

STATE OF MINNESOTA
IN SUPREME COURT
ADM10-8049

FILED

September 3, 2015

**OFFICE OF
APPELLATE COURTS**

**ORDER REGARDING PROPOSED AMENDMENTS
TO FORM 11, RULES OF CRIMINAL PROCEDURE**

The Court Operations Advisory Workgroup recommends amendments to Rules of Criminal Procedure Form 11, Petition to Proceed as Pro Se Counsel. The proposed amendments to the form update the language and will facilitate translation of the form into multiple languages. The chair of the Supreme Court Advisory Committee on the Rules of Criminal Procedure supports the proposed amendments. The court has reviewed the proposed amendments and has been fully advised in the premises.

IT IS HEREBY ORDERED that the amendments recommended to Rules of Criminal Procedure Form 11, Petition to Proceed as Pro Se Counsel, be, and the same are, prescribed and promulgated to be effective as of October 1, 2015. The amendments to the form as approved are attached to this order.

Dated: September 3, 2015

BY THE COURT:



Lorie S. Gildea
Chief Justice

FORM 11 - PETITION TO PROCEED AS PRO SE COUNSEL

[Note: In this form, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
_____ JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

PETITION TO PROCEED
AS PRO SE COUNSEL

vs.

District Court File No. _____

_____,
Defendant.

TO: THE ABOVE-NAMED COURT

I, _____, defendant in the above-entitled action, request the Court to allow me to represent myself, and do respectfully represent and state as follows:

1. My full name is _____. I am _____ years old. My date of birth is _____. The last grade that I went through in _____ school is _____.

2. I have received and read the (complaint)(indictment).

3. I understand the charge(s) made against me.

4. Specifically, I understand that I have been charged with the crime(s) of _____ alleged to have occurred on or about _____, in _____, County, Minnesota.

5. I have discussed my desire to represent myself with an attorney whose name is _____.

6. I (have)(have never) been a patient in a mental hospital.

7. I (have)(have not) talked with or been treated by a psychiatrist or other person for a nervous or mental condition.

8. I (have)(have not) been ill recently.

9. I (have)(have not) recently been taking pills or medicine.

10. I understand that I have an absolute right to have an attorney represent me in these proceedings. I understand that if I am eligible for the services of the public defender, the Court will appoint the Office of the _____ Public Defender to represent me. I understand that if the Court grants my petition to represent myself, I will be responsible for preparing my case for trial and trying my case. I understand that I will be bound by the same rules as an attorney. I understand that if I fail to do something in a timely manner, or make a mistake because of my unfamiliarity with the law, I will be bound by those decisions and must deal with them myself.

11. ~~That in making any decisions regarding the conduct of this case, I have the right to consult with advisory counsel assigned to this case.~~ I understand that if the Court grants my petition to represent myself, I will be responsible for preparing my case for trial and trying my case. I understand that I will be bound by the same rules as an attorney. I understand that if I fail to do something in a timely manner, or make a mistake because of my unfamiliarity with the law, I will be bound by those decisions and must deal with them myself.

12. I understand the Court will schedule a probable cause hearing, if one has not already been held. At the probable cause hearing, I can make a motion that the complaint or indictment filed against me be dismissed for lack of probable cause. That the preparation for, conduct of, and decisions made relating to that hearing will be my sole responsibility.

13. I understand that:

a. The prosecution for their case against me ~~has~~may have:

i. physical evidence obtained as a result of searching for and seizing evidence.

ii. evidence in the form of statements, oral or written, that I made to the police or others regarding the charges;

iii. evidence discovered as a result of my statements or as a result of the evidence seized in a search.

iv. identification evidence from a line-up or photographic identification.

v. evidence the prosecution believes indicates that I committed one or more other crimes.

b. That I have the right to a pretrial hearing before a judge to determine whether or not the evidence the prosecution has could be used against me at trial in this case.

c. That I can testify at the hearing if I want to, but my testimony could not be used as substantive evidence against me if I went to trial and could only be used against me if I was charged with the crime of perjury. (Perjury means testifying falsely.)

d. That the preparation for, conduct of, and decisions made relating to that hearing will be my sole responsibility.

