

Rule 15. Guilty Plea Procedures**Rule 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.)

Rule 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.)

Rule 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.)

Rule 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.)

Rule 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.

Rule 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.

Rule 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.)

Rule 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.)

Rule 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.)

Rule 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.)

Rule 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.

APPENDIX A TO RULE 15

State of Minnesota

District Court

County

Judicial District: _____

Court File Number: _____

Case Type: _____ Criminal _____

State of Minnesota,
Plaintiff

vs.

Petition To Enter

Plea of Guilty In

Felony Case Pursuant To Rule 15

Defendant

TO THE ABOVE NAMED COURT:

I, _____, Defendant in the above-entitled action, do respectfully represent and state as follows:

1. My full name is _____. I am ___ years old, my date of birth is _____. The last grade that I went through in school is _____.

2. If filed in my case, I have received, read and discussed a copy of the (indictment)(complaint).

3. I understand the charge(s) made against me in this case.

4. Specifically, I understand that I have been charged with the crime(s) of _____

_____ committed on or about _____ in _____ County, Minnesota.

(month) (day) (year)

5. I am represented by an attorney whose name is _____.

a. I feel that I have had sufficient time to discuss my case with my attorney.

b. I am satisfied that my attorney is fully informed as to facts of this case.

c. My attorney has discussed possible defenses to the crime that I might have.

d. I am satisfied that my attorney has represented my interests and has fully advised me.

6. I have/ have never been a patient in a mental hospital.

7. I have/ have not talked with or been treated by a psychiatrist or other person for a nervous or mental condition.

8. I have/ have not been ill recently.

9. I have/ have not recently been taking pills or other medicines.

10. I do/ do not make the claim that I was so drunk or so under the influence of drugs or medicine that I did not know what I was doing at the time of the crime.

11. I do/ do not make the claim that I was acting in self-defense or merely protecting myself or others at the time of the crime.

12. I do/ do not make the claim that the fact that I have been held in jail since my arrest and could not post bail caused me to decide to plead guilty in order to get the thing over with rather than waiting for my turn at trial.

13. I was/ was not represented by an attorney when I had a probable cause hearing. If I have not had a probable cause hearing, I understand that:

a. I could now move that the complaint against me be dismissed for lack of probable cause and I know that if I do not make such a motion and go ahead with entering my plea of guilty, I waive all right to successfully object to the absence of a probable cause hearing.

b. I waive all right to successfully object to any errors in the probable cause hearing when I enter my plea of guilty.

14. My attorney has told me and I understand that:

a. The prosecutor for the case against me has:

i. physical evidence obtained as a result of searching for and seizing the evidence;

ii. evidence in the form of statements, oral or written that I made to police or others regarding this crime;

iii. evidence discovered as a result of my statements or as a result of the evidence seized in a search;

iv. identification evidence from a line-up or photographic identification;

v. evidence the prosecution believes indicates that I committed one or more other crimes.

b. I have a right to a pretrial hearing before a judge to determine whether or not the evidence the prosecution has could be used against me if I went to trial in this case.

c. If I requested such a pretrial hearing I could testify at the hearing if I wanted to, but my testimony could not be used as substantive evidence against me if I went to trial and could only be used against me if I was charged with the crime of perjury. (Perjury means testifying falsely).

d. I do/ do not now request such a pretrial hearing and I specifically do/ do not now waive my right to have such a pretrial hearing.

e. Whether or not I have had such a hearing I will not be able to object tomorrow or any other time to the evidence that the prosecutor has.

15. I have been told by my attorney and I understand that:

a. If I wish to plead not guilty I am entitled to a trial by a jury on the issue of guilt, and all jurors would have to agree I was guilty before the jury could find me guilty.

b. If I plead guilty I will not have a trial by either a jury or by a judge without a jury.

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c. With knowledge of my right to a trial on the issue of guilt, I now waive my right to a trial.

16. I have been told by my attorney and I understand that if I wish to plead not guilty and have a trial by jury or trial by a judge I would be presumed innocent until my guilt is proved beyond a reasonable doubt.

