

Written Jury Trial Waiver Colloquy

The purpose of this document is to advise you of the rights that you have when you go to Court to face trial on the charges against you.

Please answer all the questions on the document fully.

If you do not understand any explanation given to you on this document, say so by putting the word "no" in the blank space provided after the question. If you do understand the question, you should write in the word "yes". None of the lines should be left blank.

After you have finished reading this and filling it out, you should sign it on the last page, on the line that says "Defendant". You should also initial each page at the bottom, but only if you have read and have understood that page. If there is anything that you do not understand, you should say so in writing on this form. You should also tell your lawyer and the judge who hears your case, so that they can explain it to you fully, to make sure that you understand all your rights.

Most of these questions are designed to be answered "yes" or "no". Where general information is asked for, however, please answer fully.

1. What is your full name? _____
2. Are you known by any other name or alias? _____
3. If the answer to Number 2 is "yes", state the other names or alias:

4. How old are you today? _____
5. How far did you go in school? _____
6. Can you read, write and understand the English language? _____
7. Have you ever been a patient in a mental institution or have you ever been treated for a mental illness? _____
8. If the answer to Number 7 is "yes", please explain the details: _____

9. Are you now being treated for mental illness? _____
10. If the answer to Number 9 is "yes", explain the details: _____

11. If you are presently being treated for a mental illness, do you still feel that you have sufficient mental capacity to understand what you are doing today, and to understand these questions and answer them correctly? _____

12. Do you understand that you have an absolute right to go to trial on all of the charges against you? _____
13. Do you understand that if you go to trial you, as the defendant, will have no responsibility to prove yourself innocent? _____
14. Do you understand that this means that you do not have to take the witness stand and testify in your own behalf, nor do you have to call witnesses or present evidence in your own behalf and it cannot be held against you? _____
15. Do you understand that you are presumed to be innocent unless and until you are proven guilty by the District Attorney? _____
16. Do you understand that it is always the District Attorney's responsibility to prove you guilty and s/he has to prove your guilt beyond a reasonable doubt? _____
17. Do you understand that a reasonable doubt is the kind of doubt that would make an ordinary person hesitate in making an important decision in their everyday life, such as the decision to buy a house? _____
18. Do you understand that in order to prove you guilty beyond a reasonable doubt the District Attorney will be required to bring the witnesses against you into Court and place them on the witness stand under oath to tell the truth? _____
19. Do you understand that you will have the right through your attorney to cross-examine these witnesses; that is, to question them to determine whether or not they are testifying truthfully and accurately? _____
20. Do you understand that you have the right, if you want to, to take the witness stand in your own behalf and to call witnesses and present evidence in your own behalf? _____
21. Do you understand that you also have the right to choose whether you want to be tried by a jury or by a judge sitting without a jury? _____
22. Do you understand that if you choose to have a jury trial, the judge will send for a panel of thirty or forty prospective jurors drawn at random from the Voter Registration rolls of the County?

23. Do you understand that the prospective jurors will come down to the courtroom and that you, your attorney, the District Attorney and the Judge will then proceed to pick a jury of twelve people from this group of thirty or forty prospective jurors? _____
24. Do you understand that you have an absolute right to personally participate in selecting a jury?

25. Do you understand that in the process of selecting the jury you will first have an opportunity through your attorney to question the prospective jurors to determine if they can be fair and impartial if they are selected to be on the jury? _____
26. Do you understand that the District Attorney and the Judge may also question the prospective jurors? _____
27. Do you understand that after the questioning of the jurors is concluded you will have an opportunity to tell the Judge, through your attorney, which jurors you find acceptable, meaning that you want them to serve on the jury, and which jurors you want to challenge, meaning that you do not want them on the jury? _____

28. Do you understand that the District Attorney will also have an opportunity to tell the court which jurors s/he finds acceptable and which jurors s/he wants to challenge? _____
29. Do you understand that the first seven jurors that you challenge will automatically be excluded from the jury without your having to give any reason as to why you are challenging them?

30. Do you understand that the District Attorney will also have _____* opportunities to challenge jurors without giving a reason as to why they are being challenged?

31. Do you understand that after you have used up your "automatic" challenges, you can then challenge as many other jurors as you want to, but you will have to give the Judge a reason as to why you are challenging them and the judge will decide whether or not your reason is legally sufficient? _____
32. Do you understand that this type of challenge is called a challenge for cause and there is no limit on the number of challenges for cause that you can have, and the District Attorney also has an unlimited number of challenges for cause? _____
33. Do you understand that at the end of the jury selection process a jury of twelve persons will have been selected? You will also select two alternate jurors who will only serve if any of the original jurors becomes ill. _____
34. Do you understand that the jurors will listen to the evidence in the case and then they will go in a separate room all by themselves, discuss the case, and then vote on whether to find you guilty or not guilty? _____
35. Do you understand that if you are tried by a jury you cannot be convicted unless all twelve jurors are convinced beyond a reasonable doubt that you are guilty? This is because a jury verdict is required by law to be unanimous which means that all twelve jurors must agree on the verdict, thus if all twelve vote "guilty", the verdict is "guilty" and if all twelve vote "not guilty" the verdict is "not guilty". _____
36. Do you understand that in the event the jury is unable to agree on a unanimous verdict the Court will declare a mistrial? This means the Court will declare the trial null and void, as if it never took place, and the District Attorney will then be able to try the case again to a different jury.

37. Do you understand that instead of a jury trial you can choose to be tried by a Judge sitting without a jury in which case you will have all the same rights you would have at a jury trial except that the Judge sitting alone will decide whether or not you are guilty? Also, when you are tried by a Judge sitting alone, it is unlikely that there will be a mistrial because the Judge cannot make up his or her mind. _____
38. Do you understand that you are charged with the following offenses which are punishable by the following maximum sentences under the law:

| <i>Charges</i> | <i>Maximum Sentence and Fine</i> |
|----------------|----------------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

39. Do you understand that you may be subject to a mandatory minimum sentence of _____ years? This means that if you are convicted of _____ (name offense**) the Judge will have to sentence you to serve at least a _____ year minimum sentence. _____

*Attorney: Fill in appropriate number of peremptory challenges.

**Answer where applicable, attorney fill in correct number of years and name of offense.

I have answered the questions on the above Defendant Information Sheet and I have reviewed this entire matter with my attorney and I understand all of the information given above.

(Defendant)

Witnessed by:

, Esquire
(Attorney for Defendant)

Date: _____

District Attorney's Certification

I certify that I am the assigned District Attorney in this case. I have asked the defendant if there is anything on the Written Jury Trial Waiver Colloquy form or anything else about this case that the defendant does not understand, and the defendant has indicated that the defendant understands everything that is set forth. The defendant said that any questions he or she had have been answered by the defense attorney.

Assistant District Attorney

Date

Judge's Certification

I certify that I am the Judge, having the jurisdiction to hear this case and that I am satisfied the defendant understands fully the nature and the quality of the Jury Trial Waiver that the defendant is entering before me. The defendant has exercised a knowing, intelligent, voluntary waiver of the right to a jury trial. In addition, I have personally explained to the defendant, on the record, that the defendant is presumed to be innocent and has a right to a trial by jury or by a Judge without a jury.

I have asked the defendant on the record if the defendant understands everything that is being said and done here today.

Judge

Date