

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 40]

Amendment of Rules 4001, 4002, 4004, 4007, 4008, 4012 and 4014 of the Rules of Judicial Administration; No. 498 Judicial Administration Doc.

Order

Per Curiam

And Now, this 25th day of May, 2018, it is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 4001, 4002, 4004, 4007, 4008, 4012 and 4014 of the Pennsylvania Rules of Judicial Administration are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2018.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 40. UNIFORM RULES GOVERNING COURT REPORTING AND TRANSCRIPTS

Rule 4001. Scope of Rules and Policy.

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(B) Because complete and verbatim notes of testimony and transcripts are integral to the official record of court proceedings, it is the policy of the Unified Judicial System to ensure that (1) qualified court reporting services are available in each judicial district and that court reporters are fairly compensated, (2) transcripts are timely produced and are affordable to all [**litigants**] **parties**, and (3) efficient technologies are employed to reduce litigation costs and conserve public resources.

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Rule 4002. Definitions.

Condensed transcript means a miniaturized copy of the original transcript printed in such a way as to place more than one page of transcript on a single sheet of paper.

Court Administrator means the Court Administrator of Pennsylvania.

Court recorder means an individual employed, contracted or utilized by a court to record testimony by electronic means (audio or audio-visual).

Court reporter means an individual employed, contracted or utilized by a court to record testimony whether through use of a stenotype machine, stenomask equipment, written symbols, or otherwise.

Court reporter's dictionary is a computer file that matches a court reporter's steno strokes with English text. A court reporter's [**personal**] dictionary is an essential part of a computer aided transcription (CAT) system.

Court reporting personnel includes court reporters, court recorders, transcriptionists and any [**other personnel**] **others** whether employed or contracted who make the court record for use in any Pennsylvania court.

Daily transcript means a transcript delivered within eighteen (18) hours of an official request, not including weekends or official court holidays. For the purposes of additional payment, a transcript is a daily transcript only if it is in fact delivered within the above time limit.

Digital audio files are those files created by digital recording systems and saved in a format that allows storage and playback through computer applications.

District Court Administrator means the County Court Administrator.

Electronic transcript means [**an official**] a transcript delivered in an electronic, non-paper medium.

Expedited transcript means a transcript delivered within seventy-two (72) hours of an official request, not including weekends or official court holidays. For the purposes of additional payment, a transcript is an expedited transcript only if it is in fact delivered within the above time limit.

Filing office refers to an office without regard to title that has the responsibility and function in each judicial district to maintain the official dockets and case files of the court.

Notes of testimony means the official recording of an oral proceeding made whether through use of an electronic device, stenomask equipment, stenotype machine, written symbols, or otherwise; and includes the dictionary, media storage files, and other documentation needed to prepare a transcript.

Ordinary transcript means a transcript necessary for an appeal or to otherwise advance litigation and required under a time frame set by a Pennsylvania Rule of Court regarding the delivery of court transcripts or by court order. An example of a non-ordinary transcript is one requested by a [**litigant**] **party** when no matters are open before the court or where the transcript is ordered by a [**third party**] **non-party**.

Original transcript means the transcript prepared and certified by the court reporter for filing with the court.

President Judge means the president judge in each judicial district, his or her designee, or any judicial officer recognized by the Court Administrator as having administrative authority.

[*Rough draft transcript (computer diskette, hard paper copy, or electronically distributed) is an unedited and uncertified transcript that may contain untranslated or mistranslated stenotype symbols. This also includes notes that appear on paper, unedited electronic data, tapes or other media in the original state in which they existed when they were taken at the time of testimony.*]

Same day delivery means transcripts delivered within 6 hours of the close of the court session, divided by morning and afternoon with the line of demarcation being lunch or mid-day recess.

Transcript means a certified, written, verbatim record of a proceeding.

Transcriptionist means any person employed, contracted or utilized by a court to prepare a transcript of a

proceeding from an electronic or other recording. A court recorder and a court reporter may also serve as a transcriptionist.

Rule 4004. Qualifications of Court Reporters and Court Recorders.

(A) No person shall be employed or utilized by a court as a court reporter or court recorder unless approved by the president judge or his or her designee as meeting the minimum criteria set forth in subdivision (B)(1), (B)(2), or (C) except:

* * * * *

(B) The minimum criteria for qualification of a court reporter, for both stenographic and voice writing, are the following:

* * * * *

(2) voice writing requirements: the court reporter is capable of recording proceedings at a 95% accuracy level at the following speeds:

- (a) literary at [200] 180 w.p.m.
- (b) jury charge at [225] 200 w.p.m.
- (c) two-voice question and answer at [250] 225 w.p.m.

* * * * *

(E) Any person **employed or utilized by a court as a court reporter or court recorder** who fails to meet the minimum criteria at the time of requalification shall be given six months to comply. Anyone who fails to comply with this subdivision shall be prohibited from **further** serving as a court reporter or court recorder **if not requalified by the end of the six-month period.**

Rule 4007. Requests for Transcripts.

