

HONORABLE NAPOLEON A. JONES, JR.
U.S. DISTRICT JUDGE
CRIMINAL CHANGE OF PLEA

1. Before accepting your plea of guilty, I am required to ask you certain questions.

If you do not understand any questions, please ask me to explain it to you.

You may confer with your attorney on any question, if you find it necessary to do so.

Also, I wish to advise you that any answers you give in this proceedings which are in the record and in the presence of your counsel, since they are under oath, may later be used against you in a prosecution for perjury if you lie or knowingly make a false statement.

2. Are you in full possession of all you faculties at this time and aware of the nature of these proceedings?

- A. What is your age
- B. How much education have you had?
- C. Do you read?
- D. Are you, or have you recently been, under the care of a doctor or a psychiatrist?
- E. Have you been treated for narcotic addiction?

3. Have you consumed any drug, narcotic or alcoholic beverage in the last 48 hours that would impair your judgment?

4. You have informed the Court, through your attorney that you desire to withdraw you previously entered plea of not guilty and enter a plea of ___ to___ (state charge and which count). Is that correct?

5. The defendant's previously entered plea of ___ is withdrawn.

6. A plea agreement has been prepared and handed to this Court. Is this your signature that appears at the end of this document?

7. Are all the statements and answers that appear on this form true and correct? Have you read the plea agreement and, discussed the document paragraph by paragraph with your attorney? Do you have any questions about any terms of the agreement? Do you wish more time to consider the agreement?

(Advise the defendant the Court is not bound by it; that he waived his right to appeal if the agreement is carried out; point out any different paragraphs).

8. The plea agreement will be made a Court exhibit and part of the Court's record.

9. Would you (or counsel, if you so desire) state for the record what you did in this case that makes you guilty of this charge?

Or

Would you state the facts of the case that lead you to enter a plea of nolo contendere.

10. Mr/Mrs._____, you have the following constitutional and trial rights:

- a. A speedy and public trial by a jury of 12
- b. The privilege against self-incrimination
- c. The right to compel the attendance of witnesses and to present evidence on your behalf in the defense of this charge.
- d. The right to confront and cross-examine the witnesses against you.

Has your attorney explained each of these rights to you? Do you understand each of these rights? Do you understand that by pleading _____ to_____ you are giving up these rights? Do you knowingly and willingly give up these rights? Counsel concur? (Rights will be waived individually)

11. Is this crime a felony or a misdemeanor?

12. What is the maximum sentence you could receive?

(Advise the defendant of period of supervised release if sentence is more than one year. (imprisonment, supervised release, fine, restitution, penalty assessment). Supervised release is a period following release from prison during which your conduct will be monitored by the Court or the Court's designee. If you are found to have violated a condition of your supervised release, the Court could revoke the supervised release and order you to serve in prison all or part of the term of supervised release. If the Court finds that during your term of supervised release you have been in possession of a controlled substance, your supervised release will be terminated and you will be required to serve in prison a term of the supervised release up to the maximum.)

13. Have you told your attorney all the facts and circumstances that are known to you about this case?

14. Has anyone threatened you or your family or friends in order to get you to plead (guilty) (nolo contendere)?

15. Are you pleading (guilty) (nolo contendere) freely and voluntarily?

16. Have you had sufficient time to talk with you attorney about your case?

17. Other than the statements contained in this plea agreement, has anyone made any

promises to you in order to get you to change your plea?

18. Do you understand that I, as the trial judge, will decide what the appropriate sentence will be, **not** the attorneys?

19. **Crimes before 1987:**

Do you fully understand that if I accept your plea of guilty that I could impose the maximum possible sentence (with alternatives) as I have just related to you?

Crimes after November 1, 1987:

You will be sentenced according to the sentencing guidelines. Have the sentencing guidelines applicable to your case been explained to you by your counsel? Do you understand that I may depart from those guidelines and decide to impose a sentence on you that is greater or lesser than your guidelines, if I find that the guidelines do not take into consideration other relevant facts concerning you or the crime to which you are pleading guilty? Do you understand that the Court will not be able to determine the guidelines sentence for your case until after the pre-sentence report has been completed and you and the government have had an opportunity to challenge the facts reported by the probation officer? That if I should depart or if your attorney should incorrectly compute the sentence under the guidelines that would not be a basis for you to withdraw your plea of guilty?

Do you also understand that parole has been abolished and that if you are sentenced to prison, you will not be released on parole?

You and the government have a right of appeal from the sentence unless you have waived your right of appeal under the plea agreement and the terms of the plea agreement have been complied with.

Has anyone made any prediction, prophecy, or promise to you as to what your sentence will be?

If eligible for probation:

If I should accept your plea and order a pre-sentence investigation by the probation officer, do you understand that I may or may not place you on probation?

20. Counsel, have you had sufficient time to discuss this case with your client? Have you made any representations or promises to your client about what the sentence will be?

21. Do you feel there is a sufficient factual basis for your client's plea of guilty?

22. Do you consent to his/her plea of _____?

23. The Court finds the defendant is in full possession of his/her faculties; understands the nature of these proceedings and the consequences of his/her plea of _____ ; and that the defendant understands all his/her rights and knowingly and intelligently gives them up.
24. Mr/Mrs. _____ , is it still your desire to plead guilty (nolo contendere)?

Take the plea:

It is ordered that the defendant's plea of ____ and waiver of constitutional rights be accepted and entered in the minutes of this Court.

To defendant: I am going to order a pre-sentence investigation.