

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 17 AND 33]

Order Adopting Pa.R.A.P. 1702(d) and 3316; No. 170; Appellate Procedural Rules; Doc. No. 1

Order

Per Curiam

And Now, this 7th day of October, 2005, upon the recommendation of the Appellate Court Procedural Rules Committee, the proposal having been published before adoption at 32 Pa.B. 5260 (October 26, 2002),

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Appellate Procedure 1702(d) and 3316 be adopted in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective February 1, 2006.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS

IN GENERAL

Rule 1702. Stay Ancillary to Appeal.

* * * * *

(d) *Stay of execution.*—When a trial court enters an order granting or denying a stay of execution in a capital case, such order may be reviewed by the Supreme Court upon application pursuant to Rule 123. No appeal or petition for review need be filed in connection with an application for review of a stay order in a capital case.

* * * * *

Explanatory Note—2005

Nothing in subdivision (d) of Pa.R.A.P. 1702 or in Pa.R.A.P. 3316 is intended to abrogate the requirement in *Commonwealth v. Morris*, 573 Pa. 157, 822 A.2d 684 (2003) (“*Morris II*”) that any grant of a stay by the trial court while a Post Conviction Relief Act (“PCRA”) petition is pending must comply with the PCRA, 42 Pa.C.S. § 9545(c)(1), nor do these rules expand or diminish any inherent powers of the Supreme Court to grant a stay of execution. See *Morris II*; see also Pa.R.A.P. 3316 and Explanatory Comment.

ARTICLE III. MISCELLANEOUS PROVISIONS

CHAPTER 33. BUSINESS OF THE SUPREME COURT

SUPERSEDEAS AND STAYS

Rule 3316. Review of Stay of Execution Orders in Capital Cases.

When a trial court has entered an order granting or denying a stay of execution in a capital case, such order

may be reviewed by the Supreme Court in the manner prescribed in Rule 1702(d).

Explanatory Comment—2005

The promulgation of new Rule 3316 addresses a gap in the Rules of Appellate Procedure such that there was no immediate vehicle for review of stays of execution orders granted or denied ancillary to Post Conviction Relief Act (“PCRA”) petitions in capital cases. See *Commonwealth v. Morris*, 565 Pa. 1, 771 A.2d 721 (2001) (“*Morris I*”). The new Rule permits an immediate appeal from an order granting or denying a stay pending a determination of the underlying PCRA petition. The new Rule also permits immediate review of a grant of a stay of execution without the filing of an appeal in situations in which the trial court grants a stay of execution but denies the PCRA petition.

There may be cases in which the PCRA court denies a stay of execution at the same time that it denies a timely PCRA petition. In such cases, the petitioner may take an immediate appeal from the denial of the stay of execution, even before the petitioner files an appeal from the denial of the PCRA petition. The PCRA court lacks jurisdiction to grant a stay of execution in connection with an untimely PCRA petition. See *Morris I*. However, the improper grant of a stay in connection with an untimely PCRA petition is also immediately reviewable under this Rule. See Pa.R.Crim.P. 909(A)(2).

Pa.R.Crim.P. 909(A)(2) only applies to properly granted stays of execution. Once a stay is properly granted, it is not reviewable until the conclusion of the PCRA proceedings, including appellate review. However, the Commonwealth may seek review under Rule 3316 to determine whether the PCRA court properly granted the stay.

The standard of review for stay applications under 42 Pa.C.S. § 9545(c) is a heightened standard, since there is a greater potential that second and subsequent PCRA applications have been filed merely for purposes of delaying the execution of sentence. See *Morris I* and *Commonwealth v. Morris*, 573 Pa. 157, 822 A.2d 684 (2003) (“*Morris II*”). Stays of execution in capital cases, however, are routinely granted in timely-filed, first PCRA petitions.

Nothing in this Rule or subdivision (d) of Rule 1702 is intended to abrogate the requirement in *Morris II* that any grant of a stay by the trial court while a PCRA petition is pending must comply with the PCRA, 42 Pa.C.S. § 9545(c)(1), nor do these rules expand or diminish any inherent powers of the Supreme Court to grant a stay of execution. See *Morris II*.