(A) All requests for transcripts shall be set forth on a standardized form provided by the Court Administrator **or a form prepared by the judicial district and approved by the Court Administrator.** The form shall indicate the current rates authorized to be charged for transcripts under these rules.

(B) For an ordinary transcript, the party requesting a full or partial transcript of a trial or other proceeding shall file the original request with the district court administrator or other appropriate filing office of the court. The requesting party shall also serve copies of the formal request to:

- (1) the judge presiding over the matter;
- (2) the court reporter, court recorder or transcriptionist;
- (3) the district court administrator or his or her designee (if not filed with the district court administrator); and
- (4) opposing counsel, but if not represented, the opposing party.

The provisions of subsection (B) do not apply to requests by the Judicial Conduct Board.

(C) In courts where daily, expedited, [same day or rough draft] or same day transcripts are available, requests for these transcripts shall be [filed in writing in the appropriate filing office at least 10 days prior to the proceeding] **made as provided for in local rule. [Copies of the written request shall be delivered as required by subsection (B).]** In the

event of an emergency, a party may request by oral motion a daily, expedited, or [rough draft] **same day** transcript.

(D) When a [litigant] party requests a transcript,

(1) the [litigant] party ordering a transcript shall make partial payment in an amount established by local rule. Deposit checks are to be made payable to the judicial district or county, as set by local rule, and shall be delivered to the district court administrator or other court designee.

(2) the court reporter or transcriptionist shall prepare the transcript upon direction of the court's designee.

(3) the court reporter, court recorder or transcriptionist shall notify the ordering party and the court's designee of the completion of the transcript and deliver a copy of the transcript to the judge presiding over the matter. **[Checks for the final balance are to be made payable to the judicial district or county.]**

(4) upon payment of any balance owed, the court reporter, court recorder or transcriptionist shall deliver the original transcript to the appropriate filing office and copies to the parties. Checks for the final balance are to be made payable to the judicial district or county, as set by local rule, and shall be delivered to the district court administrator or other court designee.

(E) When a [litigant] party requests a transcript, but cannot pay for the transcript because of alleged economic hardship, the court shall determine economic hardship pursuant to the procedure set forth in Rule 4008(B). In cases of economic hardship, where the matter is under appeal or a transcript is necessary to advance the litigation, the costs of procuring the transcript shall be waived or otherwise adjusted by the court. In cases of economic hardship where there is no appeal pending or there exists no obvious need for the transcript to advance the litigation, the requesting party must demonstrate reasonable need before the court shall waive or adjust the cost of obtaining the transcript.

(F) When a transcript is requested for which the court or county is responsible for the cost, the court reporter, court recorder or transcriptionist shall prepare the transcript without the necessity of a deposit.

Comment

Nothing in this rule prevents a local court from adopting an electronic filing request procedure provided the request is effectively communicated to the listed persons.

Within the framework of these rules, the particular methods and logistics for receiving and accounting for costs [is] **shall be** left to the discretion of the president judge and district court administration. Note, however, that deposit checks and final payment checks are to be made payable to the judicial district or county, not to the individual court reporter or transcriptionist preparing the transcript.

It is anticipated that court reporters shall continue to be compensated for the preparation of transcripts pursuant to local rule or practice. It is not contemplated that this rule shall interfere with or otherwise limit the income of court reporters. In this regard, the Committee recognizes that in certain jurisdictions, court reporters earn a substantial portion of their income through the preparation of transcripts. It shall remain the duty of the president judge and district court administrator to assure that the implementation of these rules does not unfairly

limit the ability of court reporters to be properly compensated for their professional services.

The rule also recognizes that unreasonable demands for free or reduced-cost transcripts can result in a significant economic burden on the court system; for this reason, the rule attempts to distinguish necessary and nonessential requests.

Requests for transcripts of sentencing hearings required by law under 42 Pa.C.S.A. § 9764(b)(5)(ii) are not subject to the transcript request provisions of this Rule.

Rule 4008. Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof.

(A) *Costs*

(1) The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for [a] **an original** transcript in an electronic format shall not exceed:

(a) **[for an ordinary transcript] for a transcript for which an accelerated delivery is not requested,** \$2.50 per page;

(b) for an expedited transcript, \$3.50 per page;

(c) for a daily transcript, \$4.50 per page; and

(d) for same day delivery, \$6.50 per page.

(2) When the transcript is prepared in bound paper format, the costs shall be in accordance with paragraph (1) relating to electronic format plus a surcharge of \$0.25 per page.

Comment

[The rules encourage the use of electronic transcripts which will result in reduced costs for preparing and distributing transcripts. No-cost, user-friendly software is available for converting text files into PDF format (see Rule 4010(B)). Unlike paper transcripts, electronic transcripts can offer features such as keyword searches, copy and paste functions, and speedy transmission. Moreover, the ability to store transcripts and reporters' notes on disks and networks should greatly reduce the courts' storage costs. Electronic systems support the business trend of moving toward paperless operations and also respond to ecological concerns by reducing paper waste.]

