

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA

CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :
 :
 :
 v. : No.: _____
 :
 :
 _____, : OTN No: _____
 Defendant :

WRITTEN PLEA COLLOQUY

DIRECTIONS CONCERNING THE ENTERING OF A GUILTY PLEA
OR A 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 beyond a reasonable doubt. 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 written 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 your plea of *nolo contendere*.

DEFENDANT'S PERSONAL INFORMATION

1. What is your full name? _____
2. Are you known by any other names or aliases? _____ *If so*, list them: _____

3. What is your address? _____
4. Can you read, write and understand the English language? _____ (yes or no)
5. How old are you? _____ Date of birth: _____
6. How far did you go in school (give grade completed equivalency)? _____
7. Are you employed? _____ *If so*, where? _____
8. Are you now being treated for a mental illness? _____ *If so*, please explain: _____

9. Have you ever before been treated for mental illness, or been a patient in a mental institution?
_____ *If so*, please explain: _____

10. Have you consumed any alcohol or taken any drugs or medicine or any other such substance
within the past twenty-four (24) hours? _____ *If so*, please explain: _____

11. And 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? _____
12. Do you feel that you can cooperate with your attorney, understand what you are doing today,
and understand what these questions mean? _____
13. Do you know why you must answer these questions? _____
14. Do you understand that you are here to enter your plea of guilty to some or all of the charges
against you? _____

PRESUMPTION OF INNOCENCE

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

RIGHT TO TRIAL

17. 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 you 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 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?

17. (*continued*: 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:)
- (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 so, 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 that there is some other lawful excuse for your acts?

 - (k) that if you cannot afford to pay proper costs, such as obtaining an expert 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, and on the law as told to the jury by the judge? _____
18. 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

19. 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 you or from some other place, and if you file such a motion, the Commonwealth has the burden of proving that this evidence can be presented at your trial? _____
20. 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 attorney? _____
21. Do you understand that if you plead guilty you give up your right to file any of these pretrial motions before both this Court and an appellate court? _____

EFFECT OF PLEA

22. Do you understand that by pleading guilty you are giving up the right to confront and cross-examine witnesses? _____
23. 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 and 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? _____
24. 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? _____
25. Do you understand that your plea of guilty will have the same effect as if you had a trial and were convicted of the crimes to which you will be pleading? _____
26. Were you on County or State supervision (probation, intermediate punishment or parole) at the time these crimes were committed? _____
- If so,*
- (a) do you understand that your plea in this case will mean that you violated that supervision? _____
- (b) do you understand that you can either be resentenced to prison or recommitted to prison for violating supervision? _____
- (c) do you understand that any sentences that you will receive as a result of a violation of supervision could be in addition to any sentence which you may receive as a result of this plea? _____
- (d) do you understand that if you are a convicted state parole violator, any additional prison time will be added to any prison time that you may receive as a result of this plea? _____
27. Do you understand that, if you are not a United States citizen, then it is possible that you will be deported because of your plea? _____

28. Do you understand that if you have been previously convicted of a crime or crimes, or been adjudicated delinquent as a juvenile, that these convictions and/or adjudications are included in computing your “prior record score” (PRS), and that your PRS is _____? _____

29. Do you understand what an “offense gravity score” (OGS) is, and that the OGS of each of the crimes to which you are entering your plea is as shown in the chart below? _____

<i>Count</i>	<i>charge</i>	<i>OGS</i>

30. Do you understand that under sentencing guidelines, the suggested “standard range” (SR) minimum prison sentence applicable to each of the crimes to which you are entering your plea (as adjusted – plus or minus – for aggravating or mitigating circumstances) is as shown in the chart below, and that other sentence enhancements may apply? _____

<i>Count</i>	<i>PRS</i>	<i>OGS</i>	<i>SR minimum prison sentence</i>	<i>Adjustment</i>
			to months	± months
	"		to months	± months
	"		to months	± months
	"		to months	± months

31. Do you understand that the maximum sentence of confinement and/or fine applicable to each of the crimes to which you are entering your plea is as shown in the chart below? _____

