Model Opening Statement – Municipal Courts in New Jersey – Criminal and Traffic Sessions

Outline for Model Opening Statement for Municipal Courts in New Jersey: Criminal and Traffic Sessions

Listing of Basic Rights and Advisements

Below are the basic rights and advisements that should be included in every municipal court opening statement (*R.* 7:14-1)

Welcome

Good Morning (evening) and welcome to the _____ Municipal Court. I am Judge _____. For the record today's date is _____ at _____ a.m. (p.m.).

Order of Court Calendar

State the general order in which cases will be heard during the court session pursuant to *R.* 7:14-3. You may want to give a brief explanation regarding terms of art such as "arraignment" in language that a lay person will understand. The following is an example of the general order of business:

Pursuant to Court Rule, attorney matters are given priority since many attorneys are required to be in other courts meeting at the same time. The Court will then call first appearances, guilty pleas and other summary matters. The last order of business will be trials and other contested matters

Proceedings are Recorded

All proceedings in this Court are recorded. No one should be talking in the courtroom other than court personnel and those people addressing the court. Cell phones and pagers should be turned off.

Charges and Penalties

You have the right to be informed of your charges and the penalties you face for those charges.

Defendant's Right to a Postponement

You have the right to a reasonable postponement for good cause, such as consulting with an attorney and preparing a proper defense

Defendant's Right to Representation by an Attorney

You have the right to be represented by an attorney. If you elect not to be represented by an attorney for charges which may result in a jail term, loss of your driving privileges or penalties in excess of $800, I will ask you questions to satisfy myself that you are giving up the right to be represented by an attorney knowingly and intelligently

Defendant's Right to Public Defender

You have the right to a court appointed attorney if you cannot afford to hire your own attorney and if (a) you face a jail term; (b) a loss of driving privileges; or (c) penalties in excess of $800.00; and you qualify financially. You must complete a form which asks questions about your income and your assets and you may be asked to supply proof of your income, assets and expenses. If you apply for a court appointed lawyer, there is an application fee of up to $200, which the court can reduce or eliminate for good cause.

Defendant's Rights

Right to remain silent.
You have a constitutional right to remain silent; no one can force you to testify or make a statement on your own behalf or to call any witnesses or to offer any defense. If you choose not to testify, it will not in any way factor into my decision as to whether you are guilty or not guilty of the offense charged.

Defendant Presumed Innocent
You are presumed innocent unless and until you are proven guilty. The prosecutor is the attorney who represents the State and presents the cases to the court. In most cases the prosecutor must prove the case against you beyond a reasonable doubt. It is never your burden or obligation to prove your innocence.

Guilty or Not Guilty Plea

You may enter a plea of guilty or not guilty to your charges.

Rights Given Up by Entry of a Guilty Plea

If you enter a plea of guilty, you will be giving up your right to a trial and your right to remain silent. I will ask you questions about what happened to establish what is called a "factual basis" and other questions to satisfy myself that you are knowingly and voluntarily giving up your right to a trial, that you are guilty of the charges, and that you have knowingly and intelligently decided to proceed without an attorney, if you are not represented by an attorney. You may offer any explanation that you think is important to your case and which may affect the sentence that is imposed.

Not Guilty Plea

If you plead not guilty, you then have the right to have a trial, where you or your attorney may call or subpoena witnesses on your behalf and you may testify or make a statement if you choose to do so. If you have a trial, I will explain the trial procedure to you before the trial begins.

Jurisdiction of Court

The court has jurisdiction over all traffic offenses that occur in this municipality, along with offenses called disorderly persons' offenses, punishable by up to six months in jail and up to a $1000 fine, and petty disorderly persons' offenses, punishable by up to 30 days in jail and up to a $500 fine. Certain drug related offenses carry additional mandatory penalties and a possible loss of your driving privileges for up to 2 years. I can also impose a probationary term with conditions such as counseling, community service, restitution, drug screening, etc. The court also hears local ordinance violations (violations of local laws), and fish and game violations, and weights and measures violations.

Commercial Driver's License

If you possess a commercial driving license, the Motor Vehicle Commission may suspend your commercial driver's license if you plead guilty to or are convicted after a trial of certain serious traffic offenses committed in your commercial or your personal vehicle.

