy of the form to ultimately be filed in the Court Administrator's Office shall be provided by the District Attorney's Office to the judge who is taking the plea. Copies of the Plea Agreement Form shall be supplied to defense counsel and the defendant.
- (1) **Written Guilty Plea and Nolo Contendere Colloquies** - The Court, within the discretion of the individual judge presiding at Plea Court, will permit guilty pleas and nolo contendere pleas to be entered through the use of a written colloquy on a form substantially consistent with the form hereinafter set forth in this rule, provided that the defendant is represented by counsel.

Those entering pleas through a written colloquy will do so at the onset of Plea Court times scheduled as aforesaid. Counsel representing the defendant who will be entering a plea through the use of a written colloquy shall appear with such clients at the time set for Plea Court to actually begin rather than the time designated for the video explaining a defendant's rights which begins approximately a half hour before the scheduled Plea Court.

A written plea colloquy shall not be used where defendants are pleading guilty or nolo contendere to first, second or third degree murder. Otherwise a judge may decide that a written plea colloquy should not be used in certain cases.

If the plea is to be entered through the use of a written guilty plea or nolo contendere colloquy, counsel shall review and explain to the defendant the contents of the colloquy form and shall be satisfied that the defendant understands all of the questions on the form and that the defendant is entering a knowing and voluntary plea.

The defendant's counsel's signature on the Guilty or Nolo Contendere Plea Colloquy Form shall constitute a certification by the attorney that the attorney has read, discussed and explained the elements of all offenses and all other questions on the plea form, and to the best of counsel's knowledge, information or belief the defendant understands the consequences of his entering the plea.

The Guilty or Nolo Contendere Plea Colloquy shall be prepared substantially in the form hereinafter set forth and shall be filed in open court at the time of the entry of any plea of guilty or nolo contendere.

- (2) **Megan's Law Supplement to Guilty Plea Colloquy** – If a guilty plea or nolo contendere plea is entered by a defendant using a written plea colloquy substantially in the form hereinafter set forth in this Rule and the defendant is subject to the provisions of Megan's Law, the Megan's Law Supplement to Guilty Plea Colloquy hereinafter set forth shall be used.

Counsel shall review and explain to the defendant the contents of the Megan's Law Supplement and shall be satisfied that the defendant understands all the questions on the Megan's Law Supplement form. The Megan's Law Supplement to Guilty Plea Colloquy shall be filed in open court at the time of the entry of any plea of guilty or nolo contendere.

- (3) Whenever a guilty plea or nolo contendere colloquy is presented, the judge accepting the written plea

colloquy will also conduct a limited oral colloquy to supplement the written guilty plea and nolo contendere colloquy.

- (6) The last day to enter a negotiated guilty or nolo contendere plea, as defined in Rule 552(4), shall be the Thursday prior to the commencement of trials unless “extraordinary cause,” as defined in Rule 552(4) exists.

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA

CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :
 :
 vs. : No. :
 : OTN No :
 :

PLEA COLLOQUY

**DIRECTIONS CONCERNING THE ENTERING OF A GUILTY PLEA OR
PLEA OF NOLO CONTENDERE (NO CONTEST)**

You are present before this Court because you or your lawyer have indicated your desire to plead to some or all of the criminal offenses with which you have been charged.

By pleading guilty you are agreeing and admitting that you committed each of the elements of the crimes. By pleading nolo contendere (no contest), you are stating that you do not contest the fact that the Commonwealth can prove you committed the crimes. In criminal law, a plea of nolo contendere (no contest) has the same effect for sentencing purposes as pleading guilty and, therefore, everything contained in this plea colloquy also applies to a plea of nolo contendere (no contest).

It is important that you understand, agree with and answer truthfully everything contained in this plea colloquy.

Please answer all of the questions on these papers fully. Most of the questions are to be answered either “Yes” or “No.” Where facts are requested, please fill in those facts specified in the blank space provided after the question. If you do not understand the question, indicate this by making an “X” in the blank space provided after the question you do not understand.

