

**IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY
CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA :
 :
 v. : **CP-39-CR-** -20
 :
 :

STIPULATION AND WAIVER

1. I have applied for admission to the Accelerated Rehabilitative Disposition (“ARD”) program. This stipulation and waiver is not part of my ARD application/hearing, and is a condition of the ARD program pursuant to 75 Pa C.S.A. § 3807 (ARD rules) and Pa.R.Crim.P. Rule 316. I understand that information or statements supplied by me in my application may **not** be used against me in a prosecution for the current offense if my application for ARD is denied, or if my case is revoked from the ARD program. I further understand that the only criminal proceeding in which this stipulation and waiver may be used against me is for the purposes set forth in paragraph 2.

2. I hereby agree that the statements in this stipulation and waiver are not protected by Pa.R.Crim.P. Rules 311–313. The information in this stipulation and waiver may be used against me if I am charged with Driving under the Influence (“DUI”) or related offense(s) in the future. The stipulation may be used as evidence of a “prior conviction” for purposes of increasing the grading and penalty of any future DUI offense.

3. I understand that under the current law, if I commit a subsequent DUI offense, the Commonwealth is required to prove beyond a reasonable doubt that I am guilty of this DUI for which I am being placed on ARD, in order to use this offense as a “prior conviction” (first offense) for purposes of enhancing the grading and sentencing of any future DUI offense(s). I further understand that by agreeing to be placed into the ARD program, I am knowingly and voluntarily waiving my right to challenge in any future proceeding that this current DUI offense constitutes a “prior conviction” for purposes of enhancing the grading and sentencing of any subsequent DUI offense(s), and that by so agreeing, the Commonwealth will not be required to prove beyond a reasonable doubt at any future proceeding that I am guilty of this current DUI offense in order for it to be considered a “prior conviction.” Therefore, if I am convicted of a future DUI offense, this ARD will be considered a “prior conviction” for sentencing purposes and I will be subject to increased mandatory sentences.

4. I admit under penalty of perjury to the facts set forth in the attached document and that based on those facts the Commonwealth would be able to prove beyond a reasonable doubt a violation of 75 Pa. C.S. §3802 (DUI).

5. I hereby waive any Procedural or Substantive Due Process rights I may have with respect to this ARD being treated as a "First Offense: in any subsequent proceeding. I make this admission and waiver intelligently, knowingly and voluntarily, and am aware of my right to refuse and to take this case to trial.

6. I hereby understand and agree that I will not be entitled to expungement of any investigative records (police reports, lab reports, etc.), or of this Stipulation and Waiver, until 10 years after successful completion of the ARD program.

Defendant

Date:-----

Attorney for Defendant

Date:-----

Attorney for the Commonwealth

Date:-----