

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1910]

Amendment of Rule of Civil Procedure 1910.16-2; Civil Procedural Rules; No. 518

Order

Per Curiam:

And Now, this 5th day of January, 2010, upon the recommendation of the Domestic Relations Procedural Rules Committee; the recommendation not having been published for comment as the proposed amendments are perfunctory in nature, pursuant to Pa.R.J.A. No. 103(a)(3):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Civil Procedure 1910.16-2 is amended as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

PATRICIA NICOLA,
Chief Clerk

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.16-2. Support Guidelines. Calculation of Net Income.

Generally, the amount of support to be awarded is based upon the parties' monthly net income.

* * * * *

(c) *Monthly Net Income.*

(1) Unless otherwise provided in these rules, the court shall deduct only the following items from monthly gross income to arrive at net income:

(A) federal, state, and local income taxes;

(B) F.I.C.A. payments (**Social Security, Medicare and Self-Employment taxes**) and non-voluntary retirement payments;

(C) union dues; and

(D) alimony paid to the other party.

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[Pa.B. Doc. No. 10-98. Filed for public inspection January 15, 2010, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 3000]

Proposed Amendment of Rule 3135 Governing Correction of Sheriff's Deed to Real Property; Proposed Recommendation No. 244

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 3135 governing the correction of

the sheriff's deed to real property be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than February 26, 2010, to:

Karla M. Shultz, Esquire
Counsel

Civil Procedural Rules Committee
601 Commonwealth Avenue
Suite 6200

P. O. Box 62635
Harrisburg, PA 17106-2635

or E-Mail to
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

By the Civil Procedural Rules Committee

STEWART L. KURTZ,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 3000. JUDGMENTS

Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 3135. Sheriff's deed to real property. Correc- tion of deed.

(a) When real property is sold in execution and no petition to set aside the sale has been filed, the sheriff, at the expiration of twenty days **but no later than 40 days** after either the filing of the schedule of distribution or the execution sale if no schedule of distribution need be filed, shall execute and acknowledge before the prothonotary a deed to the property sold. The sheriff shall forthwith deliver the deed to the appropriate officers for recording and for registry if required. Confirmation of the sale by the court shall not be required.

Official Note: See Rule 3136(a) governing the filing of the schedule of distribution.

(b) If the sheriff has made a defective return of the execution proceeding or has executed a defective deed, including the erroneous description of the real estate, the court upon petition of the purchaser or the purchaser's successors in title may correct the return or deed or order that a new return or deed be executed.

Explanatory Comment—2005

Prior to the present amendment, Rule 3135(a) governing execution sales provided in part that "the sheriff, at the expiration of 10 days after the filing of the schedule of distribution, shall execute and acknowledge before the prothonotary a deed to the property sold." There was a gap in the rule because Rule 3136(a) provides that a schedule of distribution need not be filed where the real property is sold to the plaintiff for costs only.

The amended rule eliminates this gap. Where a schedule of distribution is not required, the sheriff must execute and acknowledge the deed [**within twenty days of**] **no sooner than twenty days after** the date of the sale.

The rule has also been amended by increasing from ten to 20 days the time in which the sheriff must execute and acknowledge a deed in a sale as to which a schedule of distribution is required to be filed. The uniform 20-day period is therefore applicable in all cases and eliminates potential confusion.

Explanatory Comment

The Civil Procedural Rules Committee is proposing the amendment of Rule 3135 in two respects. First, current Rule 3135, which provides for the sheriff to execute a sheriff's deed only at the expiration of 20 days after either the filing of a schedule of distribution or the execution sale, is inconsistent with the 2005 explanatory comment, which advises that where a schedule of distribution is not required, the sheriff must execute and acknowledge the deed within 20 days of the date of the sale. The 2005 explanatory comment was incorrect in that if the sheriff were required to execute the deed within 20 days of the date of the sale where no schedule of distribution is required, there would be no time for the debtor to petition the court before the delivery of the sheriff's deed if the sheriff were to execute the deed immediately after the sale.

Second, Rule 3135 has been amended to provide a set time period within which the sheriff must execute the deed after either the filing of the schedule of distribution or the execution sale if no schedule of distribution is required. Current Rule 3135 only provides a minimum amount of time, that is, 20 days after the filing of the schedule of distribution or the execution sale if no schedule of distribution is required, after which the sheriff is authorized to execute the deed. It sets no future date by which the sheriff must have executed the deed. The proposed amendment establishes a 20 to 40 day window within which the sheriff must execute the deed after either the filing of the schedule of distribution or the sheriff's sale. This time period will ensure that a debtor has sufficient time to petition the court to set aside the sale under Rule 3132, while encouraging the timely execution of the deed by the sheriff.

