

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 11]

Amendment of the Note to Rule 1114 of the Rules of Appellate Procedure; No. 208 Appellate Procedural Rules Doc.

Order

Per Curiam

And Now, this 4th day of February, 2011, upon the recommendation of the Appellate Court 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 efficient administration:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the Note to Pennsylvania Rule of Appellate Procedure 1114 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), shall be effective in 30 days, and shall be applicable to petitions filed thereafter.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

PETITION FOR ALLOWANCE OF APPEAL

Rule 1114. Considerations Governing Allowance of Appeal.

Except as prescribed in Rule 1101 (appeals as of right from the Commonwealth Court), review of a final order of the Superior Court or the Commonwealth Court is not a matter of right, but of sound judicial discretion, and an appeal will be allowed only when there are special and important reasons therefor.

Official Note: Based in part on U.S. Supreme Court Rule [19] 10. The following, while neither controlling nor fully measuring the discretion of the Supreme Court, indicate the character of the reasons which will be considered:

[(1) Where the appellate court below has decided a question of substance not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with applicable decisions of the Supreme Court of Pennsylvania or the Supreme Court of the United States.

(2) Where an appellate court has rendered a decision in conflict with the decision of the other appellate court below on the same question, or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by an administrative agency or lower court, as to call for an exercise of the power of supervision of the Supreme Court.

(3) Where the question involves an issue of immediate public importance such as would justify assumption of plenary jurisdiction under 42 Pa.C.S. § 726 (extraordinary jurisdiction).]

(1) the holding of the intermediate appellate court conflicts with another intermediate appellate court opinion;

(2) the holding of the intermediate appellate court conflicts with a holding of the Pennsylvania Supreme Court or the United States Supreme Court on the same legal question;

(3) the question presented is one of first impression;

(4) the question presented is of such substantial public importance as to require prompt and definitive resolution by the Pennsylvania Supreme Court;

(5) the issue involves the constitutionality of a statute of this Commonwealth;

(6) the intermediate appellate court has so far departed from accepted judicial practices or so abused its discretion as to call for the exercise of the Pennsylvania Supreme Court's supervisory authority; or

(7) an intermediate appellate court has erroneously entered an order quashing or dismissing an appeal.

Prior to the 2011 amendment to the Official Note to this Rule, the procedural mechanism to seek the Pennsylvania Supreme Court's review of an intermediate appellate court order quashing or dismissing an appeal was by petition for review. *See Vaccone v. Syken*, 587 Pa. 380, 382 n.2, 899 A.2d 1103, 1104 n.2 (2006). The current amendments now provide that such appeals should be pursued by the petition for allowance of appeal process. The 2011 amendment adds Reason (7) to the Official Note, which provides a basis for seeking review of intermediate appellate court quashals and dismissals through the Chapter 11 petition for allowance of appeal procedure, rather than the Chapter 15 petition for review procedure.

[Pa.B. Doc. No. 11-277. Filed for public inspection February 18, 2011, 9:00 a.m.]

PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 63]

Amendment of Section 5 of the Internal Operating Procedures of the Supreme Court; No. 515 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 4th day of February, 2011, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Section 5 of the Internal Operating Procedures of the Supreme Court is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), shall be effective in 30 days, and shall be applicable to petitions filed thereafter.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 63. INTERNAL OPERATING PROCEDURES OF THE SUPREME COURT

§ 63.5. Allocators.

A. *Standards.* Petitions for allowance of appeal (“allocators”) may be granted for any of the following reasons:

* * * * *

3. that the question presented is one of first impression[, and];

4. that the question presented is one of such substantial public importance as to require prompt and definitive resolution by this Court;

[4.] 5. that the issue involves the constitutionality of a statute of this Commonwealth;

[5.] 6. that the intermediate appellate court has so far departed from accepted judicial practices or so abused its discretion as to call for the exercise of this Court’s supervisory authority[.]; or

7. that the intermediate appellate court has erroneously entered an order quashing or dismissing an appeal.

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[Pa.B. Doc. No. 11-278. Filed for public inspection February 18, 2011, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SCHUYLKILL COUNTY

Administrative Order Juvenile Court Restitution Fund; No. AD-16-2011

Order of Court

And Now, this 31st day of January, at 8:30 a.m., it is hereby *Ordered* that Schuylkill County Administrative Order No. AD-16-2011, shall become effective thirty days after publication in the *Pennsylvania Bulletin*, establishing a Juvenile Court Restitution Fund as follows and the procedures established by this Administrative Order shall be utilized to govern the operation of the Juvenile Court Restitution Fund. Further, the Court Administrator is directed as follows:

(1) Seven (7) certified copies of this Administrative Order shall be filed with the Administrative Office of the Pennsylvania Courts;

(2) Two (2) certified copies of this Administrative Order and a diskette, CD-ROM, or electronic copy that complies with the requirements, shall be submitted to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(3) One (1) certified copy of this Administrative Order shall be filed with the Juvenile Court Procedural Rules Committee of the Supreme Court of Pennsylvania;

(4) One certified copy shall be sent to the Schuylkill County Law Library and the Editor of the *Schuylkill Legal Record* for publication.

(5) Keep continuously available for publishing, inspection and copying in the Office of the Clerk of Courts.

