

THE COURTS

Title 255—LOCAL COURT RULES

CLINTON COUNTY

Magisterial Judicial District Coverage; No. 1071-07 ADM Order

Order

Now, this 14th day of August, 2007, pursuant to Pa.R.Crim.P. 117, *it is hereby ordered* that the following procedures shall be utilized to ensure coverage to provide those services required by the Rules of Criminal and Civil Procedure and the Protection From Abuse Act. This Rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The District Court Administrator shall send seven (7) certified copies of this Rule to the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and one (1) certified copy to the Criminal Procedural Rules Committee, the Civil Procedural Rules Committee, and the Minor Court Rules Committee.

1. Normal Business Hours:

a. Normal business hours shall be construed as Monday, Tuesday, Thursday, and Friday from 8:00 a.m. until 5:00 p.m. and Wednesday from 8:00 a.m. until 12:30 p.m. except when a Court holiday has been declared.

b. All Court proceedings normally conducted before a Magisterial District Judge during normal business hours shall be conducted at the established office of the appropriate Magisterial District Judge as determined by the Rules relating to venue. When, during regular business hours, the Magisterial District Judge who has venue over a particular matter is unavailable, any other Magisterial District Judge is hereby temporarily assigned to serve the Magisterial District or in accordance with special Orders issued from time to time by the Court.

2. On Call Magisterial District Judge:

a. The Court Administrator shall establish a rotating schedule assigning a Magisterial District Judge to be on call outside of normal business hours of the Court to perform all duties of an issuing authority as required by the Rules of Criminal or Civil Procedure and the Protection From Abuse Act.

3. Bail, Search and Arrest Warrants, and Protection From Abuse Petitions:

a. The on-call Magisterial District Judge shall be available without unreasonable delay at all times at his or her established office for the purpose of accepting the posting of a defendant's bail. Monetary bail may also be posted outside of regularly scheduled hours at the Clinton County Correctional Facility. The Warden of the Correctional Facility, or his designee, is authorized to accept bail bonds and deposits as provided in Pa.R.Crim.P. 117 by having the defendant sign the bail bond, releasing the defendant, and delivering the bail deposit and/or bail bond and the surety information page to the issuing authority or the Clerk of Courts by the close of the next business day.

b. The on-call Magisterial District Judge shall be available without unreasonable delay at his or her established office for the issuance of search warrants pursuant to Rule 203, arrest warrants pursuant to Rule 513, and Emergency Protection From Abuse Orders. Advanced communication technology may be utilized to submit the warrant application and affidavits and to issue the warrant in accordance with the requirements of the Criminal Rules.

4. Arraignments on Weekdays:

When an individual is placed under arrest and requires arraignment or processing under Rule 441:

a. The individual shall be taken to the Clinton County Correctional Facility for booking.

b. Between the hours of 5:00 p.m. and 11:00 p.m., the on-call Magisterial District Judge shall be available without unreasonable delay at his or her established office or, at the discretion of the Magisterial District Judge, advanced communication technology may be utilized for the arraignment.

c. Between the hours of 11:00 p.m. and 8:00 a.m. the following day, individuals placed under arrest and requiring arraignment shall be temporarily detained at the Clinton County Correctional Facility. The Magisterial District Judge shall be advised at 8:00 a.m. that the individual has been detained. Personnel of the Correctional Facility shall make such individuals available at the video conferencing site by 8:30 a.m., at which time the Magisterial District Judge shall conduct the preliminary arraignment through the use of advanced communication technology. In the event of technological failure, the individual shall be transported by officials of the Correctional Facility or the Sheriff to the office of the Magisterial District Judge.

5. Arraignments on Saturdays, Sundays and Holidays:

When an individual is placed under arrest and requires arraignment or processing under Rule 441:

a. The individual shall be taken to the Clinton County Correctional Facility for booking and shall thereafter be temporarily detained pending arraignment.

b. Between the hours of 8:00 a.m. and 11:00 p.m., the on-call Magisterial District Judge shall be available without unreasonable delay at his or her established office, or, at the discretion of the Magisterial District Judge, advanced communication technology may be utilized for the arraignment. The on-call Magisterial District Judge shall be contacted by the Correctional Facility staff at 8:00 a.m., 2:00 p.m., and 10:00 p.m. each day and advised if any individual has been temporarily detained. Individuals so detained shall be promptly arraigned through the use of advanced communication technology.

c. Between the hours of 11:00 p.m. and 8:00 a.m. the following day, individuals placed under arrest and requiring arraignment shall be temporarily detained at the Clinton County Correctional Facility. Individuals so detained shall be made available at the video conferencing site by 8:30 a.m. the following morning. In the event of technological failure, the individual shall be transported by officials of the Correctional Facility or the Sheriff to the office of the Magisterial District Judge.

6. *Bench Warrants in Court Cases.*

a. Any individual executing a court case bench warrant shall proceed in accordance with Rule 150 and shall notify the Court Administrator no later than 8:30 a.m. the next business day that the subject of the warrant is in custody.

b. When the subject of a warrant has been delivered to the Clinton County Correctional Facility or has voluntarily surrendered pursuant to the issuance of a warrant, the Warden of the Clinton County Correctional Facility shall immediately notify the Court Administrator that the subject of the warrant is in custody or, if the warrant has been executed after the close of the business day, no later than 8:30 a.m. on the next business day.

c. Upon receiving notice that a bench warrant has been executed or that the subject has surrendered, the Court Administrator shall immediately notify the issuing Judge, the issuing Magisterial District Judge, the District Attorney, any counsel of record, and the Public Defender that the subject is in custody. After consultation with the Judge, the Court Administrator shall schedule a hearing as soon as possible but not later than seventy-two (72) hours after the subject has been lodged in the Correctional Facility. The Court Administrator may give oral notice of this hearing, along with written notice, and shall maintain a record of that notice.

