

RULES OF SUPREME COURT OF VIRGINIA
PART THREE A
CRIMINAL PRACTICE AND PROCEDURE
APPENDIX

Form 6. Suggested Questions to Be Put by the Court to an Accused Who Has Pleaded Guilty (Rule 3A:8).

Before accepting your plea of guilty, I will ask you certain questions. If you do not understand any question, please ask me to explain it to you.

1. (a) What is your full name?
- (b) What is your date of birth?
- (c) What was the last grade in school which you completed?
- (d) What other education have you received?

2. Are you the person charged in the (indictment) (presentment) (information) (warrant) with commission of the offense(s) of

3. Do you fully understand the charge(s) against you?
Have you discussed the charge(s) and (its) (their) elements with your lawyer and do you understand what the Commonwealth must prove before you may be found guilty of (this) (these) charge(s)?

4. Have you had enough time to discuss with your lawyer any possible defenses which you may have to (this) (these) charge(s)?

5. Have you discussed with your lawyer whether you should plead not guilty or guilty?

6. After the discussion, did you decide for yourself that you should plead guilty?

7. Are you entering the plea of guilty freely and voluntarily?

8. Are you entering the plea of guilty because you are, in fact, guilty of the crime(s) charged? If the defendant answers "No,"
 - (a) Have the Commonwealth summarize the evidence on the record.

 - (b) Ask the defendant, "Are you pleading guilty because this is the Commonwealth's evidence, and you do not wish to take the risk that you will be found guilty beyond a reasonable doubt?" [

 - (c) If the defendant answers "Yes," the court may, but need not, accept the plea;

if the court accepts the plea, the court should note that there is substantial evidence against the defendant. Otherwise the court should not accept the plea. (See North Carolina v. Alford, 400 U.S. 25 (1970).]

9. Do you understand that, by pleading guilty, you are NOT entitled to a trial by jury?

10. Do you understand that, by pleading guilty, you waive your right not to incriminate yourself?

11. Do you understand that, by pleading guilty, you waive your right to confront and cross-examine your accusers?

12. Do you understand that, by pleading guilty, you waive your right to defend yourself?

13. [If the accused is in prison, on parole, or probation,] Do you understand that conviction may (affect your right to parole) (cause revocation of your parole/probation?)

14. [If the crime involves possession/distribution of drugs,] Have you discussed with your lawyer whether the defense of accommodation may apply in this case?

15. [If the accused may be sentenced under the habitual offender statute,] Have you discussed with your lawyer the possibility that there may be mitigating circumstances that permit this court not to impose the mandatory sentence?

16. Has anyone connected with your arrest and prosecution, such as the police or the Commonwealth's attorney, or any other person, in any manner threatened you or forced you to enter this plea of guilty? Have they made any promises concerning your plea of guilty?

17. Do you understand that the maximum punishment for this crime is ... years imprisonment and \$... fine plus all court costs? (If a guilty plea involves more than one offense, substitute the following: Do you understand that if you are sentenced consecutively, the maximum punishment for these crimes is ... fine and \$... plus all court costs? [If the crime has a mandatory punishment, also question accused on his understanding of the mandatory punishment.]

18. (a) Do you understand that if you are not a citizen of the United States and if you plead guilty or are found to be guilty, there may be consequences of deportation, exclusion from admission into the United States, or denial of naturalization pursuant to the laws of the United States?

(b) Are you entirely satisfied with the service (of the lawyer who was appointed to represent you) (of the lawyer representing you) in this matter?

19. Do you understand that, by pleading guilty, you may waive any right to appeal the decision of this court? [The judge may, but need not, inform the defendant that a guilty plea does not waive the right to appeal lack of jurisdiction or imposition of an impermissible sentence.]

20. [If a written guilty plea form is used,]

- (a) Have you read the guilty plea form?
- (b) Do you understand the guilty plea form?
- (c) Are the statements in the guilty plea form true?

21. Have you entered into a plea agreement with the Commonwealth's attorney in this case? If the answer is in the affirmative, read or otherwise put the plea agreement into the record, then ask the following: Does it contain the full and complete agreement entered into among you, your lawyer, and the Commonwealth's attorney? Complete either (a) or (b), whichever is appropriate: (a) [To be asked if the Commonwealth's attorney has agreed that a particular sentence is appropriate.] Do you understand that:

(1) The court may accept the agreement, reject the agreement, or may defer any decision to either accept or reject until there has been an opportunity to consider a presentence report?

(2) If the court accepts the agreement, the court will include in its judgment and sentence the sentence provided for in the agreement?

(3) If the court rejects the agreement, you will not be bound by the agreement and you will be given an opportunity to withdraw your plea of guilty, and if you do, your trial may be conducted by another judge of this court?

(4) If you still plead guilty after the court rejects the plea agreement, the sentence in the case may be more severe than the disposition contained in the plea agreement?

(b) [To be used if the Commonwealth's attorney merely recommends, or agrees not to oppose a request for, a specific sentence.] Do you understand that this agreement only provides for the Commonwealth's attorney (to make a recommendation) (to agree not to oppose a request for) a particular sentence, that this recommendation or request is not binding on the court, and if the court does not accept the recommendation or does not go along with the request, you have no right to withdraw your plea of guilty unless the Commonwealth fails to perform its part of the agreement? Do you also understand that the sentence the court imposes may be more severe than the sentence (recommended) (requested)?

22. [If the defendant was a juvenile at the time of the offense,] Do you understand that if you were tried for this offense and found guilty, the court and not the jury would set the sentence?

23. Do you understand all of these questions?

24. Do you have any questions you wish to ask the court?

Last amended by Order dated October 30, 2015; effective immediately.