

LOCAL RULES OF CRIMINAL PROCEDURE

PREAMBLE

The following rules are subject to the provisions of the Pennsylvania Rules of Criminal Procedure now or hereafter adopted, and are to be interpreted in accordance with the rules of construction embodied in those procedural rules. In the event of conflict between these rules and the Pennsylvania Rules of Criminal Procedure or any applicable statute, the statute or Pennsylvania Rules of Criminal Procedure shall prevail over these rules in respect to such conflict. These Rules of Criminal Procedure are intended to apply in all matters where the statute or Pennsylvania Rules are silent.

RULE NCR-1 - SCOPE OF RULES

These rules are intended to supplement the Pennsylvania Rules of Criminal Procedure and are intended to apply to all criminal proceedings in the Court of Common Pleas of Northumberland County. The numbering of these rules is intended, so far as possible, to relate to the subject matter of relevant rules of the Pennsylvania Rules of Criminal Procedure.

RULE NCR-3 - DEFINITIONS

The words and phrases used in any rule promulgated by this Court shall have the meanings as set forth in Pa. R. Crim. P. No. 3 unless the context clearly indicates otherwise or the particular word or phrase is expressly defined elsewhere in these rules.

RULE NCR-130 - PROMPT RELEASE OF DEFENDANT FROM CUSTODY

Procedure In Court Cases Initiated By Arrest Without Warrant

When a defendant has been arrested without a warrant, the arresting officer may, when the officer deems it appropriate, promptly release the defendant from custody rather than taking the defendant before the issuing authority where all the following conditions have been met:

- (1) The most serious offense charged is a misdemeanor of the second degree;
- (2) The defendant is a resident of the Commonwealth;
- (3) The defendant poses no threat of immediate physical harm to any other person or to himself or herself;
- (4) The arresting officer has reasonable grounds to believe the defendant will appear as required; and
- (5) The defendant does not demand to be taken before an issuing authority.

RULE NCR-133 - APPROVAL OF PRIVATE COMPLAINT

In every private criminal complaint submitted to the Office of the District Attorney for approval under Pa. R. Crim. P. 133(a), the affiant shall certify the following information:

- (1) That the complaint has been previously submitted to the law enforcement agency having principal jurisdiction over the site of the alleged offense;
- (2) The name of the law enforcement officer who investigated the affiant's complaint; and
- (3) The reason that the responsible law enforcement agency did not initiate criminal proceedings based upon the affiant's information.

RULE NCR-140 - EXPLANATION OF DELAY OF HEARING

Where a preliminary hearing is not held within the time limits provided in Pa. R. Crim. P. 140(d)(1), the issuing authority's transcript shall set forth precisely the reasons or cause for any extension of the ten (10) day time limit.

RULE NCR-141 - PRELIMINARY HEARING (COURT REPORTERS)

A. In any case involving an indigent defendant, a petition must be filed with the Court requesting the appointment of a Court Reporter for a preliminary hearing.

B. Court Reporters will not be appointed for cases where the most serious offense charged is a misdemeanor.

RULE NCR-300 - PRO SE FILINGS

All pro se petitions and motions must be filed and docketed in the Office of the Clerk of Court. Petitions and motions sent to any other office shall be returned with a copy of this rule attached thereto.

The Clerk of Court shall forward a copy of all documents filed by individuals, themselves, to their attorney of record, if any.

All pro se filings must be clocked in by the Clerk of Court. Filings which are not in compliance with the law, rules of court or the appropriate fee schedule shall be duly noted and forwarded immediately to the Office of the Court Administrator. The Court Administrator, after consulting with the Court, shall notify the individual of the deficiency of his pleading.

