

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 211]

Promulgation of Consumer Price Index and Judicial Salaries Pursuant to Act 51 of 1995; No. 200 Judicial Administration Doc. No. 1

Order

Per Curiam:

And Now, this 19th day of November, 1998, pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, it is hereby *Ordered* that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U) for the most recent 12-month period and the judicial salary amounts effective January 1, 1999, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. JUDICIAL SALARIES

Pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, the Supreme Court of Pennsylvania has authorized the Court Administrator to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for the most recent 12-month period and the judicial salaries effective January 1, 1999, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq. See, No. 200 Judicial Administration Docket No. 1.

The Court Administrator of Pennsylvania reports that the percentage of increase in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U), for the 12-month period ending October 1998, was 1.6 percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUURA102SAO, Tuesday, October 17, 1998).

The Court Administrator of Pennsylvania also reports that the following judicial salaries are adopted to implement Act 51 of 1995:

Section 2.1. Judicial salaries effective January 1, 1999.

(a) *Supreme Court.*—The annual salary of the Chief Justice of the Supreme Court shall be \$131,423 and the annual salary of each of the other justices of the Supreme Court shall be \$127,951.

(b) *Superior Court.*—The annual salary of the President Judge of the Superior Court shall be \$125,815, and the annual salary of the other judges of the Superior Court shall be \$123,944.

(c) *Commonwealth Court.*—The annual salary of the President Judge of the Commonwealth Court shall be \$125,815. The annual salary of each of the other judges of the Commonwealth Court shall be \$123,944.

(d) *Courts of common pleas.*—

(1) The annual salary of a president judge of a court of common pleas shall be fixed in accordance with the following schedule:

(i) Allegheny County, \$113,259.

(ii) Philadelphia County, \$113,794.

(iii) Judicial districts having six or more judges, \$112,191.

(iv) Judicial districts having three to five judges, \$111,657.

(v) Judicial districts having one or two judges, \$111,122.

(vi) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of six or more judges, \$112,191.

(vii) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of five or less judges, \$111,657.

(viii) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of six or more judges, \$112,191.

(ix) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of five or less judges, \$111,657.

(2) The other judges of the courts of common pleas shall be paid an annual salary of \$111,122.

(e) *Philadelphia Municipal Court.*—The President Judge of the Philadelphia Municipal Court shall receive an annual salary of \$110,054. The annual salary for the other judges of the Philadelphia Municipal Court shall be \$108,185.

(f) *Philadelphia Traffic Court.*—The President Judge of the Philadelphia Traffic Court shall receive an annual salary of \$58,767. The annual salary for the other judges of the Philadelphia Traffic Court shall be \$58,233.

(g) *District justices.*—A district justice shall receive an annual salary payable by the Commonwealth of \$55,027.

(h) *Senior judges.*—The compensation of the senior judges pursuant to 42 Pa.C.S. § 4121 (relating to assignment of judges) shall be \$339 per day. In any calendar year the amount of compensation which a senior judge shall be permitted to earn as a senior judge shall not when added to retirement income paid by the Commonwealth for such senior judge exceed the compensation payable by the Commonwealth to a judge then in regular active service on the court from which said senior judge

retired. A senior judge who so elects may serve without being paid all or any portion of the compensation provided by this section.

[Pa.B. Doc. No. 98-1976. Filed for public inspection December 4, 1998, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

[234 PA. CODE CHS. 300 AND 1100]

Rule 303 Relating to Arraignment and Rule 1117 Relating to Presence of the Defendant

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rules 303 (Arraignment) and 1117 (Presence of the Defendant) to establish a uniform, statewide procedure permitting defendants who are represented by counsel to waive appearance at arraignment. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed rule changes precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901 no later than Wednesday, January 13, 1999.

By the Criminal Procedural Rules Committee

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 300. PRETRIAL PROCEEDINGS

Rule 303. Arraignment.

[(a) Arraignment] (A) Except as otherwise provided in paragraph (C), arraignment shall be in such form and manner as provided by local court rule. Notice of arraignment shall be given to the defendant as provided in Rule 9024 or by first class mail. Unless otherwise provided by local court rule, or postponed by the court for cause shown, arraignment shall take place no later than 10 days after the information has been filed.

