

THE COURTS

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Probation Reform Act Postsentence Review Procedures; General Court Regulation; No. 2024-01

And Now this 8th day of July, 2024 this Court adopts this General Court Regulation to establish the Postsentence Review Program and provide procedural guidance for the expeditious processing of all postsentence reviews required under Section 7 of the Probation Reform Act, Act No. 44 of 2023, Dec. 14, 2023 (hereinafter, “the Act”). This General Court Regulation shall apply to all individuals sentenced or resented to a term of probation prior to June 11, 2024.

1. The probation office responsible for the supervision of a defendant (hereinafter, “Probation Office”) shall calculate the date of eligibility for a postsentence review as set forth under Section 7, Paragraphs (1) and (2) of the Act and shall prepare a Postsentence Review Report (hereinafter, “Report”) for each eligible defendant under its supervision.

2. The Report shall include the following:

a. The date the Defendant is eligible for a postsentence review pursuant to Section 7 of the Act, Paragraph (1)(i);

b. A statement identifying the Judge supervising the Defendant’s probationary sentence;

c. A statement as to whether the Defendant has satisfied any of the conditions described in Section 4, Paragraphs (c)(1) and (c)(2) of the Act;

d. A statement as to whether the Defendant has completed all treatment or any other program required as a condition of probation;

e. Any additional information relevant to the Court’s review of whether the Defendant should be considered for early termination of probation or modification of the terms and conditions of probation; and

f. A recommendation that:

i. The Defendant’s probation be terminated;

ii. The Defendant’s probation continue as previously ordered; or

iii. The Defendant’s probation continue under different, reduced or increased terms and conditions.

3. The Probation Office shall file the Report with the Office of Judicial Records. The Report shall be served on the Commonwealth, the Defendant, the Defendant’s last counsel of record, and the Defenders Association of Philadelphia in accordance with Pa.R.Crim.P. 576 and Phila.Crim.R. *576.

4. The Report shall be filed at the earliest time practicable, but no later than 45 days prior to the date the Defendant is eligible for a postsentence review pursuant to Section 7 of the Act.

5. The Probation Office shall immediately provide the Criminal Listings Department (hereinafter, “Criminal Listings”) with the case information for each matter in which a Report was filed.

6. Upon receiving the case information, Criminal Listings shall schedule the matter for a Postsentence Review Hearing (hereinafter, “Hearing”), which will be scheduled

before the sentencing judge on the next available date. If the sentencing judge is no longer sitting in the Trial Division—Criminal of the Philadelphia County Court of Common Pleas, or Municipal Court—Criminal Division, the Hearing will be scheduled before a judge assigned to preside over non-sitting judge Postsentence Review Hearings in the appropriate Court. Criminal Listings shall notify the Probation Office, the Defendant’s last counsel of record, the Commonwealth and the Defenders Association of Philadelphia of the date and location of the Hearing. The Probation Office shall notify the Defendant of the date and location of the Hearing. The Defendant’s appearance at a Hearing shall not be required for the initial listing.

7. The Defendant and the Commonwealth may file a Response to the Report with the Office of Judicial Records no later than 10 business days prior to the scheduled Hearing. Responses shall be served on the opposing party, the Probation Office and the Defenders Association of Philadelphia in accordance with Pa.R.Crim.P. 576 and Phila.Crim.R. *576.

8. If, at the Hearing, the Court determines that the Defendant’s presence is necessary for its determination, the Court shall continue the Hearing, and the Probation Office shall notify the Defendant of the date and location of the Hearing and that their presence is required.

9. Following the Hearing, the Court shall enter an Order terminating probation or continuing probation with the same or modified terms.

10. If the Court terminates probation at the Hearing and in the absence of the Defendant, the Probation Office shall promptly notify the Defendant that the sentence of probation was terminated.

11. Nothing in this General Court Regulation shall be construed to limit the Court’s authority to terminate probation prior to the Hearing after receiving input from the Commonwealth and the Defense. If the Court terminates probation prior to the Hearing date, the Court shall promptly transmit its Order to the Office of Judicial Records, who shall file and serve the Order pursuant to Pa.R.Crim.P. 114, and notify Criminal Listings that the scheduled Hearing should be cancelled.

12. If a Defendant’s Postsentence Review Hearing has not commenced within the time frame specified in Section 7, Paragraph (1)(i) of the Act, defense counsel or the Defendant if unrepresented may file a motion requesting a Postsentence Review Hearing.

