

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA**

vs.

)  
)  
)  
)  
)

2: cr  
**Electronic Filing**

**THIS IS THE TIME SET FOR THE CHANGE OF PLEA HEARING IN THE CASE OF  
UNITED STATES v.**

\_\_\_\_\_, 2011 – \_\_:00 \_\_.M.

-----

**AUSA:**

**DEFENSE COUNSEL:**

-----

**CHANGE OF PLEA**

1. [DEFENDANT], **THE COURT IS INFORMED THAT YOU WISH TO  
CHANGE YOUR PLEA AND ENTER A PLEA OF GUILTY TO COUNT**

**ONE OF THE INDICTMENT ENTERED AT CRIMINAL NO. 2: \_\_ - \_\_.  
IS THAT CORRECT?**

**THE VOLUNTARY, KNOWING & INTELLIGENT ENTRY OF A CHANGE OF PLEA**

**2. BEFORE ACCEPTING YOUR GUILTY PLEA, THERE ARE A NUMBER OF QUESTIONS I WILL ASK YOU IN ORDER TO ENSURE THAT YOUR PLEA IS VALID. THEREFORE, I WANT YOU TO BE UNDER OATH FOR THE PROCESS. WILL YOU PLEASE RAISE YOUR RIGHT HAND AND TAKE THE OATH.**

**[THE CLERK WILL ADMINISTER THE OATH OR AFFIRMATION TO THE DEFENDANT.]**

**3. DO YOU UNDERSTAND THAT HAVING TAKEN THE OATH, YOUR ANSWERS TO MY QUESTIONS ARE SUBJECT TO THE PENALTIES OF PERJURY OR OF MAKING A FALSE STATEMENT IF YOU DO NOT ANSWER TRUTHFULLY?**

**4. PLEASE STATE YOUR FULL NAME. HOW OLD ARE YOU?**

**5. HOW FAR DID YOU GO IN SCHOOL? DO YOU READ, WRITE & UNDERSTAND THE ENGLISH LANGUAGE?**

**6. ARE YOU CURRENTLY UNDER THE CARE OF A PHYSICIAN FOR ANY MEDICAL CONDITION?**

**[IF YES, WHAT ARE YOU BEING TREATED FOR AND ARE YOU TAKING ANY MEDICATIONS AS A RESULT OF THAT TREATMENT?] [IF YES, HAS THAT**

**MEDICATION IN ANY WAY AFFECTED YOUR ABILITY TO UNDERSTAND WHAT IS GOING ON HERE TODAY?]**

**7. IN THE LAST 24 HOURS HAVE YOU TAKEN ANY DRUGS OR ALCOHOL OR INGESTED ANY SUBSTANCE THAT WOULD IN ANY WAY AFFECT YOUR ABILITY TO UNDERSTAND WHAT IS GOING ON HERE TODAY?**

**8. YOU ARE CURRENTLY REPRESENTED BY COUNSEL; ARE YOU SATISFIED WITH \_\_\_\_\_'s REPRESENTATION?**

**[DEFENSE COUNSEL], YOU'VE HAD AN OPPORTUNITY TO MEET WITH YOUR CLIENT; ARE YOU SATISFIED THAT HE UNDERSTANDS WHAT HE IS DOING AND IS ENTERING INTO THIS PROCEEDING VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY?**

**DOES THE GOVERNMENT HAVE ANY DOUBT AS TO THE DEFENDANT'S COMPETENCE TO PLEAD GUILTY AT THIS TIME?**

**(Judge): I FIND THE DEFENDANT SO COMPETENT.**

**ENTRY OF PLEA**

**9. [DEFENDANT], HAVE YOU BEEN FURNISHED WITH A COPY OF THE CHARGES AGAINST YOU? HAVE YOU DISCUSSED WITH YOUR ATTORNEY THE CHARGE IN THE INDICTMENT TO WHICH YOU INTEND TO PLEAD GUILTY?**

**10. IN THE INDICTMENT FILED AT CRIMINAL NO. 2: \_\_ - \_\_ YOU ARE CHARGED AT COUNT ONE WITH \_\_\_\_\_, ON OR ABOUT \_\_\_\_\_, 2011, IN**

**VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION \_\_\_\_ . I WILL NOW REVIEW THIS CHARGE:**

**[READ CHARGE FROM COUNT ONE]**

**DO YOU UNDERSTAND THAT THIS IS WHAT YOU ARE CHARGED WITH AT COUNT ONE OF THE INDICTMENT?**

**11. I WILL NOW EXPLAIN YOUR RIGHTS AS TO THAT COUNT:**

**A. DO YOU UNDERSTAND THAT THE CHARGE IN COUNT ONE IS A FELONY OFFENSE WHICH ENTITLES YOU TO A TRIAL BY JURY?**

**B. DO YOU UNDERSTAND THAT IF YOU WERE TO PROCEED WITH A JURY TRIAL YOU AND YOUR COUNSEL WOULD BE ABLE TO PARTICIPATE IN THE SELECTION OF THE MEMBERS OF THE JURY, AND YOU WOULD HAVE THE RIGHT TO REMOVE FROM THE PANEL OF POTENTIAL JURORS ANY INDIVIDUAL WHOM THE COURT DETERMINED COULD NOT SIT AS A FAIR AND IMPARTIAL JUROR ON YOUR CASE?**

**C. IN ADDITION, YOU AND YOUR COUNSEL WOULD HAVE THE RIGHT TO REMOVE TEN OF THE POTENTIAL JURORS FROM THE PANEL OF JURORS WITHOUT ANY EXPLANATION?**

**D. DO YOU UNDERSTAND THAT AS YOU STAND HERE TODAY YOU ARE PRESUMED INNOCENT, AND WHAT THAT MEANS IS THE GOVERNMENT WOULD HAVE THE BURDEN TO PROVE TO THE**

**ELEMENTS FOR THE CRIME CHARGED IN COUNT ONE BEYOND A REASONABLE DOUBT?**

- E. DO YOU UNDERSTAND THAT THE JURY'S VERDICT MUST BE UNANIMOUS AND WHAT THAT MEANS IS THAT ALL TWELVE OF THE JURORS MUST AGREE BEFORE A VERDICT OF GUILTY OR NOT GUILTY COULD BE RETURNED?**
- F. DO YOU UNDERSTAND THAT THROUGH YOUR LAWYER YOU WOULD HAVE THE RIGHT TO OBJECT TO THE EVIDENCE OFFERED BY THE GOVERNMENT AT TRIAL, AND IF THE COURT WERE TO AGREE WITH ONE OR MORE OBJECTIONS TO THE EVIDENCE IT IS POSSIBLE THAT THERE MAY NOT BE ENOUGH EVIDENCE TO CONVINCING THE JURY OF YOUR GUILT?**
- G. DO YOU UNDERSTAND THAT YOU WOULD HAVE THE RIGHT TO CONFRONT ALL WITNESSES, AND TO CROSS EXAMINE THEM?**
- H. DO YOU UNDERSTAND THAT IN A CRIMINAL CASE SUCH AS THIS ONE THE DEFENDANT DOES NOT HAVE AN OBLIGATION TO PROVE ANYTHING?**
- I. DO YOU UNDERSTAND THAT YOU WOULD HAVE THE RIGHT TO OFFER EVIDENCE IN YOUR OWN DEFENSE AND IF YOU COULD NOT AFFORD TO PRODUCE THAT EVIDENCE THE GOVERNMENT MAY HAVE AN OBLIGATION TO PAY ANY COSTS THAT YOU AND YOUR COUNSEL WOULD INCUR IN OBTAINING THE EVIDENCE?**

**J. DO YOU UNDERSTAND THAT AT TRIAL YOU WOULD HAVE THE RIGHT TO CALL WITNESSES ON YOUR BEHALF AND COULD COMPEL THE ATTENDANCE OF WITNESSES THROUGH THE USE OF A SUBPOENA?**

**K. DO YOU UNDERSTAND THAT AS A DEFENDANT YOU COULD TESTIFY ON YOUR OWN BEHALF, BUT YOU WOULD NOT BE REQUIRED TO DO SO, AND IF YOU REQUESTED THE COURT TO DO SO THE COURT WOULD INSTRUCT THE JURY NOT TO HOLD AGAINST YOU ANY DECISION NOT TO TESTIFY BECAUSE A CRIMINAL DEFENDANT HAS A CONSTITUTIONAL RIGHT NOT TO TESTIFY AND IT WOULD BE IMPROPER FOR THE JURY TO DRAW A NEGATIVE INFERENCE FROM THE FACT THAT YOU CHOSE TO EXERCISE THAT CONSTITUTIONAL RIGHT?**

**L. DO YOU UNDERSTAND THAT T IF YOU ENTER A PLEA OF GUILTY TODAY THERE WILL BE NO FURTHER HEARING TO DETERMINE YOUR GUILT ON THE CHARGE SET FORTH IN COUNT ONE AND YOU WILL BE FOUND GUILTY OF THAT CHARGE BASED UPON YOUR PLEA ALONE?**

