

**CHAPTER 11. APPEALS FROM COMMONWEALTH COURT
AND SUPERIOR COURT**

**APPEALS FROM COMMONWEALTH COURT AND SUPERIOR
COURT**

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**APPEALS AS OF RIGHT FROM COMMONWEALTH COURT
AND SUPERIOR COURT**

Rule 1101. Appeals as of Right from the Commonwealth Court.

(a) *Scope of rule.* This rule applies to any appeal to the Supreme Court from an order of the Commonwealth Court entered in:

- (1) Any matter which was originally commenced in the Commonwealth Court and which does not constitute an appeal to the Commonwealth Court from another court, a district justice or another government unit.
- (2) Any appeal from a decision of the Board of Finance and Revenue.

(b) *Procedure on Appeal.* An appeal within the scope of subdivision (a) of this rule shall be taken to the Supreme Court in the manner prescribed in Chapter 9 (appeals from lower courts), except that if the notice of appeal is transmitted to the Prothonotary of the Commonwealth Court by means of first class, express, or priority United States Postal Service mail, the notice of appeal shall be deemed received by the prothonotary for the purposes of Pa.R.A.P. 121(a) (filing) on the date deposited in the United States mail, as shown on a United States Postal Service Form 3817 Certificate of Mailing, Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket num-

ber of the matter in the Commonwealth Court and shall be either enclosed with the notice of appeal or separately mailed to the prothonotary. Upon actual receipt of the notice of appeal the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when the appeal was taken, which date shall be shown on the docket.

Comment:

Subdivision (a) is based on 42 Pa.C.S. § 723 (appeals from the Commonwealth Court). This rule is not applicable to an appeal under 42 Pa.C.S. § 763(b) (awards of arbitrators). See also 42 Pa.C.S. § 5105(b) (successive appeals) which provides as follows:

(b) *Successive appeals.* Except as otherwise provided in this subsection, the rights conferred by subsection (a) are cumulative, so that a litigant may as a matter of right cause a final order of any tribunal in any matter which itself constitutes an appeal to such tribunal, to be further reviewed by the court having jurisdiction of appeals from such tribunal. Except as provided in section 723 (relating to appeals from the Commonwealth Court) there shall be no right of appeal from the Superior Court or the Commonwealth Court to the Supreme Court under this section or otherwise.

Appealable orders to which this rule is not applicable are governed by the procedures of Rule 1111 (form of papers; number of copies) et seq. Rule 906(4) (service of notice of appeal) is not applicable to an appeal under this rule since that provision relates only to service upon the district court administrator of a court of common pleas.

The United States Postal Service Form 3817 mentioned in subdivision (b) is reproduced in the comment to Pa.R.A.P. 1112 (appeals by allowance).

Source

The provisions of this Rule 1101 amended through December 16, 1983, effective December 16, 1983, 13 Pa.B. 3998; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended September 11, 2023, effective January 1, 2024, 53 Pa.B. 5877. Immediately preceding text appears at serial pages (408499) to (408500).

Rule 1102. Improvident Appeals.

If an appeal is improvidently taken to the Supreme Court under Rule 1101 (appeals as of right from the Commonwealth Court) in a case where the proper mode of review is by petition for allowance of appeal under this chapter, this alone shall not be a ground for dismissal, but the papers whereon the appeal was taken shall be regarded and acted on as a petition for allowance of appeal and as if duly filed in the Supreme Court at the time the appeal was taken.

Official Note: Based on 42 Pa.C.S. § 724(b) (improvident appeals). In a similar fashion, any motion to quash the appeal would be regarded as an answer to the petition under Rule 1116 (answer to the petition for allowance of appeal).

Source

The provisions of this Rule 1102 amended December 11, 1978, effective December 30, 1978, amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended February 27, 1980, 10 Pa.B. 1038, effective as set forth at 10 Pa.B. 1038; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257. Immediately preceding text appears at serial page (215316).

Rule 1103. Improvident Petitions for Allowance of Appeal.