17. I have been told by my attorney and I understand that:

a. If I wish to plead not guilty and have a trial the prosecutor would be required to have the witnesses testify against me in open court in my presence and that I would have the right, through my attorney, to question these witnesses.

b. With knowledge of my right to have the prosecution's witnesses testify in open court in my presence and be questioned by my attorney, I now waive this right.

18. I have been told by my attorney and I understand that:

a. If I wish to plead not guilty and have a trial I would be entitled to require any witnesses that I think are favorable to me to appear and testify at trial.

b. With knowledge of my right to require favorable witnesses to appear and testify at trial I now waive this right.

19. I have been told by my attorney and I understand that:

a. A person who has prior convictions or a prior conviction can be given a longer prison term.

b. The maximum penalty that the court could impose for this crime (taking into consideration any prior conviction or convictions) is imprisonment for ___ years. If a minimum sentence is required by statute the court may impose a sentence of imprisonment of not less than ___ months for this crime.

c. For felony driving while impaired offenses and most sex offenses, a mandatory period of conditional release will follow any executed prison sentence that is imposed. Violating the terms of this conditional release may increase the time I serve in prison. In this case, the period of conditional release is ___ years.

d. A person who participates in a crime by intentionally aiding, advising, counseling and conspiring with another person or persons to commit a crime is just as guilty of that crime as the person or persons who are present and participating in the crime when it is actually committed.

e. My present probation or parole could be revoked because of my plea of guilty to this crime.

f. The prosecutor is seeking an aggravated sentence of _____.

20. I have been told by my attorney and I understand that:

a. My attorney discussed this case with one of the prosecuting attorneys, and my attorney and the prosecuting attorney agree that if I enter a plea of guilty, the prosecutor will do the following (provide the substance of the agreement):

b. If the court does not approve this agreement:

i. I have an absolute right to withdraw my plea of guilty and have a trial.

ii. Any testimony that I have given concerning the guilty plea could not be used against me unless I am charged with the crime of perjury based on this testimony.

21. That except for the agreement between my attorney and the prosecuting attorney:

a. No one - including my attorney, any police officer, prosecutor, judge, or any other person - has made any promises to me, to any member of my family, to any of my friends, or to other persons, to obtain a plea of guilty from me.

b. No one - including my attorney, any police officer, prosecutor, judge, or any other person - has threatened me, any member of my family, my friends, or other persons, to obtain a plea of guilty from me.

22. My attorney has told me and I understand that if my plea of guilty is for any reason not accepted by the court, or if I withdraw the plea, with the court's approval, or if the plea is withdrawn by court order on appeal or other review:

a. I would then stand trial on the original charge(s).

b. The prosecution could proceed against me just as if there had been no plea of guilty and no plea agreement.

23. My attorney has told me and I understand that if my plea of guilty is accepted by the judge I have the right to appeal, but that any appeal or other court action I may take claiming error in the proceedings probably would be useless and a waste of my time and the court's time.

24. My attorney has told me and I understand that a judge will not accept a plea of guilty from anyone who claims to be innocent.

25. I now make no claim that I am innocent.

26. I have been told by my attorney and I understand that if I wish to plead not guilty and have a jury trial:

a. I could testify at trial if I wanted to but I could not be forced to testify.

b. If I decided not to testify neither the prosecutor nor the judge could comment on my failure to testify.

c. With knowledge of my right not to testify and that neither the judge nor the prosecutor could comment on my failure to testify at trial I now waive this right and will tell the judge about the facts of the crime.

27. My attorney has told me and I understand that if I am not a citizen of the United States, my plea of guilty may result in deportation, exclusion from admission to the United States, or denial of naturalization as a United States citizen.

28. That in view of all the above facts and considerations, I wish to enter a plea of guilty to the offenses of _____

(name of offense(s))

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in violation of _____

(statute(s) or ordinance(s))

Dated: _____

Signature of Defendant

Name: _____

Street Address: _____

City/State/Zip: _____

E-mail address: _____

(Effective for criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1990; amended effective for criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1999; amended effective for all criminal actions commenced or arrests made after 12 o'clock midnight February 1, 2003; amended effective for all criminal actions commenced or arrests made after 12 o'clock midnight October 1, 2006; amended effective October 1, 2017.)

