

WRITTEN POST-SENTENCE COLLOQUY

To the Defendant:

Please read and then review the following information with your lawyer. It explains the rights you have following sentencing. If you do not understand anything contained in this document, ask your lawyer or the sentencing judge to explain it to you. Do not sign this document until you understand it fully.

**IN THE COURT OF COMMON PLEAS OF LEBANON COUNTY,
PENNSYLVANIA**

CRIMINAL DIVISION

COMMONWEALTH OF :
PENNSYLVANIA :
 :
V. : **No.**
 :
 :

IMPORTANT POST-SENTENCE INFORMATION

1. After you are sentenced, you have the right to file either a post-sentence motion in this Court or an appeal to the Superior Court of Pennsylvania, or both. If you were sentenced as a result of a verdict following trial, you may raise any issue on direct appeal that you previously raised with this Court before or during trial.
2. If you wish to file a post-sentence motion, it must be filed with the Clerk of Court of Lebanon County not later than 10 days after the imposition of sentence.
3. If you wish to file an appeal, a notice of appeal must be filed with the Clerk of Court of Lebanon County within 30 days of imposition of sentence. This is a right of appeal which you may exercise without filing a post-sentence motion. If you file a post-sentence motion, you would also have a right to appeal from an order deciding that motion or from an order denying the motion by operation of law within 30 days of the date of that order.

INITIALS _____

4. If you decide to file a post-sentence motion, all requests for relief must be stated with specificity and particularity, and consolidated in the motion, which may include:

- a. a motion challenging the validity of a plea of guilty or *nolo contendere*, (that is whether your plea was knowingly and voluntarily entered) or the denial of a motion to withdraw a plea of guilty or *nolo contendere*;
- b. a motion for judgment of acquittal;
- c. a motion in arrest of judgment;
- d. a motion for a new trial; and/or
- e. a motion to modify sentence.

5. If you file a post-sentence motion, it and any supplemental motion you may be permitted to file, must be decided by the judge within 120 days of the filing of the original motion. The judge may, at your request, grant one 30-day extension for deciding the motion, if good cause is shown. If the judge fails to decide the motion within the allowed time, the motion will be denied by operation of law and the Clerk of Court will enter an order denying the motion. That order is not subject to reconsideration.

6. If you file a post-sentence motion and wish to appeal from the order deciding the motion, you must file a notice of appeal with the Clerk of Court of Lebanon County within 30 days of that order.

7. Whether or not you file a post-sentence motion, all issues raised before or during trial are preserved for appeal.

8. You have the right to assistance of counsel in the preparation of a post-sentence motion or any appeal. If you are indigent, you have the right to proceed without payment of costs and with counsel appointed to represent you without charge. If you are now represented by the Public Defender's Office and continue to qualify for their services that office will continue to represent you without cost.

9. If your maximum sentence was for a period of less than two (2) years, upon your filing of a timely post-sentence motion or direct appeal, you have the same right to establishment of bail as existed prior to the entry of your plea or verdict. If you qualify for bail and are released on bail after sentencing, a condition of release will be that you either file a post-sentence motion and perfect an appeal, or, when no post-sentence motion is filed, perfect an appeal within the time permitted by law.

INITIALS _____

10. If your conviction is related to Driving While Under the Influence of Alcohol or a Controlled Substance, upon a later conviction for Driving Under Suspension:

a. You will be required to pay a fine of \$500.00 and to be imprisoned for a mandatory period of no less than sixty (60) and no more than ninety (90) days; and

b.

(i) If you are convicted of driving while the amount of alcohol by weight in your blood is equal to or greater than .02% at the time of testing or at the time of testing it is determined that you had in your blood any amount of a Schedule I or non-prescribed Schedule II or III controlled substance, as defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or its metabolite at a time when the your operating privilege is suspended or revoked as a condition of acceptance of Accelerated Rehabilitative Disposition for a violation of Driving Under the Influence or because of a violation of section 1547 (b)(1) for refusal of a chemical test or Driving Under the Influence in Pennsylvania or another state for an offense substantially similar to a violation of Driving Under the Influence under Pennsylvania law you shall, upon a first conviction, be guilty of a summary offense and you shall be sentenced to pay a fine of \$1,000 and to undergo imprisonment for a period of not less than 90 days.

(ii) A second violation shall constitute a misdemeanor of the third degree, and upon conviction you shall be sentenced to pay a fine of \$2,500 and undergo imprisonment for not less than six months.

(iii) A third or subsequent violation shall constitute a misdemeanor of the first degree, and upon conviction you shall be sentenced to pay a fine of \$5,000 and to undergo imprisonment for not less than two years.

c. You will have to pay the costs of prosecution and other fines and fees that are applicable; and

d. Your driving privileges will be suspended or revoked by the Department of Transportation, Commonwealth of Pennsylvania, for an additional appropriate period of time.

11. The Court is not encouraging you or discouraging you from filing any post-sentence motion or an appeal. The Court is merely advising you of your rights at this time.

INITIALS _____

I AFFIRM THAT I HAVE READ THE ABOVE INFORMATION COMPLETELY, THAT I UNDERSTAND ITS FULL MEANING AND THAT I HAVE BEEN GIVEN A COPY OF THIS DOCUMENT FOR MY RECORDS AND REVIEW.

Signature of Defendant

Date

I, _____, Attorney for the above-captioned defendant, state that I have advised my client of the meaning of this document and of his/her post-sentence and appeal rights as required by PaRCrimP 704C(3) that it is my belief that the defendant comprehends and understands those rights and what is set forth herein and that the defendant has received a copy of this form.

Signature of Attorney for Defendant

Date