

THE COURTS

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 100]

Proposed Amendment to Rule 111 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 111 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices to provide for the use of a facsimile or preprinted seal in lieu of an original seal, to make other minor technical changes, and to add an official Committee Note to the Rule. The Committee has not submitted this proposal for review by the Supreme Court of Pennsylvania.

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

The text of the proposed changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Michael F. Krimmel, Counsel
Supreme Court of Pennsylvania
Minor Court Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

or e-mail to: minorcourt.rules@supreme.court.state.pa.us
no later than Monday, January 6, 2003.

By the Minor Court Rules Committee:

THOMAS E. MARTIN, Jr.,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 100. RULES AND STANDARDS WITH RESPECT TO OFFICES OF DISTRICT JUSTICES

Rule 111. Seal.

A. Each magisterial district shall have and use a seal, which shall be in the custody of the district justice elected or appointed for **[such]** the magisterial district. The official acts of **[said]** the district justice shall be authenticated therewith. There shall be engraved on **[such]** the seal the same device as is engraved on the great seal of the State, and the words "Commonwealth of Pennsylvania," the name of the county, the number of the magisterial district, and the words "District Justice."

B. A facsimile or preprinted seal may be used for all purposes in lieu of the original seal.

Official Note: This rule was amended in 2002 to provide for the use of a facsimile or preprinted seal in lieu of an original seal. See 42 Pa.C.S. § 1512.

Adopted Nov. 28, 1969, effective Jan. 1, 1970[. **Amended**]; **amended** June 30, 1982, effective 30 days after July 17, 1982; **amended and Note added** _____, effective _____.

REPORT

Proposed Amendment to Rule 111 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices

FACSIMILE SEAL

I. Background

The Committee reviewed Rule 111 at the request of the Special Court Judges Association of Pennsylvania (SCJAP) and in response to the passage of Act 2002-86.¹ Act 86, inter alia, amended Section 1512 of the Judicial Code, 42 Pa.C.S. § 1512, to provide for the use of a facsimile or preprinted seal in lieu of an original seal on documents signed by a district justice.

In 2001, the SCJAP had contacted the Committee and suggested that Rule 111 of the Rules and Standards with Respect to Offices of District Justices be amended to provide for the use of a facsimile seal on documents produced by the District Justice Automated System (DJS), similar to the automated facsimile signature provided for in Rule 113. The SCJAP noted that facsimile or preprinted seals are routinely used on documents originating in the courts of common pleas. In addition, the SCJAP asserted that the use of a facsimile seal would increase the efficiency of the district justice courts and would save money by reducing the number of costly engraved seals needed in the courts. While the Committee saw merit in the SCJAP's suggestion, the Committee, at that time, declined to propose such an amendment to Rule 111 because the statutory scheme relating to judicial seals did not appear to allow the use of a facsimile seal at the district justice level.

Specifically, the Committee noted that district justice seals are governed by statute, Section 1512 of the Judicial Code, 42 Pa.C.S. § 1512 (Seal), and by court rule, Rule 111 of the Rules and Standards with Respect to Offices of District Justices (Seal). Section 1512, at that time, stated, "[e]ach magisterial district shall have a seal, which shall be in the custody of the district justice elected or appointed for such district. The official acts of the district justice shall be authenticated therewith. There shall be engraved on the seal such inscription as may be specified by general rule." 42 Pa.C.S. § 1512 (West 1981) (emphasis added).

Rule 111 is based on the statute and, as currently written, states:

Each magisterial district shall have and use a seal, which shall be in the custody of the district justice elected or appointed for such district. The official acts of said district justice shall be authenticated therewith. There shall be engraved on such seal the same device as is engraved on the great seal of the State, and the words "Commonwealth of Pennsylvania," the name of the county, the number of the magisterial district, and the words "District Justice."

¹The Act of June 28, 2002 (P. L. 518, No. 86, § 1) (hereinafter Act 86).

Rule 111 of the Rules and Standards with Respect to Offices of District Justices (emphasis added).

The Committee believed that the use of the word "engraved" in both the statute and the rule suggested that the legislature and the Supreme Court contemplated the use of an engraved, embossed seal.