APPENDIX B TO RULE 15

State of Minnesota

District Court

County

Judicial District: _____

Court File Number: _____

Case Type: _____ Criminal _____

Petition To

**Enter Plea of Guilty In
Misdemeanor Or
Gross
Misdemeanor Case
Pursuant To Rule 15**

State of Minnesota,

Plaintiff,

vs.

_____ ,

Defendant

TO THE ABOVE NAMED COURT:

I wish to enter a plea of guilty in the above-entitled case and I hereby state to the Court the following:

1. I am the Defendant in this case, my full name is _____ and my date of birth is _____.

2. I am charged with _____ ,
(name of offense(s))

in violation of _____ .
(statute(s) or ordinance(s))

3. I hereby plead guilty to the offense(s) of _____ ,
(name of offense(s))

in violation of _____ .
(statute(s) or ordinance(s))

4. I am pleading guilty because on _____ in the City of _____ , County of _____
(date)

_____, State of Minnesota, I committed the following acts (state sufficient facts to establish a factual basis for all elements of the offense(s) to which the defendant is pleading guilty): _____

5. I understand that the maximum possible sentence for any misdemeanor offense to which I am pleading guilty is 90 days imprisonment or a fine of \$ _____ or both, and that the maximum possible sentence for any gross misdemeanor offense to which I am pleading guilty is imprisonment for 364 days or a fine of \$ _____ or both.

6. RIGHT TO AN ATTORNEY. I understand that I have the right to be represented by an attorney and that an attorney will be appointed to represent me without cost to me if I cannot afford to pay for an attorney.

7. I have fully discussed the charge(s), my constitutional rights, and this petition with my attorney, _____.
 (name of attorney)

OR

WAIVER OF ATTORNEY. I give up my right to be represented by an attorney and any right I might have to request that an attorney be appointed to represent me.

8. I understand that I also have the following constitutional rights which I knowingly and voluntarily give up:

a. The right to a trial to the court or to a jury in which I am presumed innocent until proven guilty beyond a reasonable doubt and in which all jurors in a jury trial must agree I am guilty before the jury could find me guilty.

b. The right to confront and cross-examine all witnesses against me.

c. The right to remain silent or to testify for myself.

d. The right to subpoena and present witnesses to testify for me in my defense.

e. The right to a pretrial hearing to contest the admissibility at trial of any confessions or admissions or of any evidence obtained from a search and seizure.

9. I am entering my plea of guilty freely and voluntarily and without any promises except as indicated in number 10 below.

10. I am entering my plea of guilty based on the following plea agreement with the prosecutor (if none so state):

11. I understand that if the court does not approve this agreement I have the right to withdraw my plea of guilty and have a trial.

12. I understand that if this plea of guilty is accepted I have the right to be present at the time of sentencing and to speak and to present evidence on my behalf.

13. I hereby knowingly and voluntarily give up my right to be present when my plea is entered.

14. I hereby request to be present at the time of sentencing.

OR

I hereby knowingly and voluntarily give up my right to be present at the time of sentencing and request that the court sentence me in my absence, but according to any plea agreement that might be contained in this petition.

15. I understand that if I am not a citizen of the United States, my plea of guilty may result in deportation, exclusion from admission to the United States, or denial of naturalization as a United States citizen.

Dated: _____

Signature of Defendant

Name: _____

Street Address: _____

City/State/Zip: _____

E-mail address: _____

I, _____, state that I am the attorney for the defendant in the above-entitled criminal action; and that I personally explained the contents of the above petition to the defendant.

Dated: _____

Attorney of Defendant

E-mail address

PETITION AND PLEA OF GUILTY ACCEPTED BY

Judge of District Court Date

(Effective for criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1990; amended effective for criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1999; amended effective August 1, 2012; amended effective October 1, 2017; amended effective June 23, 2023.)

MINNESOTA COURT RULES

CRIMINAL PROCEDURE

16

APPENDIX C TO RULE 15

STATE OF MINNESOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

PETITION TO ENTER
PLEA OF GUILTY BY
PRO SE DEFENDANT

vs.

_____,
Defendant.

TO: THE ABOVE NAMED COURT

I, _____, defendant in the above-entitled action do respectfully represent and state as follows:

1. My full name is _____. I am ___ years old. My date of birth is _____.
The last grade that I went through in school is _____.