The first requestor of a transcript is obligated to pay for the original transcript, which is filed with the court, plus the copy rate if the requestor desires a personal copy (subject to any cost sharing with additional parties.)

Many [attorneys/litigants] attorneys/parties prefer to read paper transcripts, including condensed transcripts, and these rules do not inhibit the practice. However, when a condensed paper transcript is ordered by a party, the surcharge of \$0.25 per page in Rule 4008(A)(2) shall refer to \$0.25 per sheet of paper, regardless of the number of pages of transcript on the sheet.

There is no entitlement to expedited, daily, or same day delivery of transcripts. Those services are only available where provided by the judicial district and when the court reporter has that capability.

(B) *Economic hardship—minimum standards*

(1) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be waived for a [**litigant**] **party** who has been permitted by the court to proceed *in forma pauperis* or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

(2) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by one-half for a [**litigant**] **party** whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.

(3) Transcript costs for ordinary transcripts in matters that are not subject to an appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily, [**rough draft**] or same day transcripts may be waived at the court's discretion for parties who qualify for economic hardship under subdivision (B)(1) or (B)(2) and upon good cause shown.

(4) The application to waive all or a portion of costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure.

Comment

Transcript costs can be quite expensive. By establishing minimum standards, subdivision (B) is intended to ensure that costs do not effectively deny access to the court system to impoverished persons and persons of limited financial means when further proceedings necessitate a transcript. The rule also recognizes that unreasonable demands for free or reduced-cost transcripts can result in a significant economic burden on the court system; for this reason, the rule attempts to distinguish necessary and nonessential requests. Procedures for waiving or reducing transcripts costs must be published by the court and clearly communicated to [**litigants**] **parties**.

[**Litigants**] **Parties** who have been approved for representation by legal aid services are not required to prove economic hardship. Legal aid clients shall be entitled to obtain ordinary transcripts for no cost.

(C) *Assignment and allocation of transcript costs*

(1) *Assignment of costs.* The requesting party[,] or **the** party required by general rule to file a transcript[,] shall be responsible for the cost of the **original** transcript. Costs shall not be assessed against any party for transcripts prepared at the initiation of the court.

(2) *Allocation of costs.* [**When more than one party requests the transcript, or are required by general rule to file the transcript, the cost shall be divided equally among the parties.**] **When more than one party is to receive the transcript, or is required by general rule to file the transcript, the cost of the original transcript shall be divided equitably among the parties, taking into account any reduced fee or free transcripts.**

Comment

It is the intent of this provision that all parties who receive a transcript should share equitably in the costs. If two parties receive the transcript, they would each pay their share of the cost of the

original transcript that is filed with the court, with each party paying for their copy. In cases where a party qualifies for a free or reduced price transcript, any other party paying full price pays only their proportionate share of the full price, with the judicial district absorbing the cost of the free or reduced price transcript.

(D) *Copies of transcript*

(1) A request for a copy of any transcript previously ordered, transcribed and filed of record shall **[be provided according to the following schedule] not exceed:**

[(1)] (a) \$0.75 per page bound, paper format; and,

[(2)] (b) \$0.50 per page electronic copy.

(2) A request for a copy of an expedited transcript shall not exceed:

(a) **\$1.00 per page bound, paper format; and,**

(b) **\$0.75 per page electronic copy.**

(3) A request for a copy of a daily transcript shall not exceed:

(a) **\$1.25 per page bound, paper format; and,**

(b) **\$1.00 per page electronic copy.**

(4) A request for a copy of a same day transcript shall not exceed:

(a) **\$1.50 per page bound, paper format; and,**

(b) **\$1.25 per page electronic copy.**

Comment

With respect to a non-party (i.e., general public) request for a **[photocopy] copy** of a transcript, Rule 4007(D)(4) anticipates that the filing offices of the judicial district are the proper custodians of court case records and transcripts. Rule **[4008(D)] 4008(D)(1)** provides that the cost charged to the public for a transcript copy that has been filed of record shall not exceed \$0.75 per page, regardless of the form or location in which the transcript is filed or stored. **The copy rates in Rule 4008(D)(2), (3), and (4) reflect the additional work necessary to deliver a transcript on an expedited schedule, but once the original transcript is filed with the appropriate filing office, the copy rate in (D)(1) is to apply.**

(E) *Additional Costs*

No transcript or related costs may be charged to the parties or the public other than those listed in subdivisions (A), (B) and (D) without the written approval of the Court Administrator, except that a judicial district may enact a local rule that permits a trial judge to impose a reasonable surcharge in cases such as mass tort, medical malpractice or other unusually complex litigation, where there is a need for **[court reporters to significantly expand their dictionary] a court reporter to significantly expand his/her dictionary.**

Comment

Pursuant to local rule, a reasonable fee may be charged for a secure electronic feed which instantaneously delivers the translated notes from the court reporter to a laptop, tablet, phone, or other portable electronic device via cable, wifi, router, or Bluetooth to parties, the media, or other interested individuals. There shall be no fee charged to the court for such a connection.

