

Law You Can Use: Consumer Information Column

What You Should Know about Pleading “No Contest”

Q: *What does it mean to plead “no contest” to a criminal or traffic offense?*

A: A plea is a person’s formal response to a criminal or traffic charge. A person charged with a criminal or traffic offense is called the defendant. The defendant can choose from the pleas of guilty, not guilty, not guilty by reason of insanity, or no-contest. Entering a plea refers to the judge’s act of formally noting a defendant’s plea, or “entering” it, in the court’s official file. If you enter a no-contest plea, it means that, while you do not admit your guilt, you do admit the truth of the facts alleged in the indictment, information or complaint (the so-called “charging” documents that start a criminal or traffic case). No-contest pleas are sometimes know as “*nolo contendere*” or just “nolo” pleas.

Q: *So what’s the difference between pleading guilty and pleading no contest?*

A: Good question. Sometimes there’s no difference whatsoever and sometimes there’s a big difference. If you plead guilty, you are admitting to the facts and the legal consequences of those facts. The benefit of a no-contest plea (when you admit the facts, but not your guilt) is that it allows you to avoid a trial if your defense has become hopeless, but it prevents the plea from being used against you in any later civil or criminal proceeding. It also allows you the opportunity to appeal rulings by the court, such as rulings allowing certain evidence to be used by the government.

Q: *Can you provide an example?*

A: Let’s say Driver Dan rear-ends Driver Pete’s car. Rear-ending someone is a traffic violation known as “failure to maintain an Assured Clear Distance Ahead” (ACDA). Say State Trooper H. Abe comes to the scene to investigate and gives Dan a ticket for ACDA. In addition to the ticket, Pete sues Dan in small claims court to recover the cost of repairing the damage to his car that was caused by the accident. If Dan goes to court on the ticket and pleads guilty to the ACDA (because he knows Trooper Abe and the prosecutor have an open-and-shut case) then Pete can use that guilty plea against Dan in the small claims suit because, by pleading guilty, Dan is completely admitting to the facts and his own guilt. If Dan pleads no contest, though, Pete cannot use that as an admission by Dan in the small claims suit.

Q: *Is pleading no-contest to a felony in Ohio the same as pleading no contest to a misdemeanor?*

A: Not exactly. When a defendant enters a no-contest plea in a misdemeanor case, the prosecutor must explain the circumstances of the offense to the judge or magistrate. Based on that explanation, the judge or magistrate must find the defendant guilty or not guilty. As a practical matter, a no contest plea will almost always result in a “guilty” finding. This extra explanation by the prosecutor is not required in felony cases.

Q: *Do I always have the option of pleading no contest?*

A: Generally, you have a choice between pleading guilty and no contest. If you are offered a plea bargain, however, the prosecutor may insist that you plead guilty rather than no contest. In exchange for your change of plea, the prosecutor would recommend a reduced charge or penalty.

Q: *If I plead no contest and give the judge a really good excuse, might the judge let me off?*

A: The only way the judge would find you not guilty on your no-contest plea is if there is a mistake in the “charging” document (if, for example, it leaves out a critical part of the charge) or because the prosecutor’s recitation of facts (where required) doesn’t match up to the facts stated in the charging document. This is rare.

Q: *How do I figure out if I should plead no-contest?*

A: A lawyer can advise you about your particular situation and the impact of various pleas.

This “Law You Can Use” column was provided by the Ohio State Bar Association (OSBA). It was prepared by attorney Robert A. Beattey, a member of the OSBA Criminal Justice Committee. The column offers general information about the law. Seek an attorney’s advice before applying this information to a legal problem.