

THE COURTS

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Amendment of Rules of Criminal Procedure 105.2; Administrative Order No. 3 of 2016; 16-AO-3

Order of Court

And Now, this 17th day of February, 2016, the Court hereby Orders that Rule 105.2 of the Adams County Rules of Criminal Procedure shall be amended as follows:

Rule 105.2. Appeals.

A. [Appeals from District Justice decisions shall be listed for hearing by the Clerk for a Criminal Business Court Day at least twenty-one (21) days later than the time of filing of the docket transcript.] With the exception of appeals involving minor defendants, appeals from Magisterial District Judge decisions shall be listed for hearing by the Clerk of Courts on the first available Criminal Business Court Day at least twenty-eight (28) days later than the time of the filing of the appeal.

B. [Appeals from summary convictions by persons under the age of eighteen (18) years shall be treated the same as appeals by adults, except that either the Commonwealth or the appellant may request that the case be transferred to Juvenile Court. The Court may, either upon such request or sua sponte, order that the case be transferred and thereafter be treated as a juvenile proceeding and appellant subject to all provisions of the Juvenile Act, 42 Pa.C.S.A. § 6301 et. seq.] Appeals from summary convictions involving defendants under the age of eighteen (18) years shall be listed for hearing by the Clerk of Courts on the first Juvenile Court (DPS) Day of each month which is at least twenty-eight (28) days later than the time of the filing of the appeal. Immediately upon the filing of the appeal, the Clerk shall provide notice of the appeal and the date upon which it has been scheduled to the Department of Probation Services and the District Attorney's Office. Notice shall be provided to the defendant pursuant to local practice.

This rule amendment shall become effective after all the provisions of the Pennsylvania Rules of Criminal Procedure are met, to include the following:

a. A certified copy of this order shall be submitted to the Criminal Procedural Rules Committee for review in accordance with Pa.R.Crim.P. No. 105(D);

b. Upon receipt of a statement from the Criminal Procedural Rules Committee that the local rule is not inconsistent with any general rule of the Supreme Court, two (2) certified copies of this Order together with a computer diskette that complies with the requirement of 1 Pa. Code § 13.11(b), or other compliant format, containing the test of the local rule(s) adopted hereby shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. One (1) certified copy of this Order shall be forwarded to the Administrative Office of the Pennsylvania

Courts for distribution in accordance with the provisions of Pa.R.Crim.P. No. 105(F)(1);

d. A copy of the local rule shall be published on the Unified Judicial System's website.

e. This Order shall be filed in the Office of the Prothonotary of Adams County and a copy thereof shall be filed with the Adams County Clerk of Courts and the Adams County Law Library for inspection and copying;

f. The effective date of the local rule shall be 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

MICHAEL A. GEORGE,
President Judge

[Pa.B. Doc. No. 16-405. Filed for public inspection March 11, 2016, 9:00 a.m.]

CARBON COUNTY

Amendment of Local Rules of Civil Procedure CARB.R.C.P. 1028(c) Preliminary Objections, CARB.R.C.P. 1034(a) Motion for Judgment on the Pleadings and CARB.R.C.P. 1035.2(a) Motion for Summary Judgment; No. 16-0382

Administrative Order No. 8-2016

And Now, this 24th day of February, 2016, it is hereby

Ordered and Decreed that, effective April 1, 2016, the Carbon County Court of Common Pleas *Amends* Carbon County Rules of Civil Procedure CARB.R.C.P. 1028(c) governing Preliminary Objections, Carbon County Rule of Civil Procedure CARB.R.C.P. 1034(a) governing a Motion for Judgment on the Pleadings, and Carbon County Rule of Civil Procedure CARB.R.C.P. 1035.2(a) governing a Motion for Summary Judgment.