(F) *Requests for Rate Increases*

The president judge of a judicial district may request an increase in the rates prescribed in subdivision (A) or (D) by submitting a written request to the Committee on Court Reporting and Transcripts. The request shall only be approved where it is established that the judicial district faces an economic hardship caused by the current rates and that the requested rates are reasonable. If the Committee approves the request by majority vote, it shall be forwarded to the Court Administrator for review. If the Court Administrator determines that the increase is necessary, the request shall be forwarded to the Supreme Court.

Comment

These rules do not supersede any existing Pennsylvania Rule of Court regarding the delivery of court transcripts. If there appears to be a conflict with an existing Pennsylvania Rule of Court, such rule remains in full force and effect. However, if there appears to be a conflict with any local rule of court for the delivery of transcripts, these rules take precedence.

Rule 4012. Sanctions for Delayed Transcript.

(A) The president judge may take disciplinary action against any court reporter, court recorder, or transcriptionist where noncompliance with these Rules impedes the prompt administration of justice, whether by protracted delinquency in a single case or by engaging in a pattern of delinquency in a number of cases.

(B) The Court Administrator shall notify the Supreme Court of Pennsylvania of instances of unreasonable delay in preparing transcripts. The Court Administrator may recommend imposition of sanctions, including disqualification of individual court reporters, **court recorders** or transcriptionists.

(C) The president judge shall ensure that the number, proficiency and organization of court reporting personnel in any district are adequate to support the full and unrestricted operation of the **[courts] court**. When transcript delay is caused by an insufficient supply of qualified court reporters or other **[staff]** resources, or inefficient management of the court reporting operation, the Supreme Court may direct the president judge to take immediate corrective actions.

(D) An appellate court may enter an order to compel the preparation, filing and transmission of the transcript and may take disciplinary action including contempt of court or reduction of fees when the failure of a court reporter, court recorder, or transcriptionist to complete the transcript within the time imposed by these rules or by court order, delays transmission of the complete record to the appellate court.

Rule 4014. Redaction of Personal Data Identifiers.

(A) On its own motion, or upon motion of any party, the court may order the court reporter, **court recorder**, or transcriptionist preparing the transcript to redact confidential, personal and/or financial data and other identifiers **and any information listed in Section 7.0 of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.**

(B) Information that is redacted shall, unless otherwise directed by the court, appear in transcripts that are provided to the court and to the parties, but not in any transcript filed in the appropriate filing office or provided

to any other requestor. **The unredacted version of the transcript shall be filed under seal in the appropriate filing office.**

[Pa.B. Doc. No. 18-881. Filed for public inspection June 8, 2018, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 4 AND 6]

Order Adopting Rule 415 and Amending Rule 620 of the Rules of Juvenile Court Procedure; No. 769 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 23rd day of May, 2018, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 47 Pa.B. 942 (February 18, 2017):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Juvenile Court Procedure 415 is adopted and Pennsylvania Rule of Juvenile Court Procedure 620 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 October 1, 2018.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 4. ADJUDICATORY HEARING

(*Editor's Note:* The following rule is added and printed in regular type to enhance readability.)

Rule 415. Challenge to the Weight of the Evidence.

A. *Timing and Manner.* A claim that a ruling on the offense or an adjudication of delinquency was against the weight of the evidence shall be raised with the juvenile court judge:

- 1) by oral motion, on the record, at any time after the ruling or adjudication and before disposition;
- 2) by written motion at any time after the ruling or adjudication and before disposition; or
- 3) in a post-dispositional motion pursuant to Rule 620(A)(1).

B. *Decision.* If the claim is raised before disposition:

- 1) the judge shall decide the motion before entering disposition and shall not extend the date for disposition or otherwise unduly delay the disposition hearing in order to dispose of the motion; and
- 2) the claim shall be preserved for appeal.

C. *Appeal.* An appeal of a decision shall be governed by the timing requirements of Rule 620(B)(2) or (3), whichever applies.

Comment

The purpose of this rule is to make it clear that a challenge to the weight of the evidence must be raised with the juvenile court judge or it will be waived. *See also In re J.B.*, 106 A.3d 76, 95 (Pa. 2014) (claim cannot be raised via closing argument). When a claim is raised pursuant to paragraph (A)(1) or (A)(2), it need not be raised again in a post-dispositional motion to preserve the claim for appeal.

Official Note: Rule 415 adopted May 23, 2018, effective October 1, 2018.

Committee Explanatory Reports:

Final Report explaining the adoption of Rule 415 published with the Court's Order at 48 Pa.B. 3407 (June 9, 2018).

CHAPTER 6. POST-DISPOSITIONAL PROCEDURES

PART C. MOTIONS AND NUNC PRO TUNC RELIEF

Rule 620. Post-Dispositional Motions.

