

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 5]

Order Approving the Revision of the Comment to Rule 522; No. 343 Criminal Procedural Rules; Doc. No. 2

Order

Per Curiam:

Now, this 28th day of April, 2006, 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 the revision of the Comment to Rule of Criminal Procedure 522 is approved in the following form.

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

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART C. Bail

Rule 522. Detention of Witnesses.

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Comment

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In cases in which bail is set for a material witness pursuant to this rule, the court should consider all the types of release permitted in Rule 524 and the conditions of nonmonetary release upon bail available under Rule 527. When a material witness is to be detained, the court should impose the least restrictive means of assuring that witness' presence, including the use of release on the witness' own recognizance or release upon other nonmonetary conditions, such as electronic monitoring, especially when the witness has limited financial means to post monetary bail.

Official Note: Former Rule 4017, previously Rule 4014, adopted November 22, 1965, effective June 1, 1966; renumbered Rule 4017 July 23, 1973, effective 60 days hence; Comment revised January 28, 1983, effective July 1, 1983; rescinded September 13, 1995, effective January 1, 1996, and replaced by present Rule 522. Present Rule 4017 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 522 and amended March 1, 2000, effective April 1, 2001; **Comment revised April 28, 2006, effective August 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. 1478 (March 18, 2000).

Final Report explaining the April 28, 2006 revision to the Comment concerning electronic monitoring published with the Court's Order at 36 Pa.B. 2279 (May 13, 2006).

FINAL REPORT¹

Revision of the Comment to Pa.R.Crim.P. 522

Detention of Witnesses

On April 28, 2006, effective August 1, 2006, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the revision of the Comment to Rule 522 (Detention of Witnesses). The changes highlight that, when bail is set for a material witness, the court should consider all the conditions of release upon bail available under Pa.R.Crim.P. 527.

This Recommendation was developed in response to the Committee's review of correspondence to the Chief Justice from State Senator Constance Williams concerning a case in Montgomery County in which the victim of an aggravated assault was kept in the county prison for five months as a material witness. Senator Williams requested that consideration be given to revising Rule 522 to permit the use of electronic monitoring as another means of ensuring the availability of a material witness.

In discussing Senator Williams' suggestion, the Committee noted that the rules already permit a judge setting bail to condition release upon the use of electronic monitoring. Rule 527 specifically permits nonmonetary conditions of bail to include "any other appropriate conditions designed to ensure the defendant's appearance and compliance with the conditions of the bail bond." This provision intentionally was worded broadly to provide judges discretion to consider a wide array of nonmonetary types of release on bail, including release subject to electronic monitoring when that is an available option. Several members pointed out that this type of nonmonetary release is being used in several counties.²

The Committee agreed this analysis applies equally to witnesses who are being detained pursuant to Rule 522. Paragraph (A) provides that bail for a material witness may be set "subject to the provisions of this chapter" (Chapter 5 Part C). Accordingly, a judge setting bail for a material witness must consider the types of release enumerated in Rule 524 and the categories of nonmonetary conditions of release set forth in Rule 527, which include the imposition of electronic monitoring as a condition of release for the material witness.

However, the Committee recognizes that not all counties may be aware that electronic monitoring is a release option available for material witnesses.³

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 Westmoreland County is one example. In addition, Adams County, under the authority of Rule 527, has established a local rule specifically authorizing a bail release program utilizing electronic monitoring.

³ The Committee also recognized that technical and budgetary constraints might preclude some counties from utilizing electronic monitoring and, therefore, did not wish to impose a requirement for its use.

Accordingly, the Comment to Rule 522 is revised by the addition of a new sixth paragraph that emphasizes that the court should consider all available conditions of release pursuant to Rule 524 and any of the nonmonetary conditions of release in Rule 527, including the use of electronic monitoring in cases in which bail is set for a material witness.

[Pa.B. Doc. No. 06-833. Filed for public inspection May 12, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BEDFORD COUNTY

Local Rule Relating to Arraignment; A.D. No. 1 for 2006

Order

And now, this 21st day of April, 2006, the Court hereby promulgates Local Rule of Court relating to arraignment, Local Rule 571, for Bedford County, comprising the 57th Judicial District of the Commonwealth of Pennsylvania.

By the Court

DANIEL LEE HOWSARE,
President Judge

Arraignment

Local Rule 571.

Arraignment in court cases as defined in Rule 103 of the Pennsylvania Rules of Criminal Procedure shall occur only on the dates and at the times appearing on the annual court calendar. Otherwise, arraignment shall proceed as set forth in Rule 571 of the Pennsylvania Rules of Criminal Procedure. This rule is adopted only for the purpose of establishing the times at which arraignment shall occur in the 57th Judicial District.

[Pa.B. Doc. No. 06-834. Filed for public inspection May 12, 2006, 9:00 a.m.]

SNYDER AND UNION COUNTIES

Adoption of Local Rules; Nos. MC-10-2006, CP-55- AD-2-2006

Order

And Now, this 31st day of March, 2006, it is hereby *Ordered* as follows:

1. Local Rule of Civil Procedure 17CV1301.1(A) is hereby amended to change the amount in controversy subject to compulsory arbitration from Twenty-Five Thousand Dollars (\$25,000) or less to Thirty-Five Thousand Dollars (\$35,000) or less. The Court accordingly hereby adopts the Rule as set forth in Appendix "A" as follows.

2. Said rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

3. The Court Administrator of the 17th Judicial District is ordered and directed to do the following:

3.1. File seven (7) certified copies of this Order and of the pertinent Rules with the Administrative Office of Pennsylvania Courts.

3.2. File two (2) certified copies and a computer diskette containing this Order and the pertinent Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3.3. File one (1) certified copy of this Order and the pertinent Rule with the Civil Procedural Rules Committee.

3.4. Provide one (1) copy of this Order and the Local Rule to each member of the Union-Snyder County Bar Association who maintain an active practice in Union or Snyder Counties.

3.5. Keep continuously available for public inspection, copies of this Order and the Local Rules.

By the Court

HAROLD F. WOELFEL, Jr.,
President Judge

APPENDIX A

17CV1301.1 Cases for Submission.

A. Compulsory arbitration of matters as authorized by Section 7361 of the Judicial Code, 42 Pa.C.S. Section 101, et seq. shall apply to all cases at issue where the amount in controversy shall be Thirty-Five Thousand Dollars (\$35,000) or less. The amount in controversy shall be determined from the pleadings or by an agreement of reference filed by the attorneys. The amount in controversy, when determined from the pleadings, shall be the largest amount claimed by any one party. In the event that a case within arbitration limits is consolidated with a case involving more than arbitration limits after the former has been referred to a board of arbitrators, the order of consolidation will remove the same from the jurisdiction of the board of arbitrators.

[Pa.B. Doc. No. 06-835. Filed for public inspection May 12, 2006, 9:00 a.m.]