[Pa.B. Doc. No. 05-1938. Filed for public inspection October 21, 2005, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1]

Proposed Amendments to Pa.R.Crim.P. 105

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Pa.R.Crim.P. 105. The amendments require that

all new local rules and local rule amendments be submitted in writing to the Criminal Procedural Rules Committee for review and approval before publishing and before the local rules will be effective and enforceable. The changes also clarify the definition of local rules, the procedures concerning the implementation of local rules, and their enforcement. 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 the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed amendments to Rule 105 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,

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no later than Monday, November 28, 2005.

By the Criminal Procedural Rules Committee

NICHOLAS J. NASTASI,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 105. Local Rules.

(A) For the purpose of this rule, the term "local rule" shall include every rule, **administrative order**, regulation, directive, policy, custom, usage, form or order of general application, however labeled or promulgated, which is adopted or enforced by a court of common pleas, by the Philadelphia Municipal Court, or by the Philadelphia Traffic Court to govern criminal practice and procedure.

(B) **[(1)]** Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

(1) The Criminal Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule.

(2) The Criminal Procedural Rules Committee may suspend that local rule pending action by the Court on that recommendation.

[(2)] (C) ***

[(C) A local rule shall not become effective and enforceable until the adopting court has fully complied with all the following requirements:

(1) A local rule shall be in writing.

(2) Seven certified copies of the local rule shall be filed by the court promulgating the rule with the Administrative Office of Pennsylvania Courts.

(3) Two certified copies of the local rules and a computer diskette that complies with the requirements of 1 Pa. Code § 13.11(b) shall be distributed by the court promulgating the rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(4) One certified copy of the local rule shall be filed by the court promulgating the rule with the Criminal Procedural Rules Committee.]

(D) All proposed local criminal rules and proposed amendments to local criminal rules shall be submitted in writing to the Criminal Procedural Rules Committee for the Committee to review. The adopting court shall not proceed with the proposed local rule or amendments until it receives written approval of the local rule from the Committee.

(E) All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

(1) The adopting court shall not publish the local rule in the *Pennsylvania Bulletin* until it has received the written approval from the Committee.

(2) The adopting court shall distribute two certified copies of the local rule and a computer diskette that complies with the requirements of 1 Pa. Code § 13.11(b) to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) The effective date of the local rule shall not be less than 30 days after the date of publication of the rule in the *Pennsylvania Bulletin*.

(F) After publishing the local rule in the *Pennsylvania Bulletin*, the adopting court shall file seven certified copies of the local rule with the Administrative Office of Pennsylvania Courts.

[(5)] (G) ***

[(6)] (H) A local rule promulgated before the effective date of this rule shall be filed on or before that effective date with the prothonotary or clerk of court and shall be kept by the prothonotary or clerk for inspection, copying, and furnishing as provided in paragraph **[(C)(5)] (G).**

[(D) A local rule shall become effective not less than 30 days after the date of publication of the rule in the *Pennsylvania Bulletin*.

(E) [(I) No pleading or other legal paper shall be refused for filing by the clerk of courts based on a requirement of a local rule. No case shall be dismissed nor request for relief granted or denied because of failure to comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the [attorney] party to comply with the local rule.

[(F) The Criminal Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule and may suspend that local rule pending action by the Court on that recommendation.]

Comment

* * * * *

Paragraph (D), added in 2006, requires that the adopting court must submit all proposed local criminal rules or rule amendments to the Criminal Procedural Rules Committee for prior approval before publishing the local rule or proceeding with any of the other requirements in Rule 105.

[Paragraph (C) was amended in] The 2000 [to] and 2006 amendments emphasize that the adopting authority must comply with all the provisions of [paragraph (C)] this rule before any local rule, or any amendments to local rules, will be effective and enforceable. Paragraph [(C)(3)] (E) requires the local rule to be published in the *Pennsylvania Bulletin* to be effective. Pursuant to 1 Pa. Code § 13.11(b), any documents that are submitted for publication must be accompanied by a diskette formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect. The diskette must be labeled with the court's name and address and the local rule's computer file name.

