

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
: BERKS COUNTY, PENNSYLVANIA
v. :
: Docket No. CP-06-CR-

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 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 such future 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” 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 that would cause any reasonable judge or jury to find me guilty beyond a reasonable doubt of a violation of 75 Pa. C.S. §3802 (DUI). I make this admission voluntarily and am aware of my right to refuse.

5. I hereby understand and agree that I will not be entitled to expungement of the Criminal Complaint, Affidavit of Probable Cause, Information, ARD placement order, any investigative materials including but not limited to police reports, reports of any testing and witness statements, or of this Stipulation and Waiver, until 10 years after successful completion of the ARD program.

Defendant

Date: _____

Defense Counsel

Date: _____