

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Amendment to Rule 1915.11 of the Rules of Civil Procedure; No. 641 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 18th day of May, 2016, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been submitted without publication 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 Rule 1915.11 of the Pennsylvania Rules of Civil Procedure is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on July 1, 2016.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.11. Appointment of Attorney for Child. [**Interrogation**] **Interview** of Child. Attendance of Child at Hearing or Conference.

(a) The court may on its own motion, or the motion of a party, appoint an attorney to represent the child in the action. Counsel for the child shall represent the child's legal interests and zealously represent the child as any other client in an attorney-client relationship. Counsel for the child shall not perform the role of a guardian *ad litem* or best interests attorney. The court may assess the cost of the child's attorney upon the parties [**or any of them**] in such proportions as the court deems appropriate or as otherwise provided by law. The order appointing an attorney to represent the child shall be in substantially the form set forth in [**Rule**] Pa.R.C.P. No. 1915.19.

(b) The court may [**interrogate**] **interview** a child, whether or not the **child is the** subject of the action, in open court or in chambers. The [**interrogation**] **interview** shall be conducted in the presence of the attorneys and, if permitted by the court, the parties. The attorneys shall have the right to [**interrogate**] **interview** the child under the supervision of the court. The [**interrogation**] **interview** shall be part of the record.

* * * * *

[Pa.B. Doc. No. 16-944. Filed for public inspection June 3, 2016, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1915]

Amendment to Rule 1915.15 of the Rules of Civil Procedure; No. 642 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 18th day of May, 2016, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been submitted without publication 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 Rule 1915.15 of the Pennsylvania Rules of Civil Procedure is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on July 1, 2016.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Custody Order.

* * * * *

(b) A petition to modify a custody order shall be in substantially the following form:

(Caption)

PETITION FOR MODIFICATION OF A CUSTODY ORDER

1. Petitioner is _____ and resides at _____ .

2. Respondent is _____ and resides at _____ .

[1. The petition of _____] 3. Petitioner respectfully represents that on _____, 20__ an Order of Court was entered for (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody)[, a]. A true and correct copy of [which] the Order is attached.

[2.] 4. This Order should be modified because: _____

[3.] 5. Petitioner has attached the Criminal Record/Abuse History Verification form required pursuant to Pa.R.C.P. No. 1915.3-2.

WHEREFORE, Petitioner requests that the Court modify the existing Order because it will be in the best interest of the child(ren).

(Attorney for Petitioner) (Petitioner)

I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date

* * * * *

Petitioner

[Pa.B. Doc. No. 16-945. Filed for public inspection June 3, 2016, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Child Protective Services Law; No. 1 of 2016

Order

And now, this 12th day of May, 2016, upon consideration of the 2014 and 2015 amendments to the Pennsylvania State Child Protective Services Law which requires First Judicial District (“FJD”) employees, volunteers (interns), and job applicants whose employment or volunteer responsibilities include, as an integral component, the regular and repeated contact with children under the age of 18 in the course of providing care, supervision, guidance or control of the children to obtain criminal background checks and child abuse clearances from the FBI, Pennsylvania State Police, and Department of Human Services prior to December 31, 2015 and every 60 months thereafter, the Administrative Governing Board of the First Judicial District of Pennsylvania (“AGB”) has decided that effective immediately:

1) No individual under the age of 16 years of age shall be permitted to be employed in any capacity (full time or part time), or to serve as a volunteer or as an intern in the FJD, unless specifically approved in writing by the AGB.

2) FJD employees who supervise any employee, volunteer or intern who are between 16 and 18 years of age must notify the Office of Human Resources (“OHR”) via email as soon as they are assigned to supervise such minor employee, volunteer or intern. Any FJD employee who currently supervises such minors must notify OHR within ten (10) days of the distribution of this order to FJD employees.

3) Upon receipt of such notification, OHR must forthwith verify that the criminal background checks and child abuse clearances listed below have been submitted and that they are current. In the event such reports and clearances have not been submitted or are not current, OHR shall coordinate with the supervisor the following requests:

- a. Pennsylvania Child Abuse Clearance.
- b. Pennsylvania State Police Records Check.
- c. FBI Report (which requires submission of a full set of Fingerprints).

The cost for the above reports and clearances will be paid by the FJD.