Paragraph [(C)(5)] (G) requires that a separate consolidated set of local rules be maintained in the prothonotary's or clerk's office.

* * * * *

Although under paragraph [(D)] (E)(3) a local rule shall not be effective until at least 30 days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

The purpose of paragraph [(E)] (I) is to (1) **require that all documents presented for filing are accepted by the clerk of courts, also see Rule 576(A)(3), and (2) prevent the dismissal of cases, or the grant or denial of requested relief, because a party has failed to comply with a local rule.** In addition, paragraph [(E)] (I) requires that the party be alerted to the local rule, and be given a reasonable amount of time to comply with the local rule.

After the court has alerted the party to the local rule pursuant to paragraph [(E)] (I), the court may impose a sanction for subsequent noncompliance either on counsel or the defendant if proceeding pro se, but may not dismiss the case, or grant or deny relief because of non-compliance.

Official Note: Rule 6 adopted January 28, 1983, effective July 1, 1983; amended May 19, 1987, effective July 1, 1987; renumbered Rule 105 and amended March 1, 2000, effective April 1, 2001; amended October 24, 2000, effective January 1, 2001; Comment revised June 8, 2001, effective immediately; amended October 15, 2004, effective January 1, 2005; amended September 9, 2005, effective February 1, 2006; **amended** , **2006, effective** , **2006.**

Committee Explanatory Reports:

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Report explaining the changes to Rule 105 concerning submission of local rules for approval published at 35 Pa.B. 5770 (October 22, 2005).

REPORT
Proposed Amendments to Pa.R.Crim.P. 105
Local Rule Procedures

I. BACKGROUND

In 1983, the Court adopted Pa.R.Crim.P. 105 and Pa.R.Civ.P. 239 "to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of criminal [and civil] procedure normally preempts the subject covered." The new rule provided a uniform definition of local rules, prerequisites to effectiveness and effective dates, procedures for accessibility and distribution, and for the suspension of inconsistent local rules.

From the Committee's ongoing monitoring of local criminal rules and local practices, and from the experience of the Committee members and other members of the bar who have communicated with the Committee, notwithstanding the Court having adopted several subsequent Rule 105 amendments that were intended to make the requirements for local rules absolutely clear, we have learned Rule 105 continues to be honored in the breach. Some judges continue to implement local practices and procedures that do not comply with Rule 105 by calling them something other than a local rule, even though they are local rules within the definition of Rule 105. In addition, some judicial districts' "local rules" still are not being published or are not being made available to the members of the bar. Finally, in many cases, these local practices and procedures conflict with the statewide rules.

Recognizing the changes to Rule 105 since 1983 have not been successful in resolving the problems with local rules, the Committee agreed that Rule 105 should be amended to require that prior to publication and enactment, all new local rules and local rule amendments must be submitted in writing to the Committee for approval to publish, and to make it clear in the rule that unless the local adopting court receives the Committee's approval, the local rule will not be effective and enforceable. The proposed amendments are discussed below.

II. DISCUSSION

In an effort to ensure compliance with the Rule 105 requirements, the Committee is proposing that all new local rules and local rule amendments must be submitted to the Committee for the Committee's review before the local rule may be published and before it will be effective and enforceable. This new provision is set forth in new paragraph (D). Pursuant to this new procedure, the adopting court is required to submit in writing to the Committee any proposal that governs criminal practice and procedure for the Committee's review. The Committee will determine whether the proposal complies with Rule 105, including whether it is consistent with the general rules of the Supreme Court and with the Acts of Assembly as required in current Rule 105(B). Following our review, the Committee will communicate in writing with the adopting court. The adopting court is prohibited from proceeding with the proposal until receiving written approval from the Committee.

The Committee also is proposing that Rule 105 be reorganized to more clearly emphasize the essential requirements of the rule. Paragraph (A), which sets forth the "definition" of local rule, would remain the same. The Committee is proposing that "administrative order" be added to the list of things in paragraph of (A) that are considered "local rules." In our experience, many local enactments labeled "administrative orders" are in fact "local rules" that should be in compliance with Rule 105.

