

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 1st day of March, 2017.

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective May 1, 2017.

Amend Part Three A to read as follows:

**RULES OF SUPREME COURT OF VIRGINIA
PART THREE A
THE SUPREME COURT**

* * *

APPENDIX OF FORMS.

* * *

Form 6. Waiver of Rights Form (Rule 3A:8)

VIRGINIA:

IN THE CIRCUIT COURT FOR THE _____

COMMONWEALTH OF VIRGINIA

v. Case No.: _____

WAIVER OF RIGHTS FORM (Rule 3A:8)
Answer "Yes" or "No" or "N/A" where indicated

1. What is your full name?

2. What is your date of birth?

3. How much education do you have?

4. Can you read and write the English language?

If not, is this form being read to you and by whom?

5. Have you consumed any alcohol, drugs or medication that might affect your ability to understand these proceedings or answer these questions truthfully?

6. Are you the person named in the indictment, information or warrant with the commission of the offense(s) of _____?

7. Has your attorney reviewed with you the nature of the charge(s) pending against you?

8. Do you fully understand those charges(s), as explained to you by your attorney?

9. Did you have sufficient time to discuss with your attorney the facts of the case and the legal elements of the charge(s)? _____

10. Do you understand what facts the Commonwealth would be required to prove beyond a reasonable doubt in open court before this court could find you guilty of the charge(s)?

11. Have you had sufficient time to discuss with your attorney any defenses that you might have to the charge(s)? _____

12. Have you discussed with your attorney your right to plead guilty, no contest or not guilty? _____

13. Has anyone intimidated you, forced you, offered you leniency (beyond what may be contained in your plea agreement, if applicable) or in any way influenced you to plead guilty/no contest?

14. Has your attorney made any promises to you with respect to your plea(s)?

15. Did you decide for yourself that you would offer a plea of guilty/no contest to the charge(s)?

16. Are you pleading guilty/no contest because you are in fact guilty of the offense(s) for which you are charged? ____ Or, are you pleading guilty/no contest because after discussing this matter with your attorney you believe it will be in your best interests to do so? ____

17. Is your plea of guilty/no contest made freely, voluntarily, and without force, intimidation or promises? _____

18. Do you understand that by pleading guilty/no contest you give up basic rights that are guaranteed to you by the Constitution of the United States and the Constitution of Virginia? ____

19. Do you understand that by pleading guilty/no contest you give up the following rights:

(a) To have your case tried by a jury? _____

(b) Not to incriminate yourself (by waiving this right, you can be forced to make statements against your interest)? _____

(c) To confront and cross-examine each witness who may be called by the Commonwealth to offer testimony against you? _____

(d) To present a defense in your own behalf? _____

20. Do you fully understand that by pleading guilty/no contest you may waive any grounds you have to appeal your case? _____

21. Are you currently in prison, on parole or probation or under a suspended sentence?

22. Do you understand that pleading guilty/no contest may affect your right to parole, or cause revocation of your parole, probation or suspended sentence?

23. Does that affect your decision to plead guilty/no contest?

24. Has anyone associated with your arrest or prosecution, such as the police, Commonwealth's Attorney or any other person forced, threatened or coerced you to plead guilty/no contest?

25. Outside of the terms and conditions as set forth in any Plea Agreement that you have entered into with the Commonwealth, has any person made any other promises to you in writing or orally to induce you to plead guilty/no contest? _____

26. Have you entered into a Plea Agreement with the Commonwealth in this case?

27. Did you read this Plea Agreement that you have offered to the Court in this case?

28. Do you fully understand the content and meaning of the Plea Agreement?

29. Did you sign this Plea Agreement in the presence of your attorney?

30. Do the terms of this Plea Agreement contain the full and complete agreement entered into among you, your lawyer and the Commonwealth? _____

31. Are there any other written or oral agreements that are not reflected in this Plea Agreement?

32. Do you understand that, if the Court accepts the Plea Agreement, everyone who has signed the document will be bound by its content? _____

33. Do you believe it is in your best interest and to your benefit to offer the Plea Agreement to the Court? _____

34. To be asked if the Commonwealth has agreed that a specific sentence is appropriate:

(a) Do you understand that the Court may accept, reject or defer accepting or rejecting the Plea Agreement until there has been an opportunity to consider a presentence report? _____

(b) Do you understand that, if the Court rejects the Plea Agreement, you would be permitted to withdraw your plea of guilty/no contest and have your case heard by a jury or another Judge? _____

(c) Do you understand that if the Court rejects the Plea Agreement and you persist in your plea of guilty/no contest, the Court would not be bound to honor any of the terms or conditions set forth in the Plea Agreement? _____

35. To be asked if the Commonwealth merely recommends, or agrees not to oppose a request for, a specific sentence:

(a) Do you understand that this agreement only provides for the Commonwealth 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/no contest unless the Commonwealth fails to perform its part of the agreement? _____

(b) Do you also understand that the sentence the Court imposes may be more severe than the sentence recommended or requested? _____

36. Do you understand that the maximum punishment for the crime(s) to which you are pleading guilty/no contest is ____ years imprisonment and \$_____ in fines, plus all court costs? _____

37. If you are pleading guilty/no contest to more than one charge, do you understand that you may be sentenced consecutively and the maximum punishment for these crimes is _____ years imprisonment and a fine of \$_____ plus court costs? _____

38. Does this crime(s) have a mandatory punishment? _____

39. If so, do you understand that the Court cannot suspend any portion of the mandatory sentence of ____ years? _____

40. Are you aware there is no parole in Virginia? _____

41. Have you discussed the sentencing guidelines with your attorney, and do you understand that the Court is not required to follow those guidelines? _____

42. Do you understand that if you are not a citizen of the United States and if you plead guilty/no contest or are found to be 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? _____

43. Are you totally satisfied with the services of your attorney? _____

44. Did you review all of the questions on this form with your attorney? _____

45. Did you understand all of the questions on this form and any questions that may have been asked of you, and all of the answers that you gave? _____

46. Have your answers been truthful? _____

47. Do you have any questions to ask the Court? _____

48. If so, please write your questions below:

DATE: _____

Defendant

Attorney for Defendant

A Copy,

Teste: *John L. Hamilton*

Clerk