

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 20]

Order Amending Rule 21¹; No. 264; Criminal Procedural Rules Doc. No. 2

Order

Per Curiam:

Now, this 19th day of September, 2000, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication in the interests of justice pursuant to Pa.R.J.A. 103(a)(3), and a Final Report to be published with this *Order*;

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 21 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2001.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 20. ISSUING AUTHORITIES: VENUE, LOCATIONS, AND RECORDING OF PROCEEDINGS

Rule 21. Venue; Transfer of Proceedings.

[(a)] (A) Venue

All criminal proceedings **in summary and court cases** shall be brought before the issuing authority for the magisterial district in which the offense is alleged to have occurred or before an issuing authority on temporary assignment to serve such magisterial district, subject, however, to the following exceptions:

(1) A criminal proceeding may be brought before any issuing authority of any magisterial district within the judicial district whenever the particular place within the judicial district [**where**] **in which** the offense is alleged to have occurred is unknown.

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(b) Transfer of Proceedings **In Court Cases**

* * * * *

Official Note: Formerly Rule 154, adopted January 16, 1970, effective immediately; section (a)(3) adopted July 1, 1970, effective immediately; renumbered **Rule 21** September 18, 1973, effective January 1, 1974; amended July 1, 1980, effective August 1, 1980; amended January 28, 1983, effective July 1, 1983; **renumbered Rule 130 and amended March 1, 2000, effective April 1, 2001;** amended April 20, 2000, effective July 1, 2000; **amended September 19, 2000, effective January 1, 2001.**

Comment

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Paragraph (A)(3), which is an exception to the general rule governing venue, was added in 2000 in view of *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), in

¹ Rule 21 will be renumbered Rule 130 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

which the Court held that "all charges stemming from a single criminal episode" must be joined in a single trial "despite the fact that some of the charges arose in a different county." Accordingly, when charges arising from a single criminal episode occur in more than one judicial district, the magisterial district in which the proceeding on all the charges is brought, i.e., the one with venue, may be any one of the magisterial districts in which the charges occurred. *See Commonwealth v. Geyer*, 687 A.2d 815 (Pa. 1996) (the compulsory joinder rule and 18 Pa.C.S. § 110 apply when two or more summary offenses arise from a single criminal episode.)

* * * * *

The decision of in which magisterial district in paragraph [(a)] (A)(2) or in which judicial district in paragraph [(a)] (A)(3) the proceedings are to be brought is to be made initially by the law enforcement officers or attorneys for the Commonwealth. In making the decision, the law enforcement officers or attorneys for the Commonwealth must consider in which magisterial district under paragraph [(a)] (A)(2) or in which judicial district under paragraph [(a)] (A)(3) it would be in the interests of justice to have the case proceed, based upon the convenience of the defendant and the witnesses, and the prompt administration of justice.

See Rule 25 (Objections to Venue)² for the procedures to challenge a transfer of proceedings under this rule.

See Rule 151 for the procedures to withdraw the prosecution.³

See Chapter 4000 concerning bail.⁴

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the April 20, 2000 amendments concerning multiple charges arising from a single criminal episode published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

Final Report explaining the September 19, 2000 amendments clarifying the application of the rule to both summary and court cases published with the Court's Order at 30 Pa.B. 5135 (October 7, 2000).

FINAL REPORT⁵

Proposed amendments to Pa.R.Crim.P. 21⁶

Application of McPhail To Summary Cases⁷

² Rule 25 will be renumbered Rule 134 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

³ Rule 151 will be renumbered Rule 551 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

⁴ Chapter 4000 will be renumbered Chapter 5 Part C as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

⁵ The Committee's Final 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 Committee's explanatory Final Reports.

⁶ Rule 21 will be renumbered Rule 130 as part of the renumbering and reorganization of the Rules of Criminal Procedure that the Court adopted on March 1, 2000, effective April 1, 2001.

