

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Amendment of Rule 227.1 Governing Post-Trial Relief; Proposed Recommendation No. 262

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 227.1 governing post-trial relief 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 October 24, 2014 to:

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Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 227.1. Post-Trial Relief.

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(c) Post-trial motions shall be filed within ten days after

(1) verdict, discharge of the jury because of inability to agree, or nonsuit in the case of a jury trial; or

(2) notice of nonsuit or the filing of the decision in the case of a trial without jury.

If a party has filed a timely post-trial motion, any other party may file a post-trial motion within ten days after the filing of the first post-trial motion.

Official Note: A motion for post-trial relief may be filed following a trial by jury or a trial by a judge without a jury pursuant to Rule 1038. A motion for post-trial relief may not be filed to orders disposing of preliminary objections, motions for judgment on the pleadings or for summary judgment, motions relating to discovery or other proceedings which do not constitute a trial. *See U. S. National Bank in Johnstown v. Johnson*, [506 Pa. 622,] 487 A.2d 809 (Pa. 1985).

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(h) A motion for post-trial relief shall be filed following a trial upon an appeal from the decision of viewers pursuant to the Eminent Domain Code.

Official Note: Subdivision (h) eliminates any distinction with respect to the filing of a motion for post-trial relief between jury and non-jury trials following an appeal from the decision of viewers in eminent domain proceedings.

(i) When an appellate court has remanded a case for further proceedings, a motion for post-trial relief relating to subsequent rulings in the trial court shall not be required unless

(1) the appellate court has specified that the remand is for a complete or partial new trial, or

(2) the trial court indicates in its order resolving the remand issues that a motion for post-trial relief is required pursuant to this rule.

Explanatory Comment

In *Newman Development Group of Pottstown, LLC v. Genuardi's Family Markets, Inc. and Safeway, Inc.*, 52 A.3d 1233 (Pa. 2012), the Supreme Court of Pennsylvania examined the provisions of Rule 227.1 to determine whether a party must file a motion for post-trial relief following the resolution by the trial court of matters remanded by an appellate court. While it concluded in that case that a motion for post-trial relief was not required because the remand proceeding, which relied on an existing record, was not a trial, even though the trial court drew a different conclusion from that record to comport with the appellate court's directive, the Court held that Rule 227.1 is silent as to any procedure for post-trial relief when a matter has been remanded for further consideration by the trial court. *Id.* at 1251.

To close this gap, the Civil Procedural Rules Committee is proposing the amendment of Rule 227.1, which would add new subdivision (i). Specifically addressing the remand context, the proposed amendment would not require the filing of a motion for post-trial relief following the resolution of matters remanded by an appellate court except under the following circumstances: (1) the appellate court has specified that the remand is for a complete or partial new trial, or (2) the trial court states in its order resolving the issue remanded that a motion for post-trial relief is required in order to preserve those issues for appellate review.

The proposed amendment is intended to give the practitioner certainty as to when a motion for post-trial relief is required in the remand context, and thus, to prevent waiver of those issues upon further appellate review. It is also intended to facilitate the underlying purpose of the rule, which is to allow the trial court to reconsider its determination and to make any corrections before it is appealed without inundating it with unnecessary motions.

By the Civil Procedural Rules Committee

PETER J. HOFFMAN,
Chair

[Pa.B. Doc. No. 14-1773. Filed for public inspection August 22, 2014, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 100]

Order Amending Rule 101 of the Rules and Standards with Respect to Offices of Magisterial District Judges; No. 374 Magisterial Doc.

Order

Per Curiam

And Now, this 5th day of August, 2014, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 101 of the Pennsylvania Rules and Standards with Respect to Offices of Magisterial District Judges 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 September 4, 2014.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 100. RULES AND STANDARDS WITH RESPECT TO OFFICES OF MAGISTERIAL DISTRICT JUDGES

Rule 101. Establishment of Offices. Minimum Office Standards.

A. The governing body of the county shall establish an office or offices for each magisterial district judge whose magisterial district is situated in the county at such locations within the county as may be approved by the president judge of the court of common pleas of the judicial district which includes the county. The governing body shall insofar as possible insure that each office meets the following minimum standards:

(1) The principal office should be located in a place convenient to the public and which will allow the business of the office to be conducted with dignity, decorum and dispatch.

(2) Such office shall not be located in or appurtenant to the residence or place of business of the magisterial district judge. It shall have a hearing room and such other rooms as may be necessary, and shall be provided with necessary furniture and equipment.