2. If filed in my case, I have received and read a copy of the (Indictment)(Complaint).

3. I understand the charge made against me in this case.

4. Specifically, I understand that I have been charged with the crime of _____ committed on or about _____ (month) _____ (day) _____ (year) in _____ County, Minnesota, (and that the crime I am talking about is _____ which is a lesser degree or lesser included offense of the crime charged).

5a. I understand that I have an absolute right to have an attorney represent me at any stage of these proceedings, including a guilty plea.

b. I have read over and completed a Petition to Proceed as Pro Se Counsel (Form 11) and provided that Petition to the Court on _____.

c. I have been advised of the nature of the charges and statutory offenses included in the charges against me, the maximum sentence permitted, the possible defenses, mitigating circumstances, and other relevant facts so that I understand the advantages and disadvantages of waiving my right to an attorney.

d. Knowing the consequences of giving up my right to counsel, I waive my right to be represented by an attorney during the entry of my guilty plea.

6. I (have) (have not) been a patient in a mental hospital.

7. I (have) (have not) talked with or been treated by a psychiatrist or other person for a nervous or mental condition.

8. I (have) (have not) been ill recently.

9. I (have) (have not) recently been taking pills or other medicines.

10. I (do) (do not) make the claim that I was so drunk or so under the influence of drugs or medicine that I did not know what I was doing at the time of the crime.

11. I (do) (do not) make the claim that I was acting in self-defense or merely protecting myself or others at the time of the crime.

12. I (do) (do not) make the claim that the fact that I have been held in jail since my arrest and could not post bail caused me to decide to plead guilty in order to get the thing over with rather than waiting for my turn at trial.

13. I (was) (was not) represented by an attorney when I (had a probable cause hearing.) (If I have not had a probable cause hearing.)

a. I know that I could now move that the complaint against me be dismissed for lack of probable cause and I know that if I do not make such a motion and go ahead with entering my plea of guilty, I waive all right to successfully object to the absence of a probable cause hearing.

b. I also know that I waive all right to successfully object to any errors in the probable cause hearing when I enter my plea of guilty.

14. I understand:

a. That the prosecutor for the case against me, has:

i. physical evidence obtained as a result of searching for and seizing the evidence;

ii. evidence in the form of statements, oral or written that I made to police or others regarding this crime;

iii. evidence discovered as a result of my statements or as a result of the evidence seized in a search;

iv. identification evidence from a lineup or photographic identification;

v. evidence the prosecution believes indicates that I committed one or more other crimes.

b. That I have a right to a pre-trial hearing before a judge to determine whether or not the evidence the prosecution has could be used against me if I went to trial in this case.

c. That if I requested such a pre-trial hearing I could testify at the hearing if I wanted to, but my testimony could not be used as substantive evidence against me if I went to trial and could only be used against me if I was charged with the crime of perjury. (Perjury means testifying falsely.)

d. That I (do) (do not) now request such a pre-trial hearing and I specifically (do) (do not) now waive my right to have such a pre-trial hearing.

e. That whether or not I have had such a hearing I will not be able to object tomorrow or any other time to the evidence that the prosecutor has.

15. I understand:

a. That if I wish to plead not guilty I am entitled to a trial by a jury on the issue of guilt, and all jurors would have to agree I was guilty before the jury could find me guilty.

b. That if I plead guilty I will not have a trial by either a jury or by a judge without a jury.

c. That with knowledge of my right to a trial on the issue of guilt, I now waive my right to a trial.

16. I understand that if I wish to plead not guilty and have a trial by jury or trial by a judge I would be presumed innocent until my guilt is proved beyond a reasonable doubt.

17. I understand:

a. That if I wish to plead not guilty and have a trial the prosecutor would be required to have the witnesses testify against me in open court in my presence and that I would have the right to question these witnesses.

b. That with knowledge of my right to have the prosecution's witnesses testify in open court in my presence and questioned by me, I now waive this right.

18. I understand:

a. That if I wish to plead not guilty and have a trial I would be entitled to require any witnesses that I think are favorable to me to appear and testify at trial.

b. That with the knowledge of my right to require favorable witnesses to appear and testify at trial I now waive this right.

