

Rule 115. Recording and Transcribing Court Proceedings.

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Comment: Some form of record or transcript is necessary to permit meaningful consideration of claims of error and an adequate effective appellate review. See, e.g., **[Pa.Rs.A.P.] Pa.R.A.P.** 1922, 1923, 1924; *Commonwealth v. Fields*, 387 A.2d 83 (Pa. 1978); *Commonwealth v. Shields*, 383 A.2d 844 (Pa. 1978). No substantive change in law is intended by this rule, rather it is intended to provide a mechanism to insure appropriate recording and transcribing of court proceedings. For repeal of statutory provisions on this subject, see Judiciary Act Repealer Act § 2(a); 42 P.S. §§ 20002(a) (897), (944).

The rule is intended also to apply to proceedings that occur after the action that is the functional equivalent of holding a defendant for court in those cases in which it is permissible to proceed without a preliminary hearing and, therefore, without specifically holding the defendant for court. See **[Pa.Rs.Crim.P.] Pa.R.Crim.P.** 541, **[550(D)] 550(i)**, 561, 565, 1010. In addition, the rule is intended to apply to de novo proceedings in the common pleas courts on appeals in summary cases. For application of the rule to proceedings in the Philadelphia Municipal Court, see Pa.R.Crim.P. 1012(A).

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Rule 550. Pleas of Guilty Before Magisterial District Judge in Court Cases.

[(A)](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)](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] the magisterial district judge determines,** after inquiry of the defendant **conducted in accordance with subdivisions (e) through (f),** that the plea is **[voluntarily and understandingly] knowingly, intelligently, and voluntarily** tendered.

[(C)](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] intelligently, and voluntarily;** and
- (2) signed by the magisterial district judge, with a certification that the plea was accepted after **[a full]** inquiry of the defendant **pursuant to subdivisions (e) through (f),** and that the plea was made knowingly, **[voluntarily, and intelligently] intelligently, and voluntarily.**

(d) Before accepting a plea, the magisterial district judge shall be satisfied of:

- (1) the court's jurisdiction to accept the plea;**
- (2) the defendant's eligibility under the law to plead guilty before a magisterial district judge; and**
- (3) the defendant's understanding that the magisterial district judge is not bound by the terms of any plea agreement tendered unless the magisterial district judge accepts such agreement.**

(e) The magisterial district judge, or, if permitted by the magisterial district judge, either the attorney for the Commonwealth or the attorney for the defendant in the presence of the magisterial district judge, shall question the defendant to confirm, at a minimum, the following:

- (1) the defendant's identity;
 - (2) the defendant's capacity to comprehend and communicate in the proceedings;
 - (3) the defendant's satisfaction with the representation provided by his or her attorney, if any;
 - (4) there is a factual basis for the plea; and
 - (5) the defendant understands:
 - (i) the nature and elements of the offenses to which the defendant is pleading guilty, the permissible range of sentences, including fines, for those offenses, the maximum aggregate sentence, and any applicable mandatory sentence;
 - (ii) a conviction may have consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to federal law if the defendant is not a citizen of the United States.
- (f) The magisterial district judge, or, if permitted by the magisterial district judge, either the attorney for the Commonwealth or the attorney for the defendant, shall question the defendant, either orally or in writing, to confirm, at a minimum, that the defendant understands:
- (1) the defendant has the right to counsel;
 - (2) the defendant has certain rights, including, but not limited to: the right to a trial in the court of common pleas; the right to file and litigate pretrial motions; the right to testify; the right to cross-examine witnesses; and the right to call his or her own witnesses;
 - (3) if charged with an offense punishable by a maximum term of incarceration exceeding six months, the defendant has the right to a trial by jury consisting of 12 jurors of the defendant's peers and the right to participate in the selection of that jury;
 - (4) the defendant has the right to a unanimous verdict;

