

Rule 15. Guilty Plea Procedures**15.01 Felony Cases**

Subd. 1. Guilty Plea. Before the judge accepts a guilty plea, the defendant must be sworn and questioned by the judge with the assistance of counsel as to the following:

1. Name, age, date and place of birth, and whether the defendant is disabled in communication and, if so, whether a qualified interpreter has been provided for the defendant under Rule 8 of the General Rules of Practice for the District Courts.

2. Whether the defendant understands that the crime charged is (name of offense) committed on or about (month) (day) (year) in _____ County, Minnesota.

3. Whether the defendant understands the defendant is pleading guilty to the offense of (name of offense) committed on or about (month) (day) (year) in _____ County, Minnesota, and understands the terms of the plea agreement, if any (state the terms with specificity).

4. The judge must ensure:

a. The defendant had sufficient time to discuss the case with defense counsel.

b. The defendant is satisfied that defense counsel is fully informed as to the facts of the case, and defense counsel represented the defendant's interests and fully advised the defendant.

c. Neither the defendant nor any other person has been given any promises other than those in the plea agreement, or been threatened by anyone, to get the defendant to plead guilty.

d. The defendant had an opportunity to ask questions of the court or make a statement before stating the facts of the crime.

5. The judge must determine whether the defendant:

a. is under the influence of drugs or intoxicating liquor;

b. has a mental disability; or

c. is undergoing medical or psychiatric treatment.

6. The judge must also ensure defense counsel has told the defendant and the defendant understands:

a. Upon a plea of not guilty, there is a right to a trial by jury and a finding of guilty is not possible unless all jurors agree.

b. There will not be a trial by either a jury or a judge without a jury if the defendant pleads guilty.

c. By pleading guilty the defendant waives the right to a trial by a jury or a judge on the issue of guilt.

d. If the defendant pleads not guilty and has a trial by jury or judge, the defendant will be presumed to be innocent until proven guilty beyond a reasonable doubt.

e. If the defendant pleads not guilty and has a trial, the prosecutor will be required to have the witnesses testify in open court in the defendant's presence, and the defendant will have the right, through defense counsel, to question these witnesses.

f. The defendant waives the right to have witnesses testify in the defendant's presence in court and be questioned by defense counsel.

g. If the defendant pleads not guilty and has a trial, the defendant will be entitled to require any defense witnesses to appear and testify.

h. The defendant waives the right to subpoena witnesses.

i. The maximum penalty the judge could impose for the crime charged (taking into consideration any prior convictions) is imprisonment for _____ months or _____ years.

j. If a minimum sentence is required by statute, the judge may impose a sentence of imprisonment of not less than _____ months for the crime charged.

k. For felony driving while impaired offenses and most sex offenses, a mandatory period of conditional release will be imposed to follow any executed prison sentence, and violating the terms of that conditional release may increase the time the defendant serves in prison.

l. If the defendant is not a citizen of the United States, a guilty plea may result in deportation, exclusion from admission to the United States, or denial of naturalization as a United States citizen.

m. The prosecutor is seeking an aggravated sentence (if applicable).

n. If the court does not approve the plea agreement, the defendant has an absolute right to withdraw the guilty plea and have a trial.

o. If the plea of guilty is not accepted by the court, or is withdrawn by the defendant, or is vacated on appeal or other review, the defendant will stand trial on the original charge(s), including any charges dismissed under the plea agreement, and the prosecutor may proceed just as if there had never been an agreement.

p. If the defendant pleads not guilty and has a jury trial, the defendant can decide to testify at trial, but if the defendant decided not to testify, neither the prosecutor nor the judge could comment to the jury about the failure to testify.

q. The defendant waives the right to testify, and agrees to tell the court about the facts of the crime.

r. The defendant with knowledge and understanding of all these rights still wishes to enter a plea of guilty or instead wishes to plead not guilty.

7. The judge must inquire whether the defendant makes any claim of innocence.

8. The defendant must state the factual basis for the plea.

Subd. 2. Aggravated Sentence. Before the judge accepts an admission of facts in support of an aggravated sentence, the defendant must be sworn and questioned by the judge with the assistance of defense counsel. This must be done separately from the inquiry that is required by subdivision 1. The inquiry must include whether the defendant:

1. Understands that the prosecutor is seeking a sentence greater than the presumptive guideline sentence or an aggravated sentence.

2. Understands that the presumptive guideline sentence for the crime to which the defendant has pled guilty or otherwise has been found guilty is _____, and that the defendant could

not be given an aggravated sentence greater than the presumptive guideline sentence unless the prosecutor proves facts in support of an aggravated sentence beyond a reasonable doubt.