14. I understand that I am entitled to a trial by jury of 12 persons in a felony case and a jury of 6 persons in other cases and all jurors must agree before they can find me guilty. Also, all jurors must agree before they can find me not guilty. I also understand that I may ask for a trial to the judge and not a jury. I further understand that I will conduct all phases of the trial including, but not limited to: writing and filing motions, making arguments to the Court, selection of the jury, cross-examination of the witnesses for the prosecution, direct examination of my witnesses, making all objections, opening statement and closing argument.

15. I understand that I am entitled to require any witnesses that I think are favorable to me to appear and testify at my trial by use of a subpoena as approved by the judge.

16. I understand:

a. That a person who has prior convictions or a prior conviction can be given a longer prison term.

b. That the maximum statutory penalty that the Court could impose for this crime (taking into consideration any prior conviction or convictions) is imprisonment for _____ years, and/or a fine of \$ _____. That if a minimum sentence is required by statute the Court may impose a sentence of imprisonment of not less than _____ months for this crime.

17. ~~I understand that if I am eligible for the services of the public defender, the Court will appoint the Office of the _____ Public Defender.~~ I understand that if the Court grants my petition to represent myself, the Court may appoint advisory counsel. I understand that if the Court appoints advisory counsel I have the right to consult with advisory counsel in making any decisions regarding the conduct of this case. However, I am under no obligation to seek advice from advisory counsel. I understand that the role of advisory counsel is limited. I understand that:

a. Advisory counsel will be physically present in the courtroom during all proceedings in my case.

b. Advisory counsel will respond to requests for advice from me. Advisory counsel will not initiate such discussions.

c. The support staff of the ~~public defender~~ advisory counsel - investigators, secretaries, law clerks, and legal service advisors will not be available to me.

d. If I need investigative services, expert services, waivers of fees, research, secretarial services, or any other assistance, I must petition the Court for whatever relief or assistance I deem appropriate. Such request is pursuant to Minnesota Statutes, section 611.21.

e. If I am out of custody and desire to conduct legal research, I will be expected to do it myself at the library.

f. Advisory counsel will not be prepared to try my case on the trial date unless ordered to be prepared to do so by the ~~court~~Court.

g. Advisory counsel will be present for all Court appearances to consult with me if I request. Advisory counsel will be seated either at the back of the courtroom or at counsel table, based on my wishes and the Court's wishes. In an effort to vindicate my constitutional right to self-representation, advisory counsel will not initiate motions, objections, arguments to the Court, or any other aspect of representation unless I have given prior approval to the specific aspect of representation.

h. If I wish to give up my right to represent myself, I know that the Court will not automatically grant my request. The Court will consider the following in either granting or denying that request: the stage of the proceedings, whether advisory counsel is prepared to take over, the length of the continuance necessary for the advisory counsel to assume representation, the prejudice to either party, whether the jury has been sworn, and any other relevant considerations.

i. If the Court grants my request to give up the right to represent myself and substitute advisory counsel, the trial date may be continued if requested by the advisory counsel. The trial date will then be reset at a date mutually agreeable between counsel for the prosecution and counsel for the defendant.

j. In the unlikely event that the Court orders advisory counsel to represent me after the trial has started and jeopardy has attached, the Court may grant a mistrial if requested by my new attorney and reset the trial date at a date mutually agreeable between counsel.

k. I understand that if I am not a citizen of the United States, a plea of guilty or a finding of guilty for this crime may result in deportation, exclusion from admission to the United States or denial of naturalization as a United States citizen.

18. That in view of the above, I wish to waive my right to be represented by an attorney, and I wish to represent myself.

Dated this _____ day of _____, ____.

Petitioner

~~(Added effective January 1, 1999.)~~ (Amended effective October 1, 2015.)