

IN THE COURT OF COMMON PLEAS OF THE 17TH JUDICIAL DISTRICT
SNYDER COUNTY BRANCH - CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA : NO./NOS. CP-55-CR-_____ -20__

v.

Defendant

DATE: _____
(of Guilty./Nolo Contendere plea)

| Count No. | Charge | Grade | Maximum Punishment Years | Fine | Proposed Plea or Other Disposition |
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Mandatory Sentencing Requirements, if any: (DUI, offenses committed with firearm, etc.) _____

Terms of plea agreement, if any: _____

GUILTY/NOLO CONTENDERE PLEA

You are present before this court because you or your lawyer has stated that you wish to plead guilty/nolo contendere to some or all of the criminal offenses with which you have been charged. Please answer fully all the questions on this document. If you do not understand any question, do not answer that question. If you do understand the question, you should answer "yes" or "no", or fill in another appropriate answer.

This is a sworn statement. After you have finished reading this form and filling it out, you should sign it on the last page, on the line that says "Defendant". You should also initial each page at the bottom, but only if you have read and have understood that page. If there is anything that you do not understand, you should tell your lawyer and the judge who hears your case, so that they can explain it to you fully, to make sure that you understand all your rights.

Most of these questions can be answered "yes" or "no". Where general information is requested, please answer fully.

1. What is your full name? _____
2. Has your attorney explained to you all of the elements of the crime or crimes to which you intend to plead guilty/nolo contendere? _____
3. If there is a plea agreement, do you understand that the Court is not bound by this agreement and does not have to accept it? _____
4. Do you understand that if the Court does not accept the plea agreement you may then withdraw your guilty/nolo contendere plea? _____
5. Do you fully understand the permissible range of sentences and/or fines that can be imposed for the crime or crimes charged as are set forth on page 1? _____
6. Has anybody told you, promised you, suggested to you or indicated to you in any manner what the actual sentence of the Court will be? _____
7. Do you understand that you do not have to plead guilty/nolo contendere and that you have a constitutional right to a trial by jury? _____
8. Do you understand that you may waive your right to a jury trial and with the consent of your attorney, if any, and with the approval by a judge of the court in which the case is pending, elect to be tried by a judge who would then sit as a finder of fact in place of a jury? _____
9. Do you understand that if you were to elect to go to trial that you are presumed to be innocent and that the Commonwealth must prove your guilt beyond a reasonable doubt as to each element of every crime charged? ____ _

10. Do you understand that if you were to elect to go to trial that you do not have to testify on your own behalf - you may but you don't have to. If you don't, no inference can be drawn against you? _____

11. Do you understand that if you were to go to trial you do not have to have anyone testify on your behalf - you may but you don't have to? _____

12. Do you understand that you do not have to establish or prove your innocence and that it is absolutely necessary that the Commonwealth prove your guilt beyond a reasonable doubt? _____

13. Do you understand that if you plead guilty/nolo contendere you are waiving your right to have the Commonwealth prove you guilty beyond a reasonable doubt? _____

13.1 Do you understand that a reasonable doubt means a doubt that would cause an ordinary prudent person to hesitate, or restrain him or her, from acting upon a matter of importance to his or her own affairs? _____

14. It is necessary that you understand the jury selection process. If you were to go to trial, a group of people, picked at random and representing a cross section of the citizens of Snyder County would be brought into the courtroom. They would be placed under oath; that is, they would be sworn to tell the truth. While they are under oath, you, through your attorney, would have the right to ask them certain questions, as would the district attorney. These questions would be designed to determine whether the prospective jurors could sit as fair and impartial jurors. If the answers to the questions would indicate to the Court that one or more prospective jurors could not sit as fair and impartial jurors they would be dismissed for cause. There is no limit to the number of jurors that can be dismissed for cause. In addition to this, you, through your attorney, and the district attorney would have the right to cross off, eliminate or excuse five jurors each, if the most serious charge is a misdemeanor, or seven jurors each, if the most serious charge is a felony. These are known as peremptory challenges. You do not have to give any reason to anyone as to why you dismissed these five or seven prospective jurors. The result would be that we would end with twelve jurors and two alternates who would sit and listen to the entire case. Only twelve of these jurors would then go to the jury room to deliberate on the case and determine whether the Commonwealth has proven you guilty beyond a reasonable doubt.

14.1 Do you understand the jury selection process? _____

14.2 Do you understand that you have the right to help, to aid, and to assist. Your attorney in the selection of a jury? _____

14.3 Do you understand that in order to find you guilty the jury must reach a unanimous verdict? In other words, do you understand that all twelve jurors must be convinced beyond a reasonable doubt that the Commonwealth has proven you guilty? _____

14.4 Do you understand that if you plead guilty/nolo contendere you are Waiving your right to a trial by jury? ____ _

14.5 Do you understand that if you plead guilty/nolo contendere you are waiving your right, subject to the consent of your attorney, if any, and the judge, to be tried by a judge who would be sitting as a fact finder in place of a jury? _____

15. Do you understand that if you plead guilty/nolo contendere you are waiving your right to present any defenses that either you or your attorney may think that you have to the crime or crimes charged? _____

16. Do you understand that by pleading guilty/nolo contendere you are waiving your right to file any pre- or post-trial motions and waiving any such motions already filed?