Plea Bargaining

Plea bargaining is permitted by the N.J. Supreme Court in most cases except certain drunk driving and drug related offenses. This means that, except in those cases, you may speak to the Prosecutor about how your case may be resolved. A plea agreement may result in an amendment of your charge to a less serious offense or possibly one that carries no motor vehicle points, or fewer motor vehicle points, a dismissal or merger of some charges, or a specific fine, jail term, or other sentence recommendation by the Prosecutor. The Prosecutor will generally consult with the officer who has issued the summons or complaint, any victims, and may review your motor vehicle record or criminal history, in connection with any plea agreement.

In-Court Fines, Costs, and Penalties May Differ from Statewide Violations Bureau Schedule

You should know that if you plead guilty or are found guilty of a charge that could have been paid through the mail or online, the court is not bound to impose the same fine and costs as you would have originally paid. Instead, the court may impose the maximum fine and costs allowed by statute. If I find that you have acted in a willful manner, I have the authority under the law to suspend your driver's license, in addition to imposing fines and costs.

Additional Penalties May Be Imposed by MVC

In addition to any penalties that I may impose for motor vehicle convictions, additional penalties may be assessed by the Motor Vehicle Commission such as points for moving violations (like speeding or careless driving), surcharges for certain types of convictions or the MVC may suspend your driver's license. The court is linked to the MVC via computer so any convictions from this court are reported to the MVC upon data entry. If you are an out-of-state driver, the New Jersey MVC will report any conviction to your home-state MVC, which may impact on your driving privileges in that state.

Parking Tickets

If you are in court to contest a parking offense, be advised that you do not have the right to remain silent and neither a prosecutor nor the officer issuing the ticket has to personally appear, unless I order otherwise. The proceeding regarding parking offenses is considered civil in nature and you do not have the right to a public defender, and the proof of your guilt need not be established beyond a reasonable doubt. I may merely rely on three facts:

a. An appropriate parking offense is detailed on your Summons; and
b. It sufficiently identifies the vehicle involved; and
c. That the vehicle, according to the Motor Vehicle Commission, was owned or registered by you on the date and the time of the offense.

Therefore, it is your obligation to tell me under oath why you should not be found guilty. It is not a defense that you never received the parking ticket or that someone else actually parked the vehicle illegally. You, as the owner of the vehicle, are primarily responsible. You are not restricted in your right to allow family or friends to use your vehicle but if they do and they receive a Summons which they do not advise you of, that will not be a defense. You may have a claim against the actual offending driver for reimbursement in the Superior Court. In parking violations your statement denying your guilt alone may not be sufficient to prove your innocence and your best proofs may be photographs or videos of the location and signs in question. If you need time to obtain photographs or videos, you can request a short adjournment for that purpose.

Time Payments and Sentencing Alternatives

Fines and costs are due on the day of sentencing. If you are unable to pay your fines in full today you may be able to pay your fines in installments or you may seek other relief from the court. You may be required to complete a Financial Questionnaire that I will review on the record before an installment Order will be granted.

Right and Time to Appeal

You have 20 days in which to file an appeal if you are not satisfied with any decision or sentence of this court. Neither the parties nor the court, may, however, enlarge the time for the filing of appeal. Your appeal will be heard in the Superior Court and, in most cases, the Superior Court Judge decides the case based upon the record that we are making (called a transcript). An appeal packet is available in the court office.

Immigration and Deportation Consequences

[To be read verbatim, as required by Directive #09-11]

If you are not a United States citizen and if you plead guilty to or are convicted of certain offenses heard in the municipal court, including some motor vehicle offenses, it may result in your being deported from the United States or it may prevent you from being re-admitted to the United States if you leave voluntarily, or it may prevent you from ever becoming a naturalized American citizen. You have a right to seek advice from an attorney about the effect a guilty plea will have on your immigration status.

New Jersey Veterans Assistance Project

A special note for military veterans. A program called the Veterans Assistance Project exists to provide veterans with referrals to community-based resources for services related to housing, mental health counseling, substance abuse treatment, financial aid, legal services, education, and veterans benefits, including possibly mentoring by another veteran. Our court staff can provide you with a brochure describing the program and an application. Staff also can help you with completing the application.

Defendant's Questions

If you have any questions that I have not answered, please do not hesitate to ask when your case is called.