

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(Criminal Division)

COMMONWEALTH OF PENNSYLVANIA

V.

Date of Plea Agreement: _____

Magistrate Docket No.: _____

OTN No.:

Criminal Docket No.:

MENT AND SILENT BLINDNESS

NEGOTIATED PLEA AGREEMENT AND GUILTY PLEA COLLOQUY

The Office of the District Attorney of Clearfield County and the above captioned Defendant have negotiated a plea agreement in the above captioned matter(s), the terms of which are as follows:

[] The Defendant to plead guilty to the following charge(s):

Complaint/

Information

[] The Defendant to receive a period of PROBATION. Maximum to the Court. Fines, Costs, Restitution, all other terms to the Court.

[] The Defendant to receive a MINIMUM PERIOD of _____ INCARCERATION. Maximum to the Court. Fines, Costs, Restitution, all other terms to the Court.

[] The Defendant to receive _____ if restitution is paid prior to sentencing.
If restitution is not paid prior to sentencing, the Defendant to receive a MINIMUM PERIOD of _____ INCARCERATION. Maximum to the Court Fines, Costs, Restitution, all other terms to the Court.

[] The Commonwealth will not object to any program the Court is willing to apply at the time of sentencing.

[] The Commonwealth to remain silent / not opposed as to place of incarceration.

[] The Commonwealth to remain silent / not opposed as to consecutive or concurrent.

[] Other:

NOTICE

1. Submission of this Plea Agreement to the Court is subject to the approval of the District Attorney of Clearfield County.
2. If approved by the District Attorney, this Plea Agreement shall be filed of record and submitted to the Court.
3. If not approved by the District Attorney, this Plea Agreement shall not be filed of record or submitted to the Court.
4. If not approved by the District Attorney, your case shall be placed on the trial list and you retain the absolute right to proceed to trial.
5. If not approved by the District Attorney, you shall receive written notice of the disapproval within 10 days from the Date of Plea Agreement.
6. By signing below, you request that this Plea Agreement be submitted to the District Attorney for approval and submission to the Court.

Assistant District Attorney

Defendant

Arresting Officer

Defendant's Attorney

DISTRICT ATTORNEY APPROVAL

[] This Plea Agreement is APPROVED. File this Plea Agreement with the Clerk of Courts and present to the Court for acceptance.

[] This Plea Agreement is NOT APPROVED. Do not file his Plea Agreement with the Clerk of Courts. Place this case on the trial list.

Ryan P. Sayers
District Attorney

GUILTY PLEA COLLOQUY

If approved by the District Attorney, the Plea Agreement set forth above shall be presented to the Court for acceptance. Prior to acceptance of the Plea Agreement, it is essential that you understand certain rights and that the Court make a determination that you are entering into the Plea Agreement knowingly, voluntarily, and intelligently. The following Guilty Plea Colloquy shall be used by the Court to help make this determination.

Directions:

1. Read each question carefully.
2. Provide the appropriate answer when required to do so.
3. Circle the appropriate response when required to do so.
4. If you don't understand any of the questions, STOP, and ask your attorney or an attorney for the Commonwealth.
5. You MUST place your initials at the bottom of each page.

01. What is your full name? _____

02. How old are you today? _____

03. How far did you go in school? GED / High School Graduate / College Graduate / Other _____

04. Can you read, write, and understand the English language? _____ YES / NO _____

05. If your answer to question 4 is "No", who is helping you with this form? _____

06. YES / NO Do you understand that you have the right to be represented by an attorney of your choice, and if you are unable to afford an attorney you may apply to have a Public Defender represent you?

07. YES / NO Do you understand that you have the right to proceed without the assistance of an attorney and if you elect to proceed without an attorney you will be held to the same standard as an attorney?

08. YES / NO Do you understand the nature of the charges to which you are pleading guilty?

09. YES / NO Has your attorney or an attorney for the Commonwealth explained to you the factual basis for the charges to which you are pleading guilty?

10. YES / NO Do you understand the factual basis for the charges to which you are pleading guilty?

11. YES / NO Has your attorney or an attorney for the Commonwealth explained to you the elements of each charge, in understandable terms, to which you are pleading guilty?