After you have completed this form and signed it, if there are any portions of it that you have stated you do not understand, tell your attorney, the attorney for the Commonwealth or the Judge so that you have a chance to have it explained.

If you are pleading *Nolo Contendere* (no contest) rather than *Guilty*, all references in this colloquy to “your plea of guilty” (or similar language) shall be interpreted to mean nolo contendere.

DEFENDANT’S PERSONAL INFORMATION

1. What is your full name? _____
2. What is your address? _____
3. If you are known by any other names or aliases, list them.

4. Are you employed? _____
If so, where? _____
5. How old are you? _____ Date of Birth _____
6. How far did you go in school? (Give grade completed or equivalency) _____

7. Can you read, write and understand the English language? _____
8. Have you ever been a patient in a mental institution or have you ever been treated for a mental illness?

9. Are you now being treated for a mental illness? _____
10. If the answer to number 8 or 9 is yes, please explain. _____

11. Do you feel that you can cooperate with your attorney, understand what you are doing today, understand what these questions mean and know why you must answer these questions? _____
12. Have you consumed any alcohol or taken any drugs or medicine or any other such substance within the past twenty-four (24) hours? _____
13. If the answer to number 12 is yes, please explain. _____
14. If the answer to number 12 is yes, are you presently under the influence of alcohol, drugs, medicine or any other substance to a degree that you cannot clearly understand these questions and answer them? _____

15. Do you understand that you are here to enter your plea of guilty or no contest to some or all of the charges against you? _____

PRESUMPTION OF INNOCENCE

16. Do you understand that you are presumed to be innocent and that you need not admit that you committed the offenses by pleading guilty? _____
17. Do you understand that, by pleading guilty you give up and waive your presumption of innocence?

RIGHT TO TRIAL

18. Do you understand that you have the absolute right to have your guilt or innocence determined in a trial before a jury, which involves the following?
- (a) that jury panels in Crawford County are selected at random from the citizens of Crawford County? _____
 - (b) that you and your attorney and the District Attorney would participate in selecting, from this panel, the particular twelve (12) jurors who would hear the evidence and decide your guilt or innocence? _____
 - (c) that you can keep jurors off of your case for cause and can keep a limited number of people from being a juror without giving any reason? _____
 - (d) that only impartial, fair and unprejudiced jurors would be qualified to hear your case?

 - (e) that the Commonwealth has the burden of introducing testimony and other evidence which will convince all twelve (12) jurors unanimously of your guilt beyond a reasonable doubt? _____
 - (f) that proof beyond a reasonable doubt is that kind of doubt that would cause a reasonable and sensible person to pause and hesitate before acting on something that is important in that person's life? _____

- (g) the Commonwealth must present witnesses who must testify under oath and that you or your lawyer can question each of those witnesses and to question their believability?

- (h) that you can testify, call witnesses or introduce other evidence to contradict the Commonwealth's evidence and/or support your innocence, but are not required to do so?

- (i) that, if you do not testify, call witnesses, or introduce other evidence, no adverse or negative inference may be drawn by the jury because you did not do this, and you will still be presumed innocent? _____
- (j) that your right to call witnesses and present evidence includes evidence that you did not commit the crime charged; that you were at some other place when the crime was committed; that there is a mistaken identity; that an insanity defense exists; that your acts were justified under the law or there is some other lawful excuse for your acts? _____
- (k) that if you cannot afford to pay proper costs, such as obtaining a witness, for example, these costs could be paid for you? _____
- (l) that the jury will decide your guilt or innocence based only on the evidence that the jury hears? _____

19. Do you understand that you can be tried by a judge alone and give up your right to a trial by a jury with the consent of the District Attorney's office? _____

MOTIONS BEFORE TRIAL

20. Do you understand that you can file motions with the Court before your trial to make sure that you get a fair trial? Those motions may include a motion to prevent the Commonwealth from presenting improperly obtained evidence at your trial including any statements that you may have made, tests results, identifications, and items taken from me or from some other place. If you file such a motion, the Commonwealth has the burden of proving that this evidence can be presented at your trial?

