

COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

: CP-23-CR

V.

:

:

VETERANS COURT PROGRAM WRITTEN PLEA COLLOQUY

INSTRUCTIONS

TO DEFENDANT:

Read this statement carefully and review it with your lawyer. It is IMPORTANT that you understand, agree with and answer truthfully everything contained in this document. If you do not agree to all the terms and conditions set forth in this colloquy, then you will not be admitted into the Veterans Court Program. If you understand and agree with what is written in a paragraph of this document, place your initials on the line provided. If you do not understand and agree with what is said in a paragraph, DO NOT PLACE YOUR INITIALS on the line provided, and tell the judge what you do not agree with or understand.

By placing my initials at the places provided, I am stating that I have read, understood and followed these instructions.

TO DEFENDANT'S LAWYER:

You must explain the content and meaning of this written colloquy to the defendant. If, after your explanation, the defendant does not understand or agree with something, he/she should not initial that paragraph and you must inform the judge of this fact.

Defendant's Signature

Defense Attorney's Signature

_____ 1. I understand that participation in the Veterans Court Program is completely voluntary, and that I may withdraw from the Program at any time.

_____ 2. I understand that acceptance into and satisfactory completion of all Veterans Court Program requirements will offer me an opportunity to avoid incarceration.

_____ 3. I understand that acceptance into and satisfactory completion of all Veterans Court Program requirements offers me an opportunity to have other Delaware County criminal cases for which I am actively serving a sentence of probation and/or parole permanently closed.

_____ 4. I understand that my successful completion of all Veterans Court Program requirements is a condition of any Delaware County case for which I am currently on probation and/or parole.

_____ 5. I understand that if for any reason I am terminated from the Veterans Court Program for failure to successfully complete all program requirements, including my voluntary withdrawal from the program, then the following will occur:

(a) If my plea was tendered and taken under advisement, the Court will (i) accept my nolo contendere/guilty plea; and (ii) sentence me on the charges for which I pled nolo contendere/guilty; and (iii) find me in violation on the case(s) identified above in paragraph four (4) of this colloquy.

If my plea was tendered and I was sentenced, the Court will (i) find me in violation of the intermediate punishment; (ii) re-sentence me on the charges for which I pled guilty; and (iii) find me in violation on the case(s) identified above in paragraph four (4) of this colloquy.

_____ 6. I understand that the sentence imposed as a result of my termination from the Veterans Court Program shall be a term of incarceration up to the statutory maximum for each offense consecutive to each other, and consecutive to the cases listed above in paragraph four (4).

_____ 7. As a condition to my admission to the Veterans Court Program, I hereby knowingly, voluntarily and intelligently waive my right to be sentenced within ninety (90) days of entering this plea.

_____ 8. As a condition to my admission to the Veterans Court Program, I hereby knowingly, voluntarily, and intelligently waive my right to withdraw the nolo contendere plea and/or guilty plea should I be terminated from the Veterans Court Program.

_____ 9. I understand that the primary purpose of the Veterans Court Program is treatment and rehabilitation, and therefore any statements made by me with respect to my

illicit use of controlled substances and/or alcohol while participating in this Program shall not be used against me in subsequent related adversarial proceedings. These include statements made to the Veterans Court staff, statements made in open court during court proceedings, statements made to the Office of Adult Probation/Parole and/or statements made to any treatment provider during the treatment phase of this Program. However, any statements made by me, which refer to, unrelated criminal activity and which are not related to participation in the Program may be admissible in other criminal proceedings.

_____ 10. I understand that I have the right to be represented by counsel while participating in the Veterans Court Program. However, my right to counsel is limited to the following:

(a) My decision to apply and participate in this Program.

(b) Counsel may appear on my behalf at Veterans Court team meetings and Court review sessions and/or hearings. However, consistent with the "treatment" philosophy of the Veterans Court Program, no motions or legal argument may be presented at these Court review sessions and/or hearings. Counsel may assist me in communicating with the Judge and/or Master but may not speak in my stead. I am required to personally respond to questioning by the Judge and/or Master at all Court review sessions and/or hearings.

(c) Counsel may advise me as to whether to voluntarily withdraw from Veterans Court Program and assist me in that process.

(d) Counsel may represent me at any Court review session and/or hearing where termination is being considered. Counsel may advocate for my continued participation in the Program.

(e) Counsel shall represent me at any sentencing hearing if I am removed from the Veterans Court Program.

_____ 11. I understand that drug and alcohol test results obtained through the Veterans Court Program will be used only to assist the Court and treatment providers in evaluating my progress, and may be used by Veterans Court to determine whether I am progressing satisfactory, whether the treatment plan needs modification, whether to impose sanctions within the Program, and whether I should be terminated or graduate from the Veterans Court Program. I understand that under no circumstances will such test results be used as evidence of a new crime, or in another manner not consistent with the treatment and rehabilitation goals of the Veterans Court Program.

_____ 12. I understand that any adulterated test results will be considered as a positive test for alcohol or drugs, and I will be subject to a sanction/removal for that adulteration.

