

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :
 :
 -vs.- : NO.
 :
 _____ :
 Defendant :

NOLO CONTENDERE COLLOQUY

You are present before this Court because you or your lawyer have stated that you wish to plead 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 explanations given to you on this document, say so by putting the word “no” in the blank provided after the questions. If you do understand the questions, you should write in the word “yes”. None of the lines should be left blank.

After you have finished reading this 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 say so in writing on this form. You should also tell your lawyer and the Judge who hears your case, so that they can explain it to you fully, to make sure you understand all your rights.

Most of these questions are designed to be answered “yes” or “no”. Where general information is asked for, however, please answer fully.

1. What is your full name? _____
2. Are you known by any other name or alias? _____
3. If the answer to Number 2 is “yes,” state the other names or aliases.

4. What is your date of birth? _____
5. What was the last grade completed in school? _____
6. Can you read, write and understand the English language? _____
7. As you appear before the Court today to enter a plea of Nolo Contendere, are you under the influence of alcohol or any kind of drugs? _____

8. Have you ever been a patient in a mental institution or have you ever been treated for a mental illness? _____
9. If the answer to Number 8 is “yes”, please explain the details.

10. Are you currently being treated for a mental illness? _____
11. If the answer to Number 10 is “yes”, explain the details. _____

12. If you are presently being treated for a mental illness, do you feel that you have sufficient mental capacity to understand what you are doing today, and to understand these questions and answer them correctly?

13. Do you understand that you are here today to enter a plea of Nolo Contendere to some or all of the charges against you? _____
14. Do you understand the nature of the offenses to which you are pleading Nolo Contendere? _____
15. Has your lawyer explained to you the elements of the criminal offenses to which you are pleading? _____
16. Do you understand that by entering a plea of nolo contendere the Court will accept the facts concerning this case as presented by the Commonwealth during the nolo contendere proceeding as being the facts of this case? _____
17. Do you understand that you have a right to a trial by jury? _____
18. Do you understand that the right to trial by jury means that you can participate in the selection of a jury with your attorney; that the jury is randomly selected from the voter registration list of Carbon County and a cross-section of the citizens of Carbon County, and that the jury has to agree unanimously on your guilt before you can be convicted of the offenses with which you are charged? _____
19. Do you understand that you are presumed innocent until found guilty? In other words, do you understand that the Commonwealth must prove your guilt beyond a reasonable doubt before you can be convicted of the offenses charged? _____

20. Do you understand that the Commonwealth has the burden of proving you guilty beyond a reasonable doubt, which means you can remain silent and nothing can be held against you for refusing to testify in your own defense? _____
21. Do you understand that you have a right to confront and cross-examine all Commonwealth witnesses in your case who are necessary to prove your guilt? _____
22. Do you understand that by pleading Nolo Contendere you are waiving that right of confrontation and cross-examination? _____
23. Do you realize that by pleading Nolo Contendere you are giving up your right to present any pre-trial motions for consideration to this or a higher Court in the event those motions are denied? _____
24. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and raise any errors that were committed in the trial Court, and that this could result in your being awarded a new trial or discharged, and that by pleading Nolo Contendere you are giving up this right? _____
25. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and you could also challenge whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? _____
26. Are you aware that the Court is not bound by the terms of any plea agreement entered into between you, your counsel and the Attorney for the Commonwealth, until the Court accepts such plea agreement?

27. Do you understand that the Court is not a party to any agreement or recommendation made by the parties and that any recommendation and/or stipulation regarding sentence is not binding on the Court and you knowingly waive the right to withdraw this plea if the Court does not concur in the recommended sentence? _____
28. Are you aware of the permissible range of sentence and/or fines that can be imposed for the offenses to which you are pleading Nolo Contendere?

