

The Official Plea Competition

1. During plea negotiations, the prosecutor threatens that if defendant doesn't plead guilty, more serious charges will be instituted. Is that permissible? (1 point)

2. Now suppose defendant pleads not guilty & the prosecutor carries out the threat. Is that permissible? (1 point)

3. Defendant pleads guilty to a misdemeanor in district court under a plea arrangement in which other misdemeanor charges are dismissed. Defendant appeals for trial de novo. The prosecutor wants you to try all of the original misdemeanor charges. Can you? (1 point)

4. Defendant pleads guilty to a misdemeanor in district court under a plea arrangement which reduced a felony charge. Defendant appeals for trial de novo. The prosecutor has indicted on the original felony charge & is prepared to try that charge. Can you? (1 point)

5. A plea agreement provides that defendant will receive a sentence of 151-191 months. The sentencing judge imposes 133-169 months. Defendant appeals, saying he should have been allowed to withdraw his plea. Is he right? (3 points)

6. A negotiated plea hasn't yet been accepted by the court. Pursuant to it, the prosecutor has dismissed charges & defendant has provided detailed information about his involvement & the involvement of others. Can defendant back out? Can the prosecutor back out? What rules apply? (1 point for each part)

7. The state has breached a plea agreement. What remedies are available? What factors should you consider in determining the remedy? (1 point for each part)

8. Does the judge have to inform defendant of the elements of the charge? (1 point)

9. Defendant pled guilty to 1st degree murder & 3 felonies. On appeal he argues the judge failed to inform him of a direct consequence of his plea: that because he was pleading guilty to 1st degree premeditated & deliberated murder, his pleas to the felonies other than murder would establish aggravating circumstances at the capital sentencing phase. Is he right? (1 point)

10. Defendant challenges a plea on appeal, alleging he was not informed of the rights waived by the plea. Although the transcript of plea form is completed perfectly, the verbatim transcript reveals that the trial judge failed to address defendant personally. Does defendant win on appeal? (3 points)

11. After defendant pleads not guilty, the judge tells defense counsel that he thinks the jury will convict and if so, he'll be inclined to give a long sentence. Thereafter defendant changes his plea to guilty. Was the plea voluntary? (1 point)

12. As part of a plea agreement, defendant stipulates to minimum & maximum terms of imprisonment. At sentencing the state does not produce evidence supporting defendant's prior record level. D is sentenced to the stipulated terms. Defendant challenges prior record level on appeal. Does he win? (1 point)

13. Defendant 1 & Defendant 2 have entered guilty pleas. Defendant 1 moves to withdraw the plea before sentencing. Defendant 2 does so after sentencing. What standards apply? (1 point)

14. When defendant pled guilty, judge questioned defendant & the lawyers about a plea agreement & none was revealed. The plea form was completed & a verbatim record made. Defendant now asserts that counsel said "just answer the judge's questions, the state has agreed that you'll only get 48 months." Defendant got 64 months. Will the plea stand? (3 points)

15. Defendant pled guilty 20 years ago. He is now challenging his plea, arguing that he was never told of his right to a jury trial. The file has been destroyed, as part of normal record destruction procedures. What presumption applies? (1 point)

Point total: _____ out of 24 possible points.