Because this apparently is not as clear as the Committee had thought, we agreed this term should be added to paragraph (A). The only administrative orders that would be subject to Rule 105 are those that govern in some way criminal practice and procedure. This change is not intended to affect administrative orders that govern other aspects of court operations, such as administrative orders that establish local court calendars.

Current paragraph (B) addresses both the requirement for consistency with statewide rules and Acts of Assembly, paragraph (B)(1), and the requirement that local rules be given numbers keyed to the statewide rules, paragraph (B)(2). To add emphasis to both requirements, paragraph (B)(1) is retained as paragraph (B), and paragraph (B)(2) would become paragraph (C). In addition, the Committee is proposing that paragraph (F), which addresses the procedures concerning the suspension, vacation, and amendment of local rules that are not in compliance with Rule 105, become new paragraphs (B)(1) and (B)(2).

New paragraph (E) sets forth the provisions related to publishing proposed local rules in the *Pennsylvania Bulletin*, making it clear that to be effective and enforceable, the local rule must be published, but not until the Committee has given its approval in writing as provided in new paragraph (D). In addition, the Committee is proposing that current paragraph (C)(3) concerning the information about what must be sent to the *Pennsylvania Bulletin* be moved to new paragraph (E)(2), and current paragraph (D) that requires the effective date of new local rules and amended local rules be not less than 30 days after publishing in the *Pennsylvania Bulletin* be moved to new paragraph (E)(3).

New paragraph (F) is taken from former paragraph (C)(2) and sets forth the current requirement that the adopting court file seven copies of the local rule with the AOPC after the local rule has been published. Because paragraph (D) requires that the adopting court submit a written copy of the proposed local rule to the Committee for prior approval, current paragraphs (C)(1) and (C)(4) are no longer necessary.

New paragraph (G) is current paragraph (C)(5) and new paragraph (H) is current paragraph (C)(6).

New paragraph (I) incorporates former paragraph (E). The Committee is proposing that paragraph (I) include as a first sentence the requirement that the clerk of courts accept all pleadings and other legal papers for filing even if the document does not satisfy the requirements of a local rule. This new provision is comparable to Pa.R.Civ.P. 205.2, and conforms with the requirements in Pa.R.Crim.P. 576(A)(3).

Finally, the Committee has made conforming changes to the Comment.

[Pa.B. Doc. No. 05-1939. Filed for public inspection October 21, 2005, 9:00 a.m.]

[234 PA. CODE CH. 9]

Order Amending Rule 909; No. 331 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the October 7, 2005 amendments to Rule of Criminal Procedure 909 (Procedures for Petitions in Death Penalty Cases: Stays of Execution of Sentence; Hearing; Disposition). The changes

clarify the provisions of Rule 909(A) (Stays) and the Comment in view of the Court's holdings in *Commonwealth v. Morris*, 565 Pa. 1, 771 A.2d 721 (2001) (Morris I) and *Commonwealth v. Morris*, 573 Pa. 157, 822 A.2d 684 (2003) (Morris II). The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 7th day of October, 2005, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice, 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 909 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective February 1, 2006.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 9. POST-CONVICTION COLLATERAL PROCEEDINGS

Rule 909. Procedures for Petitions in Death Penalty Cases[;]: Stays of Execution of [Sentences] Sentence; Hearing; Disposition.

(A) Stays of Execution

* * * * *

(2) In all cases in which a stay of execution has been properly granted [pursuant to 42 Pa.C.S. § 9545(c)], the stay shall remain in effect through the conclusion of all PCRA proceedings, including review in the Supreme Court of Pennsylvania, or the expiration of time for seeking such review.

* * * * *

Comment

Paragraph (A)(1) was added in 1999 to provide the avenue by which a defendant in a death penalty case may request a stay of execution. Failure to include a request for a stay in the petition for post-conviction collateral relief may not be construed as a waiver, and the defendant may file a separate request for the stay. **In cases involving second or subsequent petitions when an application for a stay is filed separately from the PCRA petition, *Commonwealth v. Morris*, 565 Pa. 1, 771 A.2d 721, 741 (2001), provides that the separate stay application "must set forth: a statement of jurisdiction; if necessary, a statement that a petition is currently pending before the court; and a statement showing a likelihood of prevailing on the merits."**

