

IN THE COURT OF COMMON PLEAS OF THE 17<sup>TH</sup> JUDICIAL DISTRICT

\_\_\_\_\_ COUNTY BRANCH – CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA : NO. CP-\_\_\_\_-CR-\_\_\_\_\_-20\_\_\_\_

v. :

\_\_\_\_\_ : DATE: \_\_\_\_\_

Defendant (of Guilty/Nolo Contendere Plea)

Count No.	Charge	Grade	Maximum Punishment		Proposed Plea
			Years	Fine	Other Disposition

Mandatory Sentencing Requirements, if any: (DUI, offenses committed with firearm, etc.)

\_\_\_\_\_  
\_\_\_\_\_

Terms of plea agreement, if any: \_\_\_\_\_

\_\_\_\_\_

Initial: \_\_\_\_\_

## GUILTY/NOLO CONTENDERE PLEA

You are present before this Court because you or your lawyer have 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 of 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/or 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. Do you understand all 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 judge is not bound by this agreement and does not have to accept it? \_\_\_\_\_
4. Do you understand that if the judge does not accept the plea agreement that you may then withdraw your plea of guilty/nolo contendere? \_\_\_\_\_
5. Do you fully understand the permissible range of sentences and/or fines that can be imposed for the crime/crimes to which you are pleading guilty/nolo contendere? \_\_\_\_\_
6. Has anybody told you, promised you, or suggested to you in any manner what the actual sentence of the judge 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 have your case tried before a judge who would then decide whether you are guilty or not guilty? \_\_\_\_\_

Initial: \_\_\_\_\_

9. Do you understand that if you were to choose to go to trial that you are presumed to be innocent and that the Commonwealth must prove your guilt beyond a reasonable doubt to each element of every crime charged? \_\_\_\_\_

10. Do you understand that: (a) If you choose to go to trial, you do not have to testify – you may tell your side of the story, but you do not have to; (b) If you choose not to testify, the jury and/or the judge cannot hold that against you, and they may not consider that in any way in reaching a verdict? \_\_\_\_\_

11. Do you understand that if you were to go to trial, you do not have to present any evidence and/or have anyone testify on your behalf? You may but do not have to, and the judge and/or jury cannot hold it against you if you do not. \_\_\_\_\_

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

13. Do you understand that: \_\_\_\_\_

a. if you plead guilty/nolo contendere, you are waiving or giving up your right to have the Commonwealth prove your guilt beyond a reasonable doubt? \_\_\_\_\_

b. although the Commonwealth has the burden of proving that you are guilty, this does not mean that the Commonwealth must prove its case beyond all doubt and to a mathematical certainty, nor must it demonstrate the complete impossibility of innocence? \_\_\_\_\_

c. a reasonable doubt is a doubt that would cause a reasonably careful and sensible person to hesitate before acting upon a matter of importance in his or her own affairs. A reasonable doubt must fairly arise out of evidence that was presented or out of the lack of evidence presented with respect to some element of the crime. A reasonable doubt must be a real doubt; it may not be an imagined one, nor may it be a doubt manufactured to avoid carrying out an unpleasant duty. \_\_\_\_\_

**Do you understand what guilt beyond a reasonable doubt means?** \_\_\_\_\_

14. Do you understand that if you plead guilty/nolo contendere, you are waiving or giving up your right to present any defenses that either you or your attorney may think that you have to the crime or crimes charged? \_\_\_\_\_

Initial: \_\_\_\_\_

15. a. Do you understand that by pleading guilty/nolo contendere, you are waiving or giving up your right to file any pre-trial motions and waiving any such motions already filed? \_\_\_\_\_

b. Do you understand that you are giving up your right to appeal any adverse decisions on any motions already heard by the court? \_\_\_\_\_

16. 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 citizens of Union 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 Commonwealth's attorney. These questions would be designed to determine whether the prospective jurors could be fair and impartial. If the answers to the questions would indicate to the Judge that the prospective juror/jurors could not be fair and impartial, 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 Commonwealth's attorney would each have the right to cross off or eliminate five (5) jurors if the most serious charge is a Misdemeanor, or seven (7) 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 prospective jurors. The end result would be twelve (12) jurors and two (2) alternates who would sit and listen to the entire case. Only twelve (12) 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.