As noted above, however, the legislature subsequently amended Section 1512 by adding the language, "[a] facsimile or preprinted seal may be used for all purposes in lieu of the original seal." 42 Pa.C.S. § 1512, as amended by Act 86.

Accordingly, the Committee now proposes that Rule 111 be amended to provide for the use of a facsimile or preprinted seal in lieu of an original seal.

II. Discussion of Proposed Rule Changes

To provide for the use of a facsimile or preprinted seal, the Committee proposes that Rule 111 be divided in two subdivisions. Subdivision A would contain the existing language of the rule, with only minor editorial changes. A new subdivision B would incorporate into the Rule the language from Section 1512 allowing the use of the facsimile or preprinted seal. Finally, the Committee proposes the addition of an official Committee Note to the Rule to explain the 2002 amendment and to cross-reference Section 1512.

[Pa.B. Doc. No. 02-2136. Filed for public inspection November 27, 2002, 9:00 a.m.]

Title 25—LOCAL COURT RULES

ADAMS COUNTY

Local Rules of Court; Administrative Order No. 36 of 2002

Order of Court

And Now, this 13th day of November, 2002, Adams County Civil Rules 1920(c) and 1920(d) are amended as follows and Criminal Rules 590, 590.1, 590.2, 704 and 704.1 are added. This Order and the following Rules shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* or January 1, 2003, whichever is later. The following Rules shall continuously be available for inspection in the offices of Prothonotary and Clerk of Courts of this Court. Copies may be purchased at the Prothonotary's Office for \$3.00. If the Prothonotary mails the copy, the cost will be \$6.00. Certified copies in the numbers listed shall be provided as follows:

1. Ten to the Administrative Office, Pennsylvania Courts.
2. Two to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. In addition, a 3.5 computer disk with the rules therein shall be provided that office.
3. One each to Civil Procedural Rules Committee, Criminal Procedural Rules Committee, and Domestic Relations Committee.

By the Court

JOHN D. KUHN,
President Judge

Rule 1920(c). Appointment and Compensation of Master.

Rule 1920(c) When a case is at issue and all discovery relating to issues to be submitted has been completed, a party may move for the appointment of a master. The motion shall, under Pa.R.C.P. 1920.74, in item (7) state that notice of the filing of the motion is being given concurrently to opposing attorney/pro se party and list the names of local attorneys who may be interested in the case, or contain a statement that no local attorneys are known to be interested. The Court will appoint a Master to hear the issues set forth in the Motion. The Master shall be compensated at an hourly rate that will be periodically set by administrative order. No motion shall be considered unless there has been deposited with the Prothonotary the sum of \$500.00.

Rule 1920(d). Procedure Prior to Master's Hearing.

Rule 1920(d) The Master will conduct a pre hearing conference with the attorneys/pro se party. The Master may direct that the attorneys make arrangements for their respective clients to be available to communicate by phone or some other means with the attorneys during the conference. The Master may establish such deadlines for the completion of additional discovery and other matters as may be necessary for the orderly completion of the proceedings. The Master may direct that additional deposits be made by a date certain by one party or by both parties with apportionment as indicated by the Master. In the event of non-compliance, the Master may petition the Court for relief, requesting appropriate sanctions as well as vacation of the Master's appointment. Any party aggrieved by the Master's establishment of deadlines or direction regarding additional deposits may petition the Court for relief. Petitions for relief fined by a party or the Master shall proceed according to Local Rule 206, provided that the response date to a rule issued shall be 10 days rather than 20 days.

Rule 590. Pleas and Plea Agreements.

(1) The Court will be available for the purpose of taking guilty or nolo contendere pleas from time to time as designated by the Court Administrator on a day(s) which shall be designated as "Plea Day" on the Court Calendar. The day(s) selected shall be at least ten (10) days before the respective trial term.