Paragraph (A)(2) provides [that,] if a stay of execution is properly granted, that the stay will remain in effect throughout the PCRA proceedings in the trial court and during the appeal to the Pennsylvania Supreme Court. **Nothing in this rule is intended to preclude a party from seeking review of an order granting or denying a stay of execution. See Pa.R.A.P. 1702(d) (Stay of Execution) and Pa.R.A.P. 3316 (Review of Stay of Execution Orders in Capital Cases).**

* * * * *

Official Note: Previous Rule 1509 adopted February 1, 1989, effective July 1, 1989; renumbered Rule [910]

1510 August 11, 1997, effective immediately. Present Rule 1509 adopted August 11, 1997, effective immediately; amended July 23, 1999, effective September 1, 1999; renumbered Rule 909 and amended March 1, 2000, effective April 1, 2001; amended February 12, 2002, effective July 1, 2002, 32 Pa.B. 1173; **amended October 7, 2005, effective February 1, 2006.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] **1478** (March 18, 2000).

* * * * *

Final Report explaining the October 7, 2005 amendments to paragraph (A)(2) and revision of the Comment concerning Commonwealth v. Morris published with the Court's Order at 35 Pa.B. 5772 (October 22, 2005).

FINAL REPORT¹

Amendments to Pa.R.Crim.P. 909

Commonwealth v. Morris: Stays of Execution

On October 7, 2005, effective February 1, 2006, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Pa.R.Crim.P. 909. The changes clarify the provisions of Rule 909(A) (Stays) and the Comment in view of the Court's holdings in *Commonwealth v. Morris*, 565 Pa. 1, 771 A.2d 721 (2001) (*Morris I*) and *Commonwealth v. Morris*, 573 Pa. 157, 822 A.2d 684 (2003) (*Morris II*).

Rule 909(A)

The Committee, working in conjunction with the Appellate Courts Rules Committee,² reviewed the two *Morris* decisions, including Justice Castille's concurrence in *Morris I* outlining the history of Section 9545(c) of the PCRA and opining that Section 9545(c) was intended to apply to second or subsequent petitions only, to determine whether any changes to Rule 909 were necessary. We also reviewed the text of 42 Pa.C.S. § 9545(c) and the Committee's Rule 909(A) history.³ Based on our review, the Committee reasoned if Section 9545(c) only applies to second or subsequent PCRA petitions, and since both *Morris* decisions clearly address serial PCRA petitions only, then the reference to Section 9545(c) in Rule 909(A)(2) is mischievous and too limiting. Accordingly, Rule 909(A)(2) has been amended by deleting the reference to Section 9545(c) to avoid further confusion about the scope of the application of paragraph (A)(2).

In addition, as the Committee worked with the Appellate Rules Committee in developing our respective "*Morris*" proposals, we noted current Rule 909(A) could be construed as being in conflict with the *Morris* changes in new Rule of Appellate Procedure 3316 and amended Rule of Appellate Procedure 1702. In view of this concern, Rule 909(A)(2) has been amended by the addition of "properly" before "granted" in the first line, thus making it clear in

¹ 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.

² Because of the interplay between the Criminal Rules and the Appellate Rules concerning stays in death penalty cases in view of the *Morris* decisions, the Committee coordinated our Rule 909 modifications with the Appellate Court Procedural Rules Committee's development of amendments to Rule 1702 and new Rule 3316.

³ The Rule 909(A) stay provisions were adopted in 1999 in response to a recommendation from the Third Circuit Court's Task Force on Management of Death Penalty Litigation that, when a stay of execution has been granted, the stay should remain in effect for the duration of the post-conviction collateral proceedings at the trial level and any appeal to the Supreme Court. See Committee's Final Report at 29 Pa.B. 4167 (August 7, 1999).

Rule 909 that paragraph (A) is intended to apply only to stays that have been *properly* granted by the trial judge.