This General Court Regulation is issued pursuant to Probation Reform Act, Act No. 44 of 2023, Dec. 14, 2023 and shall become effective immediately. The original General Court Regulation shall be filed with the Office of Judicial Records in a Docket maintained for General Court Regulations issued by the Administrative Judge of the Court of Common Pleas of Philadelphia County, shall be published in the *Pennsylvania Bulletin*, and copies shall be submitted to the Administrative Office of Pennsylvania Courts and to the Criminal Procedural Rules Committee. Copies of the General Court Regulation will be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the

Law Library for the First Judicial District of Pennsylvania, and posted on the website of the First Judicial District of Pennsylvania at <http://www.courts.phila.gov>.

By the Court

HONORABLE DANIEL ANDERS,
*Administrative Judge, Trial Division
Court of Common Pleas*

HONORABLE JOFFIE PITTMAN, III,
*Administrative Judge
Municipal Court*

[Pa.B. Doc. No. 24-1010. Filed for public inspection July 19, 2024, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Civil Division; Local Rules of the Court of Common Pleas; No. AD—2024-200-PJ; Rules Doc.

Order of Court

And Now, this 2nd day of July 2024, it is hereby Ordered that the following local rules of the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division, adopted by the Board of Judges, shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

ALLEGHENY COUNTY RULES OF CIVIL PROCEDURE 208.3(b)(3)

ALLEGHENY COUNTY RULES OF CIVIL PROCEDURE 212.7

ALLEGHENY COUNTY RULES OF CIVIL PROCEDURE 1303(a)(2)

By the Court

SUSAN EVASHAVIK DiLUCENTE,
President Judge

Local Rule 208.3(b).

(3) *Calendar Control Judge.*

(a) The Calendar Control Judge shall hear the following:

(i) All motions in any case that [**has been listed for trial or has appeared on a published trial list**] **appears on a published trial list** shall be presented to the Calendar Control Judge. This includes all motions that would otherwise have been heard by the General Motions Judge or the Discovery Motions Judge.

Local Rule 212.7. Mandatory Mediation.

(1) All parties shall participate in a formal mediation process no later than 45 days prior to commencement of the assigned trial term, as published in the *Pittsburgh Legal Journal* pursuant to Local Rule 212.1(3). This requirement shall apply unless:

(a) The Calendar Control Judge excuses the case from mediation upon motion and good cause shown; or

Note: At the discretion of the Calendar Control Judge, “good cause” may include, but is not limited to, the expense of mediation relative to a party’s perceived valuation of the case, as well as a party’s inability to afford the expense of mediation.

(b) All parties agree to waive mediation and file a Certification pursuant to Section (3)(a)(iii) of this rule.

Note: The mediation requirement set forth herein may be satisfied at any time prior to 45 days before commencement of the assigned trial term. This is intended to provide the parties with maximum flexibility in determining when mediation would be most effective.

(2) Except by agreement of all parties, all parties with a financial interest and all non-parties with a financial interest (such as insurers) shall attend mediation with full authority to settle the case. Parties without a financial interest need not attend.

(3) *Certification.*

(a) Within 7 days of completing mediation or agreeing to waive mediation pursuant to Section (1)(b) of this rule, the Plaintiff **and/or Plaintiff’s Counsel** shall file a Certification indicating that:

(i) The case was mediated and all claims have been or soon will be resolved;

(ii) The case was mediated, but all or some claims remain pending for trial; or

(iii) The parties have agreed in writing to waive mediation.

(b) Upon filing of the Certification required by this rule, the Plaintiff **and/or Plaintiff’s Counsel** shall serve a copy of the Certification upon the Calendar Control section of the Civil Division via electronic mail to CivilCalendarControl@alleghencycourts.us. Should the Plaintiff **and/or Plaintiff’s Counsel** fail to timely serve a Certification, any other party may do so.

(c) If the Calendar Control Judge excuses a case from mediation under Section (1)(a) of this rule, the moving party shall within 7 days serve a copy of the Order of Court upon the Calendar Control section of the Civil Division via electronic mail to CivilCalendarControl@alleghencycourts.us.

