

Commonwealth v. \_\_\_\_\_ Docket No.(s) \_\_\_\_\_

## **Lackawanna County Domestic Violence Court Guilty Plea Colloquy**

### **Personal Information:**

Defendant's Name: \_\_\_\_\_

Current Address: \_\_\_\_\_

Age: \_\_\_\_\_ years Education: Finished \_\_\_\_\_ grades of school

I can read and write English: **Yes/No**

I have been seen by a doctor or hospitalized for any mental disorder/problem. **Yes/No**

If yes, when/where:

\_\_\_\_\_  
\_\_\_\_\_.

I fully understand the proceedings before the Court today: **Yes/No**

I am not under the influence of any illicit drugs or alcohol: **Yes/No**

I have not any medication in the last week, if

yes, name: \_\_\_\_\_

\_\_\_\_\_.

### **Charges:**

I admit I committed the crime(s)

of \_\_\_\_\_ and I

want to plea guilty.

My lawyer explained to me what the elements of the crime(s) are that the District Attorney must prove to convict me. I know I can go to jail for up to \_\_\_\_\_ years and be fined \$ \_\_\_\_\_ for the crimes I committed.

**No Promises or Threats:**

**Nobody promised me anything or threatened or forced me to plea guilty. I, myself, have decided to plea guilty. I know what I say today is final.**

**Plea Bargain or Agreement:**

The District Attorney's Office has promised to;

Agree to my being accepted into the Domestic Violence Court Program and will drop the charges of: \_\_\_\_\_.

Request restitution in the amount of \_\_\_\_\_ (not to exceed \_\_\_\_\_) upon a showing the court valid receipts or paid bills.

No one has promised me anything if I plead guilty.

I know that if the Judge does not accept the plea bargain agreement, I can withdraw my guilty plea and have a right to a jury trial before a Judge.

**Rights at Preliminary Hearing:**

I know that if I do not choose to enter the Lackawanna County Domestic Violence Court, I will have a right to a preliminary hearing, if I have not already had one. At the Preliminary hearing the burden of proof is on the District Attorney who must show by producing witnesses that I committed every crime charged. I do not have to prove anything. I do not have to prove that I did not commit the crimes, although I can if I choose.

At the preliminary hearing, I have the right to confrontation and cross-examination, which is I have the right to see witnesses as they testify and to ask questions through my attorney. At the conclusion of the preliminary hearing, if the District Attorney has failed to show that I committed any or all of the crimes charged; those charges will be dismissed although I could be rearrested on those charges. If the Judge at the preliminary hearing does not dismiss the charge(s) that I and my attorney believe were not shown by the District Attorney, I have the right to file an appeal called a Motion to Quash to have those charges thrown out.

I understand that if I plead guilty and enter the Lackawanna County Domestic Violence Court Program, I will not receive a Preliminary Hearing. My attorney will have reviewed all the police reports on my case and will advise me based on that review. I also give up the right to file a Motion to Quash.

I understand that if I plead and enter the Lackawanna County Domestic Violence Court Program, I am also waiving the right to have formal information's (a written statement of the charges) filed in my case.

### **Rights at Trial:**

I do not have to plea guilty, even if I committed the crimes. I have an absolute right to plead not guilty and have a trial. I can have a jury trial, or if I give up my jury rights, I can have a trial by Judge alone. When I plead guilty, I give up my rights to have a trial. If I went to trial, I would have all the rights listed below plus others.

I am presumed to be innocent and do not have to prove my innocence. The District Attorney must prove that I committed the crime(s) charged.

To convict me, the District Attorney must prove more than that I probably committed the crime(s). The District Attorney has to prove me guilty "beyond a reasonable doubt." A reasonable doubt is the kind of doubt that would cause a normal, reasonable person to hesitate or halt or refuse to take any action at all in something very important to them.

I have the right to remain silent. Nobody can make me testify (tell my story) at the trial. Also, I may call other people who will be my witnesses and testify on my behalf. If I plea guilty, I give up this right.

I give up many important rights if I plead guilty. For example, if I do not plea guilty and have a trial, all the witnesses for the District Attorney must come to Court and testify under oath. My lawyer may cross-examine them. My lawyer can ask them questions to see if they are telling the truth and if what they say is correct. I give up the right to confront and cross-examine witnesses and many other rights if I plead guilty. In that case, the witnesses do not have to come in to Court, the District Attorney just reads a summary of what happened to the Judge.