By the Court

WILLIAM E. BALDWIN,
President Judge

Administrative Order 2011.1; No. AD-16-2011

Order of Court

And Now, this 31st day of January, 2011, at 8:30a.m., it is hereby *Ordered* that the Schuylkill County Juvenile Court Restitution Fund be established as follows:

Authority

The statutory authority for the creation of the Fund may be found at 42 Pa.C.S.A. § 6352(a)(5).

Purpose of Fund

The purpose of the Fund is to provide a means whereby the Court may direct children under its supervision to pay a reasonable amount of money into a common fund, which is under the supervision of the Court, and which will be distributed in a fair and equitable manner to the victims of delinquent behaviors as defined in the Juvenile Act.

Guidelines

The Juvenile Justice Department shall establish and administer the Fund in accordance with guidelines promulgated by the President Judge.

Name

The name of the Fund shall be the “Schuylkill County Juvenile Court Restitution Fund.” For brevity, when referenced in orders, decrees, judgments or other legal or financial documents, the Fund may be referred to as the “JCR Fund.”

Eligibility

For the purpose of the Fund, eligibility will be defined as follows:

Eligible Benefactor—An eligible benefactor of the Fund is any child under the jurisdiction of the Schuylkill County Juvenile Justice Department on or after the effective start date of the Fund and whose disposition, as rendered by the Court or Juvenile Justice Department, requires the child to pay restitution to a victim of a delinquent act.

Eligible Recipient—An eligible recipient of the Fund is any person, business, organization, etc., including the Commonwealth Crime Victim Compensation Fund who has a legitimate restitution claim on file with the Schuylkill County Juvenile Justice Department after the effective start date of the Fund that is the result of the delinquent act(s) of an Eligible Benefactor.

Fund Revenue

On or after the effective date of the creation of the Fund, it will be supported financially in the following manner:

A. Monies that currently exist in the Schuylkill County Juvenile Justice "Costs and Fines" Fund will be transferred into the JCR Fund.

B. The Juvenile Justice Department shall assess a fee in the amount of \$75.00 payable to the JCR Fund to every child subject to delinquency proceedings whose case results in an Informal Adjustment.

C. The Juvenile Justice Department shall assess an additional fee in the amount of \$30.00 payable to the JCR Fund to every child whose case requires Court action to attain a final Disposition.

D. The Juvenile Justice Department shall assess a fee of \$100.00 payable to the JCR Fund to any individual requesting an expungement of his or her juvenile record.

E. Monies collected from a child whose case has been referred to the Juvenile Justice Department for nonpayment of fines and costs imposed by a magisterial district court shall be deposited in the JCR Fund.

F. The Court, at its discretion or upon the recommendation of the Juvenile Justice Department, will explore other sources of revenue payable to the fund as the same becomes available.

Fund Management

The Fund receipts and expenditures will be managed by the Juvenile Justice Department. Any and all funds received by the department that may be considered revenue for the Fund will be deposited into an account separate and apart from all other accounts managed by the Juvenile Justice Department. The purpose of this account will be to receive and disburse funds associated with the Fund. As of the date of creation of the Fund, the account(s) used by the Juvenile Justice Department shall require for disbursement the signatures of two of the following individuals: the Chief Juvenile Probation Officer, the Deputy Chief Juvenile Probation Officer, or a Supervisor.

Review Committee

The President Judge will establish a committee to review the requests made by the eligible benefactors requesting benefits from the Fund. The committee will be comprised of the following individuals:

Chief and Deputy Chief Juvenile Probation Officer
Victim Services Coordinator for Juvenile Court
The child's supervising Probation Officer

Fund Expenditures

Eligible benefactors of the Fund will be able to request assistance from the Fund in the following manner:

A. The Juvenile Justice Department will prepare an application form for eligible benefactors to utilize in order to request assistance from the Fund. The application form will include the following information:

1. Descriptive information about the child including name, DOB, type and length of supervision, and the child's ability to pay.

2. A report as to the child's overall performance while under supervision, including school (report cards and attendance), home and community behavior (summary citations), community service hours ordered and completed and the amount of restitution ordered and paid to date.

B. The review board committee will review the application and recommend the amount of expenditures to be made on behalf of the applicant.

C. The President Judge will authorize the amount to be expended from the fund and credited to the applicant's restitution account. The Juvenile Justice Department will then disburse payment to all the applicant's victims in a proportionate share.

Maximum Disbursement

The maximum amount that may be disbursed from the Fund on behalf of any single child per period of supervision by the Court or Juvenile Justice Department shall be the lesser of one thousand dollars (\$1,000.00) or fifty percent (50%) of the total restitution ordered by the Court to be paid by that child during a period of supervision.

Suspension of Activity

The Court or Chief Juvenile Probation Officer shall have the authority to suspend any and all activities associated with the Fund.

Audit

The Fund shall be subject to an audit by the Schuylkill County Controller on an annual calendar year basis.

Effective Date

The establishment of the Schuylkill County Juvenile Court Restitution Fund shall become effective thirty (30) days after publication of this order in the *Pennsylvania Bulletin*.

[Pa.B. Doc. No. 11-279. Filed for public inspection February 18, 2011, 9:00 a.m.]