A. *Optional Post-Dispositional Motion.*

1) [**The parties**] **A party** shall have the right to [**make**] **file** a post-dispositional motion. All requests for relief from the court shall be stated with specificity [**and particularity,**] and shall be consolidated in the post-dispositional motion.

2) [**Issues**] **Claims properly** raised before or during the adjudicatory hearing shall be deemed **issues** preserved for appeal whether or not the party elects to file a post-dispositional motion on those [**issues**] **claims.**

B. *Timing.*

[1) If a post-dispositional motion is filed, it shall be filed no later than ten days after the imposition of disposition.

2) If a timely post-dispositional motion is filed, the notice of appeal shall be filed:

a) **within thirty days of the entry of the order deciding the motion;**

b) **within thirty days of the entry of the order denying the motion by operation of law in cases in which the judge fails to decide the motion; or**

c) **within thirty days of the entry of the order memorializing the withdrawal in cases in which a party withdraws the motion.**

3) **If a post-dispositional motion is not timely filed, a notice of appeal shall be filed within thirty days of the imposition of disposition.]**

1) If a post-dispositional motion is filed, it shall be filed within ten days of the date of entry of the dispositional order.

2) If a timely post-dispositional motion is filed, the notice of appeal shall be filed within thirty days of the date of entry of the post-dispositional order:

a) deciding the motion;

b) denying the motion by operation of law in a case when the judge fails to decide the motion; or

c) memorializing the withdrawal in a case when a party withdraws the motion.

3) If a post-dispositional motion is not timely filed, a notice of appeal shall be filed within thirty days of the date of entry of the dispositional order.

C. Court Action.

1) *Briefing Schedule and Argument.* Within ten days of the filing of the post-dispositional motion, the court shall:

a) determine if briefs, memoranda of law, or oral arguments are required; and

b) set [**a**] **the** briefing schedule and dates for oral argument, if necessary.

2) *Failure to Set Schedule.* If the court fails to act according to paragraph (C)(1), briefs and oral arguments are deemed unnecessary.

3) *Transcript.* If the grounds asserted in the post-dispositional motion do not require a transcript, neither the briefs nor arguments [**on**] **concerning** the post-dispositional motion shall be delayed for transcript preparation.

D. Time [Limits] Limitations for Decision on Motion. The judge shall not vacate **the** disposition pending the decision on the post-dispositional motion, but shall decide the motion as provided in this paragraph.

1) Except as provided in paragraph (D)(2), the judge shall decide the post-dispositional motion as soon as possible but within thirty days of the filing of the motion. If the judge fails to decide the motion within thirty days, or to grant an extension as provided in paragraph (D)(2), the motion shall be deemed denied by operation of law.

2) Upon motion of a party [**within the 30-day disposition period, for good cause shown, the judge may grant one 30-day extension for decision on**] **and good cause shown, prior to the expiration of the 30-day decision period of paragraph (D)(1), the judge may grant one 30-day extension to decide** the motion. If the judge fails to decide the motion within the 30-day extension period, the motion shall be deemed denied by operation of law.

3) When a post-dispositional motion is denied by operation of law, the clerk of courts shall forthwith enter an order on behalf of the court [**, and, as provided pursuant to Rule 167,]. Pursuant to Rule 167, the clerk of courts** shall serve a copy of the order [**on**] **upon** each attorney and the juvenile, if unrepresented, that **states** the post-dispositional motion is deemed denied. This order is not subject to reconsideration.

4) If the judge denies the post-dispositional motion, the judge promptly shall issue an order [**and the**]. **The** order shall be filed and served as provided in Rule 167.

5) If a party withdraws a post-dispositional motion, the judge promptly shall issue an order memorializing the withdrawal [**and the**]. **The** order shall be filed and served as provided in Rule 167.

E. Contents of [order] Order. An order denying a post-dispositional motion [**, whether issued by the judge pursuant to paragraph (D)(4) or entered by the clerk of courts pursuant to paragraph (D)(3),**] or an order issued following a party's withdrawal of the post-dispositional motion pursuant to paragraph (D)(5), shall include notice to the party of the following:

1) the right to appeal;

[**2) the time limits within which the appeal shall be filed; and**

3) the right to counsel in the preparation of the appeal.]

2) the time limitations for filing the appeal; and

3) the right to counsel for the appellate process.

F. [After-discovered evidence.] After-Discovered Evidence. A motion for a new [**adjudication**] **adjudicatory hearing** on the grounds of after-discovered evidence shall be filed in writing promptly after such discovery. If an appeal is pending, the judge may grant the motion only upon remand of the case.

Comment

[**The purpose of this rule is to promote the fair and prompt resolution of all issues relating to admissions, adjudication, and disposition by consolidating all possible motions to be submitted for court review, and by setting reasonable but firm time limits within which the motion is to be decided. Because the post-dispositional motion is optional, a party may choose to raise any or all properly preserved issues in the trial court, in the appellate court, or both.**

For the definition of "disposition," see Rule 120 and its Comment.