The Carbon County District Court Administrator is *Ordered and Directed* to

1. File one (1) certified copy of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) computer diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish the Rules on the UJS Portal at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

4. File one (1) certified copy with the Civil Procedural Rules Committee.

5. Forward one (1) copy for publication in the *Carbon County Law Journal*.

6. Forward one (1) copy to the Carbon County Law Library.

7. Keep continuously available for public inspection copies of the Administrative Order and Rules in the Prothonotary's Office.

By the Court

ROGER N. NANOVIC,
President Judge

Rule 1028(c). Preliminary Objections.

1 A proposed order shall be attached to all preliminary objections.

2 The moving party shall simultaneously file a brief in support of the preliminary objections. See CARB.R.C.P. 210 for form, content of brief, service and filing requirements.

3 The adverse party shall file an answer when endorsed with a Notice to Plead.

4 If an amended pleading is not filed within twenty (20) days of service of the preliminary objections, the matter shall be decided on briefs unless the assigned Judge requests that argument be scheduled. If a party desires argument, a Praecipe for Argument shall accompany the motion or be filed by the respondent within twenty (20) days of service of the preliminary objections. A respondent briefing schedule will be issued by the Court contemporaneous with the scheduling of argument, if so ordered by the Judge. If the matter is to be decided on briefs, a respondent briefing schedule will be issued.

5 If the Preliminary Objections raise issues of fact not of record, evidence by way of depositions or otherwise shall be filed of record to enable the objections to be properly decided.

Rule 1034(a). Motion for Judgment on the Pleadings.

1 A party moving for judgment on the pleadings shall simultaneously file with the motion a proposed order and supporting brief. If a brief is not filed with the motion, the motion shall be deemed withdrawn, without prejudice, upon motion of the opposing party. A certificate of service in conformance with Pa.R.C.P. 208.2(a)(5) shall be attached to the motion. Pa.R.C.P. 440 governs service. Service shall be required on the District Court Administrator. For form of briefs, see CARB.R.C.P. 210.

2 A response shall be filed within twenty (20) days after service of the motion.

3 If a party desires argument, a Praecipe for Argument shall accompany the motion or response. However, the Court may dispose of any motion without oral argument.

4 A respondent briefing schedule will be issued by the Court contemporaneous with the scheduling of any argument ordered by the Judge. If the matter is to be decided on briefs, a respondent briefing schedule will be issued.

5 A party who fails to respond to the motion may be deemed to have no opposition to its grant.

6 A party who fails to file a brief shall not be permitted to argue.

Rule 1035.2(a). Motion for Summary Judgment.

1 A party moving for summary judgment shall simultaneously file with the motion a proposed order and supporting brief. If a brief is not filed with the motion, the motion shall be deemed withdrawn, without prejudice, upon motion of the opposing party. A certificate of service in conformance with Pa.R.C.P. 208.2(a)(5) shall be attached to the motion. Pa.R.C.P. 440 governs service. Service shall be required on the District Court Administrator. For form of briefs, see CARB.R.C.P. 210.

2 Any party opposing the motion shall file a response within thirty (30) days of service of the motion, together with a certificate of service evidencing service in accordance with number one above. Service shall be required on the District Court Administrator. A party who fails to

respond to the motion shall be deemed to be unopposed to the granting of the motion without contest.

3 Upon service of the motion and response on the District Court Administrator, the matter shall be decided on briefs unless the assigned Judge orders that argument be scheduled. If a party desires argument, a Praecipe for Argument shall accompany the motion or response. However, the Court may dispose of any motion without oral argument.

4 A respondent briefing schedule will be issued by the Court contemporaneous with the scheduling of any argument ordered by the Judge or requested by the filing of the Praecipe for Argument. If the matter is to be decided on briefs, a respondent briefing schedule will be issued.

5 A party who fails to file a brief shall not be permitted to argue.

[Pa.B. Doc. No. 16-406. Filed for public inspection March 11, 2016, 9:00 a.m.]