(2) At the conclusion of each Plea Day, all cases which have not been resolved shall be called by the Commonwealth in open court in a courtroom to be designated. Once the list of remaining cases is called, the Court will not accept any plea for a case on that criminal list unless said plea is to all charges and without agreement as to sentencing. The Court may waive this prohibition against late plea agreements for good cause as the interests of justice require. In the event the Court does find good cause and agrees to take the negotiated plea, such plea may be taken at that time or the case may be continued by the Court for the plea to be taken at another date as the Court may direct.

(3) Requests for continuances should normally be made on Plea Day. If, after the conclusion of Plea Day, either party becomes aware of circumstances justifying a continuance, a request should be filed with the Court and all parties in writing prior to close of business on the Wednesday preceding criminal trial week. The motion shall set forth whether the other parties concur with or oppose the relief requested.

(4)(a) All defendants and all attorneys representing defendants on a respective plea day must attend the call of the criminal list unless:

(i) the case has previously been resolved through plea or other disposition; or

(ii) a date certain has been scheduled for the entry of a plea; or

(iii) a motion for a continuance has been previously presented and granted; or

(iv) the defendant and/or counsel and the District Attorney's Office have agreed that the defendant and/or counsel may be excused from the call of the list.

(b) Failure to comply with the requirements of paragraph 4(a) may result in the imposition of sanctions by the Court including the issuance of a bench warrant and revocation of bail bond.

(5) The Court shall state in open court at the commencement of Plea Day and again in open court after concluding the calling of the criminal trial list that, pursuant to Local Rule 590, Plea Day is the last day during which the Court will accept negotiated pleas of guilty or nolo contendere and, thereafter, a party will be required to go to trial during the following trial term or plead guilty as charged.

(6) By the close of business on the Thursday preceding the criminal trial term, the District Attorney's Office shall provide a copy of the trial schedule to the Court Administrator and the Clerk of Courts Office. The Clerk shall, thereafter, post the schedule. If the trial list is longer than the number of court days available, the Commonwealth shall prioritize the list taking into account Pennsylvania Rule of Criminal Procedure 600. Any cases which have not been set for a specific trial date shall remain on a standby list and may proceed to trial in the event a trial date becomes available. At the conclusion of jury selection for all cases scheduled during a trial term, any remaining cases which cannot be heard due to unavailability of trial days shall be continued by the Court to the following trial term for disposition. Such cases, if not resolved prior thereto, shall receive priority in scheduling during the following trial term. The Court, at all times, reserves the right to set the trial schedule.

(7) If a defendant is represented by counsel and desires to tender a guilty or nolo contendere plea, a Guilty/Nolo Contendere Plea Colloquy substantially in the form set forth in Rule 590.1 shall be completed. The Colloquy shall be executed by the defendant and his counsel and filed with the Clerk of Courts prior to entry of the plea.

(8) When the parties have arrived at a plea agreement, they shall state on the record in open Court and in the presence of the Defendant, the terms of the agreement. The agreement will be confirmed in writing substantially in the form set forth in Rule 590.2 and presented to the Court prior to the entry of any plea. At a minimum, the written agreement must contain ALL terms of the agreement and must be executed by the Commonwealth, the Defendant and Defendant's counsel, if any. Nothing in this Rule will prevent the Judge from ordering for good cause shown and with the consent of all parties and counsel, that specific conditions in the agreement be placed on the record in camera and the record sealed.

Comment: Orderly scheduling of jury trials and regard for the convenience of jurors shall be important factors in determining the interests of justice under Pa. R. Crim. P. 106. In order that a trial schedule may be prepared and

announced in accordance with this Rule, requests for continuance ordinarily should be made no later than immediately after the trial list is announced for that particular term. In those instances where witness unavailability or other unforeseeable need arises requiring a continuance subsequent to the call of the trial list, a request for continuance should be made prior to the close of business on the Wednesday preceding the criminal trial term.

Although motions for continuance will obviously be governed by the state rule, the local rule is intended to express Court policy that a definite trial schedule published in advance of trial will reduce inconvenience to the Court, the parties, witnesses and jurors. Timeliness measured from promulgation of the trial list is an important consideration in the decision to grant or deny a continuance request. It is expected that all counsel will act with reasonable diligence and promptness in determining whether a case is ready for trial and that counsel shall be in a position to make that determination, at the latest, on the Wednesday prior to trial.

