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IN GENERAL

Rule 1701. Effect of Appeal Generally.

(a) *General rule.*—Except as otherwise prescribed by these rules, after an appeal is taken or review of a quasijudicial order is sought, the trial court or other government unit may no longer proceed further in the matter.

(b) *Authority of a trial court or agency after appeal.*—After an appeal is taken or review of a quasijudicial order is sought, the trial court or other government unit may:

(1) Take such action as may be necessary to preserve the status quo, correct formal errors in papers relating to the matter, cause the record to be transcribed, approved, filed and transmitted, grant leave to appeal in forma pauperis, grant supersedeas, and take other action permitted or required by these rules or otherwise ancillary to the appeal or petition for review proceeding.

(2) Enforce any order entered in the matter, unless the effect of the order has been superseded as prescribed in this chapter.

(3) Grant reconsideration of the order which is the subject of the appeal or petition, if:

(i) an application for reconsideration of the order is filed in the trial court or other government unit within the time provided or prescribed by law; and

(ii) an order expressly granting reconsideration of such prior order is filed in the trial court or other government unit within the time prescribed by these rules for the filing of a notice of appeal or petition for review of a quasijudicial order with respect to such order, or within any shorter time provided or prescribed by law for the granting of reconsideration.

A timely order granting reconsideration under this paragraph shall render inoperative any such notice of appeal or petition for review of a quasijudicial order theretofore or thereafter filed or docketed with respect to the prior order. The petitioning party shall and any party may file a praecipe with the prothonotary of any court in which such an inoperative notice or petition is filed or docketed and the prothonotary shall note on the docket that such notice or petition has been stricken under this rule. Where a timely order of reconsideration is entered under this paragraph, the time for filing a notice of appeal or petition for review begins to run anew after the entry of the decision on reconsideration, whether or not that decision amounts to a reaffirmation of the prior determination of the trial court or other government unit. No additional fees shall be required for the filing of the new notice of appeal or petition for review.

(4) Authorize the taking of depositions or the preservation of testimony where required in the interest of justice.

(5) Take any action directed or authorized on application by the appellate court.

(6) Proceed further in any matter in which a non-appealable interlocutory order has been entered, notwithstanding the filing of a notice of appeal or a petition for review of the order.

(c) *Limited to matters in dispute.*—Where only a particular item, claim or assessment adjudged in the matter is involved in an appeal, or in a petition for review proceeding relating to a quasijudicial order, the appeal or petition for review proceeding shall operate to prevent the trial court or other government

unit from proceeding further with only such item, claim or assessment, unless otherwise ordered by the trial court or other government unit or by the appellate court or a judge thereof as necessary to preserve the rights of the appellant.

(d) *Certain petitions for review.*—The filing of a petition for review (except a petition relating to a quasijudicial order) shall not affect the power or authority of the government unit to proceed further in the matter but the government unit shall be subject to any orders entered by the appellate court or a judge thereof pursuant to this chapter.

Official Note: The following statutory provisions relate to supersedeas generally:

42 Pa.C.S. § 702(c) (supersedeas) provides that except as otherwise prescribed by general rule, a petition for permission to appeal under that section shall not stay the proceedings before the lower court or other government unit, unless the lower court or other other government unit or the appellate court or a judge thereof shall so order. See also Rule 1313 (effect of filing petition).

42 Pa.C.S. § 5105(e) (supersedeas) provides that an appeal shall operate as a supersedeas to the extent and upon the conditions provided or prescribed by law, and that unless a supersedeas is entered no appeal from an order concerning the validity of a will or other instrument or the right to the possession of or to administer any real or personal property shall suspend the powers or prejudice the acts of the appointive judicial officer, personal representative or other person acting thereunder.

Subdivision (a) codifies a well-established principle. See e.g. *Merrick Estate*, 432 Pa. 450, 247 A.2d 786 (1968); *Corace v. Balint*, 418 Pa. 262, 210 A.2d 882 (1965); *Gilbert v. Lebanon Val. St. Ry. Co.*, 303 Pa. 213, 154 Atl. 302 (1931); *Drabant v. Cure*, 274 Pa. 180, 118 Atl. 30 (1922); *Silver v. Edelstein*, 266 Pa. 531, 109 Atl. 679 (1920). Rule 5102 saves the provisions of Section 426 of The Pennsylvania Workmen's Compensation Act (77 P. S. § 871), which permit a rehearing by the agency under certain circumstances during the pendency of an appeal. Rule 311(e) (further proceedings in lower court) provides that Subdivision (a) is not applicable where an appeal as of right is taken from interlocutory orders relating to attachments, injunctions, etc., thus making clear that the procedure for seeking appellate review of these collateral matters does no impair the power of the lower court to continue with the case proper.