[(b)] (B) * * *

* * * * *

[(c) When permitted by local rule, a] (C) A defendant may waive appearance at arraignment if the following requirements are met:

* * * * *

(2) the defendant and counsel sign and file with the clerk of courts a waiver of appearance at arraignment which acknowledges that the defendant:

* * * * *

(ii) understands the rights and requirements contained in paragraph **[(b)] (C)** of this rule; and

* * * * *

Official Note: Formerly Rule 317, adopted June 30, 1964, effective January 1, 1965; paragraph (b) amended November 22, 1971, effective immediately; paragraphs (a) and (b) amended and paragraph (e) deleted November 29, 1972, effective 10 days hence; paragraphs (a) and (c) amended February 15, 1974, effective immediately. Rule 317 renumbered Rule 303 and amended June 29, 1977, amended and paragraphs (c) and (d) deleted October 21, 1977, and amended November 22, 1977, all effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised January 28, 1983, effective July 1, 1983; amended October 21, 1983, effective January 1, 1984; amended August 12, 1993, effective September 1, 1993; rescinded May 1, 1995, effective July 1, 1995, and replaced by new Rule 303. New Rule 303 adopted May 1, 1995, effective July 1, 1995; **amended _____, 1998, effective _____.**

Comment

* * * * *

Under paragraph **[(a)] (A)**, in addition to other instances of "cause shown" for delaying the arraignment, the arraignment may be delayed **[where] when** the defendant **[was] is** unavailable for arraignment within the 10-day period after the information **[was] is** filed.

Paragraph **[(c)] (C)** is intended to facilitate, for defendants represented by counsel, waiver of appearance at arraignment through procedures such as arraignment by mail.

Committee Explanatory Reports:

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Report explaining the proposed amendments deleting the local rule prerogative for requiring a defendant to appear for arraignment proceedings published at 28 Pa.B. 5868 (December 5, 1998).

CHAPTER 1100. TRIAL

Rule 1117. Presence of the Defendant.

[(a)] (A) The defendant shall be present **[at the arraignment,]** at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule. The defendant's absence without cause shall not preclude proceeding with the trial including the return of the verdict.

[(b)] (B) * * *

[(c)] (C) * * *

Official Note: Adopted January 24, 1968, effective August 1, 1968; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; **amended** _____, **1998, effective** _____.

Comment

Paragraph [(c)] (C) was added in 1994 to make it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial de novo. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority.

Committee Explanatory Reports:

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Report explaining the proposed amendments deleting the requirement that a defendant be present for arraignment published at 28 Pa.B. 5868 (December 5, 1998).

REPORT

Proposed Amendments to Pa.Rs.Crim.P. 303 and 1117

WAIVER OF APPEARANCE AT ARRAIGNMENT

1. *Rule 303 (Arraignment)*

In 1995, the Court adopted a new and reorganized Rule 303 containing a provision that authorized, when permitted by local rule, waiver of appearance at arraignment by defendants who are represented by counsel and who satisfy the requirements in paragraph (C). See 25 Pa.B. 1944 (May 20, 1995). The Committee found that this provision has met with favorable response from members of the bench and bar in those judicial districts adopting a local rule. The experiences with the local rules have demonstrated that the purposes of arraignment are achieved by consultation between attorney and client, and that permitting the waiver has significantly reduced the burdens on the court's resources and the defendants' and counsels' time. In view of these findings and the continued movement toward reducing the number of local rules to promote the uniform, statewide practice of law, the Committee agreed that Rule 303 should be amended to permit, as a uniform, statewide procedure, a represented defendant to waive formal arraignment.

Accordingly, the proposed amendment to Rule 303 would delete the local rule option language in paragraph (C). Because the waiver would be a statewide procedure, and an exception to the procedures in paragraph (A), we are recommending that paragraph (A) include "except as otherwise provided in paragraph (C)," to make this clear.

