

APPENDIX E TO MINN. R. CRIM. P. 15

STATE OF MINNESOTA
COUNTY OF _____

IN DISTRICT COURT
_____ JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

PETITION REGARDING
AGGRAVATED SENTENCE

vs.

Defendant.

TO: THE ABOVE NAMED COURT

I, _____, defendant in the above entitled action do respectfully represent and state as follows:

1. I have pled guilty to or have otherwise been found guilty of the crime of _____.

2. I understand the presumptive guideline sentence for this offense is _____, and I could not be given an aggravated sentence greater than the presumptive sentence unless the prosecution proves facts in support of such an aggravated sentence.

3. I understand the prosecution is seeking a sentence greater than that called for in the sentencing guidelines. Specifically, I understand the sentence in this case will be _____ or will be left to the judge to decide.

4. I am represented by attorney _____ and:
a) I feel I have had sufficient time to discuss the issue of an aggravated sentence with my attorney.

b) I am satisfied my attorney is fully informed as to the facts related to an aggravated sentence and that my attorney has discussed possible defenses I have to an aggravated sentence.

c) I am satisfied that my attorney has represented my interests and has fully advised me about an aggravated sentence.

5. My attorney has told me and I understand that even though I have pled guilty to or been otherwise found guilty of the crime of _____, I have the right to deny the facts alleged by the prosecution in support of an aggravated sentence.

6. My attorney has told me and I understand that I am entitled to a trial by either a jury or a judge to determine whether an aggravated sentence may be imposed upon me.

7. My attorney has told me and I understand that at such trial I have the following rights:

- a) I am presumed not to be subject to an aggravated sentence.
- b) The prosecution must prove facts supporting an aggravated sentence to either a jury or a judge beyond a reasonable doubt.
- c) That before a jury could find facts supporting an aggravated sentence, all jurors would have to agree. That means the jury's decision must be unanimous.
- d) That at a trial before either a jury or a judge, the prosecution will be required to call witnesses in open court and in my presence, and I, through my attorney, will have the right to question the witnesses.
- e) That I may require any witnesses I think are favorable to me to appear and testify on my behalf.
- f) That I may testify at such a trial if I wish to, but that if I choose not to testify, neither the prosecution nor the judge could comment to the jury about the failure to testify.
- g) That if I admit the facts in support of an aggravated sentence, I will not have a trial by either a jury or a judge.

8. That with knowledge of my right to a trial on the facts in support of an aggravated sentence, I now waive my right to a trial.

9. I now waive my right not to testify and I will tell the judge about the facts which support an aggravated sentence.

Dated: _____

Signature of Defendant