19. I understand:

a. That a person who has prior convictions or a prior conviction can be given a longer prison term because of this.

b. That the maximum penalty that the court could impose for this crime (taking into consideration any prior conviction or convictions) is imprisonment for ___ years. That if a minimum sentence is required by statute the court may impose a sentence of imprisonment of not less than ___ months for this crime.

c. That a person who participates in a crime by intentionally aiding, advising, counseling and conspiring with another person or persons to commit a crime is just as guilty of that crime as the person or persons who are present and participating in the crime when it is actually committed.

d. That my present probation or parole could be revoked because of the plea of guilty to this crime.

e. That if I am not a citizen of the United States, my plea of guilty to this crime may result in deportation, exclusion from admission to the United States or denial of naturalization as a United States citizen.

f. That the prosecutor is seeking an aggravated sentence of _____.

20. I understand:

a. That I have discussed this case with one of the prosecuting attorneys and that the prosecuting attorney and I agreed that if I entered a plea of guilty, the prosecutor will do the following:

(Give the substance of the agreement)

b. That if the court does not approve this agreement:

i. I have an absolute right to then withdraw my plea of guilty and have a trial.

ii. Any testimony that I have given concerning the guilty plea could not be used against me unless I am charged with the crime of perjury based on this testimony.

21. That except for the agreement between the prosecuting attorney and me:

a. No one - including any police officer, prosecutor, judge, or any other person - has made any promises to me, to any member of my family, to any of my friends or other persons, in order to obtain a plea of guilty from me.

b. No one - including any police officer, prosecutor or judge, or any other person - has threatened me or any member of my family or my friends or other persons, in order to obtain a plea of guilty from me.

22. I understand that if my plea of guilty is for any reason not accepted by the court, or if I withdraw the plea, with the court's approval, or if the plea is withdrawn by court order on appeal or other review:

a. I would then stand trial on the original charge (charges) against me, namely _____ (which would include any charges that were dismissed as a result of the plea agreement entered into by the prosecuting attorney and me.)

b. The prosecution could proceed against me just as if there had been no plea of guilty and no plea agreement.

23. I understand that if my plea of guilty is accepted by the judge I have the right to appeal, but that any appeal or other court action I may take claiming error in the proceedings probably would be useless and a waste of my time and the court's time.

24. I understand that a judge will not accept a plea of guilty for anyone who claims to be innocent.

25. I now make no claim that I am innocent.

26. I understand that if I wish to plead not guilty and have a jury trial:

a. That I could testify at trial if I wanted to, but I could not be forced to testify.

b. That if I decided not to testify neither the prosecutor nor the judge could comment on my failure to testify.

c. That with knowledge of my right not to testify and that neither the judge nor the prosecutor could comment on my failure to testify at trial I now waive this right and I will tell the judge about the facts of the crime.

27. That in view of all the above facts and considerations I wish to enter a plea of guilty.

Dated this ____ day of _____, ____

DEFENDANT

(Added effective for criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1999; amended effective for all criminal actions commenced or arrests made after 12 o'clock midnight October 1, 2006.)

APPENDIX D TO RULE 15

PLEA AGREEMENT

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
_____ JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

PLEA AGREEMENT

vs.

District Court File No. _____

_____,
Defendant.

1. Negotiation Status

_____ The terms and conditions outlined in this agreement are a joint recommendation to the Court, but the Court is not bound to those terms and may impose different terms than those outlined in this agreement.

_____ The terms and conditions outlined in this negotiation are required by the agreement. If the Court will not sentence the defendant to the terms outlined in this agreement, either party may withdraw from the agreement.

2. Charges/Dismissals/Deferrals

_____ The defendant will enter a plea of guilty to the following counts from the following files: _____

_____ This case will be deferred pursuant to a pretrial diversion program. If the defendant successfully completes this program, the case will be dismissed.

_____ This case will be deferred pursuant to Minn. Stat. section 152.18 with conditions outlined in Section 4. If the defendant successfully completes those conditions, the case will be dismissed.

