

1 Rule 11. Pleas.

2 (a) Upon arraignment, except for an infraction, a defendant shall be represented by counsel, unless
3 the defendant waives counsel in open court. The defendant shall not be required to plead until the
4 defendant has had a reasonable time to confer with counsel.

5 (b) A defendant may plead not guilty, guilty, no contest, not guilty by reason of insanity, or guilty and
6 mentally ill. A defendant may plead in the alternative not guilty or not guilty by reason of insanity. If a
7 defendant refuses to plead or if a defendant corporation fails to appear, the court shall enter a plea of not
8 guilty.

9 (c) A defendant may plead no contest only with the consent of the court.

10 (d) When a defendant enters a plea of not guilty, the case shall forthwith be set for trial. A defendant
11 unable to make bail shall be given a preference for an early trial. In cases other than felonies the court
12 shall advise the defendant, or counsel, of the requirements for making a written demand for a jury trial.

13 (e) The court may refuse to accept a plea of guilty, no contest or guilty and mentally ill, and may not
14 accept the plea until the court has found:

15 (e)(1) if the defendant is not represented by counsel, he or she has knowingly waived the right to
16 counsel and does not desire counsel;

17 (e)(2) the plea is voluntarily made;

18 (e)(3) the defendant knows of the right to the presumption of innocence, the right against compulsory
19 self-incrimination, the right to a speedy public trial before an impartial jury, the right to confront and cross-
20 examine in open court the prosecution witnesses, the right to compel the attendance of defense
21 witnesses, and that by entering the plea, these rights are waived;

22 (e)(4)(A) the defendant understands the nature and elements of the offense to which the plea is
23 entered, that upon trial the prosecution would have the burden of proving each of those elements beyond
24 a reasonable doubt, and that the plea is an admission of all those elements;

25 (e)(4)(B) there is a factual basis for the plea. A factual basis is sufficient if it establishes that the
26 charged crime was actually committed by the defendant or, if the defendant refuses or is otherwise
27 unable to admit culpability, that the prosecution has sufficient evidence to establish a substantial risk of
28 conviction;

29 (e)(5) the defendant knows the minimum and maximum sentence, and if applicable, the minimum
30 mandatory nature of the minimum sentence, that may be imposed for each offense to which a plea is
31 entered, including the possibility of the imposition of consecutive sentences;

32 (e)(6) if the tendered plea is a result of a prior plea discussion and plea agreement, and if so, what
33 agreement has been reached;

34 (e)(7) the defendant has been advised of the time limits for filing any motion to withdraw the plea; and

35 (e)(8) the defendant has been advised that the right of appeal is limited.

36 These findings may be based on questioning of the defendant on the record or, if used, a written
37 statement reciting these factors after the court has established that the defendant has read, understood,
38 and acknowledged the contents of the statement. If the defendant cannot understand the English
39 language, it will be sufficient that the statement has been read or translated to the defendant.

40 Unless specifically required by statute or rule, a court is not required to inquire into or advise
41 concerning any collateral consequences of a plea.

42 (f) Failure to advise the defendant of the time limits for filing any motion to withdraw a plea of guilty,
43 no contest or guilty and mentally ill is not a ground for setting the plea aside, but may be the ground for
44 extending the time to make a motion under Section 77-13-6.

45 (g) If the defendant pleads guilty, no contest, or guilty and mentally ill to a misdemeanor crime of
46 domestic violence, as defined in Utah Code Section 77-36-1, the court shall advise the defendant orally or
47 in writing that, if the case meets the criteria of 18 U.S.C. Section 921(a)(33) then pursuant to federal
48 law, as a result of the plea, it is unlawful for the defendant to possess, receive or transport any firearm or
49 ammunition. The failure to advise does not render the plea invalid or form the basis for withdrawal of the
50 plea.

51 (h)(1) If it appears that the prosecuting attorney or any other party has agreed to request or
52 recommend the acceptance of a plea to a lesser included offense, or the dismissal of other charges, the
53 agreement shall be approved or rejected by the court.

54 (h)(2) If sentencing recommendations are allowed by the court, the court shall advise the defendant
55 personally that any recommendation as to sentence is not binding on the court.

56 (i)(1) The judge shall not participate in plea discussions prior to any plea agreement being made by
57 the prosecuting attorney.

58 (i)(2) When a tentative plea agreement has been reached, the judge, upon request of the parties, may
59 permit the disclosure of the tentative agreement and the reasons for it, in advance of the time for tender
60 of the plea. The judge may then indicate to the prosecuting attorney and defense counsel whether the
61 proposed disposition will be approved.

62 (i)(3) If the judge then decides that final disposition should not be in conformity with the plea
63 agreement, the judge shall advise the defendant and then call upon the defendant to either affirm or
64 withdraw the plea.

65 (j) With approval of the court and the consent of the prosecution, a defendant may enter a conditional
66 plea of guilty, guilty and mentally ill, or no contest, reserving in the record the right, on appeal from the
67 judgment, to a review of the adverse determination of any specified pre-trial motion. A defendant who
68 prevails on appeal shall be allowed to withdraw the plea.

69 (k) When a defendant tenders a plea of guilty and mentally ill, in addition to the other requirements of
70 this rule, the court shall hold a hearing within a reasonable time to determine if the defendant is mentally
71 ill in accordance with Utah Code Ann. § 77-16a-103.

72 (l) Compliance with this rule shall be determined by examining the record as a whole. Any variance
73 from the procedures required by this rule which does not affect substantial rights shall be disregarded.
74 Failure to comply with this rule is not, by itself, sufficient grounds for a collateral attack on a guilty plea.

75 [Advisory Committee Notes](#)

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