(d) Failure to file the Certification required by subsection (a) and/or serve a copy of the Certification upon the Calendar Control section of the Civil Division as required by subsection (b) above shall result in the Plaintiff’s Counsel being sanctioned by the Court \$250.00. Where the Plaintiff is unrepresented, and/or where good cause is shown as to why the certification was not filed by Plaintiff’s Counsel, the Court may elect not to impose the \$250.00 sanction.

(4) The Calendar Control Judge may, upon motion, impose such sanctions as are deemed appropriate against counsel and/or the parties for failure to comply with this rule in good faith.

(5) This rule does not apply to arbitration appeals, asbestos cases, or landlord-tenant cases.

Local Rule 1303(a)(2). Failure to Appear for Hearing.

(1) If a party fails to appear for a scheduled arbitration hearing, the matter may, if all present parties agree, be transferred immediately to a Judge of the Court of Common Pleas for an ex parte hearing on the merits and entry of a non-jury verdict, from which there shall be no right to a trial de novo on appeal.

Note: This local rule results in the loss of the right to a trial de novo on appeal, as described in the local rule. A dismissal or judgment which results from this local rule

will be treated as any other final judgment in a civil action, subject to Pa.R.C.P. 227.1.

(2) A non-jury verdict entered at a hearing held pursuant to Local Rule 1303(a)(2)(1) shall not exceed [\$25,000] the arbitration limit set in Local Rule 1301(1)(a) (exclusive of interest and costs) to any party.

Editor's Note: Adopted October 4, 2006, effective December 4, 2006.

[Pa.B. Doc. No. 24-1011. Filed for public inspection July 19, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONTGOMERY COUNTY

Adoption of Local Rule of Criminal Procedure 708*—Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition; No. AD-156-2024

Order

And Now, this 8th day of July, 2024, the Court hereby adopts Montgomery County Local Rule of Criminal Procedure 708*—Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition. This Rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.J.A. 103, one (1) certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) copy shall be filed with the Law Library of Montgomery County, and one (1) copy with each Judge of this Court. This Order shall also be published on the Court's website and incorporated into the complete set of the Court's Local Rules.

By the Court

CAROLYN TORNETTA CARLUCCIO,
President Judge

Rule 708*. Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition.

Violation hearings under this Rule can be conducted by any Judge currently assigned to the Criminal Division. That Judge can issue a sentence following such violation hearing provided the requirements of Pa.R.Crim.P. 700(B) have been satisfied.

Comment: This rule is intended to apply to instances where the defendant informs the Gagnon Hearing Officer that the matter is contested and/or requests their original sentencing Judge to issue a sentence on the violation. See Pa.R.Crim.P. 700.

[Pa.B. Doc. No. 24-1012. Filed for public inspection July 19, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONTGOMERY COUNTY

Adoption of Local Rules of Criminal Procedure Rule 113(E)*—Criminal Case File and Docket Entries, Rule 460(e)*—Notice of Appeal; Transmittal of Transcript and Associated Documents; and Rule 547(d)*—Transmittal of Transcript and Associated Documents; No. AD-157-2024

Order

And Now, this 8th day of July 2024, the Court hereby adopts Montgomery County Local Rule of Criminal Procedure 113(E)*—Criminal Case File and Docket Entries, Local Rule of Criminal Procedure 460(e)*—Notice of Appeal; Transmittal of Transcript and Associated Documents, and Local Rule of Criminal Procedure 547(d)*—Transmittal of Transcript and Associated Documents. Local Rule 113(E)* shall become effective thirty days after publication in the *Pennsylvania Bulletin*. Local Rules 460(e)* and 547(d)* shall become effective April 1, 2025.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.J.A. 103, one (1) certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) copy shall be filed with the Law Library of Montgomery County, and one (1) copy with each Judge of this Court. This Order shall also be published on the Court's website and incorporated into the complete set of the Court's Local Rules.

By the Court

CAROLYN TORNETTA CARLUCCIO,
President Judge

Rule 113(E)*. Criminal Case File and Docket Entries.

(E) The Clerk of Courts shall assign a Common Pleas docket number to all criminal cases within 2 business days of transmission of the electronically scanned transcript and any associated documents by the issuing authority. The issuing authority shall continue to forward the physical paper transcript and associated documents to the Clerk of Courts as may be required by rule of court, until new Local Rules 460(e) and 547(d) become effective on April 1, 2025.

Rule 460(e)*. Notice of Appeal; Transmittal of Transcript and Associated Documents.