CARBON COUNTY

Revision of Local Rule of Criminal Procedure 117—Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail; No. CP-13-AD-0000004-2016 (Old No. 103 MI 00)

Administrative Order No. 9-2016

And Now, this 24th day of February, 2016, pursuant to Pa.R.Crim.P. 117, it is hereby

Ordered and Decreed, that effective April 1, 2016, the Carbon County Court of Common Pleas *Revises* Local Rule of Criminal Procedure CARB.R.Crim.P. 117 governing coverage for issuing warrants, conducting preliminary arraignments and summary trials and setting and accepting bail.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File one (1) certified copy of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies, one (1) computer diskette and a copy of the written notification received from the Criminal Procedural Rules Committee with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish a copy of this Administrative Order on the Unified Judicial System's website at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of the Order in the Clerk of Courts' Office.

By the Court

ROGER N. NANOVIC,
President Judge

Rule 117. Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail.

1. Each Magisterial District Court Office shall be open for regular business on Mondays through Fridays, excluding holidays, from 8:00 A.M. to 4:30 P.M., prevailing time, which times may be modified with the approval of the President Judge to meet the needs of the public and the Court.

2. A Magisterial District Judge shall be available on-call at all times of all days without unreasonable delay to provide continuous coverage for the issuance of search warrants and arrest warrants, for the setting and acceptance of bail, and for the issuance of emergency orders under the Protection From Abuse Act, the Act of March 21, 2014, P. L. 365, No. 25 relating to the Protection of Victims of Sexual Violence or Intimidation, and the Older Adult Protective Services Act. This rule shall be satisfied by number 3 and 4 below.

3. The President Judge shall establish the schedule of assignment of Magisterial District Judges to on-call duty for availability on a rotating basis pursuant to a semi-annual/annual schedule prepared by the District Court Administrator. When a Magisterial District Judge who has jurisdiction over a particular matter is unavailable during regular business hours, authority to act is transferred to other Magisterial District Judges in the 56th Judicial District pursuant to the aforesaid assignment to on-call duty stated above.

4. Magisterial District Judges during regular business hours, an on-call Magisterial District Judge while on-call, the Clerk of Courts during business hours and the Warden, or in his absence, the Deputy Warden or Sergeant in charge of the Carbon County Correctional Facility, shall be authorized to accept bail in accordance with the provisions, and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

5. A Magisterial District Judge assigned to on-call duty shall be available for preliminary arraignments in accordance with the following schedule:

A. For arrests occurring after the close of regular business hours but before 8:00 P.M., and for arrests occurring on weekends or holidays between 8:00 A.M. and 8:00 P.M., the Magisterial District Judge shall respond to the call and conduct a preliminary arraignment utilizing the on-screen video arraignment connection between the police station and the Magisterial District Court prior to detention at the Carbon County Correctional Facility. Scheduling of the arraignment shall be initiated by the arresting officer contacting the Comm. Center by telephone and requesting an arraignment. Arraignments shall be scheduled whenever:

1. The defendant is arrested pursuant to a warrant, and

2. In those circumstances where an arrest has been made without a warrant and for which the defendant is to be afforded a preliminary arraignment without unnecessary delay, (See Pa.R.Crim.P. 519), after the completion of the criminal complaint.

B. For arrests occurring after 8:00 P.M. but before 8:00 A.M. on weekends or holidays, and before 8:00 A.M. on weekdays, preliminary arraignments shall be scheduled as follows:

1. For arrests pursuant to a warrant and those arrests requiring preliminary arraignment pursuant to Pennsylvania Rule of Criminal Procedure 519, the arresting agency, including the state police, municipal police or sheriff, is authorized to detain the prisoner at the Carbon County Correctional Facility until 8:00 A.M. the following morning. For Defendants so detained, the on-call Magisterial District Judge shall appear in person or by advanced communication technology at the Carbon County Correctional Facility at 8:00 A.M. to preside at the Preliminary Arraignment. The on-call Magisterial District Judge shall contact the Carbon County Correctional Facility no later than 7:30 A.M. to determine whether any Defendants are so detained.