17. Do you understand that if you would elect to go to trial the Commonwealth would call certain witnesses to testify against you and that you have a right to confront and cross-examine these witnesses? _____

18. Do you understand that if you plead guilty/nolo contendere you are waiving your right to confront and cross-examine the witnesses that the Commonwealth would call to testify against you? _____

19. Do you understand that if you plead guilty/nolo contendere you are waiving your right to object to anything that you think was improper or illegal in your apprehension and arrest, or in the investigation and prosecution of the charges against you? _____

20. There are certain rights you are not waiving if you plead guilty/nolo contendere. First, you have a right to file a motion to withdraw your plea. This motion must be filed prior to sentencing. If you were to file such a motion this would present two issues or questions to the Court. The first is: do you have a fair and just reason to withdraw your plea? The second is: if the Court were to allow you to withdraw your plea, would this result in substantial prejudice to the Commonwealth? If the Court were to determine both questions in your favor; that is, if the Court were to find that you did have a fair and just reason to withdraw your plea and that it would not result in substantial prejudice to the Commonwealth, then the Court would allow you to withdraw your plea; otherwise, the Court would not allow you to withdraw your plea.

20.1 Do you understand that you have the right to file a motion to withdraw your plea prior to sentencing? _____

20.2 Do you understand the issues or questions that this would present to the Court? _____

21. There are certain rights that you do not waive even after sentencing. You have the right to file a motion to modify or to question the propriety of your sentence within 10 days after the date of sentencing. You have the right to appeal your conviction to the Superior Court within 30 days after the date of sentencing. The appeal of guilty/nolo contendere plea is limited to four grounds. They are: (a) that your guilty/nolo contendere plea was not a knowing, understanding, intelligent and voluntary act, (b) that the Court did not have jurisdiction to accept your plea (in other words the crime or crimes for which you are pleading guilty/nolo contendere did not occur in _____ County), (c) that the sentence was improper or illegal and (d) that your attorney was not competent. Do you understand these four areas of appeal, what they mean and the fact that they are not waived?

22. Whose decision is it to plead guilty/nolo contendere? _____

23. Why do you wish to plead guilty/nolo contendere? _____

24. What is the name of your attorney? _____

25. Have you thoroughly discussed with your attorney all of the facts and circumstances surrounding the filing of the charges against you? _____

26. Are you satisfied with the representation and advice of your attorney? _____

27. Have you used any alcoholic beverages or drugs of any nature, including prescription drugs, within the last 24 hours? _____

28. If the answer to number 27 is yes, is the use of such alcoholic beverages or drugs affecting your ability to make decisions or to understand what you are now doing? _____

29. How old are you? _____

30. How far did you go in school? ____ _

31. Can you read, write and understand the English language? ____ _

32. If the answer to number 31 is no, has this written guilty/nolo contendere plea colloquy been read to you in a manner that enables you to understand fully all of the statements, questions and answers? ____ _

33. Are you presently under treatment for any mental or emotional disability? _____

34. To your knowledge, are you now suffering from any mental or emotional disability?

35. Has anybody made any promises to you, threatened you in any manner or done or said anything that would induce you or put pressure on you to plead guilty/nolo contendere? _____

36. Is your guilty/nolo contendere plea being given freely and voluntarily without any force, threats, pressure or intimidation? ____ _

37. Has your attorney fully explained to you the meaning of all the terms of this document? _____

38. If you are now on probation or parole do you realize that your guilty/nolo contendere plea will mean a violation of that probation or parole and that you could be sentenced to prison as a result of the violation caused by your guilty/nolo contendere plea today? _____

39. Do you understand that the decision to enter a guilty/nolo contendere plea is yours and yours alone; that you do not have to enter a guilty/nolo contendere plea and give up all your rights as previously explained to you; and that no one can force you to enter a guilty/nolo contendere plea? _____

40. Do you realize you have a right to plead not guilty as well as guilty/nolo contendere? _____

41. Do you completely understand all the instructions, terms, provisions, questions and answers of this written plea colloquy form? _____

I swear or affirm that I have read this entire document and, that I understand its full meaning, and I still, nevertheless, want to enter a plea of guilty/nolo contendere to the offense or offenses specified.

Date

Defendant

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SNYDER COUNTY BRANCH - CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA : NO./NOS. CP-55-CR-_____-20____
:
vi. :
:
:
_____, :
Defendant :

ATTORNEY'S CERTIFICATION

I, _____, am the defense attorney for _____
_____, who has expressed a desire to enter a plea of guilty or nolo contendere
to one or more of the charges hereinabove set forth and do hereby certify that:

1. I have thoroughly explained each paragraph of each page of the written guilty/nolo contendere plea colloquy to the defendant.
2. I believe that the defendant understands the entire written guilty/nolo contendere plea colloquy.
3. I have thoroughly discussed all of the facts and circumstances surrounding the filing of the charges against the defendant.
4. I have thoroughly explained each element of each crime to which the defendant has expressed a desire to enter a plea of guilty or nolo contendere.
5. I have thoroughly explained to the defendant all the common law, statutory, and constitutional rights that the defendant will be waiving if he pleads guilty or nolo contendere.
6. I believe that the defendant understands:
 - a. Each element of all crimes to which the defendant has expressed a desire to enter a guilty/nolo contendere plea, and
 - b. All the common law, statutory and constitutional rights that the defendant would be waiving if he pleads guilty/nolo contendere.
7. If the defendant enters a plea of guilty or nolo contendere, I know of no reason why such a plea would not be made as a knowing, understanding, intelligent and voluntary act.
8. Other than the rights that have been waived in this written guilty/nolo contendere plea colloquy, I know of no other common law, statutory, or constitutional right that must be waived by the defendant in order to make his or her plea valid and binding.
9. If the offered plea is that of nolo contendere, I have fully explained the consequences and effect of the plea of nolo contendere to the defendant, and in particular, I have explained to the defendant that by entering a plea of nolo contendere he or she is accepting a verdict of guilty to the crime or crimes hereinabove set forth.

Date

Name