The provisions of this Order do not apply to minors who attend FJD facilities for courtroom observations under the supervision of the minors’ school or other institution.

This Order shall be filed with the Office of Judicial Records in a Docket maintained for orders issued by the Administrative Governing Board of the First Judicial District of Pennsylvania, and shall be submitted to the *Pennsylvania Bulletin* for publication. Copies of the order shall be submitted to the Administrative Office of Pennsylvania Courts, American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and shall be posted on the website of the First Judicial District of Pennsylvania: <http://www.courts.phila.gov/regs>.

By the Court

HONORABLE SHEILA WOODS-SKIPPER,
*Chair, Administrative Governing Board
First Judicial District of Pennsylvania
President Judge, Court of Common Pleas
Philadelphia County*

[Pa.B. Doc. No. 16-946. Filed for public inspection June 3, 2016, 9:00 a.m.]

PHILADELPHIA COUNTY

Juvenile Lifers Sentenced Without the Possibility of Parole Program; General Court Regulation No. 1 of 2016

The United States Supreme Court held in *Miller v. Alabama*, 567 U.S. ___, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) that life without parole is an excessive sentence for children whose crimes reflect transient immaturity and violates the Eighth Amendment’s prohibition on “cruel and unusual punishments. While *Miller* does not foreclose a sentencing court’s ability to impose life without parole on a juvenile, it does require that the sentencing court consider a child’s “diminished culpability and heightened capacity for change” before condemning him or her to die in prison. The Court noted that a lifetime in prison is a disproportionate sentence for all but the rarest of children, those whose crimes reflect “irreparable corruption.”

In *Montgomery v. Louisiana*, ___, U.S. ___, 136 S.Ct. 718, 726 (as revised Jan. 27, 2016), the United States Supreme Court held that *Miller* had adopted a new substantive rule of constitutional law and that the federal Constitution requires state collateral review courts to give it retroactive effect to people condemned as juveniles to die in prison. The Court stated that *Miller* mandates a “hearing where ‘youth and its attendant characteristics’ are considered as sentencing factors is necessary to separate those juveniles who may be sentenced to life without parole from those who may not. The Court further noted that giving *Miller* retroactive effect does not require States to relitigate sentences in every case where a juvenile offender received mandatory life without parole. Rather, a State may remedy a *Miller* violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them.

The Court concluded by noting that minors sentenced to life without the possibility of parole “must be given the opportunity to show their crime did not reflect irreparable corruption; and, if it did not, their hope for some years of life outside prison walls must be restored.” *Montgomery*, at 136 S.Ct. 736-737.

The within General Court Regulation establishes the procedure which will be used to provide Juvenile Lifers

Sentenced Without the Possibility of Parole (“JLSWOP”) the opportunity to show that their crime did not reflect irreparable corruption and that they should be considered to be released on parole. Moreover, in light of the fact that cases eligible for this Program span decades and involved numerous trial judges who have retired, have been reassigned, and are otherwise unavailable, extraordinary circumstances exist which, in accordance with Pa.R.Crim.P. 700(A), justify the assignment of these cases as provided herein, to enable the Court to efficiently and expeditiously dispose of these cases.

The following procedures and protocol will be utilized in the disposition of cases assigned to the JLSWOP Program:

1. *PCRA Conference*: Cases to be processed under this Program shall be listed for a PCRA Conference (“JLSWOP Status”) before the Homicide Team Leader.

a. At the JLSWOP-Status hearing the parties shall be prepared to submit a concise statement of the case which shall include, the nature and extent of discovery sought, if any, legal issues, factual disputes, anticipated length of the resentencing hearing, number of witnesses anticipated, etc.

b. Counsel shall be prepared to identify any extraordinary factors impacting issuance of a JLSWOP Conference Order as more clearly set forth herein below.

