

**VIRGINIA: IN THE CIRCUIT COURT OF MONTGOMERY COUNTY**

COMMONWEALTH OF VIRGINIA,	)	CASE NO(S):
	)	_____
v.	)	_____
	)	_____
_____	)	_____
<b>Defendant.</b>	)	_____
	)	

**PLEA COLLOQUY FORM (Modeled after Rule 3A:8; Form 6)**

*Answer "Yes" or "No" or "N/A" where indicated*

1. What is your full name? \_\_\_\_\_
  - a. What is your preferred pronoun?  He/him;  She/her;  They/them; \_\_\_\_\_  
 Other: \_\_\_\_\_
  - b. What is your current address? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  - c. What is your current telephone number? \_\_\_\_\_
  - d. What is your date of birth? \_\_\_\_\_
  - e. What is the highest level of education you have received? \_\_\_\_\_
  - f. What other education have you received? \_\_\_\_\_
  - g. Can you read, write, and understand the English language? \_\_\_\_\_
    - i. If not, is this form being read to you and by whom? \_\_\_\_\_
2. Have you consumed any alcohol, drugs or medication that might affect your ability to understand these proceedings or answer these questions truthfully? \_\_\_\_\_
3. Are you the person charged/named in the indictment, information or warrant with the commission of the offense(s) of: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
4. Do you fully understand those charge(s) against you? \_\_\_\_\_
5. Have you discussed the charge(s) and (its) (their) elements with your attorney? \_\_\_\_\_

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6. Do you understand what the Commonwealth must prove before you may be found guilty of the charge(s)? \_\_\_\_\_
7. Have you had enough time to discuss with your attorney any possible defenses that you might have to the charge(s)? \_\_\_\_\_
8. Have you discussed with your attorney whether you should plead guilty, no contest (*nolo contendere*) or not guilty? \_\_\_\_\_
9. **[If the crime involves possession/distribution of drugs]** Have you discussed with your attorney whether the defense of accommodation may apply in this case? \_\_\_\_\_
10. After that discussion, did you decide for yourself that you should plead guilty or no contest (*nolo contendere*)? \_\_\_\_\_
11. **FOR GUILTY PLEAS:** Are you entering the plea of guilty because you are, in fact, guilty of the crime(s) charged? \_\_\_\_\_

- **If the defendant answers “no,” ALFORD PLEA**

- A. Have the Commonwealth summarize their evidence for the record.
- B. Ask the defendant: “Are you pleading guilty because this is the Commonwealth’s evidence and you do not wish to take the risk that you will be found guilty beyond a reasonable doubt? \_\_\_\_\_
- C. If the defendant answers “Yes,” pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), the Court may, but need not, accept the plea. If the Court accepts the plea, the Court should note there is substantial evidence against the defendant. Otherwise, the Court should not accept the plea.

**12. FOR NO CONTEST / NOLO CONTENDERE PLEAS:**

- a. Have the Commonwealth summarize their evidence for the record.
- b. Do you understand that under your plea of no contest / *nolo contendere* you do not contest your guilt to the crime(s) charged? \_\_\_\_\_
- c. Do you understand that a plea of *nolo contendere* is an implied confession of guilt for the purpose of this charge (these charges) and can subject you to a finding of guilty, the same punishment that can be imposed by a plea of guilty, and the loss of the same constitutional rights as if you had pled guilty? \_\_\_\_\_

**PLEA COLLOQUY FORM**

13. Do you understand that because of this plea, you are not entitled to a trial by jury? \_\_\_\_\_
14. Do you understand on a plea of not guilty, you would be entitled to a trial by jury? \_\_\_\_\_
- a. And that the Commonwealth would have to prove your guilt beyond a reasonable doubt? \_\_\_\_\_
- b. And that the jury would be composed of twelve (12) people who must be unanimous in their finding? \_\_\_\_\_
- c. And that, if they found you guilty, you could request for them to fix your punishment? \_\_\_\_\_
15. Do you understand that because of this plea, you waive your right not to incriminate yourself? \_\_\_\_\_
16. Do you understand that because of this plea, you waive your right to confront and cross-examine your accusers? \_\_\_\_\_
17. Do you understand that because of this plea, you waive your right to defend yourself? \_\_\_\_\_
18. Are you in prison, on parole or probation under a suspended sentence? \_\_\_\_\_
- a. **IF YES:** Do you understand that conviction may affect your right to parole, or cause revocation of your parole, probation, or suspended sentence? \_\_\_\_\_
19. Has anyone connected with your arrest and prosecution, such as the police or the Commonwealth's Attorney, or any other person, in any such manner threatened, forced or coerced you to you to enter this plea? \_\_\_\_\_
- a. Have they made any promises concerning your plea, other than those contained in a written plea agreement? \_\_\_\_\_
- b. Has your attorney promised you anything? \_\_\_\_\_
20. Do you understand that the maximum punishment for this crime is \_\_\_\_\_ years/months/days imprisonment and a fine of up to \$ \_\_\_\_\_ plus all court costs and (if applicable) restitution? \_\_\_\_\_
- a. **[Substitute the following if the case involves more than one charge]** Do you understand that you may be sentenced consecutively and the maximum punishment is: \_\_\_\_\_ years/months/days imprisonment and a fine of up to \$ \_\_\_\_\_, plus all court costs and (if applicable) restitution? \_\_\_\_\_

