

RULE 550. PLEAS OF GUILTY BEFORE MAGISTERIAL DISTRICT JUDGE IN COURT CASES.

(A) In a court case in which a magisterial district judge is specifically empowered by statute to exercise jurisdiction, a defendant may plead guilty before a magisterial district judge at any time up to the completion of the preliminary hearing or the waiver thereof.

(B) The magisterial district judge may refuse to accept a plea of guilty, and the magisterial district judge shall not accept such plea unless there has been a determination, after inquiry of the defendant, that the plea is voluntarily and understandingly tendered.

(C) The plea shall be in writing:

(1) signed by the defendant, with a representation by the defendant that the plea is entered knowingly, voluntarily, and intelligently; and

(2) signed by the magisterial district judge, with a certification that the plea was accepted after a full inquiry of the defendant, and that the plea was made knowingly, voluntarily, and intelligently.

(D) A defendant who enters a plea of guilty under this rule may, within **[10] 30** days after sentence, change the plea to not guilty by so notifying the magisterial district judge in writing. In such event, the magisterial district judge shall vacate the plea and judgment of sentence, and the case shall proceed in accordance with Rule 547, as though the defendant had been held for court.

(E) **[Ten] Thirty** days after the acceptance of the guilty plea and the imposition of sentence, the magisterial district judge shall certify the judgment, and shall forward the case to the clerk of courts of the judicial district for further proceedings.

COMMENT: In certain cases, what would ordinarily be a court case within the jurisdiction of the court of common pleas has been placed within the jurisdiction of magisterial district judges. See Judicial Code, 42 Pa.C.S. § 1515(a)(5), (5.1), (6), (6.1), and (7). This rule provides the procedures to implement this expanded jurisdiction of magisterial district judges.

In those cases in which either the defendant declines to enter a plea of guilty before the magisterial district judge or the magisterial district judge refuses to accept a plea of guilty, the case is to proceed in the same manner as any other court case.

This rule applies whenever a magisterial district judge has jurisdiction to accept a plea of guilty in a court case.

Under paragraph (A), it is intended that a defendant may plead guilty at the completion of the preliminary hearing or at any time prior thereto.

Prior to accepting a plea of guilty under this rule, it is suggested that the magisterial district judge consult with the attorney for the Commonwealth concerning the case, concerning the defendant's possible eligibility for ARD or other types of diversion, and concerning possible related offenses that might be charged in the same complaint. See *Commonwealth v. Campana*, 452 Pa. 233, 304 A.2d 432 (1973), vacated and remanded, 414 U.S. 808 (1973), on remand, 455 Pa. 622, 314 A.2d 854 (1974).

Before accepting a plea:

(a) The magisterial district judge should be satisfied of jurisdiction to accept the plea, and should determine whether any other related offenses exist that might affect jurisdiction.

(b) The magisterial district judge should be satisfied that the defendant is eligible under the law to plead guilty before a magisterial district judge, and, when relevant, should check the defendant's prior record and inquire into the amount of damages.

(c) The magisterial district judge should advise the defendant of the right to counsel. For purposes of appointment of counsel, these cases should be treated as court cases, and the Rule 122 (Appointment of Counsel) procedures should be followed.

(d) The magisterial district judge should advise the defendant that, if the defendant wants to change the plea to not guilty, the defendant, within **[10] 30** days after imposition of sentence, must notify the magisterial district judge who accepted the plea of this decision in writing.

(e) The magisterial district judge should make a searching inquiry into the voluntariness of the

defendant's plea. A colloquy similar to that suggested in Rule 590 should be conducted to determine the voluntariness of the plea. At a minimum, the magisterial district judge should ask questions to elicit the following information:

- (1) that the defendant understands the nature of the charges pursuant to which the plea is entered;
- (2) that there is a factual basis for the plea;
- (3) that the defendant understands that he or she is waiving the right to trial by jury;
- (4) that the defendant understands that he or she is presumed innocent until found guilty;
- (5) that the defendant is aware of the permissible range of sentences and/or fines for the offenses charged;
- (6) that the defendant is aware that the magisterial district judge is not bound by the terms of any plea agreement tendered unless the magisterial district judge accepts such agreement; and
- (7) that the defendant understands that the plea precludes consideration for ARD or other diversionary programs.