**12. AT A TRIAL THE GOVERNMENT WOULD HAVE TO PROVE ALL OF THE FOLLOWING ESSENTIAL ELEMENTS BEYOND A REASONABLE DOUBT:**

**[READ ELEMENTS FOR COUNT ONE FROM INDICTMENT MEMORANDUM]**

**DO YOU UNDERSTAND THAT THE GOVERNMENT WOULD HAVE TO PROVE EACH OF THESE ELEMENTS TO THE UNANIMOUS SATISFACTION OF THE JURY BEYOND A REASONABLE DOUBT BEFORE YOU COULD BE FOUND GUILTY OF THE ABOVE CHARGE?**

**13. THE MAXIMUM SENTENCE OR PENALTIES UNDER THE LAW WHICH MAY BE IMPOSED UPON YOU BY THE COURT IS AS FOLLOWS:**

**[READ PENALTIES FOR COUNT ONE FROM THE INDICTMENT MEMORANDUM]**

**14. DO YOU UNDERSTAND THAT THE SENTENCE THE COURT WILL IMPOSE AS A RESULT OF YOUR GUILTY PLEA WILL BE GOVERNED BY THE SENTENCING REFORM ACT OF 1984. THE SENTENCING GUIDELINES PROMULGATED BY THE UNITED STATES SENTENCING COMMISSION, THOUGH ONLY ADVISORY, WILL BE CONSIDERED BY THE COURT IN IMPOSING AN APPROPRIATE SENTENCE.**

**THE COURT IS NOT BOUND BY ANY SENTENCING FACTORS SET FORTH IN THE PLEA AGREEMENT OR AS RECOMMENDED BY YOU AND THE GOVERNMENT, AND IF THE COURT'S DETERMINATION SHOULD BE DIFFERENT FROM ANY EXPECTATIONS YOU MAY HAVE REGARDING A SENTENCE, YOU WILL NOT BE PERMITTED TO WITHDRAW YOUR PLEA SIMPLY BECAUSE YOU ARE UNSATISFIED WITH THE COURT'S CALCULATION OF AN APPROPRIATE SENTENCING RANGE. DO YOU UNDERSTAND?**

**15. DO YOU UNDERSTAND THAT THE COURT CAN IMPOSE A TERM OF SUPERVISED RELEASE, WHICH MEANS THAT YOU WILL BE SUBJECT TO A NUMBER OF RESTRICTIONS AND CONDITIONS FOLLOWING YOUR RELEASE FROM ANY TERM OF INCARCERATION IMPOSED, AND IF YOU SHOULD VIOLATE ANY OF THOSE CONDITIONS OR RESTRICTIONS, YOU MAY HAVE TO SERVE A NEW TERM OF INCARCERATION BASED SOLELY UPON THAT VIOLATION?**

**16. I UNDERSTAND THAT THERE IS PLEA AGREEMENT IN THIS CASE, IS THAT CORRECT? MAY I SEE A COPY OF THE AGREEMENT PLEASE. [DEFENDANT], IS THAT YOUR SIGNATURE ON THE LAST PAGE? DID YOU SIGN THE PLEA AGREEMENT FREELY AND VOLUNTARILY?**

**a. [DEFENSE COUNSEL], DO YOU AGREE THAT YOUR CLIENT ENTERED INTO THIS AGREEMENT VOLUNTARILY?**

**b. MAY I PLEASE SEE COUNSEL AT SIDE BAR. [AUSA], DOES THE PLEA AGREEMENT CALL FOR COOPERATION? [IF YES, [AUSA] WOULD YOU PLEASE REVIEW THE SALIENT TERMS OF THE COOPERATION PROVISION?]. [ADJOURNMENT OF SIDE BAR].**

**c. [AUSA], WOULD YOU PLEASE REVIEW THE SALIENT TERMS OF THE PLEA AGREEMENT FOR THE COURT AND DEFENDANT.**

**d. [DEFENSE COUNSEL], DO YOU AGREE THAT THE TERMS OF THE PLEA AGREEMENT HAVE BEEN CORRECTLY STATED?**



e. [DEFENDANT], HAS THE GOVERNMENT CORRECTLY STATED THE AGREEMENT AS YOU UNDERSTAND IT?

17. [AUSA], WHAT IN SUMMARY WOULD BE THE FACTUAL BASIS AS TO THE CHARGE AGAINST THE DEFENDANT?