21. Do you understand that you can file a Motion to have these charges dismissed if your trial was not started within 365 days after the date that the Criminal Complaint was filed against you, not counting any delays caused by you or your lawyer? _____
22. Do you understand that if you plead guilty you give up your right to file any of these pretrial motions?

EFFECT OF PLEA

23. Do you understand that by pleading guilty you are giving up the right to confront and cross-examine witnesses? _____
24. Do you understand that, in entering your plea of guilty, you are admitting that you are properly charged and before the Court on those offenses to which you plead and that you give up and waive your right to raise, both before this Court or an appellate Court, any errors, irregularities, or violations of your Constitutional, or statutory rights by the Commonwealth in investigating, obtaining evidence, filing, proceeding with, and presenting the charges against you? _____
25. Do you understand that, if you have raised any of these matters, that your plea of guilty will end your right to be heard on them? _____
26. Do you understand that your plea of guilty or nolo contendere will have the same effect as if you had a trial and was convicted of the crimes to which you will be pleading? _____
27. Do you understand that if you are on probation, intermediate punishment or parole, at the time these crimes were committed, that your plea in this case will mean that you violated probation or intermediate punishment or parole? _____
28. Do you understand that if you violated probation, intermediate punishment or parole you can either be resentenced to jail or recommitted to jail? _____
29. Do you understand that any sentences that you will receive as a result of a probation, intermediate punishment or parole violation would be in addition to any sentence which you may receive as a result of this plea? _____

30. Do you understand that, if you are not a United States citizen, then it is possible that you may be deported if you plead guilty or no contest? _____

31. Do you know that, for a misdemeanor or felony the Court may impose a sentence after considering the sentencing guidelines which place a suggested length of sentence for the type of crime and increase the length of that sentence if the person sentenced had been previously convicted of other crimes, either as a juvenile or an adult, and that the maximum sentence or sentences of confinement and/or fine or fines applicable to the crime or crimes to which you are entering your pleas are as follows:

<u>Charge</u>	<u>Count</u>	<u>Grade</u>	<u>Maximum Penalty</u>	<u>Mandatory Minimum</u>
_____	_____	_____	_____ \$ _____	_____ \$ _____
_____	_____	_____	_____ \$ _____	_____ \$ _____
_____	_____	_____	_____ \$ _____	_____ \$ _____
_____	_____	_____	_____ \$ _____	_____ \$ _____
_____	_____	_____	_____ \$ _____	_____ \$ _____

32. Do you understand that, if you are being sentenced on more than one count, the sentences could be consecutive to each other? _____

33. Do you understand that “consecutive” means that each sentence must be served and completed before you begin the next sentence? In other words the sentences would not all be served at the same time. _____

34. Do you understand that, if you are currently serving another sentence, the sentence(s) you receive for your plea(s) today could be consecutive to any other sentences you are already serving? _____

35. Do you understand that the total possible total sentences you could receive for your plea(s) today, if all sentences were to be made consecutive, would be _____ in jail and a \$ _____ fine? _____
(specify days, months or years)

36. Have you and/or your attorney and the District Attorney agreed to a particular sentence that will be imposed on these charges in return for you entering a guilty or no contest plea? _____

37. Are you aware that the judge does not have to sentence you in accordance with the terms of the specific agreed upon sentence that you, your attorney and the District Attorney have agreed to, but if the judge accepts your plea to that specific sentence and does not sentence you consistent with it, then you may withdraw your plea? _____
38. Do you understand if the District Attorney is only making a non-binding sentencing recommendation to the Court then you could not withdraw your plea simply because the judge did not follow the non-binding sentencing recommendation? _____
39. Are you aware that the judge is not bound by the terms of any plea agreement entered into between you, your attorney and the District Attorney until the judge accepts the plea agreement? _____
40. Do you understand that if there is no specific sentencing agreement but only a non-binding sentencing recommendation to the Court that the judge will determine what your sentence will be?