2. *Rule 1117 (Presence of Defendant)*

As part of our discussion about the waiver of arraignment, the Committee also noted that Rule 1117 sets forth the proceedings, including arraignments, that require the presence of the defendant. The Committee agreed that, because Rule 303 allows a represented defendant to waive appearance at arraignment, Rule 1117 should be amended to delete "arraignments" from the list of proceedings requiring the defendant's presence. In addition, it was agreed by the members that, since Rule 1117 is in Chapter 1100, it should only apply to the stages of trial.

[Pa.B. Doc. No. 98-1977. Filed for public inspection December 4, 1998, 9:00 a.m.]

PART I. GENERAL
[234 PA. CODE CH. 1100]

Rule 1117 Relating to Presence of the Defendant

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania approve revisions to the Comment to Rule 1117 (Presence of the Defendant) to clarify 1) the procedures concerning waiver of a defendant's presence at trial, and 2) the procedures when a defendant fails to appear for a trial de novo. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed Comment revisions precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901 no later than Wednesday, January 13, 1999.

By The Criminal Procedural Rules Committee

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 1100. TRIAL

Rule 1117. Presence of the Defendant.

* * * * *

Official Note: Adopted January 24, 1968, effective August 1, 1968; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; **revised** _____, **1998, effective** _____.

Comment:

Nothing in this rule is intended to preclude a defendant from waiving the right to be present at any stage of the trial. See *Commonwealth v. Vega*, ___ A.2d ___ (Pa. 1998) (requirements for a knowing and intelligent waiver of a defendant's presence at trial includes a full, on-the-record colloquy concerning consequences of forfeiture of the defendant's right to be present).

Paragraph (c) was added in 1994 to make it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial de novo. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority. **When the sentence imposed by the issuing authority includes imprisonment, the trial judge should take the necessary steps to bring the defendant before the court for the execution of the sentence of imprisonment.**

Committee Explanatory Reports:

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Report explaining the proposed revisions concerning waiver of presence and execution of sentence published at 28 Pa.B. 5869 (December 5, 1988).

REPORT

Revisions to Pa.R.Crim.P. 1117

WAIVER OF PRESENCE AT TRIAL; PROCEDURES WHEN A DEFENDANT FAILS TO APPEAR FOR A TRIAL DE NOVO

The Committee is proposing a revision of the Comment to Rule 1117 (Presence of the Defendant) to address the requirements for the waiver of a defendant's presence at trial, and to clarify the procedures when a defendant fails to appear for a trial de novo.

A. Waiver of Presence

Rule 1117(a) requires that the defendant be present at all stages of the trial. On October 1, 1998, the Supreme Court, in a plurality opinion, decided *Commonwealth v. Vega*, ___ A.2d ___ (Pa. 1998), which sets forth the requirements of a knowing and intelligent waiver of a constitutional right in general, and specifically, a defendant's waiver of the right to be present at trial. Noting that Rule 1117 is silent concerning waiver, the Committee agreed that a citation to Vega should be added to the Rule 1117 Comment to make it clear that Rule 1117 is not intended to prohibit a defendant from waiving the right to be present at any stage of the trial, and that the court must conduct a colloquy of the defendant before permitting the waiver.

B. Failure to Appear for Trial de Novo

The Committee received correspondence concerning the procedures for executing sentence under Rule 1117(C), which provides that in summary cases appealed for a trial de novo, the trial judge may dismiss the case when the judge determines that the defendant is absent without cause, and enter judgment on the sentence of the issuing authority. The correspondence pointed out that in those cases in which an issuing authority has ordered imprisonment as part of a sentence and the defendant fails to appear for the trial de novo, there are no procedures to bring the defendant before the court for execution of the sentence of imprisonment. As a result, in some cases, the defendant may not serve the sentence, or the institution may refuse to accept the defendant without a document indicating the time and date of commencement of sentence. In light of this, the Committee agreed that it would be helpful to the bench and bar if there was some guidance concerning the sentencing procedures in these cases. Accordingly, we agreed that the Rule 1117 Comment should be revised to make it clear that when the sentence imposed by the issuing authority includes imprisonment, the trial judge should take the necessary steps to bring the defendant before the court for the execution of the sentence of imprisonment.

[Pa.B. Doc. No. 98-1978. Filed for public inspection December 4, 1998, 9:00 a.m.]