If a petition for allowance of appeal is improvidently filed in the Supreme Court under Rule 1112 (appeals by allowance) in a case where the proper mode of review is by appeal under Rule 1101 (appeals as of right from the Commonwealth Court), this alone shall not be a ground for dismissal, but the petition for allowance of appeal shall be regarded as a notice of appeal and as if duly filed in the Commonwealth Court at the time the petition for allowance of appeal was filed in the Supreme Court.

PETITION FOR ALLOWANCE OF APPEAL**Rule 1111. Form of Documents. Number of Copies to be Filed.**

All documents filed under this chapter, other than under Pa.R.A.P. 1101 (appeals as of right from the Commonwealth Court), shall be prepared in the manner provided by Pa.R.A.P. 2171 (method of reproduction) through Pa.R.A.P. 2174 (tables of contents and citations). To determine the number of copies to be filed, see Pa.R.A.P. 124(c) and its Official Note.

Official Note: This rule does not apply to appeals taken under Pa.R.A.P. 1101 (appeals as of right from the Commonwealth Court), since those appeals are taken pursuant to Chapter 9 (appeals from lower courts).

Source

The provisions of this Rule 1111 amended October 28, 2021, effective April 1, 2022, 51 Pa.B. 7050. Immediately preceding text appears at serial page (400751).

Rule 1112. Appeals by Allowance.

(a) *General rule.*—An appeal may be taken by allowance under 42 Pa.C.S. § 724(a) (allowance of appeals from Superior and Commonwealth Courts) from any final order of the Commonwealth Court, not appealable under Pa.R.A.P. 1101 (appeals as of right from the Commonwealth Court), or from any final order of the Superior Court.

(b) *Definition. Final order.*—A final order of the Superior Court or the Commonwealth Court is any order that concludes an appeal, including an order that remands an appeal, in whole or in part, unless the appellate court remands and retains jurisdiction.

(c) *Petition for Allowance of Appeal.*

(1) Allowance of an appeal from a final order of the Superior Court or the Commonwealth Court may be sought by filing a petition for allowance of appeal with the Prothonotary of the Supreme Court within the time allowed by Pa.R.A.P. 1113 (time for petitioning for allowance of appeal), with proof of service on all other parties to the matter in the appellate court below.

(2) If the petition for allowance of appeal is transmitted to the Prothonotary of the Supreme Court by means of first class, express, or priority United States Postal Service mail, the petition shall be deemed received by the Prothonotary for the purposes of Pa.R.A.P. 121(a) (filing) on the date shown by the United States Postal Service as the date accepted for posting, as evidenced by a United States Postal Service Form 3817 Certificate of Mailing, Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail, or other similar United States Postal Service form from which the date of deposit can

be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the appellate court below, and shall be either enclosed with the petition or separately mailed to the Prothonotary.

(3) Upon actual receipt of the petition for allowance of appeal, the Prothonotary of the Supreme Court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this rule, shall constitute the date when allowance of appeal was sought, which date shall be shown on the docket. The Prothonotary of the Supreme Court shall immediately note the Supreme Court docket number upon the petition for allowance of appeal and give notice of the docket number assignment to the prothonotary of the appellate court below who shall note on the docket that a petition for allowance of appeal has been filed. The Prothonotary of the Supreme Court shall send notice to all persons named in the proof of service accompanying the petition.

(4) In a children's fast track appeal, the Prothonotary of the Supreme Court shall stamp the petition for allowance of appeal with a "Children's Fast Track" designation in red ink, advising the Supreme Court that the petition for allowance of appeal is a children's fast track appeal.

(d) *Reproduced record.*—One copy of the reproduced record, if any, in the appellate court below shall be lodged with the Prothonotary of the Supreme Court at the time the petition for allowance of appeal is filed therein. A party filing a cross-petition for allowance of appeal from the same order need not lodge any reproduced record in addition to that lodged by petitioner.

