

QUESTIONS FOR DEFENDANT'S COUNSEL

[Defense counsel], have you discussed with Defendant his/her decision to request this probation violation hearing virtually, and to waive the right to be physically present for this probation violation hearing?

Based on your discussions with Defendant, is it your understanding that Defendant intends to waive the right to be physically present and proceed on a virtual platform?

Do you believe that any such waiver by Defendant will be a knowing, intelligent and voluntarily waiver of the right to be physically present?

After speaking with your client, do you have any reason(s) to request that this probation violation hearing not proceed virtually, and instead request that it be continued until it can be conducted in person?

QUESTIONS FOR DEFENDANT

The State of Florida is requesting that this hearing be conducted in court in person, as soon as possible upon the reopening of the courts. The State of Florida acknowledges that you are requesting to proceed with this evidentiary hearing on a virtual platform, meaning remotely by video.

Do you request this probation violation proceeding, an evidentiary hearing which may lead to a new sentence, being conducted on a virtual platform?

Defendant, if at any time during this hearing you would like to speak with your lawyer, please let me know and I will stop the proceedings and give you the opportunity to have a private conversation with your lawyer. Do you understand?

Do you understand that you are not required to appear by video conferencing but could insist on your right to be physically present?

Are you now waiving your right to be physically present for your hearing?

Do you understand that if you decide today that you've changed your mind about being physically present for this probation violation hearing, you could still assert your right to be physically present?

Do you understand that if you chose to appear in person, I would continue, meaning postpone, today's proceeding to be conducted on a future date?

If that happened, I would not be able to tell you today when the proceeding would be scheduled. The court would have to evaluate when it would be reasonable, given the coronavirus pandemic, to conduct open court proceedings. Do you understand?

Have you discussed with your lawyer all the advantages and disadvantages to having this hearing on a virtual platform, including the fact the you and your lawyers will not have private, simultaneous communication during the hearing?

Have you had enough time to do that?

Has your lawyer answered all of your questions?

I understand from your lawyer that you've decided to waive, meaning to give up, your right to be physically present for this evidentiary hearing which may lead to a new sentence. Is that true?

Probation violation proceedings afford you due process rights, such as the right to notice of the allegations against you, the opportunity to be heard, the right to present evidence, and the right to cross-examine witnesses. After conferring with your lawyer regarding your rights, do you still request to proceed?

Do you understand that, due to the limitation of this virtual platform, you cannot comment to your attorney about the evidence as it is being presented? For example, if a witness testifies to something that you believe is inaccurate or misleading, you will not be able to pass a note or whisper to your attorney about this.

Do you understand that your attorney also cannot pass notes or whisper to you if he/she has questions about the testimony or evidence as it is being presented? For example, if a witness testifies to something that your attorney was not aware of or thinks might not be true, your attorney cannot question you about this to get your input.

Do you understand that you are facing up to XX years in state prison in this virtual proceeding in which you will not even have the ability to actually simultaneously communicate with your attorney about the evidence during the hearing?

Have you had enough time to discuss your case with your lawyers, as well as discussed with your lawyer all the advantages and disadvantages to having this hearing on a virtual platform, including the fact the you and your lawyers will not have private, simultaneous communication during the hearing?

Has any promise been made to you in order to get you to give up your right to be physically present?

Has anyone threatened you or pressured you in order to get you to give up your right to be physically present?

You are currently appearing by videoconference, and I cannot see everything and everyone that is in the room with you. Is there anyone or anything currently exerting any influence over you to waive your right to be physically present in the courthouse for this proceeding?

Do you understand that the fact that this proceeding will be conducted by video conference does not diminish the legal significance of this proceeding?

Do you understand that you will be bound by what happens during this proceeding? Having discussed those matters, and considered the implications, do YOU wish, as a matter of strategy, to give up your right to be physically present and proceed with your hearing today participating by video conference?

Do you have any questions for the Court, the State, and/or your lawyer?

Understanding and acknowledging all this, are you still requesting that your probation violation hearing proceed on a virtual platform, that is, by video, and not in person?