It is noted that the Court calendar will generally schedule at least two (2) plea days prior to each criminal trial term. The intent of this rule is that each plea day shall be a separate and distinct day concerning applicability of the time limits of this rule and continuances from one plea day to another to avoid the intent of this rule will generally not be granted by the Court except as the interests of justice otherwise require.

Rule 590.1. Form of Plea Colloquy.

Written Plea Colloquies required by Rule 590 shall substantially be in the following form:

GUILTY PLEA COLLOQUY INSTRUCTIONS

TO DEFENDANT:

If you choose to plead guilty or nolo contendere, this Guilty Plea Colloquy should be completed by you. By pleading guilty, you are agreeing and admitting that you committed each of the elements of the crimes. By pleading nolo contendere, you are stating that you do not contest the fact that the Commonwealth can prove you committed the crimes. In criminal law, a plea of nolo contendere has the same effect for sentencing purposes as pleading guilty and, therefore, everything contained in this Guilty Plea Colloquy also applies to a plea of nolo contendere. You should read this document carefully and review it with your lawyer. It is IMPORTANT that you understand, agree with and answer truthfully everything contained in this Guilty Plea Colloquy. If you understand and agree with what is said in a paragraph of this document, place your initials on the line provided. If you do not understand or agree with what is said in a paragraph, DO NOT place your initials on the line provided, and you should tell the judge what you do not agree with or understand.

TO THE DEFENDANT'S LAWYER:

You must explain the content and meaning of this Guilty Plea Colloquy Statement to the defendant. If, after your explanation, the defendant does not understand or agree with something, he/she should not initial that paragraph and you must inform the judge of this fact. If the defendant does not speak, understand, read or write the English language or suffers from some physical, emotional or mental problem or is under the influence of

—that I do not have to testify or present any evidence and no one can force me to do so. If I choose not to testify or present any evidence, that cannot be used or held against me. However, if I want to testify and present evidence and witnesses, I may do so.

—I have the right to call witnesses and present evidence including, but not limited to, evidence that I didn't commit the crime charged; that I have an alibi; that there is a mistaken identity; that an insanity defense exists; that my acts were justified or there is other lawful excuse for my acts.

Motions Before Trial

___ 5. I understand, and my lawyer has explained to me, that before I enter a plea of guilty, or before my trial begins:

—I can file motions to ensure that I get a fair trial. These motions may include, but are not limited to, a motion to prevent the Commonwealth from presenting improperly obtained evidence at my trial including any statements that I may have made, test results, identifications and items taken from me or from some place or thing. If I file such a motion, the Commonwealth has the burden of proving that this evidence can be presented at my trial.

—I can file a motion to have the crimes charged dismissed if my trial was not started within three hundred sixty-five (365) days after the date that the criminal complaint was filed against me, not counting any delays caused by me or my lawyer and, if the judge grants my motion, the Commonwealth cannot charge me with those crimes again.

___ 6. I understand, and my lawyer has explained to me, that by pleading guilty, I am giving up my right to file any of these pre-trial motions. If I did file any motions that have not yet been decided, by pleading guilty or nolo contendere, I am now giving up the right to have the Court rule on them. If the Court granted any motions filed by the Commonwealth or denied any motions filed by me, by pleading guilty or nolo contendere, I am giving up or losing my right to appeal the judge's decision to a higher court and I can never again raise any of the issues stated in these motions before any court.

Effect of Plea

___ 7. I understand, and my lawyer has explained to me, that if I plead guilty or nolo contendere to any of these charges:

—If I am pleading guilty, I understand that I am agreeing and admitting that I committed each element of these crimes. If I am pleading nolo contendere, I am not contesting that I committed each element of these crimes and I agree that the Commonwealth can prove that I committed each element of these crimes beyond a reasonable doubt. My pleas of guilty or nolo contendere will have the same effect as if I had a trial and was convicted of the crimes to which I have pled guilty or nolo contendere.