3. Understands that the sentence in this case will be an aggravated sentence of _____, or will be left to the judge to decide.

4. Has had sufficient time to discuss this aggravated sentence with defense counsel.

5. Is satisfied that defense counsel is fully informed as to the facts supporting an aggravated sentence and has represented defendant's interests and fully advised the defendant.

6. The judge must also ensure defense counsel has told the defendant and defendant understands that:

a. Even though the defendant has pled guilty to or has otherwise been found guilty of the crime of _____, defendant may contest the facts alleged by the prosecutor that would support an aggravated sentence.

b. If defendant contests the facts alleged in support of an aggravated sentence, the defendant has a right to a trial by a jury or a judge to determine whether the facts have been proven, and a finding that the facts are proven is not possible unless all jurors agree.

c. The defendant waives the right to a trial by a jury or a judge of the facts in support of an aggravated sentence.

d. At trial before a jury or a judge, the defendant would be presumed not to be subject to an aggravated sentence, and the court could not impose an aggravated sentence unless the facts in support of the aggravated sentence are proven beyond a reasonable doubt.

e. If the defendant contests the facts alleged in support of an aggravated sentence and has a trial by a jury or a judge, the prosecutor will be required to have the prosecution witnesses testify in open court in the defendant's presence, and the defendant will have the right, through defense counsel, to question these witnesses.

f. The defendant waives the right to have witnesses testify in the defendant's presence and be questioned by defense counsel.

g. If the defendant contests the facts alleged in support of an aggravated sentence and has a trial by a jury or a judge, the defendant will be entitled to require any defense witnesses to appear and testify.

h. The defendant waives the right to subpoena witnesses.

i. If the defendant contests the facts in support of an aggravated sentence and has a trial by a jury or a judge, the defendant can decide to testify if the defendant wishes, but if the defendant decides not to testify, neither the prosecutor nor the judge could comment to the jury about the failure to testify.

j. The defendant waives the right to remain silent and agrees to tell the court about the facts supporting an aggravated sentence.

k. With knowledge and understanding of these rights, the defendant still wants to admit the facts in support of an aggravated sentence or instead wants to contest these facts and have a trial by a jury or a judge.

7. The defendant must state the factual basis for an aggravated sentence.

(Amended effective August 1, 2012.)

15.02 Gross Misdemeanor and Misdemeanor Cases

Subd. 1. Guilty Plea. Before the court accepts a plea of guilty to any misdemeanor or gross misdemeanor offense punishable upon conviction by incarceration, the plea agreement must be explained in open court. The defendant must then be questioned by the court or counsel as to whether the defendant:

1. Understands that the crime charged is (name the offense) committed on or about (Month) (Day) (Year) in _____ County, Minnesota, and that the defendant is pleading guilty to the crime of (name of offense) committed on or about (Month) (Day) (Year) in _____ County, Minnesota.

2. Understands that the maximum possible sentence is 90 days imprisonment for a misdemeanor and 1 year imprisonment for a gross misdemeanor, and a fine in the amount allowed by applicable law. (Under the applicable law, if the maximum sentence is less, it should be so stated.)

3. Understands that, if the defendant is not a citizen of the United States, a guilty plea may result in deportation, exclusion from admission to the United States, or denial of naturalization as a United States citizen.

4. Understands there is a right to the assistance of counsel at every stage of the proceedings and that defense counsel will be appointed for a defendant unable to afford counsel.

5. Understands and waives the right to:

(a) trial by the court or a jury and that a finding of guilty is not possible in a jury trial unless all jurors agree;

(b) confront and cross-examine all prosecution witnesses;

(c) subpoena and present defense witnesses;

(d) testify or remain silent at trial or at any other time;

(e) be presumed innocent and that the prosecutor must prove the case beyond a reasonable doubt; and

(f) a pretrial hearing to contest the admissibility at trial of any confessions or admissions or of any evidence obtained from a search and seizure.

6. Understands the nature of the offense or offenses charged.

7. Believes that what the defendant did constitutes the offense to which the defendant is pleading guilty.

Subd. 2. Factual Basis. After explaining the defendant's rights, the judge, with the assistance of counsel, must question the defendant to determine a factual basis for all elements of the offense to which the defendant is pleading guilty.

Subd. 3. Guilty Plea at First Appearance. If the guilty plea is entered at the defendant's first appearance in court, the statement as to the defendant's rights required by Rule 5.01 may be combined with the questioning required above prior to entry of a guilty plea.

(Amended effective August 1, 2012.)