(e) *Fee.*—The petitioner upon filing the petition for allowance of appeal shall pay any fee therefor prescribed by Chapter 27 (fees and costs in appellate courts and on appeal).

(f) *Entry of appearance.* Upon the filing of the petition for allowance of appeal the Prothonotary of the Supreme Court shall note on the record as counsel for the petitioner the name of his or her counsel, if any, set forth in or endorsed upon the petition for allowance of appeal, and, as counsel for other parties, counsel, if any, named in the proof of service. Unless that party is entitled by law to be represented by counsel on allowance of appeal, the Prothonotary shall upon *praecipe* of any such counsel for other parties, filed at any time within 30 days after filing of the petition, strike off or correct the record of appearance. If entry of appearance in the trial court extends through appeals, counsel's appearance for a party may not be withdrawn without leave of court. Appearance cannot be withdrawn without leave of court for counsel who have not filed a *praecipe* to correct appearance within the first 30 days after the petition is docketed, unless another lawyer has entered or simultaneously enters an appearance for the party.

Comment:

Based on 42 Pa.C.S. § 724(a) (allowance of appeals from Superior and Commonwealth Courts). The notation on the docket by the Prothonotary of the Superior Court or Commonwealth Court of the filing of a petition for allowance of appeal renders universal the rule that the appeal status of any order may be discovered by examining the docket of the court in which it was entered.

The United States Postal Service form may be in substantially the following form:



Certificate Of Mailing

To pay fee, affix stamps or meter postage here.

This Certificate of Mailing provides evidence that mail has been presented to USPS® for mailing. This form may be used for domestic and international mail.

From: _____

To: _____

Postmark Here

PS Form 3817, April 2007 PSN 7530-02-000-9065

The transmittal should be taken unsealed to the Post Office, the Form 3817 Certificate of Mailing, Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail, or other similar United States Postal Service form from which the date of deposit can be verified should be obtained, cancelled, and attached to the petition, and the envelope should only then be sealed. Alternatively, the cancelled Form 3817, Form 3800, Form 3806, or other similar United States Postal Service form from which the date of deposit can be verified can be submitted to the Prothonotary under separate cover with clear identification of the filing to which it relates.

It is recommended that the petitioner obtain a duplicate copy of the Form 3817, Form 3800, Form 3806, or other similar United States Postal Service form from which the date of deposit can be verified as evidence of mailing. Since the Post Office is technically the filing office for the purpose of this rule, a petition which was mailed in accordance with this rule and which is subsequently lost in the mail will nevertheless toll the time for petitioning for allowance of appeal. However, counsel will be expected to follow up on a mail filing by telephone inquiry to the appellate prothonotary where written notice of the docket number assignment is not received in due course.

The Rules of Criminal Procedure require counsel appointed by the trial court to continue representation through direct appeal. Pa.R.Crim.P. 120(A)(4) and Pa.R.Crim.P. 122(B)(2). Similarly, the Rules of Criminal Procedure require counsel appointed in post-conviction proceedings to continue representation throughout the proceedings, including any appeal from the disposition of the petition for post-conviction collateral relief. Pa.R.Crim.P. 904(F)(2) and Pa.R.Crim.P. 904(H)(2)(b). The same is true when counsel enters an appearance on behalf of a juvenile in a delinquency matter or on behalf of a child or other party in a dependency matter. Pa.R.J.C.P. 150(B), 151, Pa.R.J.C.P. 1150(B), 1151(B), (E). It would be rare for counsel in such cases to consider withdrawing by praecipe, but the 2020 amendment to the rule avoids any possibility of confusion by clarifying that withdrawal by praecipe is available only in matters that do not otherwise require court permission to withdraw.

With respect to appearances by new counsel following the initial docketing of appearances pursuant to paragraph (f) of this rule, please note the requirements of Pa.R.A.P. 120.