—If I was on probation, intermediate punishment, or parole at the time the crimes to which I am pleading guilty or nolo contendere were committed, my pleas in this case mean that I have violated probation/intermediate punishment/parole. I understand that if I have violated my probation or intermediate punishment that I can be re-sentenced to jail and if I violate my parole, I may be re-committed to jail to serve the remainder of my sentence(s) without credit for time on parole. I further understand any sentences that I am

required to serve as a result of a probation, intermediate punishment or parole violation may be in addition to any sentence which I may receive as a result of this plea.

___ 8. I understand, and my lawyer has explained to me, that the judge is not bound to accept the terms of any plea agreement that I have with the Commonwealth or with anyone else and that the plea agreement is not binding on the Court unless and until it is accepted by the Court. If the judge decides not to accept the plea agreement, I understand that I will be allowed to withdraw or take back my plea of guilty or nolo contendere. I further understand that at any time prior to my sentencing, I may ask the Court for permission to withdraw my plea of guilty or nolo contendere but I must show a fair and just reason for doing so.

Representation by Counsel

___ 9. I have fully discussed this case with my lawyer including the facts and possible defenses I may have to these charges including, but not limited to: that I didn't commit the crimes charged; that I have been misidentified; that I have an alibi (I was someplace else when the crime was committed); that I was justified in committing the act (self-defense, defense of property or others) or that I had a mental disease or defect which made me incapable of knowing what I was doing or, if I did know, I was not capable of judging that the act was wrong (insanity).

___ 10. I understand, and my lawyer has explained to me, all the possible defenses I may have to these charges. I am satisfied that my lawyer knows all the facts and law concerning this case. I am fully satisfied with what my lawyer has done for me and what my lawyer is doing for me today concerning this case. I am fully satisfied that my lawyer has not failed to do anything which I have asked him to do nor has done anything of which I didn't approve. I agree that my lawyer has contacted, or attempted to contact, every witness or source of evidence of which I have advised him and that if contact was unsuccessful, I am satisfied that my lawyer has exhausted all possible leads to locate the witness or evidence.

___ 11. I am fully satisfied that my lawyer is ready and able to defend me in this case if I do not plead guilty or nolo contendere to these charges.

___ 12. I have not been pressured, forced or threatened to enter into this plea by my lawyer and that my lawyer has left the final decision on whether or not to enter this plea to me.

Knowing and Voluntary Plea

___ 13. I have gone to school for _____ years. I can read, write, speak and understand the English language.

___ 14. I UNDERSTAND, AND MY LAWYER HAS FULLY EXPLAINED TO ME, ALL THE FACTS AND RIGHTS WHICH I HAVE WHICH ARE CONTAINED IN THIS GUILTY PLEA COLLOQUY AND THAT BY PLEADING GUILTY OR NOLO CONTENDERE, I AM GIVING UP OR LOSING ALL OF THESE RIGHTS.

___ 15. I do not have any physical, emotional or mental problems which affect my ability to understand what I am doing today or the rights which have been explained to me today and I am not now under the influence of any narcotics, drugs, alcohol or any other substance.

___ 16. I have not been pressured, forced or threatened by anyone to plead guilty or nolo contendere to these charges and I have not been promised anything by

anyone in return for pleading guilty or nolo contendere other than the plea agreement, if any, which has been presented to the judge in writing as part of this proceeding.

___ 17. I have had enough time to fully discuss my case and my decision to plead guilty or nolo contendere and everything contained in this guilty/nolo contendere plea colloquy with my lawyer and, by placing my initials on all the lines provided, I am saying that I understand, agree with, and answer truthfully everything contained in this guilty plea statement.

Date

Defendant (Signature)

Defendant's Name (Printed)

Defendant's Street Address

City, State, Zip Code

Defendant's Age _____
Defendant's D.O.B.