15.03 Alternative Methods in Misdemeanor and Gross Misdemeanor Cases

Subd. 1. Group Warnings. The judge may advise a number of defendants at once as to their constitutional rights as specified in Rule 15.02, subd. 1, questions 2 through 5 above, and as to the consequences of a plea.

The court must first determine whether any defendant is disabled in communication. If so, the court must provide the services of a qualified interpreter to that defendant and should provide the warnings contemplated by this rule to that defendant individually. The judge's statement in a group warning must be recorded and each defendant when called before the court must be asked whether the defendant heard and understood the statement. The defendant must then be questioned on the record as to the remaining matters specified in Rule 15.02.

Subd. 2. Petition to Plead Guilty. As an alternative to the defendant personally appearing in court, the defendant or defense counsel may file with the court a petition to plead guilty. The petition must be signed by the defendant indicating that the defendant is pleading guilty to the specified misdemeanor or gross misdemeanor offense with the understanding and knowledge required of defendants personally entering a guilty plea under Rule 15.02.

(Amended effective August 1, 2012.)

15.04 Plea Discussions and Agreements

Subd. 1. Propriety of Plea Discussions and Agreements. The prosecutor must engage in plea discussions and reach a plea agreement with the defendant only through defense counsel unless the defendant is pro se.

Subd. 2. Relationship Between Defense Counsel and Defendant. Defense counsel must enter into a plea agreement only with the consent of the defendant and must ensure that the decision to enter a plea of guilty is made by the defendant.

Subd. 3. Responsibilities of the District Court Judge.

(1) A district court judge must not participate in plea negotiations. At any time, the judge may inquire into the status of settlement negotiations, but the judge must not provide comments about the parties' competing settlement offers or propose a plea agreement not presented by the parties. Before the entry of a guilty plea, and based upon the parties' joint request, the judge may disclose general sentencing practices. The substance of the judge's disclosures must be reflected in writing or orally on the record.

(2) When a plea is entered and the defendant questioned, the district court judge must reject or accept the plea of guilty on the terms of the plea agreement. The court may postpone its acceptance or rejection until it has received the results of a pre-sentence investigation. If the court rejects the plea agreement, it must advise the parties in open court and then call upon the defendant to either affirm or withdraw the plea.

(3) The judge may accept a plea agreement of the parties when the interest of justice would be served. Among the considerations appropriate in determining whether acceptance should be given are that:

(a) defendant by pleading guilty has aided in ensuring the prompt and certain application of correctional measures;

(b) defendant has acknowledged guilt and shown a willingness to assume responsibility for the criminal conduct;

(c) concessions will make possible the application of alternative correctional measures, which are better adapted to achieving rehabilitative, protective, deterrent or other purposes of correctional treatment, or will prevent undue harm to the defendant;

(d) defendant has made trial unnecessary when good reasons exist for not having a trial;

(e) defendant has given or offered cooperation, which has resulted or may result in the successful prosecution of other offenders engaged in serious criminal conduct;

(f) defendant by pleading has aided in avoiding delay in the disposition of other cases and has contributed to the efficient administration of criminal justice.

(Amended effective July 1, 2019.)

15.05 Plea Withdrawal

Subd. 1. To Correct Manifest Injustice. At any time the court must allow a defendant to withdraw a guilty plea upon a timely motion and proof to the satisfaction of the court that withdrawal is necessary to correct a manifest injustice. Such a motion is not barred solely because it is made after sentencing. If a defendant is allowed to withdraw a plea after sentencing, the court must set aside the judgment and the plea.

Subd. 2. Before Sentence. In its discretion the court may allow the defendant to withdraw a plea at any time before sentence if it is fair and just to do so. The court must give due consideration to the reasons advanced by the defendant in support of the motion and any prejudice the granting of the motion would cause the prosecution by reason of actions taken in reliance upon the defendant's plea.

Subd. 3. Withdrawal of Guilty Plea Without Asserting Innocence. The defendant may move to withdraw a plea of guilty without an assertion of not guilty of the charge to which the plea was entered.

15.06 Plea Discussions and Agreements Not Admissible

If the defendant enters a plea of guilty that is not accepted or is withdrawn, any plea discussions, plea agreements, and the plea are not admissible as evidence against or in favor of the defendant in any criminal, civil, or administrative proceeding.

15.07 Plea to Lesser Offenses

With the prosecutor's consent and the court's approval, the defendant may plead guilty to a lesser included offense or to an offense of lesser degree. On the defendant's motion and after hearing, the court, without the prosecutor's consent, may accept a guilty plea to a lesser included offense or to an offense of lesser degree, provided the court is satisfied that the prosecutor cannot introduce sufficient evidence to justify the submission of the offense charged to the jury or that it would be a manifest injustice not to accept the plea. In either event, the plea may be entered without amendment of the charging document. However, the reduction of the charge to an included offense or an offense of lesser degree must be done on the record.