(3) A magisterial district judge shall be provided with such staff, forms, supplies and equipment as shall be necessary for the proper performance of his **or her** duties. To maintain the dignity of [**his**] the office, he **or she** shall be provided with judicial robes.

(B) The office of a magisterial district judge may be located outside of the boundaries of the magisterial district from which the judge is elected, upon petition of the president judge of the judicial district, provided:

(1) The magisterial district in which the office is located adjoins the magisterial district from which the judge is elected;

(2) Relocation of the office would not cause inconvenience or confusion to the public or to law enforcement;

(3) The president judge certifies that the proposed location is more suitable or affordable than the facilities that are available within the magisterial district from which the judge is elected; and

(4) Approval for the relocation has been granted by the Supreme Court.

(C) Petitions for approval of a relocation of a magisterial district judge's office outside of the magisterial district from which he or she has been elected shall be forwarded to the Court Administrator of Pennsylvania and shall provide information to determine whether the conditions for approval have been satisfied. If the Court Administrator determines that the requirements are met, the petition will be forwarded to the Supreme Court for consideration.

Comment

Consolidated districts must provide separate courtrooms and facilities for separate staff of the magisterial districts that have been consolidated. Districts must comply with standards published by the Administrative Office of Pennsylvania Courts for magisterial district courtrooms. Petitions for relocation must be published for public comment and hearing before the petition is submitted to the Court Administrator.

[Pa.B. Doc. No. 14-1774. Filed for public inspection August 22, 2014, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SCHUYLKILL COUNTY

Amended Criminal Rule of Procedure 571(a) Arraignment; AD 72-14

Order of Court

And Now, this 11th day of August, 2014 at 12:00 p.m., Schuylkill County Criminal Rule of Procedure No. 571(a), *Arraignment* is amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty days after publication in the *Pennsylvania Bulletin*.

The Clerk of Courts of Schuylkill County is Ordered and Directed to do the following:

1) File seven (7) certified copies of this Order and Rules with the Administrative Office of the Pennsylvania Courts.

2) Forward two (2) certified copies of this Order and Rule and a CD-ROM containing the text of the local rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) Forward one (1) certified copy of this Order and Rules with the Pennsylvania Criminal Procedural Rules Committee.

4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.

5) Copies shall be kept continuously available for public inspection in the Office of the Schuylkill County Clerk of Courts and the Schuylkill County Law Library.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM E. BALDWIN,
President Judge

Rule 571. Arraignment.

(a) Every defendant who shall be held for Court by the Magisterial District Judge, at the conclusion of the preliminary hearing or at the time he waives his preliminary hearing, shall be furnished with a notice of arraignment form by the Magisterial District Judge. The form shall advise defendant of the time periods wherein he may commence discovery and file an omnibus pre-trial motion in Court. He shall further be given notice that he has the right to waive appearing for formal arraignment in the District Attorney's Office.

In the event he desires to waive formal arraignment, he and his attorney, if any, shall execute the form provided for that purpose by the Magisterial District Judge, and said form shall be returned to Court with the transcript of the case by the Magisterial District Judge. The date of arraignment will begin the running of the time for the exercise of defendant's pre-trial rights.

In the event the defendant does not waive his arraignment, the District Attorney, upon filing the information, shall give the defendant notice of arraignment by first class mail, addressed to defendant's last known address of record, arraignment to be held at the District Attorney's Office the following Tuesday morning at 9:30 a.m.

At the time the District Attorney mails the arraignment notices, he shall give the Public Defender a list of those defendants who are scheduled for arraignment. The Public Defender shall assign one of his attorneys to meet with the District Attorney on the day of arraignment to

represent those defendants who are not represented by counsel. Such representation shall be solely for the purpose of arraignment and shall not constitute an entry of appearance.

If a defendant fails to appear for arraignment, the Court, upon motion of the District Attorney, may issue a bench warrant for the defendant.

[Pa.B. Doc. No. 14-1775. Filed for public inspection August 22, 2014, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Nikia Way Khan, a/k/a Nikia Lynne Way having been disbarred from the practice of law in the State of New York by Order of the Supreme Court of New York, Appellate Division, First Judicial Department, filed June 27, 2013, the Supreme Court of Pennsylvania issued an Order on August 6, 2014, disbaring Nikia Way Khan, a/k/a Nikia Lynne Way from the Bar of this Commonwealth, effective September 5, 2014. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of 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. 14-1776. Filed for public inspection August 22, 2014, 9:00 a.m.]