Subdivision (b)(1) sets forth an obvious power of the lower court or agency under these rules, but is not intended to permit fundamental corrections in the record. See *Corabi v. Curtis Pub. Co.*, 437 Pa. 143, 150, 262 A.2d 665, 668 (1970).

Generally an appeal does not operate as a supersedeas of government agency action.

Subdivision (b)(3) is intended to handle the troublesome question of the effect of application for reconsideration on the appeal process. The rule (1) permits the trial court or other government unit to grant reconsideration if action is taken during the applicable appeal period, which is not intended to include the appeal period for cross appeals, or, during any shorter applicable reconsideration period under the practice below, and (2) eliminates the possibility that the power to grant reconsideration could be foreclosed by the taking of a "snap" appeal. The better procedure under this rule will be for a party seeking reconsideration to file an application for reconsideration below and a notice of appeal, etc. If the application lacks merit the trial court or other government unit may deny the application by the entry of an order to that effect or by inaction. The prior appeal paper will remain in effect, and appeal will have been taken without the necessity to watch the calendar for the running of the appeal period. If the trial court or other government unit fails to enter an order "expressly granting reconsideration" (an order that "all proceedings shall stay" will not suffice) within the time prescribed by these rules for seeking

review, Subdivision (a) becomes applicable and the power of the trial court or other government unit to act on the application for reconsideration is lost.

Subdivision (b)(3) provides that: “(W)here a timely order of reconsideration is entered under this paragraph, the time for filing a notice of appeal or petition for review begins to run anew after entry of the decision on reconsideration.” Pursuant to Pa.R.C.P. 1930.2, effective July 1, 1994, where reconsideration from a domestic relations order has been timely granted, a reconsidered decision or an order of directing additional testimony must be entered within 120 days of the entry of the order granting reconsideration or the motion shall be deemed denied. See Pa.R.C.P. 1930.2(c), (d) and (e). The date from which the appeal period will be measured following a reconsidered decision in a domestic relations matter is governed by Pa.R.C.P. 1930.2(d) and (e).

Under the 1996 amendments to the Rules of Criminal Procedure governing post-sentence practice, see Pa.R.Crim.P. 720 and 721, reconsideration of a decision on a defendant’s post-sentence motion or on a Commonwealth motion to modify sentence must take place within the time limits set by those rules, and the judge may not vacate sentence or “grant reconsideration” pursuant to subdivision (b)(3) in order to extend the time limits for disposition of those motions. The amendments to Pa.R.Crim.P. 720 and new Pa.R.Crim.P. 721 resolve questions raised about the interplay between this subdivision and post-trial criminal practice. See, e.g., *Commonwealth v. Corson*, 444 A.2d 170 (Pa. Super, 1982).

Source

The provisions of this Rule 1701 amended through December 10, 1986, effective January 31, 1987, and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 16 Pa.B. 4951; amended August 22, 1997, effective January 1, 1998, 27 Pa.B. 4543. Immediately preceding text appears at serial pages (124442) and (157381) to (157382).

Rule 1702. Stay Ancillary to Appeal.

(a) *General rule.*—Applications for relief under this chapter will not be entertained by an appellate court or a judge thereof until after a notice of appeal has been filed in the lower court and docketed in the appellate court or a petition for review has been filed.

(b) *Proceedings on petition for allowance of or permission to appeal.*—Applications for relief under this chapter may be made without the prior filing of a petition for allowance of appeal or petition for permission to appeal, but the failure to effect timely filing of such a petition, or the denial of such a petition, shall automatically vacate any ancillary order entered under this chapter. In such a case the clerk of the court in which the ancillary order was entered shall, on praecipe of any party to the matter, enter a formal order under this rule vacating such ancillary order.

(c) *Supreme Court review of appellate court supersedeas and stay determinations.*—No appeal, petition for allowance of appeal or petition for review need be filed in the Supreme Court in connection with a reapplication under Rule 3315 (review of stay orders of appellate courts).