⁷ In *Commonwealth v. McPhail*, 692 A.2d 139, 144 (Pa. 1997), the Court held that "the place of trial, whether within or without the county where the alleged crime occurred, is a matter of venue, not jurisdiction." Therefore, under 18 Pa.C.S. § 110, when all the charges are within the jurisdiction of a single court, they must be joined in a single trial; a trial in one judicial district is a bar to the trial in another judicial district of other charges arising from the same criminal episode.

On September 19, 2000, effective January 1, 2001, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule of Criminal Procedure 21 (Venue; Transfer of Proceedings) to make it clear that the rule applies to both summary and court cases, including those summary cases in which multiple offenses are part of a single criminal episode occurring in more than one judicial district.

I. Background

Shortly after the Court adopted new Rule 300 (Transfer of Proceedings) and the correlative changes to Rules 21, 25 (Objections to Venue), 1100 (Prompt Trial), and 4015 (Receipt for Deposit; Return of Deposit)⁸ (the "McPhail Recommendation") on April 20, 2000, effective July 1, 2000,⁹ the Committee received an inquiry from the AOPC Judicial Computer Project (JCP) Staff Attorney, David Price, concerning the application of the Rule 21(A) changes to summary cases.¹⁰ Mr. Price raised the question because Rule 21 is a rule that only applies to cases before issuing authorities, originally addressed venue between magisterial districts, and on its face, did not limit the applicability of new paragraphs (A)(2) and (3) to court cases. Clarification of this issue was necessary for purposes of the district justice computer system, which is being updated to accommodate the Rule 21 McPhail changes.

II. Discussion

When the original McPhail proposal was developed, the Committee had directed its attention to the narrow question of how to implement McPhail, which involved a court case; the Committee had not considered the procedures in the context of summary cases. After considering the matter in response to the JCP's inquiry, we concluded the Court's reasoning in McPhail seemed equally applicable to summary cases. The Committee based this conclusion on the case law concerning the jurisdiction of the minor judiciary, including *Commonwealth v. Geyer*, 687 A.2d 815 (Pa. 1996). In *Geyer*, the Court applied the compulsory joinder rule and 18 Pa.C.S. § 110 to summary offenses, and noted with regard to summary offenses that "no defendant should be subjected to unnecessary successive prosecutions of any kind. Further, the interests of judicial economy are served by relieving the court system of repetitious litigation of any nature."

Agreeing that the Rule 21(A) McPhail changes should apply to summary cases, and, that as written, Rule 21 may be ambiguous and confusing for the bench and bar, the Committee considered various means to clarify the rule. The Committee recommended as the simplest solution the following changes that were adopted by the Court:¹¹

(1) the first line of the introductory paragraph in Rule 21(A) has been amended by adding "in summary and court cases" after "All criminal proceedings;"

⁸ Rule 25 will be renumbered 134, Rule 1100 will be renumbered Rule 600, and Rule 4015 will be renumbered Rule 535 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

⁹ The Committee's Final Report explaining the McPhail changes was published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

¹⁰ The McPhail rule changes provide, *inter alia*, the procedures for the transfer of court cases when multiple charges arising in a single criminal episode occur in different judicial districts.

¹¹ The Committee discussed whether the rules should include special procedures for instituting a McPhail-type summary case. Aware that there are local procedures in place governing cases with multiple summary offenses in a single criminal episode arising in more than one magisterial district within the judicial district, the Committee, anticipating that similar procedures likely will be adapted when the offenses arise in different judicial districts, concluded the rules should remain silent for the time being.

(2) "in court cases" has been added at the end of the title to paragraph (B); and

(3) the following language cross-referencing *Commonwealth v. Geyer* has been added at the end of the second paragraph of the Comment:

See *Commonwealth v. Geyer*, 687 A.2d 815 (Pa. 1996) (the compulsory joinder rule and 18 Pa.C.S. § 110 apply when two or more summary offenses arise from a single criminal episode.)

[Pa.B. Doc. No. 00-1714. Filed for public inspection October 6, 2000, 9:00 a.m.]

Title 249— PHILADELPHIA RULES

PHILADELPHIA COUNTY

Continuance Policy; Domestic Relations Division; Administrative Regulation No. 00-04

Effective Wednesday, November 1, 2000, Whereas: (1) the orderly administration of justice requires that the Court or other presiding officer reach disposition for all filings in a timely manner; and (2) unnecessary continuances inhibit timely dispositions for both the party seeking the continuance, as well as for parties in other cases whose cases must be scheduled at a later date to accommodate the continuance for the first party.