### **Jury Trial or Trial by Judge:**

I have a right to a jury trial and it cannot be taken away from me. At a jury trial, twelve (12) people, all from Lackawanna County, would be in the jury and hear the facts of my cases.

If all twelve jurors were convinced beyond a reasonable doubt that I was guilty, I would be found guilty.

If all twelve jurors were not convinced beyond a reasonable doubt that I was guilty, I would be found not guilty.

If all twelve jurors could not agree, I would not be convicted, although I might have another trial before a different jury.

I can help pick my jurors. A juror would be questioned to make sure they would be fair and I can keep anyone off the jury who is shown to Judge to be unfair.

I can also keep up to \_\_\_\_ people off the jury without giving any reason as to why I don't want them on the jury and so can the District Attorney. My lawyer and I would decide together which people we want to keep off the jury.

If I give up my right to a jury trial, I still can be tried by a Judge without a jury. The same rules would apply, except the Judge alone decides whether or not I have been proven guilty beyond a reasonable doubt.

If I plead guilty, I understand that I have given up my rights to a jury trial or trial by Judge.

### **Pre-Trial Rights:**

I am also giving up my pre-trial rights. If I went to trial, prior to that trial, my lawyer could file motions, such as motions to keep out or “suppress” evidence. To “suppress” evidence means my lawyer would try to convince the Judge that some of the evidence against me cannot be used at trial, this includes:

- (1) Statements I made to the police or other people;
- (2) Identifications people made of me;
- (3) Anything that the police or others seized from me to use against me.

If I plead guilty, I also give up my rights to a Speedy Trial and my rights under Pa. Crim. Pro. 600 to be tried within 365 days from the filing of the complaint.

I am also giving up all other pre-trial rights I may have.

If I already have had a hearing on pre-trial motions, when I plead guilty, I give up my rights to appeal the decision made on those motions.

### **Appeal Rights:**

If I am found guilty at trial, I can appeal to a higher court. I can ask to have my conviction overturned and my case discharged because there was not enough evidence to convict, or if I did not get a speedy trial, or for other reasons. I can ask for a new trial because a mistake was made either before or during the trial.

I understand that I plead guilty instead of having a trial, I give up almost all of my rights to appeal.

After I plead guilty, I can only appeal if:

- (1) I did not know what I was doing when I plead guilty, or someone forced me to do so- it was not done knowingly, or voluntarily;
- (2) I was in the wrong court- the court did not have jurisdiction over my case;
- (3) The sentence the judge gave me was for some reason illegal or improper.

Before I can appeal for any one of the three listed above, I must ask my lawyer to file a motion with the Judge to allow me to withdraw my plea and go to trial. I lose my right to appeal if I do not ask to withdraw my plea before sentencing. I have ten (10) days after sentencing to file a motion to reconsider my sentence, if not done in that time I lose my right to do so. \

### **Probation or Parole Rights:**

I know a guilty plea, if accepted by the Judge, has the same effect as if I went to trial and were found guilty. The guilty plea will violate any probationary sentence or parole term I was serving when the offense, for which I plead guilty to, occurred.

### **Risk of Deportation:**

I understand that if I am not a United States citizen, it is possible I may be deported if I have plead guilty to the crime(s) charged against me.

### **Welfare Disqualification:**

I understand that if I plead guilty or convicted of a drug felony under current law, I will be barred for life from receiving welfare.

### **Satisfied with My Lawyer:**

I am satisfied with the advice and service I received from my lawyer. My lawyer spent enough time on my case and I had enough time to talk with my lawyer about the case. My lawyer left the final decision to me and I decided myself to plead guilty.

### **Facts of My Case and Elements of the Crime(s):**

The facts of the case have been read to me. The crime(s) and elements of the crime(s) have been explained to me. I committed the crime(s) and that is why I am pleading guilty.

### **Giving Up Defenses:**

If I plead guilty, I am giving up the right to defend my case. I cannot come back to court later and say that I was not guilty. Once I plead guilty, I can no longer complain that I was innocent and did not commit the crime.

### **The Lackawanna County Domestic Violence Court Program:**

I am aware that the Lackawanna County Domestic Violence Court Program will take at least six (6) months and possibly longer to complete, depending on how well I do in the program.

I am also aware that upon entry into the Domestic Violence Court Program, mandatory Court costs will be assessed against me and I will be required to have them paid in full before being successfully discharged from the program.

