



Ohio Revised Code

Section 5924.45 Entry of plea by accused; entry by court.

Effective: September 28, 2012

Legislation: House Bill 490 - 129th General Assembly

(A) An accused may plead not guilty, not guilty by reason of insanity, guilty, or, with the consent of the court, no contest. A plea of not guilty by reason of insanity shall be made in writing by either the accused or the accused's attorney. All other pleas may be made orally. The pleas of not guilty and not guilty by reason of insanity may be joined.

(B) If an accused refuses to plead, the court shall enter a plea of not guilty on behalf of the accused.

(C) Before accepting a plea of guilty, the military judge shall address the accused personally and inform the accused of, and determine that the accused understands, all of the following:

(1) The nature of the offense to which the plea is offered and the maximum possible penalty provided by law;

(2) In a general or special court-martial, if the accused is not represented by counsel, that the accused has the right to be represented by counsel at every stage of the proceedings;

(3) That the accused has the right to plead not guilty or to persist in that plea if already made, that the accused has the right to be tried by a court-martial, and that at trial the accused has the right to confront and cross-examine witnesses against the accused and the right against self-incrimination.

(4) That if the accused pleads guilty, there will not be a trial of any kind as to those offenses to which the accused has so pleaded and that by pleading guilty the accused waives the rights described in division (C)(3) of this section;

(5) That, if the accused pleads guilty, the military judge will question the accused about the offenses to which the accused has pleaded guilty, and that, if the accused answers the questions under oath, on the record, and in the presence of counsel, the accused's answers may later be used against the accused in a prosecution for perjury or false statement.



(D) The military judge shall not accept a plea of guilty without first addressing the accused personally and determining that the plea is voluntary and not the result of fear, threats, or promises. The military judge shall also inquire as to whether the accused's willingness to plead guilty results from prior discussions between the convening authority, a representative of the convening authority, or trial counsel and the accused or defense counsel.

(E) The military judge shall not accept a plea of guilty without making an inquiry of the accused that satisfies the military judge that there is a factual basis for the plea. The accused shall be questioned under oath about the offenses charged.

(F) When a negotiated plea of guilty or no contest to one or more offenses charged or to one or more other or lesser offenses is offered, the underlying agreement upon which the plea is based shall be stated on the record in open court.

(G) If the court refuses to accept a plea of guilty or no contest, the court shall enter a plea of not guilty on behalf of the accused, and neither plea shall be admissible in evidence or be the subject of comment by the trial counsel or court.

(H) The defense of not guilty by reason of insanity must be pleaded at the time of arraignment, except that the court for good cause shown shall permit a plea of not guilty by reason of insanity to be entered at any time before trial.

(I) A motion to withdraw a plea of guilty or no contest may be made only before sentence is imposed, but to correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the accused to withdraw the plea.

(J) An accused who is found guilty after pleading guilty waives any objection, whether or not previously raised, relating to the factual issue of guilt of the offense to which the plea was made.