(d) *Stay of execution.*—When a trial court enters an order granting or denying a stay of execution in a capital case, such order may be reviewed by the

Supreme Court upon application pursuant to Rule 123. No appeal or petition for review need be filed in connection with an application for review of a stay order in a capital case.

Official Note: Based on former Superior Court Rule 53 and Commonwealth Court Rule 112A, which required the taking of an appeal prior to an application for supersedeas or other interlocutory order. Subdivision (b) is new and is added in recognition of the fact that the drafting of a petition for allowance of appeal or a petition for permission to appeal in the form required by these rules may not be possible prior to the time when an application for *supersedeas* may have to be made in the appellate court in order to avoid substantial harm.

Source

The provisions of this Rule 1702 amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended October 7, 2005, effective February 1, 2006, 35 Pa.B. 5768. Immediately preceding text appears at serial pages (315518) to (315519).

Rule 1703. Contents of Application for Stay.

In addition to the requirements set forth in Rule 123 (Application for Relief), an application for stay pursuant to this chapter shall set forth the procedural posture of the case, including the result of any application for relief in any court below or federal court, the specific rule under which a stay or supersedeas is sought, grounds for relief, and, if expedited relief is sought, the nature of the emergency. The application shall also identify and set forth the procedural posture of all related proceedings.

Source

The provisions of this Rule 1703 adopted March 15, 2004, effective 60 days after adoption, 34 Pa.B. 1670.

STAY OR INJUNCTION IN CIVIL MATTERS

Rule 1731. Automatic Supersedeas of Orders For the Payment of Money.

(a) *General Rule.*—Except as provided by subdivision (b), an appeal from an order involving solely the payment of money shall, unless otherwise ordered pursuant to this chapter, operate as a supersedeas upon filing with the clerk of the lower court of appropriate security in the amount of 120% of the amount found due by the lower court and remaining unpaid. Where the amount is payable over a period of time, the amount found due for the purposes of this rule shall be the aggregate amount payable within 18 months after entry of the order.

(b) *Domestic Relations Matters.*—An appeal from an order of child support, spousal support, alimony, alimony pendente lite, equitable distribution or counsel fees and costs shall operate as a supersedeas only upon application to and order of the trial court and the filing of security as required by subdivision (a). The amount and terms of security shall be within the discretion of the trial court.

Source

The provisions of this Rule 1731 amended November 24, 1986, effective December 13, 1986, 16 Pa.B. 4798; amended December 30, 1987, effective January 16, 1988 and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 18 Pa.B. 245. Immediately preceding text appears at serial pages (115441) to (115442).

Rule 1732. Application for Stay or Injunction Pending Appeal.

(a) *Application to lower court.*—Application for a stay of an order of a lower court pending appeal, or for approval of or modification of the terms of any supersedeas, or for an order suspending, modifying, restoring or granting an injunction during the pendency of an appeal, or for relief in the nature of peremptory mandamus, must ordinarily be made in the first instance to the lower court, except where a prior order under this chapter has been entered in the matter by the appellate court or a judge thereof.

(b) *Contents of application for stay.*—An application for stay of an order of a lower court pending appeal, or for approval of or modification of the terms of any supersedeas, or for an order suspending, modifying, restoring or granting an injunction during the pendency of an appeal, or for relief in the nature of peremptory mandamus, may be made to the appellate court or to a judge thereof, but the application shall show that application to the lower court for the relief sought is not practicable, or that the lower court has denied an application, or has failed to afford the relief which the applicant requested, with the reasons given by the lower court for its action. The application shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by sworn or verified statements or copies thereof. With the application shall be filed such parts of the record as are relevant. Where practicable, the application should be accompanied by the briefs, if any, used in the lower court.

(c) *Number of copies.*—Seven copies of applications under this rule in the Supreme Court or the Superior Court, and three copies of applications under this rule in the Commonwealth Court, shall be filed with the original.

Official Note: The subject matter of this rule was covered by former Supreme Court Rule 62, former Superior Court Rule 53, and former Commonwealth Court Rule 112. The flat seven day period for answer of former Supreme Court Rule 62 (which presumably was principally directed at allocatur practice) has been omitted in favor of the more flexible provisions of Rule 123(b).

Source

The provisions of this Rule 1732 amended September 10, 2008, effective December 1, 2008, 38 Pa.B. 5257. Immediately preceding text appears at serial page (315520).