Notice to an individual who has filed a deficient pleading shall be as follows:

NOTICE. YOU HAVE FILED A DOCUMENT WITH THE COURT OF COMMON PLEAS OF NORTHUMBERLAND COUNTY WHICH IS NOT IN COMPLIANCE WITH THE LAW, RULE OF COURT, OR FEE SCHEDULE. YOU ARE ADVISED THAT YOUR FAILURE TO COMPLY MAY RESULT IN

RULE NCR-300 Cont'd:

PREJUDICE TO YOUR RIGHTS OR CLAIM. YOU SHOULD CONSULT A LAWYER IMMEDIATELY. IF YOU CANNOT AFFORD A LAWYER, THE COURT MAY APPOINT ONE ON YOUR BEHALF. IF YOU BELIEVE YOU QUALIFY, CONTACT THE FOLLOWING OFFICE:

COURT ADMINISTRATOR
NORTHUMBERLAND COUNTY COURTHOUSE
SUNBURY, PENNSYLVANIA 17801
TELEPHONE (717) 988-4167

IF YOU DESIRE TO REPRESENT YOURSELF OR DO NOT QUALIFY FOR FREE COUNSEL, YOU ARE INSTRUCTED THAT YOU MUST BRING YOUR FILING INTO COMPLIANCE WITH THE LAW, RULE OF COURT OR FEE SCHEDULE YOU HAVE VIOLATED OR YOUR RIGHTS OR CLAIM MAY BE PREJUDICED.

RULE NCR-301 - CONTINUANCES

Applications for continuance shall be filed in writing with the Court a minimum of seven (7) days before the scheduled hearing, unless good cause is shown for noncompliance with the above time limit.

RULE NCR-303 - COURT ARRAIGNMENT

A. Arraignment shall be held on the next regularly scheduled arraignment day which occurs ten (10) days or more after the preliminary hearing or waiver of preliminary hearing.

B. Defendant may enter a plea of guilty at the time of arraignment, may enter a waiver of jury trial, or may file a waiver of arraignment.

C. If a written waiver of arraignment is filed prior to the scheduled date of arraignment, the scheduled date of arraignment shall be deemed the day of arraignment for the purpose of computing time limitations for filing all pre-trial motions and requests pursuant to Pa. R. Crim. P. Nos. 304, 305, and 307.

D. A defendant who desires to waive formal arraignment may do so at the office of the District Justice after the District Justice has bound the case over following a preliminary hearing, or, in the alternative, following a waiver of the preliminary hearing.

RULE NCR-306 - OMNIBUS PRE-TRIAL MOTION FOR RELIEF

All requests for relief contained within an omnibus pre-trial motion shall state with specificity the basis upon which relief is sought. Boilerplate motions or motions lacking the requisite specificity may be summarily dismissed by the Court.

RULE NCR-308 - TRANSPORTATION OF DEFENDANT FOR COURT PROCEEDINGS

The attorney representing a defendant who is incarcerated is responsible for obtaining a transportation order to secure the defendant's appearance at trial or hearing. If a defendant is unrepresented by counsel or is proceeding

RULE NCR-308 Cont'd:

pro se, the District Attorney shall arrange for transporting the defendant for trial or hearing.

All transportation orders must be filed with the Court and served upon the Sheriff of Northumberland County a minimum of five (5) days prior to the scheduled date of hearing or trial when the defendant is incarcerated in an out of county facility. If the defendant is incarcerated in a facility located in the county, a minimum of forty-eight (48) hours notice is required. The transportation order shall be in the same format as found in Appendix "A".

RULE NCR-309 - CALL OF THE CRIMINAL TRIAL LIST

The Court Administrator shall set up a schedule for the Call of the Criminal Trial List. The Call of the Criminal Trial List will be scheduled, at a minimum, two (2) weeks prior to each criminal trial term scheduled in the Court of Common Pleas of Northumberland County.

A. All attorneys representing defendants on the call list must attend the Call of the Criminal Trial List unless:

1. A date certain has been scheduled for the entry of a plea; or
2. A continuance request on a form specified by the Court Administrator has been submitted and approved by the Court; or
3. A written memorandum has been provided to the Court Administrator outlining the disposition of the attorney's caseload three (3) days prior to the Call of the Criminal Trial List; or
4. Court approval has been given based upon a written request by counsel outlining his reasons for his unavailability.

B. All pro se defendants must attend the Call of the Criminal Trial List.

C. Failure to comply with the requirements of this rule may result in the imposition of sanctions by the Court.

RULE NCR-311 - CRIMINAL PRE-TRIAL CONFERENCES

All criminal cases announced as trial ready during the Call of the Criminal Trial List shall be placed on the Pre-Trial Conference List. A pre-trial conference shall be scheduled in each of the cases within a reasonable amount of time.