Where an appellant desires to challenge the discretionary aspects of a sentence of a trial court, the "petition for allowance of appeal" referred to in 42 Pa.C.S. § 9781(b) is deferred until the briefing stage, and the appeal is commenced by filing a notice of appeal pursuant to Chapter 9 rather than a petition for allowance of appeal pursuant to Chapter 11. See note to Pa.R.A.P. 902; note to Pa.R.A.P. 1115; Pa.R.A.P. 2116(b) and the note thereto; Pa.R.A.P. 2119(f) and the note thereto.

Source

The provisions of this Rule 1112 amended through December 16, 1983, effective December 16, 1983, 13 Pa.B. 3998; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503; amended March 15, 2004, effective 60 days after adoption, 34 Pa.B. 1670; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended January 13, 2009, effective as to all appeals filed 60 days or more after adoption, 39 Pa.B. 1094; amended May 28, 2014, effective July 1, 2014, 44 Pa.B. 3493; amended January 7, 2020, effective May 1, 2020, 50 Pa.B. 535; amended September 11, 2023, effective January 1, 2024, 53 Pa.B. 5877. Immediately preceding text appears at serial pages (408501) to (408502) and (400753) to (400754).

Rule 1113. Time for Petitioning for Allowance of Appeal.

(a) *General rule.*—Except as otherwise prescribed by this rule, a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 30 days after the entry of the order of the Superior Court or the Commonwealth Court sought to be reviewed.

(1) If a timely application for reargument is filed in the Superior Court or Commonwealth Court by any party, the time for filing a petition for allowance of appeal for all parties shall run from the entry of the order denying reargument or from the entry of the decision on reargument, whether or not that decision amounts to a reaffirmation of the prior decision.

(2) Unless the Superior Court or the Commonwealth Court acts on the application for reargument within 60 days after it is filed, the court shall no longer consider the application, it shall be deemed to have been denied, and the prothonotary of the appellate court shall forthwith enter an order denying the application and shall immediately give notice of entry of the order denying the application to each party who has appeared in the appellate court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.

(3) In a children's fast track appeal, unless the Superior Court acts on the application for reargument within 45 days after it is filed, the court shall no longer consider the application, it shall be deemed to have been denied, and the Prothonotary of the Superior Court shall forthwith enter an order denying the application and shall immediately give notice of entry of the order denying the application to each party who has appeared in the appellate court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.

(b) *Cross-petitions.*—Except as otherwise prescribed in paragraph (c) of this rule, if a timely petition for allowance of appeal is filed by a party, any other party may file a cross-petition for allowance of appeal within 14 days of the date on which the first petition for allowance of appeal was served, or within the time otherwise prescribed by this rule, whichever period last expires.

(c) *Special provisions.*—Notwithstanding any other provision of this rule, a petition for allowance of appeal from an order in any matter arising under any of the following shall be filed within ten days after the entry of the order sought to be reviewed:

1. Pennsylvania Election Code.
2. Local Government Unit Debt Act or any similar statute relating to the authorization of public debt.

(d) *Nunc pro tunc filing*.—In addition to the right of any petitioner to seek *nunc pro tunc* relief in compliance with the standard set forth in case law, in a criminal case, a party may, (either *pro se* or through counsel) file an application for permission to file a petition for allowance of appeal *nunc pro tunc* if the party directed counsel to file a petition for allowance of appeal but counsel did not do so timely. If the Court cannot determine whether *nunc pro tunc* relief is appropriate from the information provided, the Court may remand to the trial court for factual findings.

Official Note: See note to Pa.R.A.P. 903 (time for appeal).

Paragraph (b)—A party filing a cross-petition for allowance of appeal should identify it as a cross-petition to assure that the prothonotary will process the cross-petition with the initial petition. See also Pa.R.A.P. 511 (cross-appeals), Pa.R.A.P. 2136 (briefs in cases involving cross-appeals), and Pa.R.A.P. 2322 (cross- and separate appeals).

