

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 37]

Amendments to Chapter 37 of the Pennsylvania Rules of Appellate Procedure, Business of the Commonwealth Court; No. 126 Misc. Doc. No. 3

Order

Per Curiam

And Now, this 2nd day of October, 2020, it is Ordered pursuant to Pa.R.A.P. 104(a) that Chapter 37 of the Rules of Appellate Procedure, Business of the Commonwealth Court, is amended in the following form. These amendments shall be effective immediately upon publication in the *Pennsylvania Bulletin*.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE III. MISCELLANEOUS PROVISIONS

CHAPTER 37. BUSINESS OF THE COMMONWEALTH COURT

THE COMMONWEALTH COURT

Rule 3706. Docketing Statement.

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Official Note: The Commonwealth Court Mediation Program is governed by Section 501 of the Internal Operating Procedures of the Commonwealth Court, 210 Pa. Code § 69.501 (Mediation). Counsel must draft the statement of issues so as to provide all the information required by paragraph (c)(1) and allow for adequate screening for mediation. Counsel should not simply attach a copy of the Pa.R.A.P. 1925(b) statement of [issues] errors complained of on appeal filed in the trial court, because that statement would not provide an adequate “summary of the issues and the case sufficient for an understanding of the nature” of the matter. The attachments required by paragraph (c)(2) may include, for example, the trial court order and opinion, the order and adjudication of a zoning hearing board, the decision of a Workers’ Compensation Judge, and similar orders.

ENFORCEMENT OF AGENCY ORDER

Rule 3761. Enforcement Proceedings.

[(a) *Petition*. When a government unit seeks to enforce an order issued under a statute which it administers, it may initiate the proceedings by filing a petition to enforce.

(b) *Service*. The petitioner shall serve the petition and order in the manner prescribed by the Pennsylvania Rules of Civil Procedure for service of original process and shall file the return or certificate of service prescribed by the same rules.

(c) *Hearing and Notice*. Upon the filing of a petition to enforce, the Court will issue an order setting a date for a hearing and a date by which the respondent must answer the petition. The peti-

tioner shall serve the Court’s order upon the respondent in the manner prescribed by Pa.R.A.P. 121 and 122.

(d) *Relief*. Following the hearing, the Court will enter such orders as may be appropriate.

(e) *Discovery*. Discovery shall be allowed only upon leave of court.]

(a) Government Unit’s Enforcement of its Own Orders.

(1) *Petition*. When a government unit seeks to enforce an order issued under a statute which it administers, it may initiate the proceedings by filing a petition to enforce.

(2) *Service*. The petitioner shall serve the petition and order in the manner prescribed by the Pennsylvania Rules of Civil Procedure for service of original process and shall file the return or certificate of service prescribed by the same rules.

(3) *Hearing and Notice*. Upon the filing of a petition to enforce, the Court will issue an order setting a date for a hearing and a date by which the respondent must answer the petition. The petitioner shall serve the Court’s order upon the respondent in the manner prescribed by Pa.R.A.P. 121 and 122.

(4) *Relief*. Following the hearing, the Court will enter such orders as may be appropriate.

(5) *Discovery*. Discovery shall be allowed only upon leave of court.

(b) Enforcement of Final Determinations of the Office of Open Records.

(1) *Petition*. When a party to a proceeding before the Office of Open Records seeks to enforce a final determination regarding a record requested from a Commonwealth Agency, Legislative Agency, or Judicial Agency, it may initiate proceedings in the Commonwealth Court by filing a petition to enforce.

(2) *Caption*. The petition shall name as the petitioner the party seeking relief. The government unit alleged not to have complied with the final determination and all others who participated in the proceedings before the Office of Open Records shall be named as respondents.

(3) *Form*. The petition shall be divided into consecutively numbered paragraphs. Each paragraph shall contain, as nearly as possible, a single allegation of fact or other statement.

(4) *Content*. The petition shall state the basis for the jurisdiction of the Court, identify the parties, state the date that the final determination was entered, state the material facts giving rise to the need for judicial review, and include a short statement of the relief sought.

(5) *Final determination*. A copy of the final determination sought to be enforced shall be attached to the petition as an exhibit.

