

INITIAL REVOCATION HEARING
Petition to Revoke Supervised Release

1. ***[Announce case]***
2. ***[To AUSA]*** Please tell me when the supervised releasee was arrested.
3. ***[To Supervised Releasee's Counsel]*** Do you agree?
4. Have you received a copy of the petition and have you reviewed it with the supervised releasee?
5. ***[To Supervised Releasee]*** [Would you please stand.] You are in court at this time because a petition to revoke your supervised release has been filed. The purpose of the hearing today is to (1) advise you of the allegation(s) contained in the petition and (2) explain your rights. It is not the purpose of today's proceeding to decide whether the government's petition to revoke your supervised release should be granted.
6. The petition alleges [give a general summary of violation(s) alleged and maximum penalties from related case sheet].
7. You have the right to remain silent. You do not have to make any statement, and, if you do, that statement may be used against you in court. If you have already made a statement, you need say no more; if you start to make a statement, you may stop at any time. Do you understand?
8. You have a right to be represented by an attorney at every stage of these proceedings. You have the right to employ an attorney of your choosing at any time. If you cannot afford an attorney, I will appoint an attorney to represent you at no cost to you. Do you understand?
 - a. ***[If the supervised releasee requires appointment counsel]***
 - i. Can you afford to hire a lawyer?

- ii. Have you conferred with Attorney _____ regarding this matter?
- iii. Are you requesting that I appoint Attorney _____ to represent you for all purposes of in this matter?
- iv. I have the financial declaration you filled out.
 - 1. Can you confirm that you signed this declaration?
 - 2. Do you swear to the truth of the information in this declaration?
- v. ***[NOTE: If the supervised releasee has not filled out a financial affidavit, the attorney can be provisionally appointed pending the completion of the affidavit]***
- vi. I find that you are eligible for court-appointed counsel and I appoint Attorney _____ to represent you. Thank you, Attorney _____ for accepting this appointment.

b. ***[If the supervised releasee is represented by his/her own counsel]***

- i. Have you retained Attorney _____ as your attorney in this matter?
- ii. Do you authorize Attorney _____ to act and speak on your behalf in this matter?

c. ***[If the supervised releasee opts to represent himself/herself, refer to the Self Representation Colloquy Addendum at the end of this document]***

- 9. You have a right to a preliminary hearing, at which the government has the burden of proof, to determine whether probable cause exists to

believe that you have violated one or more of the conditions of your supervised release as alleged in the petition.

- a. You may waive your right to a preliminary hearing. If you elect to do so, a hearing will not be held and you will be deemed to have agreed to the existence of probable cause. This is a matter that you should discuss with Attorney _____, so I won't ask you to state your position on waiver right now.
 - i. ***[If the supervised releasee is prepared to waive the preliminary hearing immediately]***
 1. Have you had adequate time to consult with Attorney _____ about waiving your right to a preliminary hearing?
 2. Has Attorney _____ answered all your questions about waiving your right to a preliminary hearing?
 3. Is anyone or anything pressuring you to give up your right to a preliminary hearing against your will?
 4. ***[Have the supervised releasee sign waiver form]***
 5. I am satisfied that your waiver of a preliminary hearing is knowing, intelligent, and voluntary, and I therefore accept your written waiver.
10. I will now explain to you the general circumstances under which you may be entitled to release pending your final revocation hearing.
- a. You have a right to a release hearing to determine whether or not between now and your final revocation hearing before a District Judge, you are to remain in custody or be released.

- b. The standards governing release are those prescribed by 18 U.S.C. § 3143(a). You are entitled to be released if you establish, by clear and convincing evidence, that you are not likely to flee or pose a danger to the safety of any other person or the community if released before your final revocation hearing.
11. ***[To Supervised Releasee's Counsel]*** What is the supervised releasee's position with regard to a release hearing?
- i. ***[If no release hearing is sought, tell Supervised Releasee]***
Because no evidence for your release has been offered at this time, and you have the burden of proof, I will enter an order detaining you until the final revocation hearing. [If there is a change of circumstances, you have the right under federal law to come back to court and ask for a reopened hearing.]
12. ***[Schedule probable cause/release hearing as necessary]***

SELF-REPRESENTATION COLLOQUY ADDENDUM

[NOTE: This colloquy is adapted from the Federal Judicial Center's *Benchbook for U.S. District Court Judges* § 1.02(C) (4th ed. 2013)]

1. **[To Supervised Releasee]** You have a constitutional right to represent yourself. I must, however, ask you some questions to make sure that in waiving counsel you fully understand the hazards and disadvantages of self-representation.
 - a. Have you ever studied law?
 - b. Have you ever represented yourself in a criminal action?
 - c. Do you understand that the petition to revoke your supervised release alleges that _____?
 - d. Do you understand that if the petition is granted, your supervised release will be revoked and you could be subject to the maximum penalties I have described?
 - e. Do you understand that if you represent yourself that the court cannot tell you or advise you how to try your case?
 - f. Are you familiar with the Federal Rules of Evidence?
 - g. Do you understand that the Federal Rules of Evidence govern what evidence may or may not be introduced at trial and, in representing yourself, you must abide by those very technical rules, and they will not be relaxed for your benefit?
 - h. Are you familiar with the Federal Rules of Criminal Procedure?
 - i. Do you understand that the Federal Rules of Criminal Procedure govern the way in which a criminal action is tried in federal court, that you are bound by those rules, and that they will not be relaxed for your benefit?

2. I must advise you that it is my opinion that a trained lawyer would defend you much better than you could defend yourself. I think it is unwise of you to try to represent yourself because you are unfamiliar with the law, court procedure, and the rules of evidence. I strongly urge you not to try to represent yourself.
3. Now, in light of the potential loss of your supervised release, the maximum penalties you face, and the difficulties of representing yourself, do you still desire to represent yourself and to give up your right to be represented by a lawyer?
4. Is your decision entirely voluntary on your part?
5. I find that you have knowingly and voluntarily waived your right to counsel. I will therefore permit you to represent yourself. Nevertheless, I will appoint Attorney _____ as standby counsel to assist you and step in if the court determines that you can no longer represent yourself.