PART II. LOCAL AND MINOR RULES

[234 PA. CODE CH. 9000]

Rule 9022 Relating to Filings

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt several amendments to Rule of Criminal Procedure 9022 (Filing). This proposal clarifies the procedures with regard to filings by represented defendants; filings that may be untimely; and filings by pro se prisoners. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed amendments precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901 no later than Wednesday, January 13, 1999.

*By the Criminal Procedural Rules Committee*FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART II. LOCAL AND MINOR RULES

CHAPTER 9000. GENERAL PROVISIONS

Rule 9022. Filing.

[(a)](A) * * *

[(b)](B) [**Except as provided in paragraph (c), when**] **The clerk of courts shall accept all written motions, notices, or documents presented for filing. When** a written motion, notice, or document is received by the clerk of courts, the clerk shall docket it and record the time of filing in the docket. A copy of these papers shall be promptly transmitted to such person as may be designated by the court.

[(c)](C) In any case in which a defendant is represented by an attorney, if the defendant submits for filing a written motion, notice, or document that has not been signed by the defendant's attorney, the clerk of courts shall [**not**] docket it [**or**] and record [**it**] **the time of filing in the docket. [, but] A copy of the filing shall be [forward] forwarded [it] to the defendant's attorney and the attorney for the Commonwealth within 10 days of receipt.**

[(d)](D) Filing may be accomplished by:

(1) personal delivery to the clerk of courts; or

(2) mail addressed to the clerk of courts. [**, provided, however, that**]

Except as otherwise provided by law, filing by mail shall be timely only when actually received by the clerk within the time fixed for filing.

Official Note: Adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective January 1, 1994; amended July 9, 1996, effective September 1, 1996; amended , 1998, effective , 1998.

Comment

* * * * *

Those rules that provide for filing with the trial court or the sentencing court are not exceptions to the general requirement of this rule that filing be with the clerk of courts. As used in this rule, "clerk of courts" is intended to mean that official in each judicial district who has the responsibility and function under state or local law to maintain the official court file and docket, without regard to that person's official title.

Paragraph (B) of this rule requires that the clerk of courts accept all written motions, notices, or documents that are submitted for filing, and docket them whether or not they appear to be timely filed. Any challenge to the timeliness of a filing must be raised by the parties for determination by the court.

The [second] last sentence of paragraph [(b)] (B) [is intended to provide] provides flexibility to the local courts to designate the court official, such as a local court administrator, who processes motions and other matters for appropriate scheduling and disposition.

The 1998 amendments to [Paragraph (c)] paragraph (C) [was added in 1996 to provide a] modified the [a] uniform, statewide procedure [for] by which the clerks of courts [to] handle filings by represented defendants when the defendant's attorney has not signed the document being filed by the defendant. As amended, paragraph (C) requires, in all cases in which a represented defendant files a document, that the clerk of courts docket and record the defendant's filing and then forward a copy of the document to both the attorney of record and the attorney for the Commonwealth. Compare [See] Pa.R.A.P. 3304 (Hybrid Representation). The docketing of the filings in these cases only serves to provide a record of the filing, and does not trigger any deadline nor require any response.

Paragraph [(c)] (C) only applies to cases in which the defendant is represented by counsel, not cases in which the defendant is proceeding pro se.

See *Commonwealth v. Jones*, 700 A.2d 423 (Pa. 1997); and *Commonwealth v. Little*, 716 A.2d 1287 (Pa. Super. 1998) concerning the timeliness of filings mailed by prisoners proceeding pro se (the "prisoner mailbox rule").

Committee Explanatory Reports:

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Final Report explaining the July 9, 1996 amendments concerning hybrid filings published with the Court's Order at 26 Pa.B. 3532 (July 27, 1996).

Report explaining the proposed amendments concerning filings by represented defendants, untimely filings, and filings by pro se prisoners published at 28 Pa.B. 5870 (December 5, 1998).