Paragraph (d)—An application for *nunc pro tunc* relief pursuant to Pa.R.A.P. 123 should contain averments and documentation in support of the request. Such an application may eliminate the need for a criminal defendant to vindicate the right to file a petition for allowance of appeal through post-conviction proceedings and preserve judicial resources. This method is available because the Supreme Court has recognized that a criminal defendant has a right to have counsel petition for allowance of appeal. Pennsylvania Rules of Criminal Procedure 120 and 122 require counsel to represent clients through all stages of a direct appeal, and this places on counsel an obligation to file a petition for allowance of appeal if the client requests one, and to represent the client in the Pennsylvania Supreme Court, if allowance of appeal is granted. Parties seeking *nunc pro tunc* relief must act promptly to assert such a right upon learning of the existence of the basis for such relief. See, e.g., *Commonwealth v. Bassion*, 568 A.2d 1316 (Pa. Super. 1990). Additionally, nothing in this rule is intended to expand upon the jurisdictional time limitations of the Post-Conviction Relief Act, 42 Pa.C.S. §§ 9541 *et seq.*

Source

The provisions of this Rule 1114 amended through April 26, 1982, effective September 12, 1982, 12 Pa.B. 1536; amended October 18, 2002, effective December 2, 2002, 32 Pa.B. 5402; amended January 13, 2009, effective as to all appeals filed 60 days or more after adoption, 39 Pa.B. 1094; amended April 9, 2012, effective in 30 days, 42 Pa.B. 2269; amended January 7, 2020, effective May 1, 2020, 50 Pa.B. 535. Immediately preceding text appears at serial pages (372656) and (389947).

Rule 1114. Standards Governing Allowance of Appeal.

(a) *General Rule*. Except as prescribed in Pa.R.A.P. 1101 (appeals as of right from the Commonwealth Court), review of a final order of the Superior Court or the Commonwealth Court is not a matter of right, but of sound judicial discretion, and an appeal will be allowed only when there are special and important reasons therefor.

(b) *Standards*. A petition for allowance of appeal may be granted for any of the following reasons:

- (1) the holding of the intermediate appellate court conflicts with another intermediate appellate court opinion;
- (2) the holding of the intermediate appellate court conflicts with a holding of the Pennsylvania Supreme Court or the United States Supreme Court on the same legal question;
- (3) the question presented is one of first impression;
- (4) the question presented is one of such substantial public importance as to require prompt and definitive resolution by the Pennsylvania Supreme Court;
- (5) the issue involves the constitutionality of a statute of the Commonwealth;
- (6) the intermediate appellate court has so far departed from accepted judicial practices or so abused its discretion as to call for the exercise of the Pennsylvania Supreme Court's supervisory authority; or

(7) the intermediate appellate court has erroneously entered an order quashing or dismissing an appeal.

Official Note: The petition for allowance of appeal is synonymous with a petition for allocatur.

Pa.R.A.P. 1114(b)(7) supersedes the practice described in *Vaccone v. Syken*, 587 Pa. 380, 384 n.2, 899 A.2d 1103, 1106 n.2 (2006).

Source

The provisions of this Rule 1114 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended February 4, 2011, effective in 30 days, and shall be applicable to petitions filed thereafter, 41 Pa.B. 923; amended May 31, 2013, effective immediately, 43 Pa.B. 3223. Immediately preceding text appears at serial page (361141).

Rule 1115. Content of the Petition for Allowance of Appeal.

(a) *General rule.*—The petition for allowance of appeal need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall be set forth in the order stated):

(1) A reference to the official and unofficial reports of the opinions delivered in the courts below, if any, and if reported. Any such opinions shall be appended as provided in subdivision (a)(7).

(2) The text of the order in question, or the portions thereof sought to be reviewed, and the date of its entry in the appellate court below. If the order is voluminous, it may, if more convenient, be appended to the petition.

(3) The questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of questions presented will be deemed to include every subsidiary question fairly comprised therein. Only the questions set forth in the petition, or fairly comprised therein, will ordinarily be considered by the court in the event an appeal is allowed.