7. *Summary Offense Arrest Warrants and Bench Warrants:*

a. An individual executing an arrest warrant or a bench warrant in a summary offense shall proceed in accordance with Rules 430 and 431 except as set forth hereafter.

b. In the event the warrant is executed between 8:00 a.m. and 11:00 p.m. Saturdays, Sundays, and holidays, the individual executing the warrant shall proceed in accordance with Paragraph 5.b. above.

c. In the event the warrant is executed between the hours of 11:00 p.m. and 8:00 a.m. the following day, the individual executing the warrant shall proceed in accordance with Paragraph 5.c. above.

By the Court

RICHARD N. SAXTON, Jr.,
President Judge

[Pa.B. Doc. No. 07-1537. Filed for public inspection August 24, 2007, 9:00 a.m.]

DAUPHIN COUNTY

Promulgation of Local Rules; No. AO-29 CR 2007 (1793-1989) and No. 4-22 MD 2007

Order

And Now, this 8th day of August, 2007, Dauphin County Local Rule 573 is amended as follows:

Rule 573. [Discovery in Child Abuse/Assault Cases] Discovery of Children and Youth Records in Non-Dependency Cases

Pursuant to the Juvenile Act, 42 Pa.C.S. § 6307, and the Child Protective Services Law, 23 Pa.C.S. § 6840, any party to litigation seeking discovery of confidential reports and records of Dauphin County Services for Children and Youth (Child Protective

Service Agency) shall file a petition for a Show Cause Order stating with particularity the scope, necessity, and authority for the discovery sought.

The petition and rule shall be served on any adverse party, on the Dauphin County Children and Youth Agency, and on the guardian ad litem (if any) for the child.

Any objection must identify that portion of the reports of records sought to be withheld and state with particularity any privilege asserted thereto.

Thereafter, the court shall either a) schedule a hearing on the motion; or b) schedule an in-camera conference; or c) issue an order based on the averments in the motion and in any response filed thereto.

Comments

Nothing in this rule shall preclude a party from filing a motion for a protective order.

Certain privileges are absolute and are not overcome by a defendant's Sixth Amendment right to cross-examine a witness or to due process of law. Examples of the foregoing are:

- Domestic Violence Advocate/Counselor
23 Pa.C.S. § 6116; *V.B.T. v. Family Services of Western PA*,
705 A.2d 1325 (Pa. Super. 1998)
- Sexual Assault Counselor Privilege
42 Pa.C.S. § 5945; *Commonwealth v. Wilson*,
602 A.2d 1290 (Pa. 1992)
- Psychotherapist Privilege
42 Pa.C.S. § 5944; *Commonwealth v. Counterman*,
719 A.2d 284 (Pa. 1998)

Comment

This rule was rescinded effective February 1, 2007, by passage of the amendments to the Pa. R.J.C.P.

This rule is readopted effective February 1, 2007.

This rule is intended to apply not only in criminal cases. This procedure should be used when such records are requested in custody cases or in any other civil case.

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 07-1538. Filed for public inspection August 24, 2007, 9:00 a.m.]

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

Order

And Now, this 8th day of August, 2007, Dauphin County Local Rule of Civil Procedure 1308 is amended as follows:

Rule 1308—Appeal. Notice. Compensation

(a)(2) When an appeal is filed to a decision of the Board of Arbitrators, any party appealing shall repay to the County the fees of the members of the Board of Arbitration, which shall not thereafter be refundable

to or recoverable by the said party under any circumstances, under the following schedule:

- (a) If the amount in controversy is less than \$5,000.00—\$400.00.
- (b) If the amount in controversy is \$5,000.00 or more, but less than \$10,000.00—\$500.00.
- (c) If the amount in controversy is \$10,000.00 or more, but less than \$20,000.00—\$600.00.
- (d) If the amount in controversy is \$20,000.00 or more, but less than \$35,000.00—\$700.00.
- (e) If the amount in controversy is \$35,000.00—\$50,000.00—\$800.00

For purposes of determining the appeal fee, “amount in controversy” shall be defined as the amount of the award rendered by the Board of Arbitration [, or, in cases of no award, the amount demanded in the complaint].

These amendments shall be effective November 27, 2007.

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 07-1539. Filed for public inspection August 24, 2007, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Lynne A. Wallenstein, a/k/a Lynne Ann Soldano Wallenstein, a/k/a Patricia Jean Fletcher, having been disbarred from the practice of law

in the Commonwealth of Massachusetts by Order of the Supreme Judicial Court for Suffolk County entered June 5, 2000, the Supreme Court of Pennsylvania issued an Order on August 7, 2007, disbaring Lynne A. Wallenstein, a/k/a Lynne Ann Soldano Wallenstein, a/k/a Patricia Jean Fletcher, from the Bar of this Commonwealth, effective September 6, 2007. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of 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. 07-1540. Filed for public inspection August 24, 2007, 9:00 a.m.]

Notice of Transfer to Inactive Status

Notice is hereby given that Peter E. Hess having been transferred to disability inactive status in the State of Delaware by Order of the Supreme Court of the State of Delaware dated May 15, 2007, the Supreme Court of Pennsylvania issued an Order on August 8, 2007, transferring Peter E. Hess to inactive status, effective immediately, under Rule 301(c) Pa.R.D.E. (relating to disabled attorneys) for an indefinite period and until further Order of the Supreme Court. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of 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. 07-1541. Filed for public inspection August 24, 2007, 9:00 a.m.]