2. Prior to detaining a prisoner at the Carbon County Correctional Facility under this Rule, the arresting agency shall contact the facility to ascertain that adequate detention facilities are available for temporary detention in accordance with this Rule. If no detention facilities are available at the facility, the arresting agency shall notify the on-call Magisterial District Judge through the Communication Center of that fact and a preliminary arraignment shall be required prior to detention or commitment to Prison.

3. The arresting agency detaining the Defendant shall provide the Magisterial District Judge with copies of the Criminal Complaint, of the Affidavit of Probable Cause in support thereof, and a copy of the Bail Information Sheet for Overnight Arraignments regarding the defendant's criminal record and flight risk, and the officer's bail recommendation, by depositing the same at the Carbon County Correctional Facility and faxing copies to the Magisterial District Court Office. The arresting agency shall be responsible to deliver or mail within twenty-four (24) hours all original documents to the Magisterial District Court office who issued the warrant or within whose jurisdiction the offense occurred.

4. The arresting officer(s) need not appear at the Preliminary Arraignment provided the documents identified in paragraph (B)(3) are provided. In the alternative, the arresting officer may appear at the Preliminary Arraignment in lieu of prior submission of these documents; however, no person shall be detained under this rule without the completion and submission of a completed criminal Complaint and Affidavit of Probable Cause. A copy shall be delivered to the Carbon County Correctional Facility and a copy faxed to the Magisterial District Court office for the Judge's use.

5. The provisions of this Rule allowing for temporary detention of prisoners shall not apply to the performance of any other duties of the on-duty Magisterial District Judge during the hours of 8:00 P.M. to 8:00 A.M.

6. The Carbon County Correctional Facility shall identify a detention area for prisoners so detained in accordance with the Standard Operating Procedures of the Carbon County Correctional Facility for temporary detention of individuals at the Prison.

7. The Carbon County Correctional Facility is directed to make available to the on-duty Magisterial District Judge appropriate space or advanced communication technology availability between the hours of 8:00 A.M. and 9:00 A.M. to perform the Preliminary Arraignment at the Prison.

8. Upon completion of the Preliminary Arraignment, the detention authorized by this Rule shall terminate and the person detained shall be processed in accordance with the Orders of the Magisterial District Judge at the Preliminary Arraignment or, if no Preliminary Arraignment has been done, the person shall be released from detention and the arresting agency shall arrange for the Preliminary Arraignment of the person otherwise in accordance with the Rules of Criminal Procedure.

9. If the Preliminary Arraignment is conducted by advanced communication technology, upon completion of the Preliminary Arraignment, copies of all commitment orders, bail orders, etc. shall be faxed from the Magisterial District Judge to the Carbon County Correctional Facility and the originals mailed to the Carbon County Correctional Facility on the next regular business day. If the Preliminary Arraignment is conducted at the Correctional Facility, original documents shall be provided to the Carbon County Correctional Facility at the time of the Preliminary Arraignment.

C. Nothing in this Rule shall alter the requirements of Carbon County Local Criminal Rules of Procedure 202 regarding approval of search warrant application by attorney for the Commonwealth and Rule 507 regarding approval of police complaints and arrest warrant affidavits by the Attorney for the Commonwealth.

[Pa.B. Doc. No. 16-407. Filed for public inspection March 11, 2016, 9:00 a.m.]

LEHIGH COUNTY

Administrative Order Establishing Uniform Costs for Specialized Urinalysis Testing and Confirmation by the Adult Probation/Parole Office; No. AD 4-2016

Order

And Now, this 9th day of December, 2015, the following Administrative Order establishing uniform costs in criminal cases for certain services rendered by the Adult Probation/Parole Office of Lehigh County is promulgated and is effective for all such services rendered in any criminal case thirty (30) days or more after publication of this Order in the *Pennsylvania Bulletin*. Seven (7) certified copies shall be filed with the Administrative Office of the Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee; and that one (1) copy shall be filed with the Clerk of Judicial Records of the Court of Common Pleas of Lehigh County.