A. The defendant, his attorney and the District Attorney assigned to the case must attend the pre-trial conference.

B. All outstanding legal issues shall be addressed and resolved at the conference.

RULE NCR-311 Cont'd:

C. Failure of the defendant, his attorney or the assigned District Attorney to attend the scheduled pre-trial conference may result in the imposition of sanctions by the Court.

RULE NCR-313 - NOLLE PROSEQUI

A. A motion by the Commonwealth for a nolle prosequi shall be presented in open court where the reason for the nolle prosequi is other than pursuant to a plea agreement.

B. A motion for nolle prosequi not resulting from a plea agreement shall include a certification that the prosecuting officer or private prosecutor received notice of the hearing.

RULE NCR-319 - PLEA AGREEMENTS

A. A plea agreement which has been rejected by one of the judges of the Court of Common Pleas shall not be submitted to another judge in the same or substantially the same form without prior notice to the judge who rejected the plea and disclosure of said rejection to the judge receiving the plea.

B. Prior to the entry of a plea of guilty or a plea of nolo contendere, all defendants must complete a guilty plea colloquy in its entirety on a form to be provided by the Court Administrator.

RULE NCR-323 - SUPPRESSION OF EVIDENCE

All motions to suppress which lack the specificity and particularity required pursuant to Pa. R. Crim. P. 323(d) may be summarily dismissed by the Court.

RULE NCR-1100 - PROMPT TRIAL - PRIORITY TO INCARCERATED DEFENDANTS

A. Whenever possible, priority shall be given to the trial of cases involving defendants who have failed to make bail.

B. All motions for dismissal filed pursuant to Pa. R. Crim. P. 1100 shall state with specificity and particularity the grounds for dismissal and the facts and events in support thereof, including but not limited to, the date and duration of continuances, motions, etc., necessary to the calculation of the time elapsed.

RULE NCR-1123 - POST-VERDICT MOTIONS

A. Where a defendant desires to file post-trial motions for a new trial or in arrest of judgment, it shall be the obligation of trial counsel to file the same. Trial counsel shall also be required to argue the motions unless succeeding counsel has entered his appearance or permission to withdraw has been granted by the Court.

B. No transcription of the record shall be made prior to argument on post-trial motions except upon petition by a party, approved by the Court.

RULE NCR-1123 Cont'd:

C. All costs of transcription of the record will be charged as one of the costs of record, payable by the defendant if the motion (appeal) is finally resolved adversely to him.

RULE NCR-1410 - POST SENTENCE MOTIONS

All post sentence motions shall state with specificity and particularity the grounds and facts in support thereof. Motions lacking the required specificity and particularity may be summarily dismissed.

RULE NCR-1502 - POST-CONVICTION COLLATERAL PROCEEDINGS

Counsel appointed to represent a defendant who has filed a pro se petition under the Post Conviction Relief Act (42 Pa. C.S. 9541 et seq.) must file an amended petition setting forth the specific grounds for relief. The amended petition must be filed within twenty (20) days of the filing of the pro se petition or within twenty (20) days of the appointment of counsel or within twenty (20) days from the filing of any requested transcripts, whichever is later.

RULE NCR-1506 - ANSWER TO MOTION FOR POST-CONVICTION COLLATERAL RELIEF

Pursuant to Pa. R. Crim. P. 1506(a), the Court may order an answer to be filed to a motion for post-conviction collateral relief. When ordered to file an answer, said answer shall be filed within ten (10) days of the filing of the order.

RULE NCR-4006 - BAIL

A. The person from whom bail has been set, or a private third-party surety, shall, with the approval of the Court or issuing authority, execute a bail bond and deposit with the Clerk of Court or issuing authority, a sum of money equal to ten percent (10%) of the amount of bail set, but in no event shall such deposit be less than Fifty (\$50.00) Dollars. Corporate sureties are expressly prohibited from posting the deposit for bail set under this section.

B. In all court cases, a non-refundable administrative fee of Twenty-Five (\$25.00) Dollars shall be paid to the issuing authority or Clerk of Court at the time the bail bond is executed or prior to the case being returned to the Common Pleas Court by the issuing authority. In all court cases, where the defendant has been released on bail, the Twenty-Five (\$25.00) Dollar administrative fee shall be transmitted to the Clerk of Court with the transcript of proceedings before the District Justice. The administrative fee shall be considered as earned at the time the bail undertaking is executed.