Rule 1733. Requirements for Supersedeas on Agreement or Application.

(a) *General rule.*—An appeal from an order which is not subject to Rule 1731 (automatic supersedeas of orders for the payment of money), shall, unless otherwise prescribed in or ordered pursuant to this chapter, operate as a *supersedeas* only upon the filing with the clerk of the court below of appropriate security as prescribed in this rule. Either court may, upon its own motion or applica-

tion of any party in interest, impose such terms and conditions as it deems just and will maintain the res or status quo pending final judgment or will facilitate the performance of the order if sustained.

(b) *Tangible property*.—When the order determines the disposition of the property in controversy as in real actions, replevin, and actions to foreclose mortgages or when such property is in the custody of the sheriff, or when the proceeds of such property or appropriate security for its value is in the possession, custody or control of the court, the amount of the additional security shall be fixed by agreement of the parties, or by the court, at such sums only as will secure any damages for the use and detention of the property, interest, the costs of the matter and costs on appeal.

(c) *Other cases*.—In all other cases the security shall be in such amount as the lower court in the first instance or the appellate court or a judge thereof shall deem just and proper.

(d) *Public Officer*.—Where the effect of an order is to remove a public officer from office a supersedeas of the order shall not reinstate the officer unless the order of supersedeas shall expressly so provide.

Official Note: The court is granted wide discretion under this rule as to the terms and conditions to be imposed and it may require (1) the execution and deposit of a deed where the order

appealed from directs the execution of the conveyance or other instrument, (2) the delivery of personal property for safe keeping pending appeal where the order appealed from directs the assignment or delivery of such property, or (3) other terms required in the interest of justice.

Source

The provisions of this Rule 1733 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802. Immediately preceding text appears at serial page (25435).

Rule 1734. Appropriate Security.

(a) *General rule.*—For the purposes of this chapter any of the following, when deposited with the clerk, constitutes appropriate security, unless otherwise ordered pursuant to this chapter:

- (1) Legal tender of the United States.
- (2) Any of the following, if registered in the name of or to the order of the Commonwealth of Pennsylvania:
 - (i) United States Treasury bills;
 - (ii) certificates of deposit issued by a Federally-insured bank, bank and trust company, savings bank, savings association, banking association or savings and loan association having an office within this Commonwealth;
 - (iii) irrevocable letters of credit issued by a Federally-insured bank, bank and trust company, savings bank, savings association, banking association or saving and loan association having an office within this Commonwealth. The clerk may transfer or negotiate such bills or certificates for the purposes of this chapter.
- (3) A bond conforming to the requirements of this rule executed by a surety company which has qualified with the clerk under Section 664 of The Insurance Company Law of 1921 (40 P. S. § 835).
- (4) A bond conforming to the requirements of this rule executed by a surety approved by the court as sufficient.

(b) *Terms of bond.*—A supersedeas bond shall be conditioned for the satisfaction of the order if it is affirmed or if for any reason the appeal is dismissed, or for the satisfaction of any modification of the order and in either case costs, interest and any damages for delay that may finally be awarded.

(c) *Liability of sureties.*—If security is given under this chapter in the form of a bond, stipulation or other undertaking in the nature of a bond, with one or more sureties, each surety submits himself to the jurisdiction of the lower court and irrevocably appoints the clerk of the lower court as his agent upon whom any papers affecting his liability on the bond or undertaking may be served. This liability may be enforced on application in the lower court without the necessity of an independent action. The application and such notice of the application as the lower court prescribes may be served on the clerk of the lower court, who shall forthwith mail copies to the sureties if their addresses are known.

Official Note: 42 Pa.C.S. § 3561 (money paid into court) provides that all money paid into court shall be held in the custody of such officer, shall be invested in such manner, and shall be withdrawn from deposit, as shall be prescribed by general rules, and that any such investment, except as otherwise prescribed by or pursuant to general rules, shall be restricted to obligations of the United States or of the United States Treasury, or of the Commonwealth. Rule 1734(a)(2) provides an expanded form of investment as contemplated by the statute.

As to book-entry treasury bills deposited in court, see 31 CFR § 350.3(a)(5).

Source

The provisions of this Rule 1734 amended through April 26, 1982, effective September 12, 1982, 12 Pa.B. 1536; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503. Immediately preceding text appears at serial pages (124447) to (124448)

Rule 1735. Effect of *Supersedeas* on Execution or Distribution.

