

Guilty/Alford/Nolo Contendere Plea Questions to be asked Defendant by Court

After you enter the courtroom, the judge will read the charge/charges to you and ask you to enter your plea. You must provide a verbal response and speak clearly for the court reporter.

1. What is your full name? What is your date of birth? What was the last grade in school you completed? Are you able to read, write and understand the English language?
2. Are you under the influence of any drugs or alcohol? Are you currently taking any prescription medication? If yes – do those medications in anyway affect your ability to understand these proceedings or assist your attorney with your case?
3. Are you the person charged with the offense(s) I just read?
4. On the date this happened were you on any type of probation or parole, to include good behavior? If yes do you understand that when you are convicted on this offense that it may affect your status on parole? Have you discussed this with your attorney? Do you understand that if you are on parole, on probation, or under a suspended sentence that a conviction may affect your parole, probation, or suspended sentence?
5. Do you fully understand the charge(s) against you? Have you discussed the charge and the elements of the offense with your attorney so that you understand what the Commonwealth must prove before you may be found guilty of the charge(s)?
6. Have you had enough time to talk to your lawyer about the charge? Have you had enough time to discuss with your lawyer any possible defenses that you may have? **[If the crime involves possession/distribution of drugs]:** Have you discussed with your lawyer whether the defense of accommodation may apply in this case?
7. Have you discussed with your lawyer how you should plead to this charge(s)?
8. After that discussion, did you decide for yourself that you should plead guilty (*nolo contendere*)?
9. Are you entering your plea(s) of guilty/nolo contendere freely and voluntarily?

[If the plea is nolo contendere]: Do you understand that a plea of nolo contendere still subjects you to a finding of guilt, to the same punishment and other consequences as if you had pleaded guilty, and to the loss of the same constitutional rights as if you had pleaded guilty?

10. Are you entering your plea(s) of guilty because you are guilty?

[If the answer is “no”/Alford Plea]: Are you pleading guilty based upon: your written/oral stipulation of the Commonwealth’s evidence; because you do not wish to take the risk associated with trial; and because you believe it is in your best interests to enter the Alford plea of guilty?

11. Do you understand that, by pleading guilty, you are NOT entitled to a trial by jury?
12. Do you understand that, by pleading guilty, you waive your right NOT to incriminate yourself?

13. Do you understand that, by pleading guilty, you waive your right to confront and to cross-examine the witnesses against you and you waive your right to defend yourself?
14. Do you understand that by pleading guilty you give up your right to remain silent?
15. Are you a United States citizen? If not, do you understand that if you plead guilty or are found guilty, there may be consequences of deportation, exclusion from admission into the United States, or denial of naturalization pursuant to the laws of the United States? Have you discussed this with your attorney?
16. Do you understand that, by pleading guilty, you may waive any right to appeal the decision of this Court?
17. Do you understand that there is no parole in Virginia?
18. Are you aware of the range of punishment for this charge(s)? Is that because you went over it with your attorney prior to coming into court?
19. As part of that discussion did you talk about the Sentence Guidelines and how they are used in Virginia? Do you understand that the Court is required to consider the Guidelines but is not required to follow the guidelines and may sentence you to more than the guidelines suggest so long as the Court does not exceed the maximum punishment provided by law?
20. Has anyone connected with your arrest or with your prosecution, such as the police or the Commonwealth's attorney, or any other person, in any manner threatened you or forced you to enter your guilty plea?
21. The Court has been presented with a plea agreement in this case. Have you seen this document? Have you read the document? Did you sign it? Did you have sufficient time to go over it with your attorney? Does the document contain everything that you agreed to in order to resolve these charges? Did anyone promise you anything that is not in the agreement? Do you understand that you agreed to a sentence in this document and as long as I accept this agreement that you will receive that sentence? Are you asking that I accept the Agreement?

[To be used if the Commonwealth's attorney merely recommends, or agrees not to oppose a request for, a specific sentence.]

- (1) Do you understand that this agreement only provides for the Commonwealth's attorney to make a recommendation or 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?
- (2) Do you also understand that the sentence the Court imposes may be more severe than the sentence recommended or requested?

OR

[To be used in NO plea agreement and Defendant is pleading without a sentence recommendation]

You are pleading guilty without any recommendation as to the sentence to be imposed. Do you understand that after I have considered the guidelines, considered any evidence submitted by the Commonwealth's attorney

and your attorney and heard argument from both that I can sentence you to the maximum amount allowed by law?

22. Are you entirely satisfied with the service of your attorney? Is there anything you asked your attorney to do on your behalf that he/she did not do?
23. Have you understood all of these questions? Have you been truthful in your answers?

At this point the Court will receive a summary of the case from the Commonwealth's Attorney. Your attorney will be allowed to add additional comments, as appropriate.

YOU SHOULD PAY ATTENTION TO THE SUMMARY.

The Court will then enter a finding of Guilty and ask if you have anything to say prior to sentencing or set the matter down for a sentencing hearing and order a Pre-Sentence report. You may make a statement either by preparing something in advance and reading it to the Court or just making a statement in court.