See Rule 590 and the *Comment* thereto for further elaboration of the required colloquy. See also *Commonwealth v. Minor*, 467 Pa. 230, 356 A.2d 346 (1976), overruled on other grounds in *Commonwealth v. Minarik*, 493 Pa. 573, 427 A.2d 623, 627 (1981); *Commonwealth v. Ingram*, 455 Pa. 198, 316 A.2d 77 (1974); *Commonwealth v. Martin*, 445 Pa. 49, 282 A.2d 241 (1971).

While the rule continues to require a written plea incorporating the contents specified in paragraph (C), the form of plea was deleted in 1985 because it is no longer necessary to control the specific form of written plea by rule.

Paragraph (C) does not preclude verbatim transcription of the colloquy and plea.

**The time limit for withdrawal of the plea contained in paragraph (D) was increased from 10 days to 30 days in 2014 to place a defendant who enters a plea to a misdemeanor before a magisterial district judge closer to the position of a defendant who pleads guilty to the same offense in common pleas court or a defendant who pleads guilty to a summary offense before a magisterial district judge. A 30-day time period for withdrawal of the plea is consistent with the 30-day period for summary appeal and the 30-day common pleas guilty plea appeal period.**

**Withdrawal of the guilty plea is the only relief available before a magisterial district judge for a defendant who has entered a plea pursuant to this rule. Any further challenge to the entry of the plea must be sought in the court of common pleas.**

At the time of sentencing, or at any time within the **[10-day] 30-day** period before transmitting the case to the clerk of courts pursuant to paragraph (E), the magisterial district judge may accept payment of, or may establish a payment schedule for, installment payments of restitution, fines, and costs.

If a plea is not entered pursuant to this rule, the papers must be transmitted to the clerk of courts of the judicial district in accordance with Rule 547. After the time set forth in paragraph (A) for acceptance of the plea of guilty has expired, the magisterial district judge no longer has jurisdiction to accept a plea.

Regardless of whether a plea stands or is timely changed to not guilty by the defendant, the magisterial district judge must transmit the transcript and all supporting documents to the appropriate court, in accordance with Rule 547.

Once the case is forwarded as provided in this rule and in Rule 547, the court of common pleas has exclusive jurisdiction over the case and any plea incident thereto. The case would thereafter proceed in the same manner as any other court case, which would include, for example, the collection of restitution, fines, and costs; the establishment of

time payments; and the supervision of probation in those cases in which the magisterial district judge has accepted a guilty plea and imposed sentence.

NOTE: Rule 149 adopted June 30, 1977, effective September 1, 1977; *Comment* revised January 28, 1983, effective July 1, 1983; amended November 9, 1984, effective January 2, 1985; amended August 22, 1997, effective January 1, 1998; renumbered Rule 550 and amended March 1, 2000, effective April 1, 2001; amended December 9, 2005, effective February 1, 2006 **[.] ; amended January 6, 2014, effective March 1, 2014.**

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**COMMITTEE EXPLANATORY REPORTS:**

**Final Report explaining the August 22, 1997 amendments, that clarify the procedures following a district justice's acceptance of a guilty plea and imposition of sentence in a court case published with the Court's order at 27 Pa.B. 4549 (September 6, 1997).**

**Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).**

**Final Report explaining the December 9, 2005 changes to the rule clarifying the magisterial district judges' exercise of jurisdiction published with the Court's Order at 35 Pa.B. 6894 (December 24, 2005).**

**Final Report explaining the January 6, 2014 changes to the rule increasing the time for withdrawal of the guilty plea from 10 to 30 days published with the Court's Order at 44 Pa.B. ( , 2014).**

RULE 591. WITHDRAWAL OF PLEA OF GUILTY OR *NOLO CONTENDERE*.