Urinalysis Testing

Every person placed on Probation, Parole, Accelerated Rehabilitative Disposition, Probation Without Verdict, or Intermediate Punishment, shall pay, in addition to the costs of prosecution, fines and restitution, and other costs, a fee not to exceed \$50.00 for each urine sample collected by the Lehigh County Adult Probation Department and sent for testing at Redwood Toxicology Laboratory.

By the Court

KELLY L. BANACH,
Administrative Judge

[Pa.B. Doc. No. 16-408. Filed for public inspection March 11, 2016, 9:00 a.m.]

SUPREME COURT

Modification of the Magisterial Districts within the 32nd Judicial District; No. 395 Magisterial Rules Doc.

Order

Per Curiam

And Now, this 26th day of February, 2016, upon consideration of the Request of the President Judge of Thirty-second Judicial District (Delaware County) to eliminate Magisterial District 32-1-26 and reconfigure Magisterial Districts 32-1-27, 32-1-33, 32-1-34, 32-1-35, 32-2-43, 32-2-47, 32-2-51 and 32-2-52 of the Thirty-second Judicial District (Delaware County) of the Commonwealth of Pennsylvania, it is hereby *Ordered and Decreed* that the Request is granted. The judgeship for Magisterial District 32-1-26 shall not appear on the ballot for the 2017 municipal election. This Order is effective January 1, 2017.

Said Magisterial Districts shall be as follows:

Magisterial District 32-1-27
Magisterial District Judge David Hamilton Lang
Magisterial District 32-1-33
Magisterial District Judge Harry J. Karapalides

Magisterial District 32-1-34
Magisterial District Judge Robert J. Radano

Magisterial District 32-1-35
Magisterial District Judge Ann Berardocco

Marple Township (Wards 2, 5, 6, and 7)
Radnor Township (Voting Districts 4, 5, and 7)
Millbourne Borough
Upper Darby Township (Voting Districts 5-1, 5-7, 5-10, 6-1, 6-2, 6-3, 6-4, 6-10, 6-12, 7-2, 7-3, 7-4, 7-5, 7-6, 7-8 and 7-10)
Upper Darby Township (Voting Districts 1-1, 1-2, 1-3, 1-8, 3-2, 3-4, 3-6, 3-7, 3-8, 3-9, 3-10, 4-1 and 4-4)
Upper Darby Township (Voting Districts 1-4, 1-5, 1-6, 1-7, 1-9, 3-1, 3-3, 3-5, 3-11, 4-2, 4-3, 4-5, 4-6, 4-7, 4-8, 4-9, 4-10, 4-11, 5-3 and 5-8)

Magisterial District 32-2-43
Magisterial District Judge Leon Hunter, III
Magisterial District 32-2-47
Magisterial District Judge W. Keith Williams

Magisterial District 32-2-51
Magisterial District Judge Christopher R. Mattox
Magisterial District 32-2-52
Magisterial District Judge Kelly A. Micozzie-Aguirre

Newtown Township
Radnor Township (Voting Districts 1, 2, 3, and 6)
East Lansdowne Borough
Lansdowne Borough
Yeadon Borough

Upper Darby Township (Voting Districts 5-2, 5-4, 5-5, 5-6,
5-9, 6-5, 6-6, 6-7, 6-8, 6-9, 6-11, 7-1, 7-6, 7-7, 7-9 and 7-11)
Aldan Borough
Clifton Heights Borough
Upper Darby Township (Voting Districts 2-1, 2-2, 2-3, 2-4,
2-5, 2-6, and 2-7)

Justice Eakin did not participate in the consideration or decision of this matter.

[Pa.B. Doc. No. 16-409. Filed for public inspection March 11, 2016, 9:00 a.m.]
