

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA

CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

vs.

NO.

INSTRUCTIONS

1. Use this form: (a) for all sentences based on a plea agreement where the negotiated sentence is probation or a jail sentence to be served in the Lancaster County Prison; (b) for open guilty pleas where the grading of the offense(s) on which sentence will be imposed rises no higher than a felony of the third degree; (c) for Section 17 dispositions (35 P.S. §780-117 under the Controlled Substance, Drug, Device, and Cosmetic Act; and (d) for any other guilty plea where the presiding judge permits use of this form in lieu of a more extensive written guilty plea colloquy.
2. The Court will explain the elements of the offense(s) to which you are pleading guilty.
3. Complete the answer to each question.
4. Sign and date the form on the back of page.

GUILTY PLEA COLLOQUY

You are present before this Court because you and your lawyer have stated that you wish to plead guilty to some or all of the criminal offenses with which you have been charged.

1. Can you read, write, speak and understand the English language? _____
2. Are you in any way under the influence of alcohol or drugs? _____
3. Do you understand that you are here today to enter a plea of guilty to some or all of the criminal charges against you? _____
4. Are you a citizen of the United States of America? _____
5. If you are not a citizen of the United States of America, do you understand that there may be immigration consequences as a result of your guilty plea? _____
6. Do you understand that you have a right to a trial by jury, and that by pleading guilty you are giving up that right? _____
7. Do you understand that a jury would consist of 12 citizens from Lancaster County, that you and your attorney would participate in the selection of the jury, and that, in order to convict you, all 12 members of the jury must agree that you are guilty? _____
8. Do you understand that you are presumed innocent until proven guilty by the Commonwealth of Pennsylvania beyond a reasonable doubt? _____
9. Do you understand that the Commonwealth of Pennsylvania must prove each element of each crime beyond a reasonable doubt? _____

10. Do you understand that the maximum sentences you are facing are as follows? _____

<u>CHARGE & GRADING</u>	<u>MAXIMUM INCARCERATION</u>	<u>MAXIMUM FINE</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attach additional sheet if necessary

11. If a judge imposed the maximum sentence and all sentences were consecutive, do you understand that the possible sentence you could receive on the charges described above at Paragraph 10 would be a total fine of \$ _____ and a total jail sentence of _____ (years/months)? _____

12. Have you and your attorney reviewed the "Sentencing Guidelines Worksheet" prepared by the District Attorney? _____

13. Have you, your lawyer and the District Attorney entered into any negotiated plea agreement? _____

14. If the answer to 11 is "yes," do you understand that the judge can reject the plea agreement? _____

15. If the judge rejects the plea agreement, do you understand that you will be permitted to withdraw your guilty plea, and you will be in the same position as if no agreement had ever taken place? _____

16. Do you understand the terms of the plea agreement? _____

17. If there is no plea agreement, do you understand that it is the judge who will determine your sentence? _____

18. Is it your decision to plead guilty? _____

19. Have you been threatened or forced to plead guilty? _____

20. Have any promises been made to you to enter a plea of guilty other than the terms of any plea agreement? _____

21. Do you understand that a guilty plea has the same effect as a conviction by a jury or by a judge hearing the without a jury? _____

I AM VOLUNTARILY PLEADING GUILTY AND SIGNING THIS GUILTY PLEA COLLOQUY.

Dated: _____

DEFENDANT

I HAVE REVIEWED THIS GUILTY PLEA COLLOQUY AND THE ANSWERS WITH MY CLIENT.

ATTORNEY FOR DEFENDANT

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA

CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :

vs. :

No. :

Defendant's Acknowledgment of Post Sentence Procedures Following Guilty Plea:

I. Post Sentence Motion addressed to the sentencing court.

It is not necessary to first file a Post Sentence Motion with the sentencing court in order to be able to appeal to a higher court. However, you have the right to file such a motion if you choose to do so. If you do file a Post Sentencing Motion with the sentencing court, the following provisions apply:

- (a) A Post Sentence Motion must be in writing.
- (b) A Post Sentence Motion must be filed with the Clerk of Courts for Lancaster County within ten (10) days of sentencing.
- (c) A Post Sentence Motion must state "with specificity and particularity" the relief requested which could include a motion challenging the validity of a guilty or nolo contendere plea, a motion challenging the denial of a motion to withdraw a plea of guilty or of nolo contendere, a motion to modify sentence, a motion challenging the legality of the sentence, a motion challenging the jurisdiction of court.
- (d) If you financially qualify, a Post Sentence Motion may be filed without payment of costs (In Forma Pauperis). If you cannot afford counsel, one will be appointed to represent you at no cost.
- (e) If a Post Sentence Motion is filed, the sentencing court must render a decision on the motion within 120 days (unless that deadline is extended by the Court for a maximum of 30 additional days on request of the defendant and for good cause). If the decision on a Post Sentence Motion is not rendered within this time period, the Post Sentence Motion will automatically be denied and the sole potential remedy would be through appeal to a higher court.

- (f) If a maximum sentence is 2 years or longer, the filing of a Post Sentence Motion will ordinarily not delay commencement of sentence, although the judge does have discretion to allow bail pending appeal to a higher court. If the maximum sentence imposed is less than 2 years, the defendant has the same right to bail as before verdict pending the outcome of any Post Sentence Motion or appeal to a higher court.
- (g) If you wish to appeal the discretionary aspects of your sentence, a Post Sentence Motion must be filed within ten (10) days. Failure to file a Post Sentence Motion will result in waiver of any discretionary sentencing claims.

II. Appeal to a Higher Court.

- (a) Appeals to a higher court following the imposition of a sentence are taken to the Pennsylvania Superior Court (except in capital cases where the appeal is taken directly to the Pennsylvania Supreme Court). The appeal is initiated by the filing of a Notice of Appeal with the Clerk of Courts at the Lancaster County Courthouse, with notice to the trial judge, the court reporter and the prosecutor.
- (b) If a Post Sentence Motion was filed, the appeal to the higher court cannot commence until disposition of the Post Sentence Motion. The disposition of the Post Sentence Motion occurs when the trial judge rules on the motion, or when the motion has been automatically denied because the trial judge did not rule on the motion within the time limits described above. The Notice of Appeal must be filed within thirty (30) days of the disposition of post trial motions.
- (c) If no Post Sentence Motion was filed, the Notice of Appeal must be filed within thirty (30) days of the date of sentencing.
- (d) Issues which can be raised on appeal include: the denial by the sentencing court of a motion to withdraw a plea of guilty or of no contest, a motion to modify sentence, a challenge to the legality of the sentence or to the jurisdiction of the court.
- (e) It is not necessary that issues raised on appeal be actually raised in a Post Sentence Motion, so long as they were preserved by motion or objection before or during the

sentencing hearing; however, challenges to the legality of the sentence or jurisdiction of the court can be raised at any time.

- (f) If you financially qualify, an appeal may be filed without the payment of costs (In Forma Pauperis), and there is the same right to assigned counsel as existed through sentencing.
- (g) If the maximum sentence is 2 years or longer, the filing of an appeal to a higher court will ordinarily not delay the commencement of sentence, although the court does have discretion to allow bail pending appeal to a higher court. If the maximum sentence imposed is less than 2 years, the defendant has the same right to bail as before verdict pending the outcome of any appeal to a higher court.

I acknowledge receiving a copy of the above document consisting of three (3) pages and have read and understand it.

_____ (Defendant) _____ (Date)

I have reviewed the above procedures with my client and believe that he/she understands these post sentence rights and procedures.

_____ (Attorney for Defendant) _____ (Date)