(Amended effective July 1, 2015; amended October 1, 2016.)

15.08 Plea to Different Offense

With the consent of the prosecutor and the defendant, the defendant may enter a guilty plea to a different offense than that charged in the original charging document. The defendant may be charged with the new offense by complaint, or on the record, and the original charge must be dismissed.

(Amended effective July 1, 2015; amended October 1, 2016.)

15.09 Record of Proceedings

Whenever a guilty plea to an offense punishable by incarceration is entered and accepted by the court, a verbatim record of the proceedings must be made, or in the case of misdemeanors or gross misdemeanors, a petition to enter a plea of guilty must be filed with the court. If a written petition to enter a guilty plea is submitted to the court, it must be in the form as set forth in the Appendices to this rule. Any person may, at their expense, order a transcript of the verbatim record made in accordance with this rule. When requested, the transcript must be completed within 30 days of the date the transcript was requested in writing and satisfactory financial arrangements were made for the transcription.

(Amended effective August 1, 2012.)

15.10 Guilty Plea to Offenses From Other Jurisdictions

Following a guilty plea or a verdict or finding of guilty, the defendant may request permission to plead guilty to any other offense committed by the defendant within the jurisdiction of other courts in the state. The offense must be charged, and the plea must be approved, by the prosecutor having authority to charge the offenses. The prosecutor having authority to charge the offenses may participate in the plea and sentencing hearings by ITV under Rule 1.05.

(Amended effective July 1, 2010.)

15.11 Use of Guilty Plea Petitions When Defendant is Disabled in Communication

Whenever a defendant is disabled in communication, the court must not accept a guilty plea petition unless the defendant is first able to review it with the assistance of a qualified interpreter and the court establishes on the record that this has occurred. Whenever practicable, the court should use multilingual guilty plea petitions approved by the State Court Administrator to insure that the defendant understands all rights being waived, the nature of the proceedings, and the petition.

Comment - Rule 15

Although a failure to include all of the interrogation set forth in Rule 15.01 will not in and of itself invalidate a plea of guilty, a complete inquiry as provided for by the rule will in most cases assure and provide a record for a valid plea. The requirement that the court make certain that a defendant disabled in communication has a qualified interpreter comports with Minn. Gen. R. Pract. 8 and the general requirement for interpreter services established in Rule 5.01 and Minnesota Statutes, sections 611.31 to 611.34, and emphasizes the critical importance of this service in the guilty plea process.

The inquiry required by paragraph 6.1 of Rule 15.01, subd. 1 and by paragraph 3 of Rule 15.02, subd. 1 (concerning deportation and related consequences), is similar to that required in a number of other states. See, e.g., California, Cal. Penal Code section 1016.5; Connecticut, Conn. Gen. Stat. Ann. section 54-1 j; Massachusetts, Mass. Gen. Laws Ann. ch. 278, section 29D; New York, N.Y. Crim. Proc. Law section 220.50 (7); Ohio, Ohio Rev. Code Ann. section 2943.031; Oregon, Or. Rev. Stat. section 135.385(2)(d); Texas, Tex. Code Crim. Proc. Ann. art. 26.13(a)(4); and

Washington, Wash. Rev. Code Ann. section 10.40.200(2). In the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 (1996) and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009 (1996), Congress extensively amended the Immigration and Nationality Act and greatly expanded the grounds for deportation of non-citizens convicted of crimes. Consequently, non-citizens pleading guilty will subject themselves to deportation proceedings. The consequences of such proceedings will often be more severe and more important to the non-citizen defendant than the consequences for the criminal proceedings. It is therefore appropriate that defense counsel advise non-citizen defendants of those consequences and that the court inquire to be sure that has been done. As to the obligation of defense counsel in such situations, see ABA Standards for Criminal Justice, Pleas of Guilty, 14-3.2 (3d ed. 1999). The requirement of inquiring into deportation and immigration consequences does not mean that other unanticipated non-criminal consequences of a guilty plea will justify later withdrawal of that plea. See Kim v. State, 434 N.W.2d 263 (Minn. 1989) (unanticipated employment consequences).

Before entry of a guilty plea, defense counsel should review with the defendant the effect of the Minnesota Sentencing Guidelines on the case. Further, it may be desirable for the court to order a pre-plea sentencing guidelines worksheet to be prepared so that the court, the defendant, and both counsel will be aware of the effect of the guidelines at the time the guilty plea is entered.