41. Do you understand that at any time prior to your sentencing, you may ask the Court for permission to withdraw your plea but you must show a fair and just reason for doing so and that the Commonwealth would not be prejudiced by your doing so? _____

RIGHT TO AN ATTORNEY

42. 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, from the Public Defender's office without charge, before, during and after trial and on appeal to the appellate Courts? _____
43. If you did not understand any part of this form, has your attorney advised you on such matters?

44. Are you satisfied with your attorney's representation of you in this case? _____
45. Have you had enough time to consult with your attorney before reading this document and entering your plea of guilty? _____

46. Have you fully discussed this case with your lawyer including the facts and possible defenses that you may have to the charges? _____
47. Are you satisfied that your lawyer knows all of the facts and law concerning this case? _____
48. Are you satisfied that your lawyer has contacted, or attempted to contact, every witness or source of evidence which you advised him of? _____
49. Are you satisfied that your attorney is ready and able to defend you in this case if you do not plead?

KNOWING AND VOLUNTARY PLEA

50. Have any other promises been made to you to enter a plea of guilty other than the plea agreement, if any?

51. Has anybody forced you, threatened you, promised you anything or coerced you directly or indirectly to enter this plea of guilty? _____
52. Are you doing this of your own free will? _____

I affirm that I have read the above document in its entirety and have reviewed it with my attorney. I affirm that I am aware of the full implications of pleading guilty/nolo contendere and nevertheless wish to plead to the specified offense(s). I further affirm that my signature on this document is true and correct.

Defendant

I _____, Esquire, Attorney for _____, state that I have advised my client of the contents and meaning of this document; it is my belief that s/he fully comprehends the implication of pleading guilty/nolo contendere and is pleading guilty/nolo contendere of his/her own free will.

_____, Esquire
(Attorney for Defendant)

if you are determined to be a sexually violent predator you will be subject to additional registration and notification requirements? _____

These will include:

- (a) Notification to your victim of your current address.
- (b) Notification to your neighbors of your name and address, the offense of which you were convicted, the fact that you have been determined to be a sexually violent predator; which notification may be accompanied by your photograph.

The notification will also be sent to the local children and youth services agency, superintendent of schools, daycare centers and colleges and universities. It is also available to any member of the public upon request.

Do you understand all of the above information relating to registration and notification requirements of persons determined to be sexually violent predators? _____

6. Do you understand that if you are determined to be a sexually violent predator, you will be required to attend and pay for monthly counseling sessions for the period you are required to register? _____

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

Date: _____

Defendant

I, _____, Esquire, attorney for _____, state that I have advised my client of the contents and meaning of this document; that it is my belief that s/he comprehends and understands what is set forth above; that I am prepared to try this case; and it is my belief that the defendant understands what s/he is doing by pleading guilty.

Date: _____

Attorney for the Defendant

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA

CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :
vs. : No.:
: OTN No.:
:

PLEA AGREEMENT FORM

Counts to Plea:

Two horizontal lines for entering counts to plea.

Counts to nolle prosequi:

Two horizontal lines for entering counts to nolle prosequi.

On counts for which the Court orders a nolle prosequi: [] Defendant shall pay costs
[] Defendant shall pay restitution

[] No agreement as to sentencing

[] Agreement as to sentencing as follows: _____

Special conditions of agreement: _____

District Attorney or Assistant District Attorney

Defense Attorney

Date: _____

Defendant

I, _____, Defendant, understand that I must report to Courtroom No. 1, 2 or 3, Crawford County Courthouse, on _____, 20____, at _____ o'clock ____ .M. to enter my plea of guilty or nolo contendere.

Defendant

Original: Court Administrator [white]
District Attorney [green]
Defense Counsel [yellow]
Defendant [pink]