C. The issuing authority or Clerk of Court shall cause a Confession of Judgment Waiver to be executed in all court cases where bail is being provided either by defendant or other parties on such form as provided by the Court.

RULE MCR-4006 Cont'd:

D. The Prothonotary's Office shall keep an index for the recording of all judgments entered in bail situations. Said register will contain the civil docket number, name and address of the defendant, name and address of the third-party surety, criminal docket number, offense tracking number, amount of judgment, date of judgment, and date of judgment released. Use of the current judgment index will satisfy this rule.

E. In all cases where there has been a nonappearance before a District Justice and a bail bond has been executed, the bail bond and the Twenty-Five (\$25.00) Dollar administrative fee shall be immediately transmitted to the Clerk of Court along with a written statement of the details concerning the defendant's nonappearance and an order declaring the forfeiture of bail.

F. When the conditions of a bail bond have been performed and the defendant has been discharged from all obligations in the case, upon an appropriate order of court, the Clerk of Court shall return to the accused or third party, unless the Court orders otherwise, the entire amount of cash bail deposited, less any unpaid administrative costs. In the event the judgment has been entered on any bail bond, upon receiving an order that the defendant has been discharged from all obligations, the Clerk of Court shall mark the judgment satisfied on the record.

G. If the defendant does not comply with the conditions of the bail bond, the Court shall enter an order pursuant to Pa. R. Crim. P. 4016 and notice of such order of forfeiture shall be mailed forthwith by certified mail to the defendant at his last known address.

H. Upon default of bail conditions, judgment shall be entered under the direction of the Prothonotary and Clerk of Court in all bail situations.

I. If the Court orders the defendant to pay a fine and costs of prosecution, the balance of any cash bail deposited by the defendant may be applied to the payment of said fine and costs upon written authorization of the defendant. Where a third-party surety has posted a deposit, the deposit may be applied to the payment of fine and costs upon the written authorization of third-party surety.

J. Upon authorization in writing of any party who posted a cash deposit, the Court may order whatever amount is repayable from such deposit to be paid to the defendant's attorney of record.

K. Any cash deposit not claimed within one (1) year from the notice of full and final disposition of the case shall be deemed as fees and shall be forfeited to the Court. Notice of such proposed forfeitures shall be sent to the accused, the surety, if any, and the attorney of record.

L. When a defendant has failed to comply with the rules and regulations of the bail bond, or any additional conditions of his release, he may be brought before the Court to determine if additional bail shall be set in his case.

RULE NCR-4006 Cont'd:

M. If the accused asserts an inability to pay the administrative fee set forth in this rule, the matter shall be handled by the issuing authority through the filing of an affidavit by the defendant declaring his indigency or petition to proceed in forma pauperis.

RULE NCR-4008 - BAIL AGENCY

A. A bail agency has been established as part of the Adult Probation and Parole Department, the duties and powers of which shall be as follows:

1. To evaluate for the Court the reliability and solvency of prospective sureties on bail bonds pursuant to nominal bail or percentage cash bail;
2. To make recommendations to the Court and issuing authorities as to the bail risk of defendants under R.O.R., nominal bail, or percentage cash bail programs;
3. To keep account of the whereabouts of defendants released on bail under its supervision, or defendants who are released under an R.O.R., nominal or percentage cash bail program under its supervision, and to inform the Court or issuing authority of any violation by such defendants of terms or conditions of their releases;
 - a. Upon notification from the bail agency of a violation of any of the terms or conditions of bail, the District Attorney or the Court, sua sponte, may file a motion, petition, writ, rule, or other legal process to bring the defendant before the Court.
4. To make such reasonable rules and regulations as may be necessary to enable it to carry out its functions, including the establishment of a fee schedule to be operated on a sliding scale ranging from a complete waiver in case of indigency up to a maximum of Ten (\$10.00) Dollars per week;
5. To arrange for surety, such as bondsman or a private individual posting real estate, whichever the agency, in its discretion, deems appropriate.

CONFESSION OF JUDGMENT WAIVER

CAUTION: YOU ARE ABOUT TO WAIVE
IMPORTANT LEGAL RIGHTS.
READ BEFORE SIGNING.