(e) *Electronic Transmission.*

(1) The transcript and any associated documents shall be electronically scanned and transmitted to the Clerk of Courts in digital format in lieu of transmitting the physical paper transcript and associated documents. The Clerk of Courts shall assign a Common Pleas docket number to all cases within 2 business days of transmission of the transcript and any associated documents.

(2) The electronically scanned transcript and associated documents shall constitute the original documents for purposes of these rules.

(3) The issuing authority shall retain the physical paper transcript and associated documents as may be required by rule of court or records retention policies.

Rule 547(d)*. Transmittal of Transcript and Associated Documents.(d) *Electronic Transmission.*

(4) The transcript and any associated documents shall be electronically scanned and transmitted to the Clerk of Courts in digital format in lieu of transmitting the physical paper transcript and associated documents. The Clerk of Courts shall assign a Common Pleas docket number to all cases within 2 business days of transmission of the transcript and any associated documents.

(5) The electronically scanned transcript and associated documents shall constitute the original documents for purposes of these rules.

(6) The issuing authority shall retain the physical paper transcript and associated documents as may be required by rule of court or records retention policies.

[Pa.B. Doc. No. 24-1013. Filed for public inspection July 19, 2024, 9:00 a.m.]

SUPREME COURT

Declaration of Judicial Emergency for the Twelfth Judicial District; No. 620 Judicial Administration Docket

Per Curiam

And Now, this 29th day of June, 2024, pursuant to Rule of Judicial Administration 1952(A) and the Pennsylvania Supreme Court's constitutionally-conferred general supervisory and administrative authority over the courts, *see* Pa. Const. art. V, § 10(a)—including the Court's authority over essential records of the judiciary maintained by clerks of courts and prothonotaries—this Court *Finds* and *Directs* as follows:

At the county level, clerks of courts are executive-branch row officers who perform essential recordkeeping functions on behalf of the judiciary. *See Olenginski v. Cty. of Luzerne*, 24 A.3d 1103, 1107 & n.2 (Pa. Cmwlth. 2011) (discussing the role of a clerk of courts analogue, *i.e.*, prothonotaries) (found persuasive in *Pa. State Ass'n of Jury Commissioners v. Commonwealth*, 78 A.3d 1020, 1035 n.16 (Pa. 2013)). Given the importance of judicial records to the proper and timely administration of justice,

by necessity the judiciary supervises the recordkeeping function of county clerks of courts. *See Olenginski*, 24 A.3d at 1107 & n.2.

By May 2024, the President Judge of the Dauphin County Court of Common Pleas found substantial deficiencies and an unacceptable backlog in the filing, scanning, and processing of orders and documents by the Office of the Clerk of Courts of Dauphin County. Thus, the President Judge issued a detailed administrative order requiring corrective action. When, in the judgment of the President Judge, corrective action did not ensue, the President Judge scheduled contempt proceedings.

Those proceedings were thwarted when, as of June 28, 2024, the Clerk of Courts Bridget Whitley abruptly resigned, as did First Deputy Cole Goodman, and Second Deputy Rogette Harris was terminated by the Clerk of Courts. Thus, all leadership positions in the Office of the Clerk of Courts of Dauphin County became vacant.

This Court finds that the unprecedented and untenable leadership void in the Office of the Clerk of Courts of Dauphin County constitutes a judicial emergency, since it significantly interrupts the performance of court operations by impeding the essential recordkeeping function. *See* Pa.R.J.A. 1951 (definition of "Emergency"). Accordingly, pursuant to this Court's authority under Rule of Judicial Administration 1952(A)(1), this Court *Declares* a local judicial emergency in the Twelfth Judicial District relative to the essential recordkeeping function.

The President Judge is *Directed* to temporarily appoint an acting Clerk of Courts to ensure that the duties assigned to the Office of the Clerk of Courts of Dauphin County are performed continuously, until such time as the executive branch appoints a replacement for the Clerk of Courts to remediate the leadership void in that county office.

This order *Shall Terminate* upon the President Judge's certification that an orderly transition of the leadership of the office of the Clerk of Courts to the executive branch appointee has been accomplished and that the necessary support for the judiciary and the proper and timely administration of justice can be maintained.

Any objections to this Order may be submitted to the Court on this docket within ten days after entry, and shall also be served on the President Judge.

[Pa.B. Doc. No. 24-1014. Filed for public inspection July 19, 2024, 9:00 a.m.]