Rule 909 Comment

From our review of the 1999 rule changes when the stay provisions were added to Rule 909, the Committee recalled the language in paragraph (A)(1) and the Comment concerning filing requests for stays in the PCRA petition or as a separate request had been added by the Committee to provide guidance about requesting stays because the PCRA is silent in this regard.⁴ To provide further guidance to the bench, bar, and pro se defendants in view of the *Morris* decisions, the Comment has been revised to include the requirements set forth in *Morris I* for the contents of applications for stays filed separately from second or subsequent PCRA petitions:

In cases involving second or subsequent petitions when an application for a stay is filed separately from the PCRA petition, *Commonwealth v. Morris*, 565 Pa. 1, 771 A.2d 721, 741 (2001), provides that the separate stay application "must set forth: a statement of jurisdiction; if necessary, a statement that a petition is currently pending before the court; and a statement showing a likelihood of prevailing on the merits."

Finally, the Comment has been revised to include cross-references to new Rule of Appellate Procedure 3316 and amended Rule of Appellate Procedure 1702. These rules provide the procedures for the appeal from a grant of a stay in a death penalty case.

[Pa.B. Doc. No. 05-1940. Filed for public inspection October 21, 2005, 9:00 a.m.]

Title 25—LOCAL COURT RULES

LEHIGH COUNTY

Adoption of Rules of Juvenile Court Procedure for Delinquency Matters; File No. AD-1613-2005

Order

And Now, this 5th day of October, 2005, *It Is Ordered* that the following Rules of Juvenile Court Procedure for Delinquency Matters, in and for the 31st Judicial District of Pennsylvania composed of Lehigh County, be, and the same are, promulgated herewith, to become effective thirty (30) days after their publication in the *Pennsylvania Bulletin*.

It Is Further Ordered that seven (7) certified copies of this Order and the following Rules of Juvenile Court Procedure shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Juvenile Court Procedural Rules Committee of the Supreme Court of Pennsylvania; and that one copy shall be filed with the Clerk of Courts of Lehigh County.

By the Court

WILLIAM H. PLATT,
President Judge

⁴ See the Committee's explanatory Final Report, *supra*.

Lehigh County Rules of Juvenile Court Procedure for Delinquency Matters

Leh.R.J.C.P. 102. Citation of Rules.

All juvenile court procedural rules promulgated by the Court of Common Pleas of Lehigh County shall be cited as Lehigh Rules of Juvenile Court Procedure ("Leh.R.J.C.P.")

Leh.R.J.C.P. 105. Search Warrants.

Leh.R.Cr.P. 202 (Approval of Search Warrant Applications by Attorney for the Commonwealth.) shall apply to search warrant applications in juvenile delinquency matters.

Comment: Leh.R.Cr.P. provides: "The District Attorney of Lehigh County having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants, in all circumstances, shall not be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing."

Leh.R.J.C.P. 120. Definitions.

Unless the context clearly indicates otherwise, the words and phrases used in any juvenile court procedural rule adopted by the Court of Common Pleas of Lehigh County shall be given the same meaning as is given those words and phrases in the Pennsylvania Rules of Juvenile Court Procedure with the following exceptions and additions: (1) "Court," means the Court of Common Pleas of Lehigh County; (2) "Rule," means any rule of juvenile court procedure adopted by the Court of Common Pleas of Lehigh County; (3) "Clerk of Courts" means the Clerk of Courts of the Court of Common Pleas of Lehigh County; and (4) "except as otherwise provided," means except as provided by statute, by the Pennsylvania Rules of Juvenile Court Procedure, or by specific local juvenile court rule.

Leh.R.J.C.P. 121. Effective Dates of Rules.

(a) A Rule or amendment to a Rule shall become effective upon the date specified by the court in adopting or amending such rule, but in no case until after the requirements of Pa.R.J.C.P. 121(D) and (E) are met.

(b) If no effective date is specified, the Rule or amendment to the Rule shall become effective on the first day of January or July, whichever is earlier, following the thirtieth day after its adoption, filing and publication in the *Pennsylvania Bulletin* (Pa.B.).

Leh.R.J.C.P. 210. Arrest Warrants.

