

DEFENDANT'S RIGHT TO TESTIFY

To the defendant:

You have the right, but are not required, to testify on your own behalf.

Your lawyer will advise you on whether to testify or not testify.

But, the decision, whether to testify or not testify, is yours, not your lawyer's.

In other words, if your lawyer recommends that you not testify, you can testify; and, if your lawyer recommends that you testify, you can decide not to testify.¹

If you choose not to testify, the jury will be told, but only upon your request:

“That the defendant did not testify as a witness is not a factor from which any inference unfavorable to the defendant may be drawn.”

Do you understand?

¹ *People v Petrovich*, 87 NY2d 961 (1996).