Statement of Defendant's Attorney

I, _____, Esquire, Attorney for the Defendant affirm that I have fully advised the defendant of the

| CC Number | (Count) | Plea | Offense Gravity Score | Sentence | |
|-------------|---------|-------|-----------------------|----------|---|
| CC- -20 ___ | () | _____ | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |
| CC- -20 ___ | () | _____ | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |
| CC- -20 ___ | () | _____ | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |
| CC- -20 ___ | () | _____ | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |
| CC- -20 ___ | () | _____ | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |
| CC- -20 ___ | () | _____ | _____ | _____ | Concurrent with: _____ Consecutive to: _____ |

(c) The Defendant agrees that:
 ___ fines, if any, will be set by the Court up to maximum allowable by law;
 ___ the mandatory fine of _____ will be imposed;
 ___ he/she shall pay a fine in the amount of _____.

(d) The Defendant agrees to pay costs and all fees required by law, local rule of Court or administrating Order of Court.

(e) The Defendant agrees to pay restitution on all charges to which pleas of guilty and/or nolo contendere are entered and on nol prossed charges as follows: _____

(f) The Defendant agrees that the standard rules and conditions of probation/IPP/parole will be imposed. The following special conditions shall apply _____ . Addi-

content and meaning of this guilty plea colloquy and the defendant has indicated that he/she understands the content and the meaning of the same, I have fully discussed the defendant's decision to plead guilty or nolo contendere with him/her, I have explained to the defendant the elements of any possible penalties for the crimes to which he/she is pleading guilty or nolo contendere and I am satisfied that the defendant's pleas of guilty or nolo contendere are knowingly, voluntarily and intelligently entered.

Date

Defense Attorney's Signature

Rule 590.2. Form of Plea Agreements.

Written plea agreements required by Rule 590 shall substantially be in the following form:

IN THE COURT OF COMMON PLEAS OF ADAMS
 COUNTY, PENNSYLVANIA CRIMINAL
 COMMONWEALTH OF PENNSYLVANIA CC-

V.

The following represents all of the terms of my Plea Agreement with the Commonwealth which I accept.

(a) My prior record score is _____ .

(b) The Defendant agrees to plead to the following charges in exchange for the following sentences:

tionally, this plea does not limit the Court's ability to impose other special conditions at the time of sentencing.

(g) The Defendant agrees to the following additional terms of this plea agreement: _____

(h) The Defendant agrees that sentencing shall occur: _____ at the time the plea is entered and accepted by the Court. _____ on _____ .

(i) The Defendant agrees that this agreement does not limit the Court's authority in the event the Defendant violates the terms of this sentence and is subject to re-sentencing or revocation. In such an event, the Defendant agrees that the court will have full authority to re-sentence the Defendant to the maximum provided by

law including running the sentences consecutive to each other (one following the other).

(j) The Defendant understands that there may be consequences of this plea which are imposed by law but not set forth in this agreement such as the suspension of motor vehicle operating privileges, limitations on the Defendant's ability to own or possess firearms or other collateral consequences. This agreement does not limit other ramifications which may be imposed by law. If the Defendant has any questions about such ramifications, he/she agrees that they will raise any questions with the Court at the time of their plea. If the Defendant does not raise any questions with the Court, he/she acknowledges they understand the consequences of their plea.

I affirm that I have read the above document in its entirety and that it represents my entire agreement with the Commonwealth and I understand its full meaning and I wish to enter a plea as set forth in this document to the offense or offenses specified.

| | |
|---|------------------------|
| Date | Defendant |
| I, _____, Esquire, attorney for the above-named Defendant, state that I have advised my client of the contents and meaning of this document and that this document represents my client's entire agreement with the Commonwealth. | Attorney for Defendant |

On behalf of the Commonwealth, I acknowledge that this agreement represents the entire agreement between the Commonwealth and the Defendant.

District Attorney or Assistant District Attorney

Rule 704.

At the time of sentencing, the Defendant shall provide the Court with an executed Statement of Post-sentence Rights substantially in the form set forth in Rule 704.1. The Court shall make the Statement of Post-sentence Rights part of the record and shall determine on the record that the Defendant has been advised of his post-sentence rights.

Rule 704.1. Statement of Post-Sentence Rights.

Rule 704.1 Statement of Post-sentence Rights required by Rule 704 shall substantially be in the following form:

IN THE COURT OF COMMON PLEAS OF ADAMS
COUNTY, PENNSYLVANIA CRIMINAL
COMMONWEALTH OF PENNSYLVANIA NO.