12. YES / NO Do you understand the elements of each charge to which you are pleading guilty?

13. YES / NO Do you understand that you have the right to have your case heard by a Judge without a jury, wherein the Judge would be the sole fact finder and determine your guilt or innocence?

14. YES / NO Do you understand that you have the right to have a trial by jury in this case?

15. YES / NO Do you understand that if you desire a trial by jury you will participate in the selection of your jury along with your attorney and with the District Attorney assigned to prosecute your case?

16. YES / NO Do you understand that in a trial by judge or trial by jury it is the burden of the Commonwealth to prove you guilty beyond a reasonable doubt?

17. YES / NO Do you understand that to prove you guilty beyond a reasonable doubt, the Commonwealth must prove each and every element of the crime or crimes charged beyond a reasonable doubt?

18. YES / NO Do you understand that all 12 jurors selected to hear your case must all agree and vote to find you guilty?

19. YES / NO Do you understand that at trial you have the right to remain silent and refuse to testify and that if you elect not to testify your refusal shall not prejudice you in any way and cannot be used against you by a judge or by the jury in making a decision?

20. YES / NO Do you understand that you are presumed innocent of the charges filed against you and you shall not lose that presumption unless the Commonwealth establishes your guilt beyond a reasonable doubt?

21. YES / NO Do you understand the maximum penalty that you could receive for each charge to which you are pleading guilty, as set forth on the Plea Agreement?

22. YES / NO Do you understand the permissible range of sentences and/or fines that may be imposed for each charge to which you are pleading guilty, as set forth on the Plea Agreement?

23. YES / NO Do you understand that any sentence imposed for multiple charges could run consecutively at the discretion of the Sentencing Judge?

24. YES / NO Do you understand that it is solely within the discretion of the Sentencing Judge whether the sentence imposed as a result of this plea agreement will be run consecutively or concurrently to any sentence you are presently serving?

25. YES / NO Do you understand the maximum possible period of incarceration and fine(s) that you could receive, as set forth on the Plea Agreement, if the charge(s) to which you are pleading guilty do not merge for the purpose of sentencing and the Judge imposes a consecutive sentence?

26. YES / NO Has your attorney or an attorney for the Commonwealth explained to you the maximum possible sentence(s) that you could receive pursuant to this Plea Agreement if the charge(s) to which you are pleading guilty do not merge for sentencing purposes and the Judge imposes a consecutive sentence for each charge?

27. YES / NO Do you understand that the place of incarceration, either county jail or state prison, is solely within the discretion of the Sentencing Judge and that you are given no guarantees as to the place of incarceration?

28. YES / NO Do you understand that the Judge is not bound by the terms of the Plea Agreement until and unless the Judge accepts the Plea Agreement?

29. YES / NO Do you understand that if the Judge refuses to accept the Plea Agreement you will be permitted to withdraw your guilty plea, and proceed to trial?

30. YES / NO Do you understand that this Plea Agreement may result in the revocation of any Probation, Parole or ARD program you may currently be subject to?

31. YES / NO Do you understand that this Plea Agreement may result in the loss of Driver's License, the ability to possess firearms, or the possibility of any professional license suspensions or other civil ramifications?

32. YES / NO Do you understand that you have the absolute right not to enter a Plea Agreement and to proceed with a trial by Judge or a trial by jury?

33. YES / NO Do you understand that if you elect to proceed with a trial by Judge or a trial by jury you have the absolute right if you so desire to testify on your own behalf and you have the absolute right to present any relevant evidence which would help to prove your innocence and you would have the absolute right either yourself or through your attorney to cross-examine or question any witness(es) presented by the Commonwealth in order to test their credibility and truthfulness?

34. YES / NO Do you understand that if you elect to proceed with a trial by Judge or a trial by jury you have the absolute right to file certain Pre-Trial Motions, including Motions for Discovery (requiring the Commonwealth to show you what evidence exists to establish your guilt or innocence), Motions to Suppress Evidence (where you can challenge the admissibility of evidence the Commonwealth may use against you), and Motions to Quash (where you can challenge the legality of your arrest and the proceedings against you)?