OPTIONAL POST-DISPOSITIONAL MOTION

See *In re Brandon Smith*, 393 Pa. Super. 39, 573 A.2d 1077 (1990), for motions on ineffective assistance of counsel.

Under paragraph (A)(2), any issue raised before or during adjudication is deemed preserved for appeal whether a party chooses to raise the issue in a post-dispositional motion. It follows that the failure to brief or argue an issue in the post-dispositional motion would not waive that issue on appeal as long as the issue was properly preserved, in the first instance, before or during adjudication. Nothing in this rule, however, is intended to address Pa.R.A.P. 1925(b) or the preservation of appellate issues once an appeal is filed. See *Commonwealth v. Lord*, 553 Pa. 415, 719 A.2d 306 (1998) (any issues not raised in a 1925(b) statement will be deemed waived).

Under paragraph (B)(1), if a party chooses to file a post-dispositional motion, the motion is to be filed within ten days of imposition of disposition. The filing of the written post-dispositional motion triggers the time limits for decision on the motion. See paragraph (D)(1).

TIMING

Paragraph (B) contains the timing requirements for filing the optional post-dispositional motion and taking an appeal. Under paragraph (B)(1), the post-dispositional motion is to be filed within ten days of imposition of disposition. Supplemental motions may be filed but the time requirements of paragraph (B)(1) are to be followed.

When a party files a timely post-dispositional motion, the 30-day period for the juvenile's direct appeal on all matters in that case is triggered by the judge's decision on the post-dispositional motion, the denial of the motion by operation of law,

or the withdrawal of the post-dispositional motion. The appeal period runs from the entry of the order. As to the date of entry of orders, see Pa.R.A.P. 108. No direct appeal may be taken by the party while the post-dispositional motion is pending. See paragraph (B)(2).

If no timely post-dispositional motion is filed, the party's appeal period runs from the date disposition is imposed. See paragraph (B)(3).]

For the definition of "disposition," see Rule 120 and its Comment.

When properly raised before or during a hearing, a claim will be deemed preserved for appeal and the party need not file a post-dispositional motion solely for the purpose of preservation. To raise a claim that a ruling on the offense or an adjudication of delinquency was against the weight of the evidence, see Rule 415. Nothing in this rule is intended to address Pa.R.A.P. 1925(b) or the possible waiver of appellate issues for non-compliance with the Pennsylvania Rules of Appellate Procedure once an appeal is filed. See, e.g., *Commonwealth v. Lord*, 719 A.2d 306 (Pa. 1998) (any issues not raised in a 1925(b) statement will be deemed waived).

See Rule 622 and *In re Brandon Smith*, 573 A.2d 1077 (Pa. Super. 1990), for motions concerning ineffective assistance of counsel.

TIMING

Supplemental post-dispositional motions may be filed, but the time requirements of paragraph (B)(1) are to be followed.

For the date of entry of an order, see Pa.R.A.P. 108(a)(1) ("[T]he day of entry shall be the day the clerk of the court... mails or delivers copies of the order to the parties...").

BRIEFS; TRANSCRIPTS; ARGUMENT

Under paragraph (C)(1), the judge should determine, on a case-by-case basis, whether briefs, memoranda of law, or arguments are required for a fair resolution of the post-dispositional motion. [**If they are not needed, or if**] The judge may order that a concise summary of the relevant law and facts is sufficient[, **the judge should so order**]. [**Any local rules requiring briefs or oral argument are inconsistent with this rule. See Rule 121(E).**] Any local rule requiring briefs or oral argument in every case is inconsistent with this rule. See Pa.R.J.A. No. 103(d)(2).

Under paragraph (C)(3), the judge, in consultation with the attorneys, should determine what, if any, portions of the notes of testimony are to be transcribed so that the post-dispositional motion can be resolved. The judge should then set clear deadlines for the court reporter to [**insure**] **ensure** timely resolution of the motion. Nothing in this rule precludes the judge from ordering the [**transcript**] **transcription of the notes of testimony** or portions of it immediately after the conclusion of the adjudicatory, **dispositional, or revocation** hearing or the entry of an admission.

For the recording and transcribing of court proceedings generally, see [**Rule 127**] **Pa.R.J.A. Nos. 4001—4016**. The requirements for the record and the writing of an

opinion [**on**] **for an** appeal are set forth in the Pennsylvania Rules of Appellate Procedure.

There is no requirement that oral argument be [**heard on**] **held for** every post-dispositional motion. When oral argument is [**heard on**] **held concerning** the post-dispositional motion, the juvenile need not be present.

DISPOSITION

Under paragraph (D), [**once a party makes a timely written post-dispositional motion, the judge retains jurisdiction for the duration of the disposition period. The**] the judge may not vacate the order imposing the disposition pending decision on the post-dispositional motion. However, the judge may vacate or change the disposition once there has been a decision on the motion if the motion was decided within the time limitations of this rule.