V.

STATEMENT OF POST-SENTENCE RIGHTS

___ 1. I am able to speak, read, write and understand the English language and I am not now under the influence of any drugs, alcohol or other substance which would affect my ability to understand the post-sentence rights contained in this document. By placing my initials on the line provided next to each of the paragraphs in this document, I agree that I have read, understood and, if represented, my lawyer has explained to my satisfaction the content and meaning of each paragraph.

___ 2. I have the right to file post-sentence motions with this Court. If I choose to file such a motion, it must

be in writing and must specify the issues which I intend to raise. Such a motion must be filed with the Adams County Clerk of Courts Office within ten (10) days of the date of my sentence. A post-sentence motion may include: a motion challenging the jurisdiction of the Court; a motion challenging the legality of the sentence; a motion asking that the Court modify the sentence imposed; a motion asking that I be permitted to withdraw my plea because it was not voluntarily, knowingly and intelligently entered; or a motion challenging the denial of any motion which I may have had to withdraw my plea(s).

___ 3. If I file a post-sentence motion, this Court must decide it within one hundred twenty (120) days of the date that it is filed, unless this Court extends the deadline for up to thirty (30) additional days at my request for good cause. If this Court does not decide my post-sentence motion within this time period, it will automatically be considered denied by operation of law.

___ 4. If I file a post-sentence motion, after it is decided, either by Court opinion or by operation of law, I have a right to appeal that decision to the Pennsylvania Superior Court. This appeal may include issues raised in my post-sentence motion and/or other properly preserved issues. If I decide to appeal, a written Notice of Appeal must be filed with the Adams County Clerk of Courts Office within thirty (30) days of the date of denial of my post-sentence motions. If I fail to file a Notice of Appeal with the Pennsylvania Superior Court, I will forever give up or lose my right to appeal to a higher Court on any issues involving my case, my plea or sentencing.

___ 5. I also understand that I have the right to appeal directly to the Pennsylvania Superior Court. If I choose to appeal directly to the Pennsylvania Superior Court, I may raise all properly preserved issues which may include those raised in the motion set forth in paragraph 2 above. In order to appeal directly to the Pennsylvania Superior Court, I must file a written Notice of Appeal with the Adams County Clerk of Courts Office within thirty (30) days of the date I am sentenced. If I fail to file a Notice of Appeal within the time required, I will forever give up or lose my right to appeal to a higher Court on any of the issues involving my case, my plea or sentencing.

___ 6. If I decide to file a post-sentence motion and/or a direct appeal to the Pennsylvania Superior Court, I have the right to be represented by an attorney. If I cannot afford an attorney, upon my timely request to this Court, one will be provided to me free of charge at no cost or expense to me. I also understand that I have the right to proceed in forma pauperis. I understand that means that I will not be required to pay any costs normally associated with a post-sentence motion and/or an appeal if I am unable to afford those costs.

___ 7. I understand I have a qualified right to bail pending the decision on my post-sentence motion(s) and/or appeal to the Pennsylvania Superior Court. Any such bail is conditioned upon my filing a post-sentence motion and/or an appeal to a higher Court.

| | |
|------|------------------------|
| Date | Signature of Defendant |
|------|------------------------|

STATEMENT OF DEFENDANT'S ATTORNEY

I represent the defendant in the above-captioned case. I have explained the post-sentence rights contained in this

document to the defendant and I am satisfied that the Defendant understands these rights.

Date

Signature of Attorney

[Pa.B. Doc. No. 02-2137. Filed for public inspection November 27, 2002, 9:00 a.m.]

WESTMORELAND COUNTY

Adoption of New Civil Rules W1920.51, W1920.53, W1920.54, W1920.55-1 and W1920.55-2; No. 3 of 2002

Order

And Now, this 7th day of November, 2002, *It Is Hereby Ordered* that Westmoreland County Rule of Civil Procedure W1920.51 is rescinded, and that new Rules W1920.51, W1920.53, W1920.54, W1920.55-1, and W1920.55-2 are adopted. The effective date of this Order is January 1, 2003.