_____ 13. I understand that the Veterans Court Program may test blood, urine, perspiration, saliva and/or breath for drugs and alcohol. These tests can include, but are not limited to, urine test strips, sweat patches, various breathalyzers (including portable breath tests) and various electronic monitoring devices.

_____ 14. I understand that a component of the Veterans Court Program is community supervision by local police. This means that law enforcement may be advised of my participation in the Program and asked to (i) confirm my compliance with curfew, and (ii) report any suspicious activity to the Court.

_____ 15. I understand that any tests and monitoring are conducted at the sole discretion of the Veterans Court Program. No particular test or monitoring device may be requested by any participant. I agree that these tests and monitors are presumed valid, and with the exception of the challenge procedure contained in this colloquy. I agree that I will not appeal, or in any other way legally contest any test or monitor results. Should I disagree with any such result, with the exclusive exception of the challenge procedure set forth below; I agree that my only remedy is to withdraw from the Veterans Court Program. **I UNDERSTAND THAT IF I OTHERWISE LEGALLY CONTEST OR APPEAL ANY TEST OR MONITOR RESULT THAT ACTION WILL CONSTITUTE GROUNDS FOR IMMEDIATE REMOVAL FROM THE PROGRAM.**

_____ 16. I understand that I may challenge the results of any drug or alcohol test performed by a Probation/Parole Officer by immediately requesting that the sample be tested by a laboratory designated by the Office of Adult Probation/Parole and paying a testing fee in the amount of fifty dollars (\$50.00). I understand that should the laboratory result confirm the test result, I will be subject to an additional sanction by the Court and/or removal from the Veterans Court Program for my lack of honesty in failing to acknowledge the drug or alcohol use detected by the test. I understand that should the laboratory retest show the initial test result to be in error no sanction will be imposed and my testing fee will be returned or applied to outstanding fines/costs. **I UNDERSTAND THAT ONLY LABORATORY TEST AUTHORIZED BY THE COURT OR ADULT PROBATION WILL BE CONSIDERED IN THE VETERANS COURT PROGRAM.**

_____ 17. I consent to the search of my person, my residence, and any electronic device that I utilize upon request/demand by the Office of Adult Probation/Parole.

_____ 18. I understand that if I am removed from the Veterans Court Program and sentenced, I am not entitled to any sentence credits except actual time spent in custody in jail.

_____ 19. I understand that the Veterans Court Program requires me to move through several phases of treatment and supervision. Depending on my ability to remain substance free and compliant with the Veterans Court Program during these phases, I may complete the Program in eighteen (18) months.

_____ 20. If I am a Track I participant and I successfully complete the Veterans Court Program, the Court will dismiss the charges for which my sentencing was held in abeyance pursuant to my nolo contendere/guilty plea. This means that I can never be charged with the same criminal incident again. The Court will also enter an order expunging my record with respect to the case.

_____ 21. The conditions of the Veterans Court Program include the imposition of sanctions and incentives designed to help motivate me to succeed in my recovery efforts. Possible sanctions include but are not limited to the following: community service, house arrest, curfew, writing essays, spending time in the jury box observing Veterans Court proceedings, short-term incarceration, etc. I waive any and all due process rights I may have pertaining to the imposition of sanctions that do not result in my termination from the Veterans Court Program.

_____ 22. I understand that, upon recommendation of the Veterans Court Team, I may be terminated from the Veterans Court Program at the discretion of the Court. I may have counsel with me to assist me at any sentencing proceeding.

_____ 23. I hereby waive any right to file a legal challenge to the Court's decision to remove me from the Veterans Court Program or the removal procedure, provided that I have notice of the hearing and an opportunity to be represented by counsel at said hearing.

_____ 24. If I am removed from the Veterans Court Program, I will be scheduled for a sentencing hearing at which time I will be sentenced in accordance with the applicable law. I hereby waive my right to have a Pre-sentence Investigation Report prepared in advance of sentencing.

_____ 25. I understand that, in addition to any Program requirements set forth in this colloquy, I must successfully complete (i) all Veterans Court Program requirements set for by the Office of Adult Probation/Parole, (ii) any term or condition imposed by the Veterans Court Judge and/or Hearing Master. **I UNDERSTAND THAT I MAY NOT FILE A LEGAL CHALLENGE OR APPEAL ANY CONDITION OR SANCTION IMPOSED BY THE COURT IN THE PROGRAM, OTHER THAN THROUGH THE CHALLENGE PROCESS FOR DRUG TESTING OR MONITORING SET FORTH HEREIN. I UNDERSTAND THAT MY ONLY REMEDY TO AVOID THE IMPOSITION OF A CONDITION OR SANCTION IS TO VOLUNTARILY WITHDRAW FROM THE PROGRAM AND BE SENTENCED ACCORDINGLY.**

_____ 26. I have had enough time to fully discuss my decision to enter Veterans Court, and everything contained in this colloquy with my lawyer, and by placing my initials on all the lines provided, I am saying that I understand agree with, and answered truthfully everything contained within this colloquy.

Date

Signature of Defendant

STATEMENT OF DEFENDANT'S ATTORNEY

I represent the Defendant in the above-captioned case. I have explained the rights in this document to the defendant and I am satisfied that the Defendant understands these rights.

Date

Signature of Attorney

ID #