(a) *General rule.*—The filing of appropriate security in the amount required by or pursuant to this chapter within 30 days from the entry of the order appealed from shall stay any execution theretofore entered. The filing of such appropriate security after the 30 day period shall stay only executions or distributions thereafter issued or ordered.

(b) *Notation in judgment index.*—Upon the filing of appropriate security in the amount required by or pursuant to this chapter the clerk of the lower court shall note in the docket and in any separate judgment index: “appeal perfected; lien discharged.” Upon return of the record by the appellate court to the lower court, in a matter where the order appealed from was affirmed in whole or in part, the clerk of the lower court shall thereupon enter an order, as of the date of receipt of the remanded record, against the appellant for the amount due upon the order as affirmed, with interest and costs as provided by law.

Source

The provisions of this Rule 1735 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802. Immediately preceding text appears at serial page (27950).

Rule 1736. Exemption from Security.

(a) *General rule.*—No security shall be required of:

- (1) The Commonwealth or any officer thereof, acting in his official capacity.
- (2) Any political subdivision or any officer thereof, acting in his official capacity, except in any case in which a common pleas court has affirmed an arbitration award in a grievance or similar personnel matter.
- (3) A party acting in a representative capacity.
- (4) A taxpayer appealing from a judgment entered in favor of the Commonwealth upon an account duly settled when security has already been given as required by law.
- (5) An appellant who has already filed security in a lower court, conditioned as prescribed by these rules for the final outcome of the appeal.

(b) *Supersedeas automatic*.—Unless otherwise ordered pursuant to this chapter the taking of an appeal by any party specified in Subdivision (a) of this rule shall operate as a *supersedeas* in favor of such party.

Official Note: This rule is self-executing, and a party entitled to its benefits is not required to bring the exemption to the attention of the court under Rule 1732 (application for stay or injunction pending appeal). However, the appellee may apply under Rule 1732 for elimination or other modification of the automatic *supersedeas* or under Rule 1737 (objections to security) for an order requiring security as a condition to the continuance of the stay, or for relief under any other applicable provision of this chapter.

The 1987 amendment eliminates the automatic *supersedeas* for political subdivisions on appeals from the common pleas court where that court has affirmed an arbitration award in a grievance or similar personnel matter.

Source

The provisions of this Rule 1736 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended December 30, 1987, effective January 16, 1988 and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending, 18 Pa.B. 245. Immediately preceding text appears at serial pages (70082) to (70083).

Rule 1737. Objections to Security.

The lower court or the appellate court, may at any time upon application of any party and after notice and opportunity for hearing, upon cause shown:

- (1) Require security of a party otherwise exempt from the requirement of filing security, or increase, decrease or eliminate the amount of any security which has been or is to be filed.
- (2) Strike off security improperly filed.
- (3) Permit the substitution of surety and enter an exoneration of the former surety.

Rule 1738. Substitution of Security.

The clerk of the lower court, unless otherwise ordered pursuant to this chapter, shall permit an appellant to withdraw all or part of the security and substitute other appropriate security complying with the requirements of this chapter.

Official Note: Under this rule the appellant may, e.g., “roll over” certificates of deposit for the purpose of redeeming matured certificates, *etc.*

Rule 1739. Order for Sale of Perishable Property.

When perishable property is the subject of the appeal, the lower court may make any order relating to its sale or disposition that shall be necessary or proper, and direct any fund realized to be paid into court to await the outcome of the appeal.

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RULES OF APPELLATE PROCEDURE

Official Note: 42 Pa.C.S. § 3546 (relief from liability for loss of property if expenses not paid) provides that any officer enforcing orders of a tribunal shall be relieved from any liability for the loss, destruction, removal of or damage to any personal property, or for any injury to any real property, levied upon, seized or taken into possession by virtue of any process if the person lodging such process with the officer shall refuse to advance or secure upon demand the reasonable fees and expenses incident to the seizure, safekeeping and proper protection of such property.

Source

The provisions of this Rule 1739 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802. Immediately preceding text appears at serial page (27952).

Rule 1740. Order for an Accounting.

Unless otherwise ordered pursuant to this chapter the taking of an appeal from an order directing an accounting shall operate as a supersedeas of the order.