18. AS IT PERTAINS TO YOU, [DEFENDANT], IS THAT FACTUAL SUMMARY ACCURATE?

19. ALRIGHT, THE COURT FINDS THE FACTUAL BASIS FOR THE CHANGE OF PLEA TO BE ADEQUATE.

20. [DEFENDANT], WITH REGARD TO YOUR DECISION TO CHANGE YOUR PLEA TO GUILTY HERE TODAY, OTHER THAN THE TERMS SET FORTH IN THE PLEA AGREEMENT, HAVE ANY THREATS BEEN MADE AGAINST YOU OR HAVE ANY INDUCEMENTS BEEN OFFERED TO YOU TO GET YOU TO CHANGE YOUR PLEA OR HAS ANY ONE TOLD YOU THAT IF YOU DID NOT ENTER THE PLEA OTHER ADVERSE ACTION WOULD BE TAKEN AGAINST YOU?

21. ARE YOU NOW ON PROBATION OR PAROLE OR WERE YOU ON PROBATION OR PAROLE AT THE TIME OF THE OFFENSES?

IF YES TO LAST QUESTION:

A. WHAT ARE THE CHARGES?

B. WHAT COURT OR STATE WAS IT IN?

C. DO YOU UNDERSTAND THAT YOUR PLEA IN THIS CASE COULD RESULT IN REVOCATION OF PROBATION OR PAROLE?

**D. IF YOU PROBATION IS REVOKED BECAUSE OF THIS PLEA, DO YOU UNDERSTAND YOU CAN BE GIVEN A MAXIMUM SENTENCE IN THE CASE ON WHICH YOU ARE ON PROBATION OR PAROLE?**

**E. DO YOU UNDERSTAND THAT IF YOUR PROBATION [OR PAROLE] IS REVOKED BECAUSE OF THIS PLEA, YOUR SENTENCE IN THAT CASE COULD BE MADE TO RUN BEFORE OR AFTER A SENTENCE IN THIS CASE SO THAT YOUR SENTENCE IN THIS CASE WOULD BE SERVED CONSECUTIVELY WITH, THAT IS, IN ADDITION TO, YOUR SENTENCE IMPOSED IN THAT CASE?**

**22. [DEFENDANT], YOU ARE CHARGED BY THE UNITED STATES OF AMERICA AT CRIMINAL NO. \_\_ - \_\_ WITH ONE COUNT OF \_\_\_\_\_, ON OR ABOUT \_\_\_\_\_, 2011, IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION \_\_\_\_\_. HOW DO YOU PLEA TO THE CHARGE?**

**(PLEA OF DEFENDANT)**

**(DEFENDANT SIGNS PLEA IN OPEN COURT)**

**JUDGE: THE COURT FINDS THAT YOU ARE COMPETENT, THAT YOU KNOW AND UNDERSTAND YOUR RIGHT TO A JURY TRIAL AND THE CONSEQUENCES OF WAIVING THAT RIGHT, AND THAT YOU KNOW THE MINIMUM AND MAXIMUM PENALTIES FOR THE OFFENSE. THE COURT FURTHER FINDS THAT THERE IS AN ADEQUATE BASIS FOR THE CHANGE OF PLEA AND THEREFORE ACCEPTS YOUR GUILTY PLEA TO THE CRIME SET FORTH AT COUNT ONE OF THE INDICTMENT. THE COURT WILL DEFER SENTENCING UNTIL THE PROBATION OFFICE HAS PREPARED THE PRE-**

**SENTENCE REPORT AND BOTH YOU AND THE GOVERNMENT HAVE REVIEWED THAT PRE-SENTENCE REPORT AND HAVE HAD AN OPPORTUNITY TO OBJECT TO THE FINDINGS AND CONCLUSIONS CONTAINED THEREIN.**

**IT IS ORDERED THAT A SENTENCING HEARING IS HEREBY SCHEDULED FOR MONDAY, \_\_\_\_\_, 2011, AT :00 .M. IN THIS COURTROOM.**

**IT IS ORDERED THAT A TRUE AND CORRECT COPY OF THE PLEA AGREEMENT SHALL BE DEEMED A PART OF THE RECORD AS GOVERNMENT EXHIBIT ONE AND SHALL BE MAINTAINED BY THE UNITED STATES PROBATION OFFICE.**

**IT IS FURTHER ORDERED THAT THE PROBATION DEPARTMENT PREPARE A PRE-SENTENCE REPORT.**

**[EXISTING ORDER OF RELEASE: – DEFENDANT IS CURRENTLY RELEASED ON BOND PURSUANT TO SPECIFIED CONDITIONS OF RELEASE – [AUSA], IS THERE ANY OBJECTION TO DEFENDANT REMAINING ON BOND WITH THE SAME CONDITIONS OF RELEASE UNTIL SENTENCING? VERY WELL, THE ORDER OF RELEASE WILL BE CONTINUED.]**

**ANYTHING FURTHER?**

**COURT IS ADJOURNED.**