_____ This matter will be continued for dismissal for a period of _____ on condition that the defendant abide by the following conditions: _____

_____ Successful completion of probation will result in vacation of plea and dismissal of charge.

_____ The following counts in this case or other criminal complaints will be dismissed:

_____ This complaint will be amended to the lesser included offense(s) (or amended to the separate offense) of: _____

_____ The State will not seek criminal charges arising out of the following conduct:

3. Level of Conviction

_____ The parties agree to a misdemeanor or gross misdemeanor sentence of _____

_____ The parties agree to a stay of imposition of sentence for ___ years.

_____ The parties agree to a stay of execution of sentence with a stayed sentence of ___ months and a stay for ___ years.

_____ The parties agree to an executed sentence of ___ months.

_____ The parties agree to a waiver of the mandatory minimums found in Minn. Stat. section 609.11.

_____ **(If sentenced on multiple counts/files)** The prison term in this case is arrived at by the following sentences from the following counts/files to be served consecutively/concurrently (circle one): _____

_____ The parties agree to whatever sentence is presumed by the Minnesota Sentencing Guidelines.

_____ The parties agree this is a departure from the Minnesota Sentencing Guidelines (or other sentencing enhancement) based on the following factors:

_____ The parties agree to a sentencing range of ___ months to ___ months.

_____ **(DWI and Criminal Sexual Conduct cases)** If this is an executed sentence or if this sentence is ever executed, the parties understand that the defendant is subject to an extended term of conditional release for five or ten years after any term of imprisonment.

_____ The parties also understand the defendant will be required to provide a biological sample for the state DNA database.

4. If this is a probationary sentence the parties agree to the following terms and conditions:

_____ All terms of probation left to discretion of the Court.

_____ A probationary term of _____

_____ A workhouse or jail term of _____

_____ A workhouse or jail term not to exceed ("a cap" of) _____

_____ This term may be served intermittently on the following dates: _____

_____ The defendant will be eligible for Huber release for the following purposes:

_____ Community service for ___ hours.

_____ Sentence to Serve for ___ days.

_____ Electronic home monitoring for ___ days.

_____ Undergo any treatment-related evaluation recommended by Probation or the Department of Court Services.

_____ Enter and successfully complete the following programs: _____

_____ Enter and successfully complete any program recommended by Probation or the Department of Court Services.

_____ No contact in person, by mail, by phone, by third party, or electronically with:

_____ A fine of _____ and applicable surcharges.

_____ Other: _____

5. Restitution

_____ Defendant agrees to make restitution in the amount of _____.

_____ Restitution to be determined by the Court.

6. Miscellaneous Provisions

Dated: _____

Defendant

Prosecuting Attorney

Defense Attorney

(Added effective November 5, 2003; amended effective for criminal actions commenced or arrests made after 12 o'clock midnight March 1, 2006.)

APPENDIX E TO RULE 15

STATE OF MINNESOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

PETITION REGARDING
AGGRAVATED SENTENCE

vs.

_____,
Defendant.

TO: THE ABOVE NAMED COURT

I, _____, defendant in the above entitled action do respectfully represent and state as follows:

1. I have pled guilty to or have otherwise been found guilty of the crime of _____.
2. I understand the presumptive guideline sentence for this offense is _____, and I could not be given an aggravated sentence greater than the presumptive sentence unless the prosecution proves facts in support of such an aggravated sentence.
3. I understand the prosecution is seeking a sentence greater than that called for in the sentencing guidelines. Specifically, I understand the sentence in this case will be _____ or will be left to the judge to decide.
4. I am represented by attorney _____ and:
 - a. I feel I have had sufficient time to discuss the issue of an aggravated sentence with my attorney.
 - b. I am satisfied my attorney is fully informed as to the facts related to an aggravated sentence and that my attorney has discussed possible defenses I have to an aggravated sentence.
 - c. I am satisfied that my attorney has represented my interests and has fully advised me about an aggravated sentence.
5. My attorney has told me and I understand that even though I have pled guilty to or been otherwise found guilty of the crime of _____, I have the right to deny the facts alleged by the prosecution in support of an aggravated sentence.
6. My attorney has told me and I understand that I am entitled to a trial by either a jury or a judge to determine whether an aggravated sentence may be imposed upon me.
7. My attorney has told me and I understand that at such trial I have the following rights:
 - a. I am presumed not to be subject to an aggravated sentence.