It is suggested by the Advisory Committee that the defendant sign a Petition to Plead Guilty in the form appearing in the Appendices to these rules (which contain in even more detailed form the information showing the defendant's understanding of defense rights and the consequences of pleading), and that the defendant be asked upon the inquiry under Rule 15.01 to acknowledge signing the petition, that the defendant has read the questions set forth in the petition or that they have been read to the defendant, and that the defendant understands them, that the defendant gave the answers in the petition, and that they are true.

The court in State v. Casarez, 295 Minn. 534, 203 N.W.2d 406 (1973), applied the Boykin standard to misdemeanors, holding that a misdemeanor guilty plea must be vacated where the record does not show a knowing and voluntary waiver of the defendant's constitutional rights. It is clear then that at least some limited inquiry is necessary on the record before a misdemeanor guilty plea is accepted, and Rule 15.02 prescribes the minimal standards for this questioning.

A prior guilty plea without the assistance of defense counsel cannot be used to aggravate a later charge absent a valid waiver of counsel on the record for the earlier plea. State v. Nordstrom, 331 N.W.2d 901 (Minn. 1983). Also, a prior guilty plea which lacks a factual basis on the record cannot be used to aggravate a later charge. State v. Stewart, 360 N.W.2d 463 (Minn. Ct. App. 1985).

Under Rule 15.03, subd. 2, a "Misdemeanor/Gross Misdemeanor Petition to Enter Plea of Guilty" as provided for in the Appendix B to Rule 15, may be completed and filed with the court. This petition in written form contains in substance the information and questions required by Rule 15.02, subd. 1, questions 2-5. When properly completed, the petition may be filed by either the defendant or defense counsel. It is not necessary for the defendant to personally appear in court when the petition is presented to the court. If the court is satisfied that the plea is being knowingly and voluntarily entered according to the standards of Rule 15.02, subd. 1, it will dispose of the plea in the same manner as if the defendant entered the plea in person.

See Minnesota Statutes, section 611A.03, regarding the prosecutor's duties under the Victim's Rights Act to make a reasonable and good faith effort to inform victims of proposed plea agreements and to notify of the right to be present at sentencing to make an objection to the plea agreement or to the proposed disposition.

When the defendant is questioned as to the plea agreement under Rule 15.01, the court must inform the defendant if the plea agreement is rejected, unless the court decides to postpone a decision on acceptance or rejection until the pre-sentence report is received.

Rule 15.04, subd. 3(1), adopts the standards governing judicial involvement in plea negotiation as set forth in Wheeler v. State, 909 N.W.2d 558 (Minn. 2018). As noted by the court in Wheeler:

[A] district court judge should not participate in the plea bargaining negotiation itself. . . . A district court judge's function is limited to approving or rejecting a plea submitted for judicial acceptance. . . . A judge does not violate this bright-line rule, however, by inquiring into the status of negotiations, sharing general sentencing practices, or disclosing nonbinding plea and sentencing information at the joint request of the parties.

Wheeler, at 564-65 (internal quotation marks and citations omitted). The Wheeler court specifically prohibited judges from "providing unsolicited comments regarding the propriety of the parties' competing settlement offers" or proposing "a plea deal not presented by the parties." Id. at 560, 567.

Whenever a plea agreement has been rejected, the defendant must be afforded the opportunity to withdraw a plea of guilty, if entered. Rules 15.04, subd. 3(2); 15.01. If the defendant has made factual disclosures tending to disclose guilt of the offense charged, the judge should disqualify himself or herself from the trial of the case.

Rule 15.04, subd. 3(3)(d) includes situations in which certain witnesses, such as young children involved in sexual offenses, may be protected from unnecessary publicity.

Rule 15.05, subd. 1 authorizing the withdrawal of a guilty plea to correct manifest injustice does not provide guidelines for determining whether a motion for withdrawal of the plea is timely or whether withdrawal is necessary to correct manifest injustice. This is left by the rule to judicial decision. See, e.g., Chapman v. State, 282 Minn. 13, 162 N.W.2d 698 (1968).

Rule 15.06 is consistent with Minn. R. Evid. 410, which also governs the admissibility of evidence of a withdrawn plea of guilty. Rule 410 is broader in that it makes inadmissible evidence relating to withdrawn pleas from other jurisdictions, including withdrawn pleas of nolo contendere from those jurisdictions that allow such a plea.

It is strongly recommended that when the defendant is disabled in communication due to difficulty in speaking or comprehending English, a multilingual guilty plea petition be used that is in English as well as the language in which the defendant is able to communicate. The use of a multilingual petition would help assure that the translation is accurate and is preferable to the use of a petition that contains only the language other than English.