- (5) the defendant is presumed innocent and can only be convicted if proven guilty beyond a reasonable doubt;
 - (6) the plea precludes consideration for ARD and may preclude consideration for other diversionary programs; and
 - (7) the defendant may, as provided in subdivision (i), change the plea to not guilty within 30 days after sentence by notifying the magisterial district judge who accepted the plea of this decision in writing.
- (g) If represented, counsel for the defendant shall certify in writing that counsel has had the opportunity to discuss the case with the defendant and that counsel has explained the items enumerated in subdivisions (e)(5) and (f).
- (h) Any written colloquy must be read, completed, signed by the defendant, and made part of the record of the plea proceedings.
- ([D]i)** A defendant who enters a plea of guilty under this rule may, within 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]i)** 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)] subdivision (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*, 304 A.2d 432 (Pa. 1973), vacated and remanded, 414 U.S. 808 (1973), on remand, 314 A.2d 854 (Pa. 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 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.]

For purposes of appointment of counsel, cases proceeding under this rule are court cases, and Pa.R.Crim.P. 122 (Appointment of Counsel) applies.

[See also *Commonwealth v. Minor*, 356 A.2d 346 (Pa. 1976), overruled on other grounds in *Commonwealth v. Minarik*, 427 A.2d 623, 627 (Pa. 1981); *Commonwealth v. Ingram*, 316 A.2d 77 (Pa. 1974); *Commonwealth v. Martin*, 282 A.2d 241 (Pa. 1971).]

As provided in subdivision (d)(1), before accepting a plea, the magisterial district judge must be satisfied of jurisdiction to accept the plea. This includes determining whether any other related offenses exist that might affect jurisdiction.

Similarly, pursuant to subdivision (d)(2), the magisterial district judge must be satisfied of the defendant's eligibility under the law to plead guilty before a magisterial district judge. When relevant, the magisterial district judge must review the defendant's prior record and inquire into the amount of any damages. It is the responsibility of the attorney for the Commonwealth or the arresting officer to provide the magisterial district judge with this information.

[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)] Subdivision (c) does not preclude verbatim transcription of the colloquy and plea.

While subdivision (e)(5)(ii) requires the court to ensure that a defendant understands that non-citizens may suffer immigration consequences due to a conviction, the court is not to inquire into the defendant's immigration status.

The magisterial district judge must also be satisfied that the defendant's decision to enter the plea has not been induced by promises made beyond those contained in any plea agreement or tainted by coercion.

The time limit for withdrawal of the plea contained in **[paragraph (D) was increased from 10 days to 30 days in 2014 to place]** **subdivision (i) places** 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.

For the procedures concerning sentences that include restitution in court cases, see Rule 705.1.

At the time of sentencing, or at any time within the 30-day period before transmitting the case to the clerk of courts pursuant to **[paragraph (E)] subdivision (i)**, 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)] subdivision (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, **including the signed plea colloquy**.

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; Comment revised March 9, 2016, effective July 1, 2016.

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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. 4548 (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. 1478 (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. 6896 (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. 478 (January 25, 2014).

Final Report explaining the March 9, 2016 Comment revision concerning the Rule 705.1 restitution procedures published with the Court's Order at 46 Pa.B. 1540 (March 26, 2016).]

Rule 590. Pleas and Plea Agreements.

[(A)](a)Generally.

- (1) Pleas shall be taken in open court.
- (2) A defendant may plead not guilty, guilty, or, with the consent of the judge, *nolo contendere*. If the defendant refuses to plead, the judge shall enter a plea of not guilty on the defendant's behalf.
- (3) **Guilty Pleas and Pleas of *Nolo Contendere*.**
 - (i) The judge may refuse to accept a plea of guilty or *nolo contendere*, and shall not accept **[it] such plea**, unless the judge determines, after inquiry of the defendant **conducted in accordance with subdivisions (a)(3)(ii) – (a)(3)(iv)**, that the plea is **[voluntarily and understandingly] knowingly, intelligently, and voluntarily** tendered. Such inquiry shall appear on the record.
 - (ii) **The judge, or, if permitted by the judge, either the attorney for the Commonwealth or the attorney for the defendant in the presence of the judge, shall question the defendant to confirm, at a minimum, the following:**
 - (A) **the defendant's identity;**
 - (B) **the defendant's capacity to comprehend and communicate in the proceedings;**
 - (C) **the defendant's satisfaction with the representation provided by his or her attorney, if any;**
 - (D) **there is a factual basis for the plea; and**
 - (E) **the defendant understands:**
 - (I) **the nature and elements of the offenses to which he or she is pleading guilty or *nolo contendere*, the permissible range of sentences, including fines, for those**

offenses, the maximum aggregate sentence, and any applicable mandatory sentence;

(II) the Commonwealth's right to have a jury decide the degree of guilt if the defendant is pleading guilty to murder generally; and

(III) a conviction may have consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to federal law if he or she is not a citizen of the United States.