(4) A statement of place of raising or preservation of issues, which shall appear immediately after the questions presented for review. The statement shall specify the stage of the proceedings at which, and manner in which, the questions sought to be reviewed were raised in each proceeding below, the method of raising those questions (*e.g.*, by a pleading, by a request to charge and exceptions, etc.), and the way in which those questions were passed upon by each court below, with citations to the record, as required by Pa.R.A.P. 2117(c). If under the applicable law an issue is reviewable on appeal without having been raised or preserved below, the statement shall so assert, with citation to appropriate authority.

(5) A concise statement of the case containing the facts material to a consideration of the questions presented.

(6) A concise statement of the reasons relied upon for allowance of an appeal. *See* Pa.R.A.P. 1114.

(7) There shall be appended to the petition a copy of any opinions delivered relating to the order sought to be reviewed, as well as all opinions of government units, trial courts, or intermediate appellate courts in the case, and, if reference thereto is necessary to ascertain the grounds of the order, opinions in companion cases. If an application for reargument was filed in the Superior Court or Commonwealth Court, there also shall be appended to the petition a copy of any order granting or denying the application for reargument. If whatever is required by this paragraph to be appended to the petition is voluminous, it may, if more convenient, be separately presented.

(8) There shall be appended to the petition the verbatim texts of the pertinent provisions of constitutional provisions, statutes, ordinances, regulations, or other similar enactments which the case involves, and the citation to the volume and page where they are published, including the official edition, if any.

(9) The certificate of compliance required by Pa.R.A.P. 127.

(b) *Caption and parties.*—All parties to the proceeding in the intermediate appellate court shall be deemed parties in the Supreme Court, unless the petitioner shall notify the Prothonotary of the Supreme Court of the belief of the petitioner that one or more of the parties below have no interest in the outcome of the petition. A copy of such notice shall be served on all parties to the matter in the intermediate appellate court, and a party noted as no longer interested may remain a party in the Supreme Court by filing a notice that he has an interest in the petition with the Prothonotary of the Supreme Court. All parties in the Supreme Court other than petitioner shall be named as respondents, but respondents who support the position of the petitioner shall meet the time schedule for filing papers which is provided in this chapter for the petitioner, except that any response by such respondents to the petition shall be filed as promptly as possible after receipt of the petition.

(c) *No supporting brief.*—All contentions in support of a petition for allowance of appeal shall be set forth in the body of the petition as provided by subdivision (a)(6) of this rule. Neither the briefs below nor any separate brief in support of a petition for allowance of appeal will be received, and the Prothonotary of the Supreme Court will refuse to file any petition for allowance of appeal to which is annexed or appended any brief below or supporting brief.

(d) *Essential requisites of petition.*—The failure to comply with the requirements of this rule in all material respects shall alone be grounds for denying a petition. The failure of a petitioner to present with accuracy, brevity, and clarity whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition.

(e) *Multiple petitioners.*—Where permitted by Pa.R.A.P. 512 a single petition for allowance of appeal may be filed.

(f) *Length.*—A petition for allowance of appeal shall not exceed 9,000 words. A petition for allowance of appeal that does not exceed 20 pages when produced by a word processor or typewriter shall be deemed to meet the 9,000 word limit. In all other cases, the attorney or the unrepresented filing party shall include a certification that the petition complies with the word count limit. The certificate may be based on the word count of the word processing system used to prepare the petition.

(g) *Supplementary matter.*—The cover of the petition for allowance of appeal, pages containing the table of contents, table of citations, proof of service, signature block, and anything appended to the petition under subdivisions (a)(7) and (a)(8) shall not count against the word count limitations of this rule.

Official Note: Former Supreme Court Rule 62 permitted the petitioner in effect to dump an undigested mass of material (such as briefs in and opinions of the court below) in the lap of the Supreme Court, with the burden on the individual justices and their law clerks to winnow the wheat from the chaff. This rule, which is patterned after U.S. Supreme Court Rule 14, places the burden on the petitioner to prepare a succinct and coherent presentation of the case and the reasons in support of allowance of appeal.