35. YES / NO Do you understand that by entering into this Plea Agreement you are waiving your right to have a trial and therefore, you are giving up those rights set forth in questions 33 and 34 above?

36. YES / NO Do you understand that by pleading guilty, you are admitting that you committed the crimes to which you are pleading guilty to?

37. YES / NO Do you understand that by pleading guilty you are giving up certain rights to appeal that you would have if you were found guilty either by a Judge or by a jury?

38. YES / NO Do you understand that by pleading guilty any appeal you may wish to pursue is limited to the following claims:
a. That the Court did not have jurisdiction.
b. That your plea was not knowingly, intelligently, and voluntarily entered into.
c. That the sentence imposed was illegal.
d. That your attorney was incompetent or ineffective.

39. YES / NO Do you understand that by pleading guilty you will be required to pay restitution (if any), the cost of prosecution, fees, fines, and other similar penalties allowed by law?

40. YES / NO Are you entering this Plea Agreement on your own free will?

41. YES / NO If you are represented by an attorney, are you satisfied with the representation you have received, and if you are not represented by an attorney, are you satisfied proceeding without an attorney?

42. YES / NO If you are not represented by an attorney have you had a sufficient time to consult with an attorney or otherwise consider the terms of this Plea Agreement?

43. YES / NO Do you admit that you committed the crimes to which you are pleading guilty?

44. YES / NO Do you agree that the facts set forth in the Criminal Complaint and Affidavit of Probable cause filed against you are an accurate statement of your role in regard to the charges to which you are pleading guilty?

45. YES / NO Do you agree that you have not been forced to enter this Plea Agreement?

46. YES / NO Do you agree that no threats have been made against you to enter this Plea Agreement?

47. YES / NO Do you agree that other than the terms of this plea agreement, no promises have been made to you to enter this plea agreement?

48. YES / NO Do you agree that you do not have any physical or mental illness that would affect your ability to understand the rights explained in this Guilty Plea Colloquy, or affect the voluntary nature of your guilty plea?

49. YES / NO Do you agree that you are not presently taking any medications that might affect your thinking or your free will?

50. YES / NO Do you agree that you have not consumed any type of drugs (either legal or illegal) or alcohol in the last 48 hours that may affect your thinking or free will?

DEFENDANT CERTIFICATION

The above Plea Agreement is being entered into voluntarily and intelligently.

I have read the terms of the Plea Agreement and the attached Guilty Plea Colloquy.

I understand the terms of the Plea Agreement and the rights explained to me in the attached Guilty Plea Colloquy.

I agree that the execution of this Plea Agreement and Guilty Plea Colloquy and the filing of the same with the Clerk of Courts constitutes a TENDER OF THE PLEA and the COMMENCEMENT OF TRIAL pursuant to Rule 600 of the Pennsylvania Rules of Criminal Procedure. in consideration of the Plea Agreement, I agree to Waive the provisions of Rule 600 of the Pennsylvania Rules of Criminal Procedure from this day and date for that period of time spent processing and considering the Plea Agreement, up to and including the date that the Court either accepts or rejects the Plea Agreement.

I verify that the statements made in this Plea Agreement and Guilty Plea Colloquy are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. 4904, relating to unsworn falsification to authorities.

Defendant

Date

ATTORNEY CERTIFICATION

I certify that I have reviewed the above Plea Agreement and Guilty Plea Colloquy with the above captioned Defendant. I have explained to the above captioned Defendant the factual basis for the plea, the right to have a trial by Judge or jury, the presumption of innocence, the permissible range of sentences, the right of the Judge to accept or reject the Plea Agreement, and I have further reviewed in understandable terms the elements of each charge with the Defendant as well as the Commonwealth's burden of proof. I have answered any questions the Defendant may have had regarding this Plea Agreement. I am satisfied the Defendant understands the proceedings and is entering the Plea Agreement intelligently, knowingly, and voluntarily.

I verify that the statements made in this Attorney Certification are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. 4904, relating to unsworn falsification to authorities.

Attorney

Date