(iii) The judge, or, if permitted by the judge, either the attorney for the Commonwealth or the attorney for the defendant, shall question the defendant, either orally or in writing, to confirm, at a minimum, that the defendant understands:

(A) the defendant has the right to counsel;

(B) the defendant has certain rights, including, but not limited to: the right to a trial; the right to file and litigate pretrial motions; the right to testify; the right to cross-examine witnesses; and the right to call his or her own witnesses;

(C) if charged with an offense punishable by a maximum term of incarceration exceeding six months, the defendant has the right to a trial by jury consisting of 12 jurors of his or her peers and the right to participate in the selection of that jury;

(D) the defendant has the right to a unanimous verdict;

(E) the defendant is presumed innocent and can only be convicted if proven guilty beyond a reasonable doubt;

(F) the grounds to appeal after a guilty plea are limited to the legality of the sentence, the voluntariness of the plea, and the jurisdiction of the court; and

(G) the plea precludes consideration for ARD and may preclude consideration for other diversionary programs.

(iv) Counsel for the defendant shall certify, either orally or in writing, that counsel has had the opportunity to discuss the case with the defendant and that counsel has explained the items enumerated in subdivisions (a)(3)(ii)(E) and (a)(3)(iii).

(v) Any written colloquy must be read, completed, signed by the defendant, and made part of the record of the plea proceedings.

[(B)](b)Plea Agreements.

- (1) At any time prior to the verdict, when counsel for both sides have arrived at a plea agreement, they shall state on the record in open court, in the presence of the defendant, the terms of the agreement, unless the judge orders, for good cause shown and with the consent of the defendant, counsel for the defendant, and the attorney for the Commonwealth, that specific conditions in the agreement be placed on the record *in camera* and the record sealed.
- (2) The judge shall conduct a separate inquiry of the defendant on the record to determine whether the defendant understands and voluntarily accepts the terms of the plea agreement on which the guilty plea or plea of *nolo contendere* is based, **and whether the defendant understands that the judge is not bound by the terms of the tendered plea agreement unless the judge accepts the plea agreement.**
- (3) Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule mandating deadline dates for the acceptance of a plea entered pursuant to a plea agreement.

[(C)](c)Murder Cases. In cases in which the imposition of a sentence of death is not authorized, when a defendant enters a plea of guilty or *nolo contendere* to a charge of murder generally, the degree of guilt shall be determined by a jury unless the attorney for the Commonwealth elects to have the judge, before whom the plea was entered, alone determine the degree of guilt.

Comment: The purpose of **[paragraph (A)(2)] subdivision (a)(3)(i)** is to codify the requirement that the judge, on the record, ascertain from the defendant that the guilty plea or plea of *nolo contendere* is **[voluntarily and understandingly] knowingly, intelligently, and voluntarily** tendered. On the mandatory nature of this practice, see *Commonwealth v. Ingram*, 316 A.2d 77 (Pa. 1974); *Commonwealth v. Campbell*, 304 A.2d 121 (Pa. 1973); *Commonwealth v. Jackson*, 299 A.2d 209 (Pa. 1973).