Official Note: This rule is based on act of June 24, 1895 (P.L. 243, No. 150). Ordinarily this rule will be applicable only where an appeal has been permitted under Rule 312 (interlocutory appeals by permission). See note to Rule 311 (interlocutory appeals as of right).

Source

The provisions of this Rule 1740 adopted May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740.

Rule 1751. Form of Bond.

A bond under this chapter may be in substantially the following form:

(Caption)

Appellant, having appealed from an order of the Court of Common Pleas of _____ County [or “of the ____ Judicial District”], entered in this matter on the ____ day of _____, 19 ____ , and having procured the execution of this instrument for the purpose of complying with the Pennsylvania Rules of Appellate Procedure, the undersigned surety acknowledges itself bound and indebted to the Commonwealth of Pennsylvania, for the use of the persons or parties entitled thereto, in the sum of _____ dollars (\$ _____), to be paid as required by law.

Upon conclusion of this matter, if the appellant satisfies the above identified order or any court order modifying or affirming that order and pays all costs, interest and damages for delay that may be awarded, this obligation shall be void; otherwise, it shall remain in force.

Date _____

(Name of Surety)

By _____
(Name and Title of Authorized signatory)

Official Note: Patterned after 20 Pa.C.S. § 7111(c)(2) (condition of bond).

Source

The provisions of this Rule 1751 amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503. Immediately preceding text appears at serial page (124451).

STAY IN CRIMINAL MATTERS

Rule 1761. Capital cases.

The pendency of proceedings under Rule 1941 (review of sentence of death) shall stay execution of sentence of death.

Official Note: Based on 42 Pa.C.S. § 9711(h) (review of death sentence).

Source

The provisions of this Rule 1761 amended through April 26, 1982, effective September 12, 1982, 12 Pa.B. 1536. Immediately preceding text appears at serial page (43024).

Rule 1762. Release in Criminal Matters.

(a) Applications relating to bail when an appeal is pending shall ordinarily first be presented to the lower court, and shall be governed by the Pennsylvania Rules of Criminal Procedure. If the lower court denies relief, a party may seek relief in the appellate court by filing an application, pursuant to Rule 123, ancillary to the pending appeal.

(b) Applications relating to bail when no appeal is pending:

(1) Applications relating to bail when no appeal is pending shall first be presented to the lower court, and shall be governed by the Pennsylvania Rules of Criminal Procedure.

(2) An order relating to bail shall be subject to review pursuant to Chapter 15 (judicial review of governmental determinations). Any answer shall be in accordance with Rule 1516 (other pleadings allowed), and no other pleading is authorized. Rule 1517 (applicable rules of pleading) and Rule 1531 (intervention) through 1551 (scope of review) shall not be applicable to a petition for review filed under this paragraph.

(c) *Content.* An application for relief under subdivision (a) or a petition for review under subdivision (b) shall set forth specifically and clearly the matters complained of and a description of any determinations made by the lower court. Any order and opinions relating to the bail determination shall be attached as appendices.

(d) *Service.* A copy of the application for relief or the petition for review and any answer thereto shall be served on the judge of the lower court. All parties in the lower court shall be served in accordance with Rule 121(b) (service of all papers required). The Attorney General of Pennsylvania need not be served in accordance with Rule 1514(c) (service), unless the Attorney General is a party in the lower court.

(e) *Entry of Bail.* Bail shall be entered in the lower court pursuant to the Pennsylvania Rules of Criminal Procedure.

(f) *Extradition matters.* Relief relating to bail in extradition matters shall be governed by the procedures prescribed by this rule.

(g) *Opinion of lower court.* Upon receipt of a copy of an application for relief under subdivision (a) or a petition for review under subdivision (b) that does not include an explanation for the bail determination, the judge who made the bail determination below shall forthwith file of record a brief statement of the reasons for the determination or where in the record such reasons may be found.

Official Note: Prior to sentence, Rule 1702 (stay ancillary to appeal) is satisfied by the filing of a plenary petition for review of the order of the lower court granting or denying release. After sentence a separate plenary filing is no longer necessary because the application for release pending appeal may be made as a matter ancillary to the appeal from the order imposing sentence.

The reference in Subdivision (c) to the rulings complained of is not intended to suggest that the appellate court may ignore objective standards for release such as those established by Pa.R.Crim.P. 530.

Source

The provisions of this Rule 1762 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended May 16, 1979, effective September 30, 1979, 9 Pa.B. 1740; amended July 8, 2004, effective 60 days after adoption, 34 Pa.B. 3870. Immediately preceding text appears at serial pages (279437) to (279438).