**PLEA COLLOQUY FORM**

- b. **[If the charge carries a mandatory minimum sentence]** Do you understand that, on a charge of \_\_\_\_\_ if you are found guilty, this Court must impose a sentence of at least \_\_\_\_\_ years/months/days? \_\_\_\_\_
- i. If so, do you understand that the Court cannot suspend any portion of that mandatory minimum sentence? \_\_\_\_\_
21. Do you understand that the criminal conviction(s) that will result from this guilty plea may, in addition to confinement and/or a fine, carry a wide variety of consequences, including but not limited to: deportation, civil commitment, civil forfeiture, the loss of the right to vote, disqualification from public benefits, ineligibility to possess firearms, dishonorable discharge from the Armed Services, loss of driving privileges, and loss of business licenses? \_\_\_\_\_
22. Do you understand that a person convicted of a felony must submit to DNA testing and may be required to submit to substance abuse screening? \_\_\_\_\_
23. Have you discussed the sentencing guidelines with your attorney? \_\_\_\_\_
24. Do you understand that the Court is not required to follow these guidelines? \_\_\_\_\_
25. Are you aware that there is no parole in Virginia? \_\_\_\_\_
26. Do you understand that by pleading guilty, you may waive any grounds you have to appeal your case? \_\_\_\_\_
27. Have you entered into a Plea Agreement with the Commonwealth's Attorney in this case? \_\_\_\_\_
- a. Have you read the Plea Agreement? \_\_\_\_\_
- b. Do you fully understand the content and meaning of the Plea Agreement? \_\_\_\_\_
- c. Does it contain the full and complete agreement entered into among you, your attorney, and the Commonwealth's Attorney? \_\_\_\_\_
- d. Are there any other written or oral agreements that are not reflected in this Plea Agreement? \_\_\_\_\_
- e. Did you sign this Plea Agreement? \_\_\_\_\_
- f. Do you understand that if the Court accepts the Plea Agreement, everyone who has signed the document will be bound by its content? \_\_\_\_\_

- **To be asked/completed if the Commonwealth’s Attorney has agreed that a particular sentence is appropriate: [written plea agreement]**

- a. Do you understand that the Court may accept the agreement, reject the agreement, or may defer any decision to either accept or reject the agreement until there has been an opportunity to consider a Presentence Report? \_\_\_\_\_
- b. Do you understand that if the Court accepts the agreement, the Court will include in its judgment and sentence the sentence provided for in the agreement? \_\_\_\_\_
- c. Do you understand that if the Court rejects the agreement, you will not be bound by the agreement and you will be given an opportunity to withdraw your plea of guilty, and if you do, your trial may be conducted by another judge or jury of this court? \_\_\_\_\_
- d. Do you understand that if you should plead guilty after the court rejects the plea agreement, the sentence in the case may be more severe than the disposition contained in the plea agreement? \_\_\_\_\_

- **To be asked/completed if the Commonwealth’s Attorney merely recommends, or agrees not to oppose a request for a specific sentence:**

- a. Do you understand that this agreement only provides for the Commonwealth’s Attorney (to make a recommendation) (to agree not to oppose a request for) a particular sentence, that this recommendation or request is not binding on the Court and if the Court does not accept the recommendation or does not go along with the request, you have no right to withdraw your plea of guilty unless the Commonwealth fails to perform its part of the agreement? \_\_\_\_\_
- b. Do you also understand that the sentence the Court imposes may be more severe than the sentence (recommended) (requested)? \_\_\_\_\_

- **To be asked to the Commonwealth’s Attorney:**

- a. Has the victim been consulted on any plea agreement? \_\_\_\_\_
28. Are you entirely satisfied with the services of your attorney? \_\_\_\_\_
29. Did you review all the questions on this form with your attorney? \_\_\_\_\_
30. Did you understand all the questions on this form and any questions that may have been asked of you, and all of the answers that you gave? \_\_\_\_\_
31. Have your answers been truthful? \_\_\_\_\_

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32. Do you have any questions to ask the Court? \_\_\_\_\_

a. If so, please write your questions: \_\_\_\_\_

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

Presented and reviewed in open court on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
COUNSEL FOR DEFENDANT

\_\_\_\_\_  
DEFENDANT

\_\_\_\_\_  
CIRCUIT COURT JUDGE