[It is difficult to formulate a comprehensive list of questions a judge must ask of a defendant in determining whether the judge should accept the plea of guilty or a plea of nolo contendere. Court decisions may add areas to be encompassed in determining whether the defendant understands the full impact and consequences of the plea, but is nevertheless willing to enter that plea. At a minimum the judge should ask questions to elicit the following information:

- (1) Does the defendant understand the nature of the charges to which he or she is pleading guilty or nolo contendere?**
- (2) Is there a factual basis for the plea?**
- (3) Does the defendant understand that he or she has the right to trial by jury?**
- (4) Does the defendant understand that he or she is presumed innocent until found guilty?**
- (5) Is the defendant aware of the permissible range of sentences and/or fines for the offenses charged?**
- (6) Is the defendant aware that the judge is not bound by the terms of any plea agreement tendered unless the judge accepts such agreement?**
- (7) Does the defendant understand that the Commonwealth has a right to have a jury decide the degree of guilt if the defendant pleads guilty to murder generally?**

The Court in *Commonwealth v. Willis*, 369 A.2d 1189 (Pa. 1977), and *Commonwealth v. Dilbeck*, 353 A.2d 824 (Pa. 1976), mandated that, during a guilty plea colloquy, judges must elicit the information set forth in paragraphs (1) through (6) above. In 2008, the Court added paragraph (7) to the list of areas of inquiry.

Many, though not all, of the areas to be covered by such questions are set forth in a footnote to the Court's opinion in *Commonwealth v. Martin*, 282 A.2d 241, 244-245 (Pa. 1971), in which the colloquy conducted by the trial judge is cited with approval. See also *Commonwealth v. Minor*, 356 A.2d 346 (Pa. 1976), and *Commonwealth v. Ingram*, 316 A.2d 77 (Pa. 1974). As to the requirement that the

judge ascertain that there is a factual basis for the plea, see *Commonwealth v. Maddox*, 300 A.2d 503 (Pa. 1973) and *Commonwealth v. Jackson*, 299 A.2d 209 (Pa. 1973).]

While subdivision (a)(3)(ii)(E)(III) requires a defendant be informed of the consequences of a conviction that a defendant who is not a citizen of the United States may suffer, the court is not to inquire into the defendant's immigration status.

In addition to ensuring that the defendant understands the terms of a plea agreement pursuant to subdivision (b)(2), the court must also be satisfied that the defendant's decision to enter the plea has not been induced by promises made beyond those contained in the plea agreement or tainted by coercion.

It is advisable that the judge conduct the examination of the defendant. However, [paragraph (A) does not prevent] subdivisions (a)(3)(ii) and (a)(3)(iii) authorize the judge to permit defense counsel or the attorney for the Commonwealth [from conducting] to conduct part or all of the examination of the defendant[, as permitted by the judge. In addition, nothing in the rule would preclude the use of a written colloquy that is read, completed, signed by the defendant, and made part of the record of the plea proceedings. This written colloquy would have to be supplemented by some on-the-record oral examination. Its use would not, of course, change any other requirements of law, including these rules, regarding the prerequisites of a valid guilty plea or plea of nolo contendere].

The "terms" of the plea agreement, referred to in [paragraph (B)(1)] subdivision (b)(1), frequently involve the attorney for the Commonwealth—in exchange for the defendant's plea of guilty or nolo contendere, and perhaps for the defendant's promise to cooperate with law enforcement officials—promising concessions such as a reduction of a charge to a less serious offense, the dropping of one or more additional charges, a recommendation of a lenient sentence, or a combination of these. In any event, [paragraph] subdivision [(B)] (b) is intended to [insure] ensure that all terms of the agreement are openly acknowledged for the judge's assessment. See, e.g., *Commonwealth v. Wilkins*, 277 A.2d 341 (Pa. 1971).

[The 1995 amendment deleting former paragraph (B)(1) eliminates the absolute prohibition against any judicial involvement in plea discussions in order to align the rule with the realities of current practice. For example, the rule now permits a judge to inquire of defense counsel and the attorney for the Commonwealth whether there has been any discussion of a plea agreement, or to give counsel, when requested, a reasonable period of time to conduct such a discussion.] Nothing in this rule[, however,] is intended to permit a judge to suggest to

a defendant, defense counsel, or the attorney for the Commonwealth, that a plea agreement should be negotiated or accepted.

[Paragraph (B)(1) was amended and paragraph (B)(3) was added in 2018 to clarify that the intent of this rule is that a plea made pursuant to an agreement may be entered any time prior to verdict. Any local rule that places a time limit for the entry of such pleas prior to verdict is in conflict with this rule and therefore invalid.]