Rule 1763. Vacation of Supersedeas on Affirmance of Conviction.

Unless otherwise ordered pursuant to this chapter, upon the remand of the record in any matter in which the judgment of sentence was affirmed a defendant who has been released pending appeal shall appear in the lower court at such time as the defendant may be there called, and shall be committed by that court until the defendant has complied with the original sentence, or any part thereof which had not been performed at the time the defendant was released pending appeal.

Official Note: This rule is based on the prior practice in the Superior Court and will simplify the wording of *per curiam* affirmance orders.

Rule 1764. Other Stays in Criminal Matters.

Except as otherwise prescribed by the Pennsylvania Rules of Criminal Procedure, Rule 1731 (automatic supersedeas of orders for the payment of money) et seq. shall be applicable to criminal or quasi-criminal matters or orders relating thereto which are not within the scope of Rule 1761 (capital cases) through Rule 1763 (vacation of supersedeas on affirmance of conviction).

STAY PENDING ACTION ON PETITION FOR REVIEW

Rule 1781. Stay Pending Action on Petition for Review.

(a) *Application to government unit.*—Application for a stay or supersedeas of an order or other determination of any government unit pending review in an appellate court on petition for review shall ordinarily be made in the first instance to the government unit.

(b) *Contents of application for stay or supersedeas.*—An application for stay or supersedeas of an order or other determination of a government unit, or for an order granting an injunction pending review, or for relief in the nature of peremptory mandamus, may be made to the appellate court or to a judge thereof, but the application shall show that application to the government unit for the relief sought is not practicable, or that application has been made to the government unit and denied, with the reasons given by it for the denial, or that the action of the government unit did not afford the relief which the applicant had requested. The application shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by sworn or verified statements or copies thereof. With the application shall be filed such parts, if any, of the record as are relevant to the relief sought.

(c) *Notice and action by court.*—Upon such notice to the government unit as is required by Rule 123 (applications for relief) the appellate court, or a judge thereof, may grant an order of stay or supersedeas, including the grant of an injunction pending review or relief in the nature of peremptory mandamus, upon such terms and conditions, including the filing of security, as the court or the judge thereof may prescribe. Where a statute requires that security be filed as a condition to obtaining a supersedeas, the court shall require adequate security.

Source

The provisions of this Rule 1781 amended through April 26, 1982, effective September 12, 1982, 12 Pa.B. 1536. Immediately preceding text appears at serial page (61056).

Rule 1782. Security on Review in Tax Matters.

(a) *General Rule.*—A petition for review of an order of the Board of Finance and Revenue in a tax matter shall, unless otherwise ordered pursuant to this chapter, operate as a supersedeas upon the filing with the Prothonotary of the Commonwealth Court of appropriate security in the amount of 120% of the amount of taxes and penalty found due by the Board and remaining unpaid.

(b) *Form of bond.*—A bond under this rule may be in substantially the following form:

[Caption]

Petitioner, having sought review of an order of the Board of Finance and Revenue entered (or deemed entered) in this matter on the _____ day of _____, 19____, and having procured the execution of this instrument for the purpose of complying with the Pennsylvania Rules of Appellate Procedure, the undersigned surety acknowledges itself bound and indebted to the Commonwealth of Pennsylvania in the amount of \$(_____), which is 120% of the sum of \$ _____ (taxes found due) and \$(_____) (penalty found due), the amount of taxes and penalty found due by the Board and remaining unpaid in this matter, to be paid as required by law.

Upon conclusion of this matter, if the petitioner satisfies the above identified order or any court order modifying or affirming that order and pays all costs, interest and any damages for delay that may be awarded, this obligation shall be void; otherwise it shall remain in full force.

Date _____

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RULES OF APPELLATE PROCEDURE

(Name of Surety)

By _____
(Name and Title of Authorized Signatory)

Note: The requirement of a bond for costs only (as where the full amount of the tax found due below has already been paid) has been eliminated.

Official Note: The requirement of a bond for costs only (as where the full amount of the tax found due below has already been paid) has been eliminated.

Source

The provisions of this Rule 1782 amended through April 26, 1982, effective September 12, 1982, 12 Pa.B. 1536; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503. Immediately preceding text appears at serial pages (124454) to (124455).

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