I understand that while in the program, I will be required to submit to different forms of treatment/programs including, but not limited to:

Inpatient or outpatient counseling;

Mental health counseling;

Men's or Women's Meetings and "Family to Family" meetings;

Involvement in 12-Step Programs (AA or NA)

Grief Counseling;

- Job searching or training;
- Parenting classes;
- Domestic Violence Intervention Classes

I understand that if I relapse during the program, I may be required to one or more of the following sanctions:

- Increased reporting to the treatment court team and court;
- Increased treatment or re-assessment;
- Community service;
- Electronic monitoring;
- Incarceration in the Lackawanna County Prison for an undetermined period of time.

I understand that by being in Domestic Violence Court, I must submit to drug and alcohol testing daily and that I, all of my property, and my residence, as well as any place I am staying, is subject to search without warrant.

I understand that if I fail to appear in Court when I have received a subpoena to appear, a bench warrant will be issued for my arrest. I understand that if I turn myself into the Domestic Violence Court Judge or staff within thirty (30) days of my failure to appear, it will be viewed favorably by the Court and the Judge will hold that fact in my favor when determining what sanctions is to be imposed. If clinically, and reasonably possible, the Court will look to providing me additional opportunities for treatment/counseling. If after thirty (30) days the Judge will hold a hearing to determine if I should be terminated from the program and sentenced because of my extended absence from the program.

**I have read all the above, or my lawyer has read it to me.**

**I understand it. My answers are all true and correct.**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Sign Name

**Certification of Defense Counsel**

RE: Commonwealth v. \_\_\_\_\_

I certify that:

1. I am an attorney admitted to the Supreme Court of Pennsylvania.
2. I represent the defendant herein.
3. I know of no reason why the defendant cannot fully understand everything that is being said and done today.
4. The defendant has read the above form in my presence and appears to fully understand it. I have gone over the form completely with the defendant, explained all the items on the

form and have answered any questions he/she had. The defendant understands this form and my explanation,

5. I know of no reason why the defendant is not knowingly, intelligently, and voluntarily giving up his/her rights to trial and entering this guilty plea.
6. I have no promises to the defendant other than any listed in this form.

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Attorney for the Defendant

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Date

### **District Attorney's Certification:**

I certify that I am the assigned District Attorney in this case and that any plea negotiation agreements mentioned herein are true and correct as set forth. The defendant has indicated that any questions he/she had were answered by the defense attorney. I have set forth a summary of the facts that would support a conviction of the defendant.

I agree that statements made by the defendant to anyone in the Domestic Violence Court Program or agencies involved in determining eligibility for the Domestic Violence Court program will not be used against them in any proceedings outside the Domestic Violence program. Likewise, any information gathered about the defendant either during the course of the Domestic Violence Court Program or in determining eligibility for the Domestic Violence Court Program will not be used against the defendant outside the Domestic Violence Court Program.

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Attorney for the Commonwealth

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Date

### **Judge's Certification**

I certify that I am the Judge having jurisdiction to hear and preside over this case and that I am satisfied the defendant fully understands the nature and quality of the Guilty Plea the defendant is entering before me. The defendant appears to knowingly, intelligently, and voluntarily is entering this Guilty Plea to the charge(s) mentioned within. In addition, I have personally explained to the defendant, on the record;

1. The charge(s) to which the defendant is pleading guilty and the maximum sentence which could be imposed, as well as any mandatory minimum sentences;
2. That the defendant is presumed to be innocent and has a right to a trial by jury or by a judge without a jury.
3. The elements of the crime(s) the District Attorney would be required to prove to convict the defendant at trial; and
4. That by pleading guilty, the defendant is giving up all the rights to trial and almost all rights to appeal.

I have asked the defendant on the record if he/she understands everything that is being said and done here today, as well as whether the defendant is pleading guilty of his/her own free will. I will accept the plea and allow the defendant to enter the Lackawanna County Domestic Violence Court Program.

If the defendant is terminated from the program for noncompliance, I will then accept the plea and enter a verdict of guilty and sentence appropriately.

If the defendant successfully completes the program, the agreement as negotiated between the District Attorney and defense counsel will be adopted and graduation from the Domestic Violence Court Program will be promptly scheduled.

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\_\_\_\_\_ J.

Judge

\_\_\_\_\_

Date