DOCKET _____
OTN _____

The undersigned, being duly sworn according to law, states that:

1. I have been advised that I have been asked to sign an instrument containing a confession of judgment clause.
2. As a result of that confession of judgment clause, a judgment may be entered against me in a court of law and thereby become a matter of public record.
3. Execution may issue on that judgment resulting in the Sheriff or other proper official selling any property I own to satisfy that judgment including my home or other real estate, my automobile or any other item of property.
4. Knowing the foregoing, and understanding the possible results, I hereby waive any rights I have under the law which may protect me from the confession of judgment clause in the instrument.
5. I voluntarily consent to the confession of judgment being in the instrument.
6. I have intentionally, understandingly and willingly signed this document and intend to sign the instrument containing the confession of judgment clause.
7. I verify the addresses set forth are true and correct.

READ BEFORE SIGNING - DO NOT SIGN IF YOU DO NOT FULLY UNDERSTAND WHAT YOU HAVE READ ON THIS PAPER.

DEFENDANT _____

ADDRESS _____

THIRD PARTY _____

ADDRESS _____

Sworn to and subscribed
before me this ____ day of
_____, 19____.

COMMISSION EXPIRES:

ISSUING AUTHORITY
CLERK OF COURTS

BUSINESS OF COURTS

RULE NCR-10.000 - BUSINESS OF COURTS

A. All petitions, motions or other applications seeking relief by order of court shall be in writing.

B. Motions, petitions and other applications addressed to the Court shall be filed with the Clerk of Court, who shall promptly file-stamp same and make a brief docket entry. Any such papers needing prompt court attention shall be forwarded immediately to the Court Administrator by the attorney filing such papers.

1. Service shall be in accordance with the Pennsylvania Rules of Criminal Procedure and with any special instructions of the Court, and shall be the responsibility of the petitioner.

RULE NCR-10.001 - APPLICATION FOR CONTINUANCE OF PETITIONS, MOTIONS, ETC.

A. Applications for continuance shall be submitted in writing no later than seven (7) days before the scheduled date of the hearing, unless good cause is shown for noncompliance with the above time limit.

B. A hearing or trial which has been continued on two (2) previous occasions or less may be continued a third time by written motion alone. A fourth (4) or subsequent continuance request, in addition to being in writing, must be made in open court.

C. All requests for continuances must include the number of times the matter has been previously continued.

RULE NCR-10.002 - BRIEFS

A. FORM - Each brief shall be typewritten and endorsed with the name of the case, the Court, the term and number and the name and address of the attorney.

B. CONTENT - The brief shall include a statement of the facts, a statement of the questions involved and an argument.

1. The statement of the facts shall consist of a closely condensed chronological statement, in narrative form, of all the facts which are necessary to be known in order to determine the points in controversy, and include a procedural history of the case showing how the case came before the Court.
2. The statement of questions must show the precise legal issues which are before the Court.
3. The argument shall be divided into as many parts as there are questions involved. Citations of authority shall be accurately designated, shall set forth the volume and page number where they appear, and shall set forth the principles for which they are cited. Whenever a Pennsylvania Statute is cited, the pertinent

RULE NCR-10,002 Cont'd:

title and section number of Purdon's Statutes or the Pennsylvania Consolidated Statutes shall also accompany said citation.

4. Whenever testimony is abstracted or referred to, it must contain reference to the page of the transcript where the supporting evidence may be found, if a transcript is available.

C. FILING - All briefs shall be filed in duplicate with the Court Administrator. The moving party shall file a brief fourteen (14) days before the date set for argument. The respondent shall file a brief seven (7) days before the date set for argument. Each party shall be responsible for serving a copy of the brief on the opposing party within the time limits specified. Where the matter is to be argued before the Court en banc, four (4) copies of every brief shall be delivered to the Court Administrator. Supplemental briefs may be filed by leave of court and within such time as the Court may direct.

The Court Administrator shall record the receipt of the briefs in a permanent log and distribute the briefs to the judge handling the case and his/her law clerk. The permanent log will be available to the judges to indicate compliance or noncompliance. Requests for waiver of briefs or extension of brief deadline shall be submitted in writing through the Court Administrator and shall be approved by the judge handling the case.