<i>Count</i>	<i>Grade</i>	<i>Maximum Penalty</i>		<i>Mandatory Minimum Penalty</i>	
		years	\$		\$
		years			\$
		years			\$
		years			\$

32. Do you understand that when a sentence is made “concurrent” with another sentence, that the two sentences are served at the same time; and that when a sentence is instead made “consecutive” to another sentence, that the first sentence must be served and completed before the second sentence begins? _____
33. Do you understand that, if you are being sentenced on more than one count, the sentences could be consecutive to each other, rather than concurrent? _____
34. Do you understand that the sentence(s) you receive for your guilty plea 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 guilty plea, if all sentences were to be made consecutive, would be _____ days _____ months _____ years in prison, and a \$_____.00 fine? _____
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 plea? _____
37. 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? _____
38. Are you aware that the Judge does not have to sentence you in accordance with the terms of the specific 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? _____
39. Do you understand that if the District Attorney is only making a sentencing recommendation, then the recommendation is not binding on the Court, and that you may not withdraw your plea simply because the judge did not follow the sentencing recommendation? _____
40. Do you understand that if there is no specific sentencing agreement, but only a non-binding sentencing recommendation to the Court, the judge will then 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? _____

42. Are you pleading guilty (or no contest) to a crime for which you must register as a sex offender under the Sexual Offender Registration and Notification Act (“SORNA”)?

If so,

- (a) do you understand that that you will be required to register as a sexual offender, and to appear in-person at an approved registration or verification site according to the assigned tier or classification that you fall under (see below)? _____
- (b) do you understand that the Court will require you to have an assessment by the Pennsylvania Sexual Assessment Board to determine whether you are a sexually violent predator (SVP), and that if you are a SVP, you will have to also attend monthly counseling sessions generally at your expense? _____
- (c) do you understand that SORNA classifies sexual offenders into three tiers, that Tier _____ is the most serious tier you fall under, and that the “Transient Offender” and SVP categories might also apply to you? _____
- (d) do you understand the following chart relating to SORNA? _____

<i>Tier</i>	<i>Required Appearances at Registration Site</i>	<i>Number of Years</i>	<i>Special Conditions</i>
I	Annually	15 Years	
II	Semiannually (twice a year)	25 Years	
III	Quarterly (four times a year)	Life	
Transient Offenders	Monthly	Dependent on Tier	
SVP	Quarterly (four times a year)	Life	Attend Monthly Counseling Sessions

- (e) do you understand that you will be required at sentencing to read and sign a form stating that your duties under SORNA have been explained to you? _____

KNOWING AND VOLUNTARY PLEA

43. Have any promises been made to you to enter a plea of guilty other than the plea agreement, if any? _____
44. Has anybody forced you, threatened you, promised you anything or coerced you directly or indirectly to enter this plea of guilty? _____
45. Are you doing this of your own free will? _____

RIGHT TO AN ATTORNEY

46. 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 from the Public Defender's office to represent you without charge, before, during and after trial and on appeal to the appellate courts? _____
47. Are you satisfied with your attorney's representation of you in this case? _____
48. Are you satisfied that your lawyer has reviewed all of the facts of this case, and knows the law applicable to your case? _____
49. Have you fully discussed this case with your lawyer, including the facts and possible defenses that you may have to the charge(s)? _____
50. Has your attorney advised you on any legal questions you have about this case? _____
51. Are you satisfied that your lawyer has done everything you requested, such as contacting or attempting to contact every witness or source of evidence which you suggested? _____
52. Are you satisfied that your attorney is ready and able to take this case to trial if you do not plead? _____
53. Have you had enough time to consult with your attorney before completing this document and entering your plea of guilty? _____
54. If you did not understand any part of this document, has your attorney advised you on such matters? _____

I affirm that I have read the foregoing 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* (no contest), and nevertheless wish to plead to the specified offense(s). I further affirm that my signature on this document is true and correct.

Defendant

Date: _____

I, _____, Esq., Attorney for the Defendant, state that I have advised my client of the contents and meaning of this document. It is my belief that my client fully comprehends the implication of pleading guilty/*nolo contendere* and is pleading guilty/*nolo contendere* of his or her own free will.

_____, Esq.
(Attorney for Defendant)

Date: _____