A. *Application* The following judges and magisterial district judges are designated by the President Judge as issuing authorities to receive and act upon applications for arrest warrants in juvenile delinquency proceedings initiated in and for the 31st Judicial District of Pennsylvania composed of Lehigh County:

1. All commissioned judges of the Court of Common Pleas of Lehigh County, all commissioned magisterial district judges in the 31st Judicial District of Pennsylvania, and any senior judge or senior magisterial district judge assigned to perform the duties of a judge or magisterial judge within the 31st Judicial District of Pennsylvania at the time of the application.

2. During normal business hours of the courts, such applications should normally be made to the magisterial district judge in whose district the offense(s) or any one offense is/are alleged to have occurred, or to a judge of the Court of Common Pleas regularly assigned to hear delinquency cases. After normal business hours and on holi-

days, these applications should normally be made to an on-call magisterial district judge. Nothing in this paragraph, however, shall diminish the authority of any judge or magisterial district judge designated in paragraph 1 of this order to receive and act upon such applications.

Note: This same designation was originally contained in an Order of Court dated September 30, 2005, and effective October 1, 2005. The Order of September 30, 2005, shall govern until this Rule becomes effective.

B. *Approval of Commonwealth.* The District Attorney of Lehigh County having filed a certification pursuant to Pa.R.J.C.P. 231, all applications for arrest warrants under Pa.J.C.P. 210 shall be approved by an attorney for the Commonwealth before the application for the warrant is submitted to an issuing authority.

Leh.R.J.C.P. 231. Written Allegation (Approval by an Attorney for the Commonwealth).

The District Attorney of Lehigh County having filed a certification pursuant to Pa.R.J.C.P. 231, all written allegations in which it is alleged that an act of delinquency graded as a felony was committed shall be received and approved by an attorney for the Commonwealth before any delinquency proceeding is commenced.

Leh.R.J.C.P. 330. Petition: Filing, Contents, Function (Filing by an Attorney for the Commonwealth).

The District Attorney of Lehigh County having filed a certification pursuant to Pa.R.J.C.P. 330, all petitions alleging a juvenile to be delinquent shall be filed only by an attorney for the Commonwealth.

[Pa.B. Doc. No. 05-1941. Filed for public inspection October 21, 2005, 9:00 a.m.]

LEHIGH COUNTY

Designation of Issuing Authorities to Receive and Act upon Applications for Arrest Warrants in Juvenile Cases Pursuant to Pa.R.J.C.P. 210(A); File No. AD-1612-2005

Order

And Now, this 30th day of September, 2005, pursuant to the provisions of Pa.R.J.C.P. 210(A), *It Is Ordered* that the following judges and magisterial district judges be and are designated as issuing authorities to receive and act upon applications for arrest warrants in juvenile delinquency proceedings initiated in and for the 31st Judicial District of Pennsylvania composed of Lehigh County:

1. All commissioned judges of the Court of Common Pleas of Lehigh County, all commissioned magisterial district judges in the 31st Judicial District of Pennsylvania, and any senior judge or senior magisterial district judge assigned to perform the duties of a judge or magisterial judge within the 31st Judicial District of Pennsylvania at the time of the application.

2. During normal business hours of the courts, such applications should normally be made to the magisterial district judge in whose district the offense(s) or any one offense is/are alleged to have occurred, or to a judge of the Court of Common Pleas regularly assigned to hear delinquency cases. After normal business hours and on holidays, these applications should normally be made to an

on-call magisterial district judge. Nothing in this paragraph, however, shall diminish the authority of any judge or magisterial district judge designated in paragraph 1 of this order to receive and act upon such applications.

It Is Further Ordered that seven (7) certified copies of this Order shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Juvenile Court Procedural Rules Committee of the Supreme Court of Pennsylvania; and that one copy shall be filed with the Clerk of Courts for Lehigh County.

This Order Is Effective October 1, 2005.

By the Court

WILLIAM H. PLATT,
President Judge

[Pa.B. Doc. No. 05-1942. Filed for public inspection October 21, 2005, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that David S. Shamers having been suspended from the practice of law in the State of Delaware for a period of two years, the Supreme Court of Pennsylvania issued an Order dated October 7, 2005 suspending David S. Shamers from the practice of law in this Commonwealth for a period of two years, effective November 6, 2005. 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,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 05-1943. Filed for public inspection October 21, 2005, 9:00 a.m.]