Under **[paragraph (B)(1)] subdivision (b)(1)**, upon request and with the consent of the parties, a judge may, as permitted by law, order that the specific conditions of a plea agreement be placed on the record *in camera* and that portion of the record sealed. Such a procedure does not in any way eliminate the obligation of the attorney for the Commonwealth to comply in a timely manner with Rule 573 and the constitutional mandates of *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. Similarly, the attorney for the Commonwealth is responsible for notifying the cooperating defendant that the specific conditions to which the defendant agreed will be disclosed to third parties within a specified time period, and should afford the cooperating defendant an opportunity to object to the unsealing of the record or to any other form of disclosure.

[When a guilty plea, or plea of nolo contendere, includes a plea agreement, the 1995 amendment to paragraph (B)(2) requires that the judge conduct a separate inquiry on the record to determine that the defendant understands and accepts the terms of the plea agreement. See *Commonwealth v. Porreca*, 595 A.2d 23 (Pa. 1991).

Former paragraph (B)(3) was deleted in 1995 for two reasons. The first sentence merely reiterated an earlier provision in the rule. See paragraph (A)(3). The second sentence concerning the withdrawal of a guilty plea was deleted to eliminate the confusion being generated when that provision was read in conjunction with Rule 591. As provided in Rule 591, it is a matter of judicial discretion and case law whether to permit or direct a guilty plea or plea of nolo contendere to be withdrawn. See also *Commonwealth v. Porreca*, 595 A.2d 23 (Pa. 1991) (the terms of a plea agreement may determine a defendant's right to withdraw a guilty plea).]

For the procedures governing the withdrawal of a plea of guilty or nolo contendere, see Rule 591.

For the procedures concerning sentences that include restitution in court cases, see Rule 705.1.

[Paragraph (C) reflects a change in Pennsylvania practice, that formerly required the judge to convene a panel of three judges to determine the degree of guilt in murder cases in which the imposition of a sentence of death was not

statutorily authorized. The 2008 amendment to paragraph (C) and the Comment recognizes the Commonwealth's right to have a jury determine the degree of guilt following a plea of guilty to murder generally. See Article I, § 6 of the Pennsylvania Constitution that provides that "the Commonwealth shall have the same right to trial by jury as does the accused." See also *Commonwealth v. White*, 910 A.2d 648 (Pa. 2006).]

For the procedures for a guilty plea in a court case before a magisterial district judge, see Pa.R.Crim.P. 550.

[Note: Rule 319 (a) adopted June 30, 1964, effective January 1, 1965; amended November 18, 1968, effective February 3, 1969; paragraph (b) adopted and title of rule amended October 3, 1972, effective 30 days hence; specific areas of inquiry in Comment deleted in 1972 amendment, reinstated in revised form March 28, 1973, effective immediately; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; paragraph (c) added and Comment revised May 22, 1978, effective July 1, 1978; Comment revised November 9, 1984, effective January 2, 1985; amended December 22, 1995, effective July 1, 1996; amended July 15, 1999, effective January 1, 2000; renumbered Rule 590 and Comment revised March 1, 2000, effective April 1, 2001; amended September 18, 2008, effective November 1, 2008; Comment revised March 9, 2016, effective July 1, 2016; amended January 18, 2018, effective April 1, 2018.

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COMMITTEE EXPLANATORY REPORTS:

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

Final Report explaining the July 15, 1999 changes concerning references to nolo contendere pleas and cross-referencing Rule 320 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 September 18, 2008 amendments to paragraph (C) concerning juries determining degree of guilt published with the Court's Order at 38 Pa.B. 5431 (October 4, 2008).

Final Report explaining the March 9, 2016 Comment revision concerning the Rule 705.1 restitution procedures published with the Court's Order at 46 Pa.B. 1540 (March 26, 2016).

Final Report explaining the January 18, 2018 amendments concerning plea agreement deadlines published with the Court's Order at 48 Pa.B. 730 (February 3, 2018).]

Rule 591. Withdrawal of Plea of Guilty or Nolo Contendere.

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Comment: Under **[paragraph] subdivision** (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)] (G)(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.

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[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)] 550(i)**.