REPORT

Proposed Amendments of Pa.R.Crim.P. 9022

FILINGS IN CRIMINAL CASES

The Committee is proposing amendments to Rule of Criminal Procedure 9022 (Filings) that address three aspects of filing documents in criminal cases that have been causing confusion for individuals involved in the criminal justice system. First, the amendments clarify that the clerk of courts must accept all filings, even if the timeliness of the filing is in questions. Second, the amendments modify the procedures when a defendant, who is represented by counsel, files a document that has not been signed by counsel. Third, the amendments recognize the "prisoner mailbox rule" that has been developed by case law.

1. Untimely Filings

This matter was raised by representatives of the statewide Clerks of Courts Association. They pointed out that, because the Criminal Rules do not address how a clerk of courts is to handle an untimely filing, there are different practices around the State. Some clerks accept and docket all filings. Other clerks accept all filings, but make a notation when a filing is late. And others refuse to accept any filings they determine to be untimely.

In view of these various practices, which are, at the very least, confusing, and in view of their opinion that clerks should not make timeliness determinations, the representatives asked the Committee to consider proposing a statewide rule that would require the clerks of courts to accept and docket all filings, whether or not the filing appeared to be timely.

Agreeing with the points made by the representatives of the Clerks of Court Association, the Committee is proposing an amendment to Rule 9022(B) that requires that the clerks of courts accept all written motions, notices, and documents presented for filing. The third paragraph of the Comment makes it clear that any challenges to the timeliness of a filing must be raised by the parties and determined by the court.

2. Filings by Represented Defendants

Correspondence with the Committee suggested that the 1996 amendments to Rule 9022, which require the clerk of courts to forward any filings by a represented defendant to the defendant's attorney without docketing, creates problems in some of those cases in which the defendant is raising his or her attorney's ineffectiveness or is filing a petition to proceed pro se. The concern with the current Rule 9022(C) procedure is that there is no record in the clerk's office of the filing. If counsel of record is not actively working on the defendant's case, then important deadlines may be missed, or action on the defendant's claim of ineffectiveness or to proceed pro se may be delayed.

The Committee agreed that, at least as to ineffective counsel claims and petitions to proceed pro se, the filings should be docketed. However, after considering separating these two types of filings from all other filings by counseled defendants, the Committee concluded that, because many filings by defendants are not clearly identified, and it is not the responsibility of the clerk of courts to make a determination about the nature of a particular filing, this was not a workable option. In further discussions, the Committee weighed other options, including, for example, requiring that:

1) the clerk of courts docket and record all counseled defendant's filings in the same manner provided for other filings in paragraph (B), and then forward it to the attorney of record;

2) the clerk acknowledge receipt of the filing at the same time forwarding the filing to the attorney, and the acknowledgment would provide the record or proof of filing;

3) the clerk also forward a copy of the filing to the attorney for the Commonwealth in an effort to avoid day-of-trial surprises and delays;

4) if the filing is docketed and recorded, the matter should proceed in the same manner as filings under paragraph (B) by forwarding the filing to such person as may be designated by the court for further proceedings; or

5) if the filing is docketed and recorded, no other action is required by the court.

The Committee was persuaded that the concerns about delays and failure of counsel to act required that there should be some record of the filings by counseled defendants, and that the docketing and recording procedures, which are already in place, made more sense than requiring the clerks to send an acknowledgment of receipt. We rejected the notion that the case should proceed in the same manner as any other case, i.e., that it should be forwarded to, for example, the court administrator, for listing for further proceedings. We thought that (1) the responsibility rested with counsel to ensure that the defendant's filings were properly acted upon, and (2) because many of these counseled defendant's filings required clarification, these filings should not necessitate action by the attorney for the Commonwealth or the court. We also agreed that, to avoid the day-of-trial surprises and delays that might otherwise occur, the rule should require the clerk to also forward a copy of the filing to the attorney for the Commonwealth. The Comment makes it clear, however, that these filings serve only to provide a record, and, therefore, no action is required.

In view of these considerations, the Committee is proposing that Rule 9022(C) be amended to require that the clerk of courts docket the filings of represented defendants and record the time of filing in the docket. Paragraph (C) also requires that a copy of the filing be forwarded to both the defendant's attorney and the attorney for the Commonwealth.

