

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
: OF NORTHUMBERLAND COUNTY, PA
: vs. : CRIMINAL LAW DIVISION
: DOCKET NO. CR _____
_____, :
Defendant :

POST SENTENCING PROCEDURES

(Use when defendant has entered a plea of guilty/no contest)

Defendant's Acknowledgement of Post Sentencing Procedures:

INSTRUCTIONS: All defendants with their counsel must review and sign this form if they have entered a plea of guilty or no contest. The form must be reviewed, first page initialed & presented at sentencing.

I. Post Sentence Motion Addressed to the Sentencing Court

It is not necessary to first file a Post Sentencing Motion with the sentencing court in order to be able to appeal to a higher court. However, you have the right to file such a motion. If you file a Post Sentencing Motion with the sentencing court the following provisions apply:

- (a) A Post Sentence Motion must be in writing.
- (b) A Post Sentence Motion must be filed with the Clerk of Court for the County within ten (10) days of sentencing.
- (c) A Post Sentence Motion must state "with specificity & particularity" the grounds for the relief requested which may include a motion challenging the validity of a guilty or no contest plea, a motion challenging the denial of a motion to withdraw a guilty or no contest plea, a motion to modify sentence, a motion challenging the legality of the sentence and/or a Motion challenging the court's jurisdiction.
- (d) If you financially qualify, a Post Sentence Motion may be filed without payment of costs (In Forma Pauperis) with the same right to assigned counsel as with sentencing.
- (e) If a Post Sentence Motion is filed, the sentencing Court must render a decision on the Motion within 120 days (unless the deadline is extended by the Court for a maximum of 30 additional days of the request of the defendant and for good cause.) If the decision on a Post Sentence Motion is not rendered within this time period, the Post Sentence Motion will automatically be denied and the sole potential remedy would be through appeal.
- (f) If the maximum sentence is two years or longer, the filing of a Post Sentence Motion will ordinarily not delay commencement of sentence, although the judge

has discretion to allow bail pending appeal to a higher court. If the maximum sentence imposed is less than two years, the defendant has the same right to bail as before sentencing pending the outcome of any Post Sentence Motion or appeal.

II. Appeal to a Higher Court

- (a) Appeals to a higher court following the imposition of a sentence are taken to the Pennsylvania Superior Court (except in capital cases where the appeal is taken directly to the Pennsylvania Supreme Court). The appeal is initiated by the filing of a Notice of Appeal with the Clerk of Courts at the county courthouse, with notice to the trial judge, court reporter and prosecutor.
- (b) If a Post Sentence Motion was filed, the appeal to the higher court cannot commence until disposition of the Post Sentence Motion. This occurs when the trial judge rules on the Motion or when the Motion has been automatically denied because the trial judge did not rule on it within the time limits described above. The Notice of Appeal must be filed within 30 days of the date of sentencing.
- (c) If a Post Sentence Motion was not filed, the Notice of Appeal must be filed within thirty (30) days of the date of sentencing.
- (d) Issues which can be raised on appeal include: whether the sentencing court abused its discretion in imposing the sentence; whether the trial court erred in the denial of any Motion to withdraw a plea of guilty or of no contest; error in disposing of a Motion to modify sentence; or a challenge to the legality of the sentence or to the jurisdiction of the Court.
- (e) It is not necessary that issues raised on appeal were also raised in a Post Sentence Motion, so long as they were preserved by Motion or Objection before or during the sentencing hearing; however challenges to the legality of the sentencing or the jurisdiction of the Court may be raised at any time.
- (f) If you financially qualify, an appeal may be filed without the payment of costs (In Forma Pauperis) with the same right to assigned counsel as with sentencing.
- (g) If the maximum sentence is two (2) years or longer, the filing of an appeal to a higher Court will ordinary not delay a commencement of sentence, although the Court does have discretion to allow bail pending appeal. If the maximum sentence imposed is less than two (2) years, the defendant has the same right to bail as before verdict pending the outcome of any appeal.

I acknowledge reading and receiving a copy of the above document consisting of two pages.

Date: _____ Defendant: _____

I have reviewed the above procedures with my client and have assured myself that he/she understands these Post Sentence procedures.

Date: _____ Defense Counsel: _____