(A) At any time before the imposition of sentence, the court may, in its discretion, permit, upon motion of the defendant, or direct, *sua sponte*, the withdrawal of a plea of guilty or *nolo contendere* and the substitution of a plea of not guilty.

(B) When a defendant moves for the withdrawal of a plea of guilty or *nolo contendere*, the attorney for the Commonwealth shall be given 10 days to respond.

COMMENT: Under paragraph (A), when a defendant moves to withdraw a plea of guilty or *nolo contendere*, ordinarily the motion should be filed in writing before the date of the sentencing hearing. For the procedures governing motions, see Chapter 5 Part F(1). However, nothing in this rule would preclude a defendant from making an oral and on-the-record motion to withdraw a plea at the sentencing hearing prior to the imposition of sentence.

When the defendant orally moves to withdraw a plea of guilty or *nolo contendere* at the sentencing hearing, the court should conduct an on-the-record colloquy to determine whether a fair and just reason to permit the withdrawal of the plea exists. If the court finds that there is not a fair and just reason, then the motion should be denied, and the court should proceed to sentencing. If the court finds that there may be a fair and just reason, then pursuant to paragraph (B), the court must give the attorney for the Commonwealth 10 days to respond to the motion.

Under paragraph (B), the trial court may not permit the withdrawal of a guilty plea or plea of *nolo contendere* until the expiration of the 10 days from the date on which the attorney for the Commonwealth receives the defendant's motion to withdraw the plea, unless the attorney for the Commonwealth responds prior to the expiration, nor may it compel the attorney for the Commonwealth to respond prior to the expiration of the 10-day period.

After the attorney for the Commonwealth has had an opportunity to respond, a request to withdraw a plea made before sentencing should be liberally allowed. See *Commonwealth v. Randolph*, **553 Pa. 224**, 718 A.2d 1242

([Pa.] 1998); *Commonwealth v. Forbes*, **450 Pa. 185**, 299 A.2d 268 ([Pa.] 1973).

When a defendant is permitted to withdraw a guilty plea or plea of *nolo contendere* under this rule and proceeds with a non-jury trial, the court and the parties should consider whether recusal might be appropriate to avoid prejudice to the defendant. See, e.g., *Commonwealth v. Pierce*, **515 Pa. 153**, 527 A.2d 973 ([Pa.] 1987).

For a discussion of plea withdrawals when a guilty plea or plea of *nolo contendere* includes a plea agreement, see the *Comment* to Rule 590.

**For the procedures for withdrawal of guilty pleas entered before a magisterial district judge in a court case, see Rule 550(D).**

NOTE: Rule 320 adopted June 30, 1964, effective January 1, 1965; *Comment* added June 29, 1977, effective September 1, 1977; *Comment* revised March 22, 1993, effective January 1, 1994; *Comment* deleted August 19, 1993, effective January 1, 1994; new *Comment* approved December 22, 1995, effective July 1, 1996; amended July 15, 1999, effective January 1, 2000; renumbered Rule 591 and *Comment* revised March 1, 2000, effective April 1, 2001 **[.] ; *Comment* revised January 6, 2014, effective March 1, 2014.**

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#### **COMMITTEE EXPLANATORY REPORTS:**

***Committee Note* explaining the August 12, 1993 deletion of the *Comment* published with the Court's Order at 23 Pa.B. 4215 (September 4, 1993).**

***Final Report* explaining the new *Comment* approved on December 22, 1995 published with the Court's Order at 26 Pa.B. 8 (January 6, 1996).**

**Final Report explaining the July 15, 1999 amendments concerning the requirements for the withdrawal of a plea published with the Court's Order at 29 Pa.B. 4057 (July 31, 1999).**

**Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).**

**Final Report explaining the January 6, 2014 revision to the Comment cross-referencing Rule 550 published with the Court's Order at 44 Pa.B. ( , 2014).**