3. The "Prisoner Mailbox Rule"

The "prisoner mailbox rule" is the "rule" being developed in a line of cases addressing the timeliness of appeals by prisoners proceeding pro se, and holding that, the prisoners' filings are timely when deposited with the prison authorities or in the prison mailbox within the time limits for filing. Although, to date, the case law has been limited to appeals and post conviction proceedings, the Committee reasoned that the basis for this "rule" put forth by the courts applies equally to criminal proceedings generally — that prisoners are unable to take the steps available to other litigants to monitor the process of their filings in order to ensure that the filings arrive before the deadline for filing. We, therefore, concluded that Rule 9022 should recognize the "prisoner mailbox rule" as an exception to the timeliness provision in paragraph (D). Accordingly, we are proposing that paragraph (D) be amended by the addition of "except as otherwise provided by law," before "filing by mail shall be timely only when

actually received by the clerk within the time fixed for filing." The Comment would be revised to include a citation to *Commonwealth v. Jones*, 700 A.2d 423 (Pa. 1997), and *Commonwealth v. Little*, 716 A.2d 1287 (Pa. Super. 1998), as examples of timeliness for mailings "otherwise provided by law."

[Pa.B. Doc. No. 98-1979. Filed for public inspection December 4, 1998, 9:00 a.m.]

Title 25—LOCAL COURT RULES

FAYETTE COUNTY

Local Rule 1901: Prompt Disposition of Matters; Termination of Inactive Cases; No. 2243 of 1998, G.D.

Order

And Now, this 16th day of November, 1998, it is hereby *Ordered* that Fayette County Rule of Civil Procedure 230.2 is hereby amended, renamed and renumbered as Fayette County Rule of Judicial Administration 1901. The following rule shall be effective 30 days after the publication in the *Pennsylvania Bulletin*.

The Prothonotary of Fayette County is *Ordered* and *Directed* to do the following:

(1) File seven (7) certified copies of this Order and Amended Rule with the Administrative Office of Pennsylvania Courts.

(2) File two (2) certified copies of this Order and Amended Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) File one (1) certified copy of this Order and Amended Rule with the Pennsylvania Civil Rules Committee.

(4) Forward one (1) copy for publication in the *Fayette Legal Journal*.

(5) Forward one (1) copy to the Fayette County Law Library.

(6) Keep continuously available for public inspection copies of this Order and Rule.

By the Court

WILLIAM J. FRANKS,
President Judge

RULE 1901

PROMPT DISPOSITION OF MATTERS; TERMINATION OF INACTIVE CASES

(a) In January of each year the Prothonotary shall list on an annual List of Cases Proposed to be Dismissed every pending civil matter in which no paper has been filed and no action taken for two (2) or more years prior to that year. The cases on each annual list shall be called at the call of the list for the April Session of Civil Jury Trials.

(b) Notice of the proposed dismissal of each matter on any list prepared pursuant to paragraph (b) shall be given by the Prothonotary to counsel of record and any parties not represented by counsel. If no action is taken and no written objection is docketed in any such matter prior to the commencement of the call of the list, the Prothonotary shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute. If action has been taken or written objection docketed prior to the call of the list, but good cause has not been shown at the call for continuing any matter remaining on the list, an order dismissing such action shall be entered by the Court forthwith.

(c) All notices required by this Rule shall be in writing and shall be given by the Prothonotary at least thirty (30) days before the date on which the list is to be called. Notice may be given to counsel of record in person or by ordinary mail and to a party by certified mail to the last address of record. If no such notice can be given, as shown by affidavit of the Prothonotary, notice may be given by publication once in the *Fayette Legal Journal* and in one newspaper of general circulation in Fayette County.

[Pa.B. Doc. No. 98-1980. Filed for public inspection December 4, 1998, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Bettyjo Theresa Jones, a/k/a Betty Jones-Terrell, having been suspended from the practice of law in the District of Columbia for a period of sixty (60) days, the Supreme Court of Pennsylvania issued an Order dated November 13, 1998, suspending Bettyjo Theresa Jones, a/k/a Betty Jones-Terrell from the Bar of this Commonwealth for a period of sixty (60) days. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Executive Director & Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 98-1981. Filed for public inspection December 4, 1998, 9:00 a.m.]