

**INITIAL APPEARANCE AFTER ARREST
ON WARRANT FROM ANOTHER DISTRICT
Motion to Revoke Pretrial Release**

[**NOTE:** Under the Crime Victims' Rights Act, 18 U.S.C. § 3771(a)(2) and (3), any victim of the offense has the right to notice of "any public court proceeding . . . involving the crime . . . of the accused," and to attend that proceeding. It may be advisable to ask the prosecutor if there are any victims and, if so, whether the government has fulfilled its duty to notify them.]

1. **[Announce case]**
2. **[To AUSA]** Please tell me when the defendant was arrested or entered federal custody.
3. **[To Defense Counsel]** Do you agree?
4. Have you received a copy of the warrant, a certified copy of the warrant, or a reliable electronic copy of either, and have you reviewed it with the defendant?
5. Have you received a copy of the motion to revoke pretrial release, and have you reviewed it with the defendant?
6. **[To Defendant]** [Would you please stand.] You are in court at this time for what is called an initial appearance because you were arrested on a warrant issued in the _____ District of _____ based on the filing in that District of a motion to revoke your pretrial release and order you detained until the conclusion of your case. The purpose of today's hearing is to advise you of the allegations contained in the government's motion, explain your rights, and, if necessary, set some further hearings on this matter.
7. In its motion to revoke, which is supported by a declaration of Officer _____ (Probation Officer), the government alleges that you [summarize allegations].

8. If the motion is granted, the order setting your conditions of release will be revoked and you will be detained pending trial. The revocation will be placed on your permanent record and could, among other potential consequences, affect your sentence and/or Bureau of Prisons classification.
9. You have the right to obtain the warrant for your arrest or either a certified copy or reliable electronic copy of the warrant.
10. You have the right to an identity hearing, that is, a hearing to determine whether or not you are the person named in the motion to revoke pretrial release.
11. You have the right to request a transfer of the proceedings from the prosecuting District, that is the _____ District of _____, to this District under Federal Rule of Criminal Procedure 20, but only if you if you intend to plead guilty to the allegation(s) against you.
12. 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?
13. 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 defendant requires appointment of 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 purposes of all proceedings in the District of Maine?

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 defendant 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 defendant 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 defendant opts to represent himself/herself, refer to the Self Representation Colloquy Addendum at the end of this document]***

14. ***[To Defense Counsel]*** Does the defendant have a position on whether he/she wishes to waive his/her right to an identity hearing in this District?

a. ***[If defendant wants to waive that right]***

- i. Have you had adequate time to consult with Attorney _____ about waiving your right to an identity hearing in this District?
- ii. Has Attorney _____ answered all your questions about waiving your right to that hearing?
- iii. Is anyone or anything pressuring you to give up your right to an identity hearing in this District?

1. ***[Have the defendant sign waiver form]***

2. I am satisfied that your waiver of your right to appear for an identity hearing in this District is knowing, intelligent, and voluntary, and I therefore accept your written waiver.

3. I will enter an order remanding you to the custody of the United States Marshal and transferring you to the _____ District of _____.

15. ***[If defendant does not waive his/her right to an identity hearing in this District, schedule the identity hearing.]***

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 Defendant]** 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 you have been charged with _____?
 - d. Do you understand that the maximum possible penalty is _____ [and the minimum possible penalty is _____]?
 - e. **[If applicable]** Do you understand that if you are found guilty of more than one of these crimes, the court can order that the sentences be served consecutively—one after the other?
 - f. Do you understand that the United States Sentencing Commission has issued sentencing guidelines that will affect your sentence if you are found guilty?
 - g. Do you understand that if you represent yourself that the court cannot tell you or advise you how to try your case?
 - h. Are you familiar with the Federal Rules of Evidence?
 - i. 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?

- j. Are you familiar with the Federal Rules of Criminal Procedure?
 - k. 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 penalty you may suffer if you are found guilty and in light of 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.