a. Do you understand the jury selection process? \_\_\_\_\_

b. Do you understand that you have a right to help and to assist your attorney in selecting a jury? \_\_\_\_\_

c. 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 (12) jurors must be convinced beyond a reasonable doubt that the Commonwealth has proved you guilty? \_\_\_\_\_

d. Do you understand that if you plead guilty/nolo contendere, you are waiving or giving up your right to a trial by jury? \_\_\_\_\_

e. Do you understand that if you plead guilty/nolo contendere, you are waiving or giving up your right to be tried by a judge who would decide your guilt or innocence? \_\_\_\_\_

Initial: \_\_\_\_\_

17. Do you understand that if you choose 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 or giving up 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 giving up your right to object to anything that you think was improper or illegal in your apprehension and arrest, or in the investigation, and the prosecution of the charges against you? \_\_\_\_\_

20. There are certain rights that you do not waive even after sentencing. You have a right to appeal your conviction to the Superior Court within thirty (30) days after the date of sentencing. The appeal of a guilty plea is limited to four (4) grounds. They are:

- a. That your guilty/nolo plea was not a knowing, understanding and voluntary act;
- b. That the Court did not have jurisdiction to accept your plea (in other words, the crime or crimes for which are you pleading guilty did not occur in \_\_\_\_\_ County);
- c. That the sentence was improper or in excess of a plea agreement or illegal; and
- d. That your attorney gave you ineffective assistance of counsel.

**Do you understand these four (4) areas of appeal, what they mean, and the fact that they are not waived?** \_\_\_\_\_

21. Whose decision is it to plead guilty/nolo contendere? \_\_\_\_\_

22. Why do you wish to plead guilty/nolo contendere? \_\_\_\_\_

23. What is the name of your attorney? \_\_\_\_\_

24. Have you thoroughly discussed with your attorney all of the facts and circumstances surrounding the charges against you? \_\_\_\_\_

25. Are you satisfied with the representation and advice of your attorney? \_\_\_\_\_

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

Initial: \_\_\_\_\_

27. If the answer to question number 26 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? \_\_\_\_\_
28. What is your age? \_\_\_\_\_
29. How many years of school did you complete? \_\_\_\_\_
30. Can you read, write and understand the English language? \_\_\_\_\_
31. If the answer to question number 30 is no, has this written guilty plea colloquy been read to you in a manner that enables you to fully understand all of the statements, questions and answers? \_\_\_\_\_
32. Are you presently under treatment for any mental or emotional problems? \_\_\_\_\_
33. To your knowledge, are you now suffering from any mental or emotional problems? \_\_\_\_\_
34. Has anybody made any promises to you (other than those in the plea agreement), threatened you in any manner, or done or said anything that would force you or put pressure on you to plead guilty/nolo contendere? \_\_\_\_\_
35. Is your plea of guilty/nolo contendere being given freely and voluntarily without any force, threats, pressure or intimidation? \_\_\_\_\_
36. Has your attorney fully explained to you the meaning of all the terms of this document? \_\_\_\_\_
37. If you are now or in the future placed on probation or parole, do you realize that your plea of guilty/nolo contendere could mean a violation of that probation or parole, and you could be sentenced to prison as a result of the violation caused by your guilty plea today? \_\_\_\_\_
38. If you are not a United States citizen, do you understand that a plea of guilty/nolo contendere may affect your ability to live in the United States? \_\_\_\_\_
39. Do you understand that the decision to enter a guilty plea is yours and yours alone, that you do not have to enter a plea of guilty and give up all your rights as previously explained to you, and that no one can force you to enter a guilty plea? \_\_\_\_\_
40. Do you realize that you have a right to plead not guilty as well as guilty? \_\_\_\_\_
41. Do you completely understand all the instructions, terms, provisions, questions and answers of this written guilty plea colloquy form? \_\_\_\_\_

Initial: \_\_\_\_\_

I swear and affirm that I have read this entire document or it was read to me and 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

Initial: \_\_\_\_\_

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v. :

\_\_\_\_\_ : DATE: \_\_\_\_\_

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 or she 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 or she 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 if 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

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Attorney No. (if applicable): \_\_\_\_\_