MINNESOTA COURT RULES

b. The prosecution must prove facts supporting an aggravated sentence to either a jury or a judge beyond a reasonable doubt.

c. That before a jury could find facts supporting an aggravated sentence, all jurors would have to agree. That means the jury's decision must be unanimous.

d. That at a trial before either a jury or a judge, the prosecution will be required to call witnesses in open court and in my presence, and I, through my attorney, will have the right to question the witnesses.

e. That I may require any witnesses I think are favorable to me to appear and testify on my behalf.

f. That I may testify at such a trial if I wish to, but that if I choose not to testify, neither the prosecution nor the judge could comment to the jury about the failure to testify.

g. That if I admit the facts in support of an aggravated sentence, I will not have a trial by either a jury or a judge.

8. That with knowledge of my right to a trial on the facts in support of an aggravated sentence, I now waive my right to a trial.

9. I now waive my right not to testify and I will tell the judge about the facts which support an aggravated sentence.

Dated: _____

Signature of Defendant

(Added effective for criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1999; amended effective for all criminal actions commenced or arrests made after 12 o'clock midnight October 1, 2006; amended effective for all criminal actions commenced or arrests made after 12 o'clock midnight October 1, 2006.)

APPENDIX F TO RULE 15

STATE OF MINNESOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

vs.

_____,

Defendant.

PETITION REGARDING
AGGRAVATED SENTENCE
BY PRO SE DEFENDANT

TO: THE ABOVE NAMED COURT

I, _____, defendant in the above entitled action do respectfully represent and state as follows:

1. I have pled guilty to or have otherwise been found guilty of the crime of _____.
2. I understand the presumptive guideline sentence for this offense is _____, and I could not be given an aggravated sentence greater than the presumptive sentence unless the prosecution proves facts in support of such an aggravated sentence.
3. I understand the prosecution is seeking a sentence greater than that called for in the sentencing guidelines. Specifically, I understand the sentence in this case will be _____ or will be left to the judge to decide.
4. I understand that although I have pled guilty to or have otherwise been found guilty of the crime of _____, I have the right to deny the facts alleged by the prosecution in support of an aggravated sentence.
5. I understand that I am entitled to a trial by either a jury or a judge to determine whether an aggravated sentence may be imposed upon me.
6. I understand that I have an absolute right to have an attorney represent me at such trial and knowing the consequences of giving up my right to counsel, I waive my right to be represented by an attorney.
7. I understand that at a trial by a jury or a judge to determine if an aggravated sentence may be imposed upon me, I have the following rights:
 - a. I am presumed not to be subject to an aggravated sentence.
 - b. The prosecution must prove facts supporting an aggravated sentence to either a jury or a judge beyond a reasonable doubt.
 - c. That before a jury could find facts supporting an aggravated sentence, all jurors would have to agree. That means the jury's decision would have to be unanimous.

MINNESOTA COURT RULES

CRIMINAL PROCEDURE

d. That at a trial before either a jury or a judge, the prosecution will be required to call witnesses in open court and in my presence, and that I would have the right to question the witnesses.

e. That I may require any witnesses I think are favorable to me to appear and testify on my behalf.

f. That I may testify at such a trial if I wish to, but that if I choose not to testify, neither the prosecution nor the judge could comment to the jury about the failure to testify.

g. That if I admit the facts in support of an aggravated sentence, I will not have a trial by either a jury or a judge.

8. That with knowledge of my right to a trial on the facts in support of an aggravated sentence, I now waive my right to a trial.

9. I now waive my right not to testify and I will tell the judge about the facts which support an aggravated sentence.

Dated: _____

Signature of Defendant

(Added effective for criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1999; amended effective for all criminal actions commenced or arrests made after 12 o'clock midnight October 1, 2006; amended effective for all criminal actions commenced or arrests made after 12 o'clock midnight October 1, 2006; amended effective for all criminal actions commenced or arrests made after 12 o'clock midnight October 1, 2006.)

APPENDIX G TO RULE 15

State of Minnesota

District Court

County

Judicial District: _____

Court File Number: _____

Case Type: _____ Criminal _____

State of Minnesota, Plaintiff

Alford Addendum to Petition to Enter Plea of
Guilty Pursuant to Rule 15

vs.