Where an appellant desires to challenge the discretionary aspects of a sentence of a trial court the “petition for allowance of appeal” referred to in 42 Pa.C.S. § 9781(b) is deferred until the briefing stage, and the appeal is commenced by filing a notice of appeal pursuant to Chapter 9

rather than a petition for allowance of appeal pursuant to Chapter 11. *Commonwealth v. Tuladziecki*, 522 A.2d 17, 18 (Pa. 1987). See note to Pa.R.A.P. 902; Pa.R.A.P. 2116(b) and the note thereto; Pa.R.A.P. 2119(f) and the note thereto.

Source

The provisions of this Rule 1115 amended May 16, 1979, effective June 2, 1979, 9 Pa.B. 1753; amended September 25, 2008, effective as to all petitions for allowance of appeal filed more than 30 days after entry of the order, 38 Pa.B. 5589; amended May 28, 2014, effective July 1, 2014, 44 Pa.B. 3493; amended December 30, 2014, effective in 60 days, 45 Pa.B. 288; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended December 7, 2021, effective April 1, 2022, 51 Pa.B. 7857; amended October 12, 2023, effective December 1, 2023, 53 Pa.B. 6696. Immediately preceding text appears at serial pages (408504) to (408506).

Rule 1116. Answer to the Petition for Allowance of Appeal.

(a) *General rule.*—Except as otherwise prescribed by this rule, within 14 days after service of a petition for allowance of appeal an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading, shall set forth any procedural, substantive or other argument or ground why the order involved should not be reviewed by the Supreme Court, and shall comply with Pa.R.A.P. 1115(a)(8). No separate motion to dismiss a petition for allowance of appeal will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the petition for allowance of appeal will not be filed. The failure to file an answer will not be construed as concurrence in the request for allowance of appeal.

(b) *Children's fast track appeals.*—In a children's fast track appeal, within 10 days after service of a petition for allowance of appeal, an adverse party may file an answer.

(c) *Length.*—An answer to a petition for allowance of appeal shall not exceed 9,000 words. An answer that does not exceed 20 pages when produced by a word processor or typewriter shall be deemed to meet the 9,000 word limit. In all other cases, the attorney or the unrepresented filing party shall include a certification that the answer complies with the word count limit. The certificate may be based on the word count of the word processing system used to prepare the answer.

(d) *Supplementary matter.*—The cover of the answer, pages containing the table of contents, table of citations, proof of service, signature block, and anything appended to the answer shall not count against the word count limitations of this rule.

(e) *Certificate of compliance with Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.*—An answer to a petition for allowance of appeal shall contain the certificate of compliance required by Pa.R.A.P. 127.

Official Note: This rule and Pa.R.A.P. 1115 contemplate that the petition and answer will address themselves to the heart of the issue, such as whether the Supreme Court ought to exercise its discretion to allow an appeal, without the need to comply with the formalistic pattern of numbered averments in the petition and correspondingly numbered admissions and denials in the response. While such a formalistic format is appropriate when factual issues are being framed in a trial court, as in the petition for review under Chapter 15, such a format interferes with the clear narrative exposition necessary to outline succinctly the case for the Supreme Court in the allocatur context.

Parties are strongly encouraged to raise any waiver-based or procedural objection to a petition for allowance of appeal in an answer to the petition. In addition, parties are reminded that

they may raise waiver-based, procedural, and jurisdictional objections after the grant of a petition for allowance of appeal, but before merits briefing, through a dispositive motion filed under Pa.R.A.P. 1972.

Source

The provisions of this Rule 1116 amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended January 13, 2009, effective as to all appeals filed 60 days or more after adoption, 39 Pa.B. 1094; amended December 30, 2014, effective in 60 days, 45 Pa.B. 288; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3517; amended December 7, 2021, effective April 1, 2022, 51 Pa.B. 7857. Immediately preceding text appears at serial pages (400758) and (392575).

Rule 1121. Transmission of Papers to and Action by the Court.

