

14.12: Judgment and Sentencing at Arraignment or Trial

Checklist: No Annotations

Judgment

- _____ 1. Announce the judgment for each charge.
- _____ 2. *[If the defendant is found not guilty on all charges:]*: Release the defendant from custody, all bond obligations, and all conditions of release. Exonerate bond if no violations. Do not charge any fines or fees.
- _____ 3. *[If any or all of charges are resolved by a guilty or no contest plea:]* Do not accept plea until first addressing the defendant personally in open court to advise of the following and determine that the defendant understands:
 - Nature of charges to which plea is offered;
 - Mandatory minimum penalty, if any, and maximum possible penalty provided by law for each offense(s) involved in the plea;
 - That the defendant has the right to plead Not Guilty or continue with his Not Guilty plea if initially made;
 - That if the defendant pleads Guilty or No Contest, there will be no trial and, therefore, by pleading Guilty or No Contest, the defendant is waiving the right to trial;
 - That if the defendant is not a U.S. citizen, a plea of Guilty or No Contest may have an effect upon his or her immigration or naturalization status. If the defendant has legal counsel, the court must determine if the defendant has been advised by counsel about these possible consequences.
- _____ 3. *[If trial on some charges and plea agreement on others:]* Dismiss all charges agreed to be dismissed in plea agreement (if not already done during plea agreement proceedings); if defendant found guilty on one or more charges, go to #5; if defendant found not guilty on all charges after trial, go to #1.
- _____ 5. *[If the defendant is found guilty after trial, guilty plea, or nolo contendere plea:]* EITHER set a sentencing date, review the conditions of release and bond, and order a presentence report, OR begin sentencing.

Sentencing (in same proceeding as judgment)

_____ 6. Mitigating/Aggravating Circumstances

_____ Argument of prosecutor

_____ Testimony of victim or others (on behalf of the prosecution)

_____ Argument of defense counsel

_____ Testimony of defendant

_____ Testimony of others on behalf of defendant

_____ **7. Defer Sentencing?**

_____ Determine whether the applicable ordinance prohibits deferred sentencing.

_____ If deferred sentencing is permissible, ask counsel, the defendant, and the victim whether there is any reason to defer sentencing.

_____ If there is a good reason to defer, do not impose any incarceration or fines but impose PROBATION and assess COURT FEES. *[Go to numbers 8 and 9.]*

_____ **8. Impose a Sentence?**

_____ **A. Factors in Ordering Incarceration**

_____ Duration

_____ Credit for time served

_____ Suspend?

_____ Place in immediate custody?

_____ Allow the defendant to report at a specified time?

_____ Weekend incarceration?

_____ Work release?

_____ Consecutive or concurrent (for multiple convictions)?

_____ **B. Fines**

_____ Amount

_____ Due date/installment options

_____ Community service (for all or part of the fines)?

_____ Suspend?

_____ **9. Probation**

_____ Duration

_____ Terms and conditions

_____ No violations of the law

_____ Supervised or unsupervised

_____ Electronic monitoring

_____ Approval before leaving the jurisdiction/state

_____ Substance abuse treatment

_____ Medical or psychiatric treatment

_____ No use of alcohol, products containing alcohol, illegal drugs, or unlawful use of prescription drugs

_____ Random drug/alcohol testing

_____ Community service

_____ Driver's education

_____ No driving

_____ Ignition interlock device

_____ No contact with victim

_____ No contact with co-defendants

_____ No possession of a firearm, destructive device, or other dangerous weapon

_____ Restitution

_____ Consecutive or concurrent (for multiple convictions)?

_____ **10. Court Fees**

_____ Court automation fee of \$6.00.

_____ Corrections fee of \$20.00; and

_____ Judicial education fee of \$3.00; and

_____ *[If the defendant is convicted of DWI]:*

_____ (i) \$65.00 to defray the costs of chemical testing; and

_____ (ii) \$75.00 to fund DWI prevention programs.

_____ *[If the defendant is convicted of distributing or possessing a controlled substance]:*

_____ (i) \$75.00 to defray the costs of chemical testing

_____ Any municipal fees

_____ Due date/installment options

_____ Community service (for all or part of the fees)?

_____ **11. Appeal**

_____ Advise defendant of:

_____ Right to appeal

_____ Right to lawyer/right to court-appointed lawyer if you cannot afford a lawyer and jail was imposed

_____ Right to a certified copy of the record and transcripts necessary for your appeal if you cannot afford them

_____ 15-day deadline

_____ Obtain defendant's signature on copy of appeal rights.

_____ Review and amend or continue through appeal:

_____ Conditions of release

_____ Bond

_____ 12. **Paperwork**

_____ Complete judgment and sentencing order form.

OR

_____ Complete the final order on the criminal complaint.