29. Are you aware of the maximum sentence and/or fine which the Court could impose upon you for each of the offenses to which you are pleading Nolo Contendere? _____

30. Do you understand that any sentence imposed upon you for any of the offenses to which you are pleading Nolo Contendere can be imposed consecutively to either (a) any sentence imposed upon you for any other offense for which you are pleading Nolo Contendere in this case; or (b) any sentence imposed upon you in any other case? _____
31. Do you understand that “consecutive” sentences means that one sentence will follow after another and that “consecutive” sentences do not run at the same time? _____
32. Do you understand that the aggregate maximum sentence you could receive if you are pleading Nolo Contendere to multiple offenses is the total of all maximum sentences for all the offenses added together?

33. Do you understand that you have a right to have witnesses present at your Nolo Contendere plea hearing to testify for you? Are you willing to give up that right and have the Attorney for the Commonwealth summarize the facts against you? _____
34. After you enter your Nolo Contendere plea and it is accepted by the Court, you still have a right to appeal your conviction. The appeal from a Nolo Contendere plea is limited, however, to four grounds. They are:
- (a) that your Nolo Contendere plea was not knowing, intelligent and voluntary;
 - (b) that the Court did not have jurisdiction to accept your plea (in other words, the offenses for which you are pleading Nolo Contendere did not occur in Carbon County);
 - (c) that the Court’s sentence is beyond the maximum penalty authorized by law; and
 - (d) that your attorney was incompetent in representing you and advising you to enter a plea of Nolo Contendere

Do you understand these four areas of appeal and what they mean? _____

In order to appeal your conviction by a plea of Nolo Contendere, you must within ten (10) days file a written motion to withdraw your Nolo Contendere plea and state any of the four above grounds as the basis for your petition to withdraw your Nolo Contendere plea. This must be done within ten (10) days from the date you are sentenced. If you cannot afford a lawyer to represent you or you are contending that your attorney, who represented you at your Nolo Contendere plea, was incompetent, you have the right

to have other counsel appointed for you to raise those four claims. If your petition to withdraw your Nolo Contendere plea is denied, you then have thirty (30) days to file an appeal from that denial with the Superior Court of Pennsylvania.

If you do not file your petition within ten (10) days of your sentence or do not file a Notice of Appeal to the Superior Court within thirty (30) days after your petition to withdraw your Nolo Contendere plea is denied, you give up your right to ever complain again of any of those four areas, including incompetent counsel.

Do you understand the meaning of the various appeal rights that have just been explained to you? _____

- 35. Has anybody forced you to enter this plea of Nolo Contendere?_____
- 36. Are you doing this of your own free will? _____
- 37. Have any threats been made to you to enter a plea of Nolo Contendere?_____
- 38. Have any promises been made to you to enter a plea of Nolo Contendere other than any plea agreement that has been negotiated for you by your attorney? _____
- 39. Do you understand that the decision to enter a plea of Nolo Contendere is yours and yours alone; that you do not have to enter a plea of Nolo Contendere and give up all your rights, as previously explained to you and that no one can force you to enter a Nolo Contendere plea?

- 40. Do you understand that if your plea is accepted by this Honorable Court, you would have the right to have a Pre-Sentence Report prepared on your behalf to aid the Judge in determining the appropriate sentence to be imposed upon you? Since this is a plea bargain, are you willing to waive the preparation of the pre-sentence investigation? _____ (if applicable)
- 41. Are you presently on probation or parole?_____
- 42. If you are on probation or parole, do you realize that your plea of Nolo Contendere will mean a violation of that probation or parole and you can be sentenced to prison as a result of that violation caused by your Nolo Contendere plea today? _____
- 43. Are you satisfied with the representation of your attorney?

44. Have you had ample opportunity to consult with your attorney before reading this document and entering your plea of Nolo Contendere?

45. Has your attorney gone over with you the meaning of the terms in this document? _____

If you are convicted of a misdemeanor crime involving violence where you are or were a spouse, intimate partner, parent or guardian of the victim, or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. §922 (g)(8) and/or state tribal, territorial or local law. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.

I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of Nolo Contendere 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 he/she comprehends and understands what is set forth above; that I am prepared to try this case; and that the defendant understands what he/she is doing by pleading Nolo Contendere. I further state that I have related and explained to the defendant all plea offers, both oral and written, communicated to me by the District Attorney's Office.

Date: _____
_____ Attorney for the Defendant