

**DEFENDANT'S WAIVER OF
JURY TRIAL AND CONSENT TO
TRIAL BY JUDGE**

DOCKET NO. _____

**Massachusetts
Trial Court
Superior Court**



Commonwealth v. _____

COUNTY _____

Defendant's Waiver of Trial by a Jury and Consent to Trial by a Judge

I understand that I have the right to have a jury decide whether or not I am guilty of the charges against me. I also understand that I have the right to have a judge, instead of a jury, decide if I am guilty.

I voluntarily give up my right to a trial by a jury in this case and instead agree to a trial by a judge. My decision to choose a trial by a judge is my own and I make it freely, willingly, voluntarily, and intelligently. My decision is not the result of force, threats, pressure, assurances, or promises of any sort.

I have had enough time to talk with my attorney about my right to a trial by a jury and my choice to give up that right and proceed with a trial by a judge. I am satisfied that my attorney has fully explained my rights and options about my decision to give up my right to a jury trial and have a trial before a judge. I believe that my attorney has acted in my best interests in this case. I understand that, in a trial by a jury, 12 jurors are selected from members of the community, that my lawyer and I could participate in the selection of the jurors, that the jury decides whether the Commonwealth has proven guilt beyond a reasonable doubt under the facts and the law, and that every juror must agree on the decision. I understand that, in a trial by a judge, the judge alone decides whether the Commonwealth has proven guilt beyond a reasonable doubt under the facts and the law.

I am not now on, or under the influence of, any drug, medication, liquor, or other substance that impairs my ability to fully understand the right to a trial by a jury or to decide to waive that right.

I do not believe I suffer from any mental illness, condition, or defect that impairs my ability to fully understand the right to a trial by a jury or to decide to waive that right.

Name of defendant: _____

Signature: _____ Date: _____

Counsel's Certification

I have discussed with the defendant the right to a trial by a jury and the defendant's option to give up that right and proceed with a trial by a judge. G. L. c. 236, § 6; Mass. R. Crim. P. 19(a). I explained to the defendant that: the jury consists of members of the community; the defendant may participate in selecting the jury; in a jury trial, the jury decides whether the Commonwealth has proven guilt beyond a reasonable doubt under the facts and the law and all jurors must agree on the decision, and that, in a jury trial, the judge makes rulings of law, instructs the jury on the law, and, if there is a guilty verdict, imposes sentence. When a defendant gives up the right to a jury trial, the judge alone decides whether the Commonwealth has proven guilt beyond a reasonable doubt under the facts and the law.

I am satisfied that the defendant understood my explanation and the consequences of giving up the right to a trial by a jury and proceeding with a trial by a judge. Also, I am satisfied that the defendant is not under the influence of any alcohol, drug, medication, or other substance that could impair the defendant's ability to fully understand the right that the defendant is giving up. I am not aware of any mental illness, condition, or defect that could impair the defendant's ability to fully understand the right to a jury trial that the defendant is giving up.

The defendant has signed this document in my presence and, to the best of my knowledge, did so freely, willingly, voluntarily, and intelligently and not as the result of force, threats, pressure, assurances, or promises.

Signature of counsel: _____ BBO # _____ Date: _____

Court's Approval

After a hearing, I find the defendant has waived the right to a trial by a jury knowingly, willingly, intelligently, and voluntarily. I accept the defendant's waiver of the right to trial by a jury.

Justice of the Superior Court _____ **Dated:** _____