Paragraph (D)(2) permits one 30-day extension of the 30-day time [**limit, for good cause shown, upon motion of a party**] **limitation upon motion of a party and good cause shown**. In most cases, an extension would be requested and granted when new counsel has entered the case. Only a party may request such an extension. The judge may not, *sua sponte*, extend the time for the decision: a congested court calendar or other judicial delay does not constitute "good cause" under this rule.

The possibility of an extension is not intended to suggest that thirty days are required for a decision in most cases. The time [**limits**] **limitations** for resolution of the post-dispositional motion are the outer limits. [**Easily resolvable**] **Uncomplicated** issues, such as a modification of the disposition or an admission challenge, **ordinarily** should [**ordinarily**] be decided in a much shorter [**period of time**] **time period**.

If the judge decides the motion within the time [**limits**] **limitations** of this rule, the judge may grant reconsideration on the post-dispositional motion pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701(b)(3), but the judge may not vacate the disposition pending reconsideration. The reconsideration period may not be used to extend the timing requirements set forth in paragraph (D) for decision [**on the post-dispositional motion: the time limits**] **of the post-dispositional motion. The time limitations** imposed by paragraphs (D)(1) and (D)(2) continue to run from the date the post-dispositional motion was originally filed. The judge's reconsideration, therefore, is to be resolved within the 30-day decision period of paragraph (D)(1) or the 30-day extension period of paragraph (D)(2), whichever applies. If a decision on the reconsideration is not reached within the appropriate period, the post-dispositional motion, including any issues raised for reconsideration, will be denied pursuant to paragraph (D)(3).

Under paragraph (D)(1), on the date when the court [**disposes of**] **decides** the motion, or the date when the motion is denied by operation of law **pursuant to paragraph (D)(3)**, the judgment becomes final for the purposes of appeal. See [**Judicial Code**,] 42 Pa.C.S. §§ 102, 722, 742, 5105(a), **Pa.R.A.P. 341**, and *Commonwealth v. Bolden*, [**472 Pa. 602**,] 373 A.2d 90 (**Pa. 1977**). [**See Pa.R.A.P. 341.**]

An order entered by the clerk of courts under paragraph (D)(3) constitutes a ministerial order and[, as such,] is not subject to reconsideration or modification pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701.

If the motion is denied by operation of law, paragraph (D)(3) requires that the clerk of courts enter an order denying the motion on behalf of the court and immediately notify the attorneys, or the juvenile, if unrepresented, that the motion has been denied. This notice is intended to protect the party's right to appeal. The clerk of courts also is to comply with the filing, service, and docket entry requirements of Rule 167.

CONTENTS OF ORDER

Paragraph (E) protects a party's right to appeal by requiring that the judge's order denying the motion, the clerk of courts' order denying the motion by operation of law, or the order entered memorializing a party's withdrawal of a post-dispositional motion, contain a written notice of the party's [appeal] appellate rights. This requirement ensures adequate notice to the party, which is important given the potential time lapse between the notice provided at [disposition] the dispositional hearing and the resolution of the post-dispositional motion. See also *Commonwealth v. Miller*, 715 A.2d 1203 (Pa. Super. [Ct.] 1998), concerning the contents of the order memorializing the withdrawal of a post-dispositional motion.

When a party withdraws a post-dispositional motion in open court and on the record, the judge should [orally] enter an oral order memorializing the withdrawal [for the record, and]. The judge is to give the party notice of the information required by paragraph (E). See *Commonwealth v. Miller*, supra.

AFTER-DISCOVERED EVIDENCE

Pursuant to paragraph (F), a motion for a new adjudicatory hearing on the grounds of after-discovered evidence may be filed with the court. If the motion is filed, it is to be in writing after such discovery is made if there is no appeal pending. See Rule 622 for filing a motion for nunc pro tunc relief. If an appeal is pending, the judge may grant the motion only upon remand of the case.

If there is after-discovered evidence concerning the dispositional hearing, a motion for a change in the dispositional order may be filed with the court. The motion may allege a need for a change in the dispositional order pursuant to Rule 610(B). If this motion is made, notice and an opportunity to be heard is to be given to the parties and the victim. See Rule 610(B) and 42 Pa.C.S. § 6353.

MISCELLANEOUS

Under paragraph (A)(1), the grounds for the post-dispositional motion should be stated with [particularity] specificity. Motions alleging insufficient evidence, for example, are to specify [in what way] the reasons why the evidence was insufficient, and motions alleging that the court's findings were against the weight of the evidence are to specify why the findings were against the weight of the evidence.

[Because the post-dispositional motion is optional, the failure to raise an issue with sufficient particularity in the post-dispositional motion will not constitute a waiver of the issue on appeal as long as the issue was preserved before or during adjudication.] Because the post-dispositional motion is optional, the failure to raise a claim with specificity in the post-dispositional motion will not constitute a waiver of the issue on appeal if the claim was properly raised. See paragraph (A)(2).

