

RULES OF SUPREME COURT OF VIRGINIA
PART THREE A
CRIMINAL PRACTICE AND PROCEDURE

Rule 3A:8. Pleas.

(a) *Pleas by a Corporation.* A corporation, acting by counsel or through an agent, may enter the same pleas as an individual.

(b) *Determining Voluntariness of Pleas of Guilty or Nolo Contendere.*

(1) A circuit court shall not accept a plea of guilty or nolo contendere to a felony charge without first determining that the plea is made voluntarily with an understanding of the nature of the charge and the consequences of the plea.

(2) A circuit court shall not accept a plea of guilty or nolo contendere to a misdemeanor charge except in compliance with Rule 7C:6.

(c) *Plea Agreement Procedure.*

(1) The attorney for the Commonwealth and the attorney for the defendant or the defendant when acting pro se may engage in discussions with a view toward reaching an agreement that, upon entry by the defendant of a plea of guilty, or a plea of nolo contendere, to a charged offense, or to a lesser or related offense, the attorney for the Commonwealth will do any of the following:

(A) Move for nolle prosequi or dismissal of other charges;

(B) Make a recommendation, or agree not to oppose the defendant's request, for a particular sentence, with the understanding that such recommendation or request shall not be binding on the court;

(C) Agree that a specific sentence is the appropriate disposition of the case.

In any such discussions under this Rule, the court shall not participate.

(2) If a plea agreement has been reached by the parties, it shall, in every felony case, be reduced to writing, signed by the attorney for the Commonwealth, the defendant, and, in every case, his attorney, if any, and presented to the court. The court shall require the disclosure of the agreement in open court or, upon a showing of good cause, in camera, at the time the plea is offered. If the agreement is of the type specified in subdivision (c) (1) (A) or (C), the court may accept or reject the agreement, or may defer its decision as to the acceptance or rejection until there has been an opportunity to consider a presentence report. If the agreement is of the type specified in subdivision (c) (1) (B), the court shall advise

the defendant that, if the court does not accept the recommendation or request, the defendant nevertheless has no right to withdraw his plea, unless the Commonwealth fails to perform its part of the agreement. In that event, the defendant shall have the right to withdraw his plea.

(3) If the court accepts the plea agreement, the court shall inform the defendant that it will embody in its judgment and sentence the disposition provided for in the agreement.

(4) If the agreement is of the type specified in subdivision (c) (1) (A) or (C) and if the court rejects the plea agreement, the court shall inform the parties of this fact, and advise the defendant personally in open court or, on a showing of good cause, in camera, that the court will not accept the plea agreement. Thereupon, neither party shall be bound by the plea agreement. The defendant shall have the right to withdraw his plea of guilty or plea of nolo contendere and the court shall advise the defendant that, if he does not withdraw his plea, the disposition of the case may be less favorable to him than that contemplated by the plea agreement; and the court shall further advise the defendant that, if he chooses to withdraw his plea of guilty or of nolo contendere, his case will be heard by another judge, unless the parties agree otherwise.

(5) Upon rejecting a plea agreement, a judge shall immediately recuse himself from any further proceedings on the same matter unless the parties agree otherwise.

(6) Except as otherwise provided by law, evidence of a plea of guilty later withdrawn, or a plea of nolo contendere, or of an offer to plead guilty or nolo contendere to the crime charged, or any other crime, or of statements made in connection with and relevant to any of the foregoing pleas or offers, is not admissible in the case-in-chief in any civil or criminal proceeding against the person who made the plea or offer. But evidence of a statement made in connection with and relevant to a plea of guilty, later withdrawn, a plea of nolo contendere, or any offer to plead guilty or nolo contendere to the crime charged or to any other crime, is admissible in any criminal proceeding for perjury or false statement, if the statement was made by the defendant under oath and on the record. In the event that a plea of guilty or a plea of nolo contendere is withdrawn in accordance with this Rule, the judge having received the plea shall take no further part in the trial of the case, unless the parties agree otherwise.

Last amended by Order dated July 2, 2014; effective immediately.