Upon receipt of the answer to the petition for allowance of appeal, or a letter stating that no answer will be filed, from each party entitled to file such, the petition and the answer, if any, shall be distributed by the Prothonotary to the Supreme Court for its consideration. An appeal may be allowed limited to one or more of the questions presented in the petition, in which case the order allowing the appeal shall specify the question or questions which will be considered by the Court.

Source

The provisions of this Rule 1121 amended through April 30, 1984, effective April 30, 1984, 14 Pa.B. 1639; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257. Immediately preceding text appears at serial pages (215322) to (215323).

Rule 1122. Allowance of Appeal and Transmission of Record.

If an appeal is allowed the Prothonotary of the Supreme Court shall immediately give written notice in person or by first class mail of the entry of the order allowing the appeal to the prothonotary of the appellate court below and to each party who has appeared in the Supreme Court. The notice shall specify the question or questions which will be considered by the Supreme Court, if an appeal has been allowed as to less than all questions presented. The prothonotary of the appellate court below shall docket the notice in the same manner as a notice of appeal, and shall forthwith transmit the record to the Prothonotary of the Supreme Court, but for the purpose of computing time under these rules the record shall be deemed filed in the Supreme Court on the date of entry of the order allowing the appeal. A notice of appeal need not be filed.

Official Note: This rule eliminates the little-known procedural “trap” whereby the number of days between the entry of the judgment below and the date of filing the petition for allowance of appeal is subtracted from the time available to the appellant for formal entry of the appeal after it has been allowed. See *Platt-Barber Co. v. Groves*, 193 Pa. 475, 44 Atl. 571 (1899). Under this rule the entry by the Supreme Court of the order allowing the appeal automatically perfects the appeal.

Source

The provisions of this Rule 1122 amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740. Immediately preceding text appears at serial page (39580).

Rule 1123. Denial of Appeal; Reconsideration.

(a) *Denial.* If the petition for allowance of appeal is denied the Prothonotary of the Supreme Court shall immediately give written notice in person or by first class mail of the entry of the order denying the appeal to each party who has appeared in the Supreme Court. After the expiration of the time allowed by paragraph (b) of this rule for the filing of an application for reconsideration of denial

of a petition for allowance of appeal, if no application for reconsideration is filed, the Prothonotary of the Supreme Court shall notify the prothonotary of the appellate court below of the denial of the petition.

(b) *Reconsideration.* Applications for reconsideration of denial of allowance of appeal are not favored and will be considered only in the most extraordinary circumstances. An application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within fourteen days after entry of the order denying the petition for allowance of appeal. In a children's fast track appeal, the application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 7 days after entry of the order denying the petition for allowance of appeal. Any application filed under this paragraph must comport with the following:

- (1) Briefly and distinctly state grounds which are confined to intervening circumstances of substantial or controlling effect.
- (2) Be supported by a certificate of counsel to the effect that it is presented in good faith and not for delay. Counsel must also certify that the application is restricted to the grounds specified under subparagraph (b)(1).
- (3) Contain the certificate of compliance required by Pa.R.A.P. 127.

No answer to an application for reconsideration will be received unless requested by the Supreme Court. Second or subsequent applications for reconsideration, and applications for reconsideration which are out of time under this rule, will not be received.

(c) *Manner of Filing.* If the application for reconsideration is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the application shall be deemed received by the prothonotary for the purposes of Pa.R.A.P. 121(a) (filing) on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing, Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the court in which reconsideration is sought, and shall be enclosed with the application or separately mailed to the prothonotary. Upon actual receipt of the application, the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when application was sought, which date shall be shown on the docket.

Source

The provisions of this Rule 1123 amended May 16, 1996, effective July 1, 1996, 26 Pa.B. 2482; amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257; amended January 13, 2009, effective as to all appeals filed 60 days or more after adoption, 39 Pa.B. 1094; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 461; amended September 11, 2023, effective January 1, 2024, 53 Pa.B. 5877. Immediately preceding text appears at serial pages (408507) to (408508).

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