Defendant

TO THE ABOVE-NAMED COURT:

When a defendant tenders a guilty plea while maintaining innocence, the following language replaces paragraphs 24 and 25 of the Petition to Enter Plea of Guilty in Felony Case Pursuant to Rule 15. The district court and parties must ensure that an adequate factual basis is established on the record. See North Carolina v. Alford, 400 U.S. 25, 38, 91 S. Ct. 160, 168 (1970); State v. Theis, 742 N.W.2d 643, 649 (Minn. 2007); State v. Goulette, 258 N.W.2d 758, 761 (Minn. 1977).

I, _____, Defendant in the above-entitled action, do respectfully represent and state as follows:

My attorney has told me and I understand that a judge generally will not accept a plea of guilty from someone who claims to be innocent. However, I understand that the judge may accept my *Alford* guilty plea despite my claim of innocence, so long as I agree the state's evidence is sufficient for a jury to find me guilty, beyond a reasonable doubt, if I have a trial. With this principle in mind, I acknowledge that:

a. I have reviewed the evidence that the state will offer against me if I have a trial.

b. I believe that there is a substantial likelihood that I will be found guilty, beyond a reasonable doubt, of the offense to which I am pleading if the state's evidence is presented against me at trial.

c. If the judge accepts my *Alford* guilty plea, I will be convicted of the offense to which I am pleading, and I will be considered just as guilty as I would be if I had admitted my guilt. My claim of innocence will not have any impact on the terms and conditions of my sentence, my probation (if any), or any collateral consequences stemming from my conviction, including civil commitment for treatment.

d. I may be required to successfully complete treatment for my conduct underlying the offense to which I am pleading. If I am required to successfully complete such treatment and I refuse to admit my guilt in treatment, I may be discharged from treatment. Failure to complete such treatment may result in my incarceration, civil commitment for treatment, or both.

Dated: _____

Signature of Defendant

Name: _____

Street Address: _____

City/State/Zip: _____

E-mail address: _____

(Added effective October 1, 2017.)

APPENDIX H TO RULE 15

State of Minnesota

District Court

County

Judicial District: _____

Court File Number: _____

Case Type: _____ Criminal _____

State of Minnesota, Plaintiff

Norgaard Addendum to Petition to Enter Plea of
Guilty Pursuant to Rule 15

vs.

Defendant

TO THE ABOVE-NAMED COURT:

When a defendant tenders a guilty plea despite claiming a loss of memory regarding the circumstances of the offense, the following language replaces paragraph 26c of the Petition to Enter Plea of Guilty in Felony Case Pursuant to Rule 15. The district court and parties must ensure that an adequate factual basis is established on the record. See State v. Ecker, 524 N.W.2d 712, 716-17 (Minn. 1994); State ex rel. Norgaard v. Tahash, 261 Minn. 106, 110 N.W.2d 867(1961).

I, _____, Defendant in the above-entitled action, do respectfully represent and state as follows:

My attorney has told me and I understand that a defendant normally must tell the judge about the facts of the crime when pleading guilty. However, I understand that the judge may accept my *Norgaard* guilty plea even though I do not remember the circumstances of the offense, so long as I agree the state's evidence is sufficient for a jury to find me guilty, beyond a reasonable doubt, if I have a trial. With this principle in mind, I acknowledge that:

- a. I have reviewed the evidence that the state will offer against me if I have a trial.
- b. I do not recall the circumstances of the offense.
- c. I believe that there is a substantial likelihood that I will be found guilty, beyond a reasonable doubt, of the offense to which I am pleading if the state's evidence is presented against me at trial.
- d. I do not claim that I am innocent.
- e. If the judge accepts my *Norgaard* guilty plea, I will be convicted of the offense to which I am pleading, and I will be considered just as guilty as I would be if I remembered the circumstances of the offense and told the court about the facts of the crime. My lack of memory will not have any impact on the terms and conditions of my sentence, my probation (if any), or any collateral consequences stemming from my conviction, including civil commitment for treatment.
- f. I may be required to successfully complete treatment for my conduct underlying the offense to which I am pleading. Failure to complete such treatment may result in my incarceration, civil commitment for treatment, or both.

Dated: _____

Signature of Defendant

Name: _____

Street Address: _____

City/State/Zip: _____

E-mail address: _____

(Added effective October 1, 2017.)

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.