D. NONCOMPLIANCE - Failure to file briefs in accordance with the established deadlines may be considered by the Court to be a withdrawal of the matter listed by the moving party or the withdrawal of opposition thereto by the opposing party, as the case may be, and the Court may make an appropriate order disposing of the same. The Court may also, in its discretion, treat the matter as submitted by the defaulting party and proceed ex parte, grant a continuance upon motion of the non-defaulting party, or impose such other sanctions as the Court may deem appropriate.

RULE NCR-10,003 - ORAL ARGUMENT

A. The Prothonotary shall prepare an argument and equity list consisting of all cases ordered thereon either by the Court or by praecipe filed not later than thirty (30) days before the argument court, which shall commence as per the official court calendar. Copies of the list shall be available at least twenty-five (25) days before argument court.

1. Where the case is ordered onto the argument and equity list by praecipe, the praecipe shall briefly identify the nature of the matter to be argued.
2. Where the resolution of factual issues necessitates the taking of testimony before the Court, such fact shall be noted by the praecipe.
3. Copies of all praecipos ordering cases onto the argument and equity list shall be sent to the opposing party or his attorney

RULE NCR-10,003 Cont'd:

and shall be forwarded by the Prothonotary or other appropriate Court Clerk to the Court Administrator.

B. Argument court shall be reserved for cases in which only a question of law is to be determined. In other matters involving factual issues which require the taking of testimony before the Court, the Court Administrator shall schedule separate hearings apart from argument court.

C. The attorney ordering the case on the list (or the Court Administrator in cases ordered on by the Court) shall at the same time give notice thereof by sending a copy of the praecipe to the opposing party or counsel for the opposing party.

D. Upon written motion, continuance of the case on the list may be granted for cause shown or upon agreement of the attorneys with approval of the Court. The continuance shall be a continuance to the next argument court unless a specific date for further argument is specified by the Court at the time the continuance is granted, in which case the Prothonotary shall so list the case without further praecipe.

E. Cases on the argument and equity list must be submitted upon oral argument and briefs unless the Court agrees to consider the case on briefs without argument. Briefs shall be in accord with Rule NCR-10,002. Requests for a "BRIEF ONLY" listing shall be made in writing with the Court Administrator.

F. NONCOMPLIANCE - Failure to file briefs in accordance with the established deadlines may be considered by the Court to be a withdrawal of the matter listed by the moving party or the withdrawal of opposition thereto by the opposing party, as the case may be, and the Court may make an appropriate order disposing of the same. The Court may also, in its discretion, treat the matter as submitted by the defaulting party and proceed ex parte, grant a continuance upon motion of the non-defaulting party or impose such other sanction as the Court may deem appropriate.

RULE NCR-10,004 - SERVICE UPON THE DISTRICT ATTORNEY'S OFFICE

On all occasions when it is necessary to serve an original or a copy of a document upon the District Attorney, defense counsel shall make service as follows:

Office of the District Attorney
Northumberland County Courthouse
201 Market Street
Sunbury, PA 17801
ATTENTION: (Responsible Assistant D.A.)

RULE NCR-10,007 - STORAGE OF EVIDENCE

During the pendency of a criminal action, all real evidence shall be maintained in the secure custody of the primarily responsible law enforcement agency unless required otherwise by statute or order of court.

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
: OF NORTHUMBERLAND COUNTY, PA.
vs. :
: CRIMINAL DIVISION
DEFENDANT : No. CR

REQUEST FOR TRANSPORTATION ORDER

AND NOW, this _____ day of _____, 199__,
Attorney _____ requests the Court to enter
an Order directing the transportation of _____
from _____ to Northumberland
County for the purpose of _____.

Attorney

ORDER

AND NOW, this _____ day of _____, 199__,
IT IS HEREBY ORDERED AND DIRECTED that the Superintendent/Warden
of _____ release _____
to the custody of any law enforcement
agency of Northumberland County for the purpose of transporting
him/her to a _____.
Upon completion of the proceedings in Northumberland County, the
defendant will be returned to the respective institution as expe-
ditiously as possible.

BY THE COURT:

Judge

cc: District Attorney
Sheriff of Northumberland County (3 extracted copies)
Defense Attorney
Court
Court Administrator

APPENDIX "A"