It Is Hereby Ordered that the following continuance policy is implemented in the Domestic Relations Division:

(1) All requests for continuance must be in writing to the Court or presiding officer, and must specify the reason that the continuance is being requested; all opposing parties and/or counsel must be copied with said request.

(2) In order for the Court or presiding officer to accurately and easily identify the specific scheduled event for which the continuance is being requested, the request must also include the caption of the case, the names of the parties, the matter pending, the date, time and place of the scheduled event, and the position of the opposing parties or counsel with regard to the continuance request.

(3) Continuance shall only be granted for good cause shown, and agreements to continue the case by the parties or counsel are not sufficient to stay the provisions of this Administrative Regulation.

(4) Unless the party requesting the continuance receives approval from the Court or presiding officer granting the continuance, the event shall proceed as scheduled. If either party fails to appear for the scheduled event without approval from the Court or presiding officer that a continuance is granted for that event, the underlying petition, complaint, motion, or other pleading may be disposed by the Court or presiding officer under applicable law.

(5) No request for a continuance of any conference, hearing, or trial shall be considered unless in writing to the Court or presiding officer at least 48 hours prior to the scheduled date, absent an emergency.

(6) Counsel and parties are advised to notify the Court if an Order of Attachment is necessary.

(7) Violations of this Regulation may result in the imposition of sanctions.

PAUL P. PANEPINTO,
Administrative Judge

[Pa.B. Doc. No. 00-1715. Filed for public inspection October 6, 2000, 9:00 a.m.]

Title 255—LOCAL COURT RULES LYCOMING COUNTY

**Amendments to Rules of Civil Procedure; No.
00-00666**

Order

And Now, this 29th day of August, 2000, it is hereby *Ordered and Directed* as follows:

1. Lycoming County Rule of Civil Procedure L1018.1 is hereby rescinded.
2. Lycoming County Rule of Civil Procedure L1018.1, following hereto, is hereby promulgated.
3. The Prothonotary is directed to:
 - a. File seven (7) certified copies of this order with the Administrative Office of the Pennsylvania Courts.
 - b. Distribute two (2) certified copies of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
 - c. File one (1) certified copy of this order with the Pennsylvania Civil Procedural Rules Committee.
 - d. Forward one (1) copy of this order to the *Lycoming Reporter* for publication therein.
 - e. Forward one (1) copy to the chairman of the Lycoming County Customs and Rules Committee.
 - f. Keep continuously available for public inspection copies of this order.
4. The rule revision approved by this order shall become effective January 1, 2001.

By the Court

CLINTON W. SMITH,
President Judge

L1018.1. Notice to Defend. Every complaint filed by a plaintiff and every complaint filed by a defendant against an additional defendant shall be in the form required by the Pennsylvania Rules of Civil Procedure. Pursuant to Pa.R.C.P. 1018.1(c), the following are designated as the offices to be named in the notice to plead from which legal help can be obtained:

IF YOU DO NOT HAVE A LAWYER CONTACT:

Pennsylvania Bar Association
Lawyer Referral Service
100 South Street
P. O. Box 186
Harrisburg, PA 17108-0186
Telephone (800) 692-7375

IF YOU CANNOT AFFORD A LAWYER, YOU MAY BE
ELIGIBLE FOR LEGAL AID THROUGH:

Legal Services Office
329 Market Street
Williamsport, PA 17701
Telephone (570) 323-8741

[Pa.B. Doc. No. 00-1716. Filed for public inspection October 6, 2000, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Krzysztof L. Nowak, having been disbarred from the practice of law in the State of New Jersey, the Supreme Court of Pennsylvania issued an Order dated September 22, 2000 disbaring Krzysztof L. Nowak from the practice of law in this Commonwealth, to become effective October 22, 2000. 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. 00-1717. Filed for public inspection October 6, 2000, 9:00 a.m.]