2. *JLSWOP Conference Order*: Upon conclusion of the JLSWOP-Status hearing, the Homicide Team Leader shall issue a JLSWOP Conference Order, substantially in the form attached as Exhibit “A,” setting forth the date for the projected resentencing hearing. The JLSWOP Conference Order will also include deadlines for the submission of all relevant resentencing information and any questions of law.

a. *Event Types*. Based upon the nature and complexity of the case, the Homicide Team Leader, with input from the parties at the JLSWOP Status, shall assign the case to an event type. The JLSWOP Conference Order shall typically employ the following management event types:

i. *“JLSWOP Resentencing”*: Projected Resentencing Date within 120 days of the JLSWOP Status

ii. *“JLSWOP Hearing”*: Projected Resentencing Date more than 120 days of the JLSWOP Status

b. Cases should be designated JLSWOP Hearing only upon “good cause shown.” Any case so designated shall be assigned a Projected Resentencing date not greater than 240 days beyond the JLSWOP Status.

c. Any request for an extension of deadlines or event type changes as set forth in the JLSWOP Conference Order shall be upon motion which shall be decided by the Homicide Team Leader.

3. An en banc panel of Common Pleas judges is established to hear and decide all JLSWOP questions of law. Consistent with the U.S. Supreme Court’s directive in *Montgomery v. Louisiana* any interlocutory appeal of an Order issued by the en banc panel shall be immediately certified pursuant to 42 Pa.C.S. § 702. Decisions rendered by the en banc panel shall be binding on all trial courts of the First Judicial District and as such shall be considered the law of the case.

4. Until further order, the following assignments are made:

a. *En Banc panel*: The Honorable Lillian H. Ransom, Homicide Team Leader, the Honorable Barbara A. McDermott and the Honorable Jeffrey P. Minehart shall

comprise the En Banc panel of judges herein referenced. The Administrative Judge may from time to time designate other judges to comprise the en banc panel.

b. *Presiding Judges*: the Honorable Barbara A. McDermott or the Honorable Jeffrey P. Minehart shall be assigned as presiding judge in all contested resentencing hearings. The Administrative Judge may from time to time designate other judges to preside in contested resentencing hearings. Individual case assignments shall be made by the Homicide Team leader at the JLSWOP Status hearing.

c. Should negotiations result in a stipulation addressing all issues prior to the resentencing hearing, the case shall be slated forthwith for immediate disposition before the assigned presiding judge.

This General Court Regulation is issued in accordance with the April 11, 1986 order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1. As required by Pa.R.Crim.P. No. 105(D), this General Court Regulation has been submitted to the Supreme Court’s Criminal Procedural Rules Committee for review and written notification has been received from the Committee certifying that this General Court Regulation is not inconsistent with any general rule of the Supreme Court. This General Court Regulation shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Quarter Sessions and Clerk of Courts) in a docket maintained for Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.Crim.P. No. 105(E), two certified copies of this Order and a copy on a computer diskette, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* and will become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. As required by Pa.R.Crim.P. No. 105(F) one certified copy of this General Court Regulation shall be filed with the Administrative Office of Pennsylvania Courts and will also be published on the Unified Judicial System’s web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx> and posted on the First Judicial District’s website at <http://courts.phila.gov>. Copies shall be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE JACQUELINE F. ALLEN,
Administrative Judge, Trial Division
Court of Common Pleas, Philadelphia County

Exhibit “A”—JLSWOP CONFERENCE ORDER

**IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY**

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

TRIAL DIVISION-CRIMINAL

Caption : CPCMS Docket No.

**JUVENILE LIFERS SENTENCED WITHOUT THE
POSSIBILITY OF PAROLE PROGRAM CONFERENCE
ORDER**

AND NOW, this day of , 20___, upon consideration of the JLSWOP Status Conference hearing conducted this day, it is ORDERED that:

1. The deadlines and time standard adopted for the JLSWOP_____Event Type shall apply in this case and are incorporated herein. Any request for event type changes and deadline extensions must be submitted

by motion to the Homicide Team Leader who may only grant changes and extensions upon good cause shown.

2. Counsel shall identify any questions of law within thirty (30) days of this Order by written submission to the Homicide Team Leader.

3. The presiding judge assigned is the Honorable _____.

4. All relevant resentencing information shall be filed not later than _____ days prior to the resentencing hearing, i.e., _____.

5. Parties shall identify and submit Curriculum Vitae and any corresponding reports from all experts thirty (30) days prior to the resentencing hearing.

6. The projected date for the said resentencing hearing is _____. The anticipated length of resentencing hearing _____ day(s).

BY THE COURT

RANSOM, J.

[Pa.B. Doc. No. 16-947. Filed for public inspection June 3, 2016, 9:00 a.m.]