By the Court

DANIEL J. ACKERMAN,
President Judge

RULE W1920.51 Hearing by the Court; Appointment of Master; Notice of Hearing

(a) Before any certificate of appointment shall be issued by the prothonotary to any master in those cases initiated by an uncontested complaint in annulment, or a section 3301(a) or (b) divorce, or where an agreement has been reached by the parties on any such other claims that have been raised by the parties, the plaintiff shall deposit the sum of \$140.00 with the prothonotary; \$113.00 of the deposit shall be a minimum fee for the master, \$25.00 shall be a minimum fee for the stenographer and \$2.00 shall be paid to the prothonotary as fee. The court may order additional compensation for the master after the report is filed.

(b) In all other cases, before any certificate of appointment shall be issued by the prothonotary to any master, the party moving for the appointment shall deposit an initial sum of \$250.00 with the prothonotary; \$223.00 shall be a minimum fee for the master, \$25.00 shall be a minimum fee for the stenographer and \$2.00 shall be paid to the prothonotary as a fee. The initial deposit of \$250.00 shall be for one-half days' work. For each half day thereafter the master shall receive a minimum fee of \$150.00; and for each half day of transcribing, the stenographer shall receive a minimum fee of \$20.00. The master shall certify the time expended to the court. The master may petition the court for additional compensation after the report is filed.

(c) No master shall be appointed if a complaint in divorce has been filed under section 3301(c) or (d) and no issues other than divorce are raised.

NOTE: Subsection (c) expands the prohibitions found at Pa.R.C.P. 1920.51 (2)(ii) to include all Section 3301(d) divorces when divorce is the only issue raised.

(d) The master shall give the attorneys for each party at least 10 days' written notice of the time and place of taking testimony and of the claims the master will hear. If there is no appearance entered on behalf of the defendant, the master shall give notice to the defendant

by registered mail, return receipt requested at the last known address of the defendant.

RULE 1920.53 Hearing by Master. Report.

Subject to the direction and control of the court, the master shall have the usual powers of a referee in equity in regard to the detention of witnesses for examination and the general course of the proceedings. The master shall rule on objections to the competency or relevancy of testimony. If the master sustains the objection the testimony shall not be heard or reported. Parties may file exceptions to the Master's rulings.

NOTE: See: Pa.R.C.P. 1920.33(b) regarding the pre-trial statement.

RULE 1920.54 Hearing by Master. Report. Related Claims.

The master shall first take testimony on related claims for child support, alimony pendente lite, or counsel fees and expenses. In the event the master must continue until a later date testimony on other issues or claims, the master shall report preliminarily by letter to counsel for each party, the findings, conclusions and recommendations on the preliminary related claims.

RULE 1920.55-1 Alternative Hearing Procedures for Matters Referred to a Master

All divorce proceedings referred to a master in Westmoreland County, Pennsylvania will proceed pursuant to Pa.R.C.P. 1920.55-2.

RULE W1920.55-2 MASTER'S REPORT. NOTICE. EXCEPTIONS. FINAL DECREE.

(a) When filing the Original Exceptions to the Master's Report with the Prothonotary, the moving party shall also serve a copy on the Court Administrator—Family Division. Upon receiving exceptions within 10 days of the mailing of the report as provided by Pa.R.C.P. 1920.55-2(b) and (c), the court administrator shall immediately contact the chambers of the assigned judge for a hearing date. The court administrator shall mail notices of the hearing date to the parties by first class mail before forwarding its copy of the exceptions to the assigned judge.

(b) The moving party must file briefs with the assigned judge no later than 20 days before the hearing, and the responding party must file its brief with the assigned judge no later than 10 days before the hearing.

(c) Oral argument shall be restricted to issues addressed in written briefs.

(d) If no party files Exceptions to the Master's Report within 10 days of the mailing of the report, the prothonotary shall immediately deliver the file to the court for entry of the decree.

(e) Unless otherwise directed by the Court, the prothonotary shall pay no master's fee until the master files the report and transcript of testimony. Failure of the master to file the report as required shall result in a forfeiture of the master's fee, and the prothonotary will refund the fee to the party who paid it.

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