[Issues] Claims properly preserved at the dispositional hearing need not, but may, be raised again in a motion to modify disposition in order to preserve them for appeal. In deciding whether to move to modify the disposition, counsel should carefully [is to] consider whether the record created at the dispositional hearing is adequate for appellate review of the issues, or the issues may be waived. See *Commonwealth v. Jarvis*, [444 Pa. Super. 295,] 663 A.2d 790 (Pa. Super. 1995). As a general rule, the motion to modify the disposition under paragraph (A)(1) gives the dispositional judge the earliest opportunity to modify the disposition. This procedure does not affect the court's inherent powers to correct an illegal disposition or obvious and patent mistakes in its orders [at] any time before an appeal or upon remand by the appellate court. See, e.g., *Commonwealth v. Holmes*, 933 A.2d 57 (Pa. 2007) (court has inherent power to correct patent and obvious mistakes despite the absence of traditional jurisdiction); *Commonwealth v. Jones*, [520 Pa. 385,] 554 A.2d 50 (Pa. 1989) (court can, sua sponte, correct an illegal sentence even after the defendant has begun probation or placement) [and]; *Commonwealth v. Cole*, [437 Pa. 288,] 263 A.2d 339 (Pa. 1970) (inherent power of the court to correct obvious and patent mistakes).

Once a disposition has been modified or reimposed pursuant to a motion to modify the disposition under paragraph (A)(1), a party wishing to challenge the decision on the motion does not have to file an additional motion to modify the disposition in order to preserve an issue for appeal[, as long as] if the issue was properly preserved [at the time] when the disposition was modified or reimposed. See paragraph (B)(2).

Official Note: Rule 520 adopted May 17, 2007, effective August 20, 2007. Amended July 28, 2009, effective immediately. Amended January 11, 2010, effective March 1, 2010. Renumbered Rule 620 on February 23, 2012, effective April 1, 2012. **Amended May 23, 2018, effective October 1, 2018.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 520 published with the Court's Order at 37 Pa.B. 2506 (June 2, 2007).

Final Report explaining the amendment to Rule 520 published with the Court's Order at 39 Pa.B. 4743 (August 8, 2009).

Final Report explaining the renumbering of Rule 520 to 620 published with the Court's Order at 42 Pa.B. 1214 (March 10, 2012).

Final Report explaining the amendments to Rule 620 published with the Court's Order at 48 Pa.B. 3407 (June 9, 2018).

FINAL REPORT¹

Adoption of Pa.R.J.C.P. 415 & Amendment of Pa.R.J.C.P. 620

On May 23, 2018, the Supreme Court adopted new Rule of Juvenile Court Procedure 415 and amended Rule of Juvenile Court Procedure 620 to provide a procedural mechanism for weight of the evidence claims to be raised before the juvenile court.

When the Supreme Court of Pennsylvania decided *In re J.B.*, 106 A.3d 76 (Pa. 2014), it considered whether the juvenile waived a claim that a finding was against the weight of the evidence by failing to raise it first with the juvenile court. The Court observed that, unlike Pa.R.Crim.P. 607, the Pennsylvania Rules of Juvenile Court Procedure do not contain a provision addressing how or when a weight of the evidence claim should be raised.

The Juvenile Court Procedural Rules Committee proposed rulemaking to create a mechanism to provide for weight of the evidence claims to be raised at three decision points in a delinquency proceeding: 1) the ruling on the offenses pursuant to Rule 408; 2) the adjudication of delinquency pursuant to Rule 409; and 3) the dispositional order pursuant to Rule 515. *See* 47 Pa.B. 942 (February 18, 2017). However, the proposal was revised post-publication to eliminate the provision for such claims to be raised from the dispositional order. This revision was intended for the new procedure to hew more closely to Pa.R.Crim.P. 607.

Additionally, stylistic and editorial revisions were made throughout Rule 620 and its Comment, including a cross-reference to new Rule 415.

The amendments will become effective October 1, 2018.

[Pa.B. Doc. No. 18-882. Filed for public inspection June 8, 2018, 9:00 a.m.]

¹ The Committee's Final Report 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.

Title 25—LOCAL COURT RULES

WASHINGTON COUNTY

District Attorney 911 Fee; 2018-1

Administrative Order

And Now, this 22nd day of May, 2018, upon request of the District Attorney for the County of Washington, it is hereby *Ordered, Adjudged, and Decreed* that the Clerk of Courts shall no longer collect the District Attorney 911 Fee from criminal defendants, effective immediately.

The District Court Administrator is directed to forward a copy of this Order to the *Pennsylvania Bulletin* for publication.

By the Court

KATHERINE B. EMERY,
President Judge

[Pa.B. Doc. No. 18-883. Filed for public inspection June 8, 2018, 9:00 a.m.]

**DISCIPLINARY BOARD OF
THE SUPREME COURT**

Notice of Disbarment

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated May 18, 2018, Brian Arthur McCormick (# 45238) is Disbarred on Consent from the Bar of this Commonwealth. 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*.

JULIA FRANKSTON-MORRIS,
Secretary

[Pa.B. Doc. No. 18-884. Filed for public inspection June 8, 2018, 9:00 a.m.]