(6) *Verification*. The petition shall be verified.

(7) *Service*. The petitioner shall serve the petition in the manner prescribed by the Pennsylvania

Rules of Civil Procedure for service of original process and shall file the return or certificate of service prescribed by those rules.

(8) *Hearing and Notice.* Upon the filing of a petition to enforce, the Court will issue an order setting a date for a hearing and a date by which the respondent(s) must answer the petition. The petitioner shall serve the Court's order upon the respondent in the manner prescribed by Pa.R.A.P. 121 and 122.

(9) *Discovery.* Discovery shall be allowed only upon leave of court.

(10) *Relief.* Following the hearing, the Court will enter such orders as may be appropriate.

(c) *Compliance with Public Access Policy.* The petition shall include a certificate of compliance as required by Pa.R.A.P. 127.

Official Note: Pa.R.A.P. 3761 implements *Pennsylvania Human Relations Commission v. School District of Philadelphia*, 557 Pa. 126, 132, 732 A.2d 578, 581 (1999), in which the Court held that “just as enforcement proceedings are not originally commenced in Commonwealth Court, they are also in the appellate, rather than the original, jurisdiction of the court. It then follows that the rules of appellate procedure, rather than the rules of civil procedure, govern enforcement proceedings in Commonwealth Court.” This analysis was confirmed in *Department of Environmental Protection v. Township of Cromwell*, 613 Pa. 1, 32 A.3d 639 (2012). Petitions for enforcement are not within any other provisions of the Rules of Appellate Procedure. Thus absent Pa.R.A.P., 3761, there would be no clear method of presenting enforcement actions to the Commonwealth Court.

Pa.R.A.P. 3761(b) provides the method for seeking compliance with a final determination of the Office of Open Records in the Commonwealth Court. This differs from proceeding in the courts of common pleas, where the method to obtain judicial review of alleged failure to comply with a final determination of the Office of Open Records may be an action in mandamus or other petition authorized by local rule. *Capinski v. Upper Pottsgrove Township*, 164 A.3d 601 (Pa. Cmwlth. 2017). Use of this petition is appropriate when the final determination was not appealed. If an appeal was taken and the order affirmed by the Commonwealth Court, enforcement is not of the final determination of the Office of Open Records, but rather of the order of the Commonwealth Court.

Because the petition in Pa.R.A.P. 3761(b) is similar to the petition for enforcement of a government unit's own orders described in Pa.R.A.P. 3761(a), both are deemed to be addressed to the appellate jurisdiction of the Commonwealth Court, and thus appealable to the Supreme Court only by filing a petition for allowance of appeal. *Township of Cromwell*, 32 A.3d at 649; *School District of Philadelphia*, 732 A.2d at 581.

[Pa.B. Doc. No. 20-1403. Filed for public inspection October 16, 2020, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BUCKS COUNTY

Regional Central Booking Program; Administrative Order No. 56

Order

And Now, to wit, this 21st day of September, 2020, Administrative Order No. 56, promulgated on October 26th, 2009, and amended on May 11, 2015, and January 13, 2020, is hereby amended as follows:

It is hereby ordered and directed that all defendants either (1) convicted of any offense enumerated by 42 Pa.C.S. § 1725.5(a)(2) or (2) accused of such offenses and accepted into Accelerated Rehabilitative Disposition, which shall include any pre-disposition diversionary program administered by the Court of Common Pleas or any Magisterial District Court within the Seventh Judicial District, shall be assessed a fee of \$250.00 to offset the costs of Central and/or Regional Booking Centers located throughout Bucks County. Said fee shall be assessed as a court cost. This fee is in addition to all other authorized fines, costs and supervision fees legally assessed.

Fees so collected shall be paid into the General Fund of Bucks County. Each year, the Controller's Office shall proportionately disburse these funds to the participating jurisdictions in accordance with the Regional Booking Center Plan developed by those jurisdictions and approved by the Court.

This Order shall become effective immediately.

By the Court

WALLACE H. BATEMAN, Jr.,
President Judge

[Pa.B. Doc. No. 20-1404. Filed for public inspection October 16, 2020, 9:00 a.m.]