[Pa.B. Doc. No. 10-99. Filed for public inspection January 15, 2010, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BERKS COUNTY

In Re: Administrative Order Amending Rule of Criminal Procedure 117; Prothonotary No. 09-116; Clerk of Courts No. CP-06-AD-000028-2009

Order

And Now, this 28th day of December, 2009, it is *Ordered* that Berks County Rule of Criminal Procedure 117 Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail is amended as follows. If is further *Ordered* that the

amended B.R.Crim.P. 117 shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

The District Court Administrator of Berks County is *Ordered* and *Directed* to provide copies to the appropriate entities pursuant to Pa.R.Crim.P. 105:

1. File one (1) certified copy of this Administrative Order and Local Rule with the Administrative Office of Pennsylvania Courts.

2. Distribute two (2) certified paper copies of this Administrative Order and Local Rule and one (1) computer diskette or CD-ROM containing this Order and Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish a copy of the Administrative Order and Local Rule on the Unified Judicial system's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

4. Keep continuously available for public inspection copies of the Administrative Order and Local Rule in the office of the Prothonotary or Clerk of Courts.

By the Court

JEFFREY L. SCHMEHL,
President Judge

BERKS COUNTY RULES OF CRIMINAL PROCEDURE

AVAILABILITY OF ISSUING AUTHORITIES

Rule 117. Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail.

A. All Magisterial District Judge Offices shall be open for business Mondays through Fridays, excluding legal holidays, from 9:00 AM to 5:00 PM unless a change to these business hours is approved by the President Judge. Magisterial District Judges shall be available during these hours for all court business.

B. Reading Central Court, a centralized preliminary hearing court designated as Magisterial District 23-0-02, shall be open every Friday beginning at 8:30 AM until preliminary hearings are completed, excluding legal holidays, in the Berks County Courthouse.

1. The Magisterial District Judge of Magisterial Districts 23-1-02, 23-1-03, 23-1-04, 23-1-05, 23-2-01 and 23-3-09 shall serve in Reading Central Court on a rotating basis in accordance with the schedule prepared by Special Courts Administration. If a Magisterial District Judge is unable to serve when scheduled for whatever reason, it shall be his/her responsibility to find a replacement and to notify Special Courts Administration.

C. The Berks County Central Arraignment Court (BCCAC), an after hours court designated as Magisterial District 23-0-01, shall be open Mondays through Fridays, 6:00 PM to 6:00 AM the following day, each Saturday 9:00 AM to Sunday 6:00 AM, each Sunday 9:00 AM to Monday 6:00 AM, and all legal holidays from 9:00 AM to 6:00 AM the following day.

1. All Magisterial District Judges and/or Senior Magisterial District Judges on temporary assignment in the Twenty-Third Judicial District shall be scheduled in the BCCAC in accordance with the schedule prepared by Special Courts Administration and approved by the President Judge.

2. A Magisterial District Judge or Senior Magisterial District Judge scheduled in the BCCAC shall be available to provide coverage for emergency petitions brought un-

der the Protection from Abuse Act or the Older Adult Protective Services Act, the issuance of search warrants pursuant to Pa.R.Crim.P. 203 and arrest warrants pursuant to Pa.R.Crim.P. 513, accepting bail, and providing the services required by Pa.R.Crim.P. 117(A)(2)(a), (b), (c), and (d). If a Magisterial District Judge is unable to serve when scheduled for whatever reason, it shall be his/her responsibility to find a replacement and to notify Special Courts Administration and the Communications Center.

D. All Magisterial District Judges shall be scheduled for countywide emergency duty in accordance with an emergency duty schedule prepared by Special Courts Administration and approved by the President Judge.

1. The Magisterial District Judge on emergency duty shall provide continuous coverage for the issuance of search warrants pursuant to Pa.R.Crim.P. 203 and arrest warrants pursuant to Pa.R.Crim.P. 513 when the Magisterial District Judge Offices and the Berks County Central Arraignment Court are closed. If a Magisterial District Judge is unable to serve when scheduled for whatever reason, it shall be his/her responsibility to find a replacement and to notify Special Courts Administration and the Communications Center.

E. Magisterial District Judges and the Clerk of Courts shall be authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

[Pa.B. Doc. No. 10-100. Filed for public inspection January 15, 2010, 9:00 a.m.]

LUZERNE COUNTY

In Re: Judge Michael T. Toole; Judicial Administration; Doc. No. 336

Order

Per Curiam:

And Now, this 30th day of December, 2009, upon consideration of the entry of a plea of guilty on December

29, 2009, in the United States District Court for the Middle District of Pennsylvania by Judge Michael T. Toole, of the Court of Common Pleas of Luzerne County, the Order of this Court dated December 3, 2009, is hereby amended and the salary and benefits of Judge Michael T. Toole are terminated.

JOHN A. VASKOV,
Deputy Prothonotary

[Pa.B. Doc. No. 10-101. Filed for public inspection January 15, 2010, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Irwin Jay Katz, having been suspended from the practice of law in the State of Delaware for a period of 3 months by Opinion and Order of the Supreme Court of the State of Delaware decided September 24, 2009, the Supreme Court of Pennsylvania issued an Order dated December 29, 2009, suspending Irwin Jay Katz from the practice of law in this Commonwealth for a period of 3 months, effective January 28, 2010. 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. 10-102. Filed for public inspection January 15, 2010, 9:00 a.m.]