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IN GENERAL**Rule 2501. Post-submission Communications.**

(a) *General rule.*—After the argument of a case has been concluded or the case has been submitted, no brief, memorandum or letter relating to the case shall be presented or submitted, either directly or indirectly, to the court or any judge thereof, except upon application or when expressly allowed at bar at the time of the argument.

(b) *Change in status of authorities.*—If any case or other authority relied upon in the brief of a party is expressly reversed, modified, overruled or otherwise affected so as to materially affect its status as an authoritative statement of the law for which originally cited in the jurisdiction in which it was decided, enacted or promulgated, any counsel having knowledge thereof shall file a letter, which shall not contain any argument, transmitting a copy of the slip opinion or other document wherein the authority relied upon was affected.

Official Note: Subdivision (a) is based on former Supreme Court Rule 34, former Superior Court Rule 26, and former Commonwealth Court Rule 73, and makes no change in substance. Subdivision (b) is new. The term “authorities” as used therein includes statutes and regulations, as well as court decisions.

Rule 2521. Entry of Judgment or Other Order.

(a) *General Rule.* Subject to the provisions of Rule 108 (date of entry of orders), the notation of a judgment or other order of an appellate court in the docket constitutes entry of the judgment or other order. The prothonotary of the appellate court shall prepare, sign and enter the judgment following receipt of the opinion of the court unless the opinion is accompanied by an order signed by the court, or unless the opinion directs settlement of the form of the judgment, in which event the prothonotary shall prepare, sign and enter the judgment following settlement by the court. If a judgment is rendered without an opinion or an order signed by the court, the prothonotary shall prepare, sign and enter the judgment following instruction from the court. The prothonotary shall, on the date a judgment or other order is entered, send by first class mail to all parties a copy of the opinion, if any, or of the judgment or other order if no opinion was written, and notice of the date of entry of the judgment or other order.

(b) *Notice in Death Penalty Cases.* Pursuant to Pa.R.Crim.P. 900(B), in all death penalty cases upon the Supreme Court's affirmance of the judgment of a death sentence, the prothonotary shall include in the mailing required by subdivision (a) of this Rule the following information concerning the Post Conviction Relief Act and the procedures under Chapter 9 of the Rules of Criminal Procedure. For the purposes of this notice, the term "parties" in subdivision (a) shall include the defendant, the defendant's counsel, and the attorney for the Commonwealth.

(1) A petition for post-conviction collateral relief must be filed within one year of the date the judgment becomes final, except as otherwise provided by statute.

(2) As provided in 42 Pa.C.S. § 9545(b)(3), a judgment becomes final at the conclusion of direct review, which includes discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review.

(3) (A) If the defendant fails to file a petition within the one-year limit, the action may be barred. See 42 Pa.C.S. § 9545(b).

(B) Any issues that could have been raised in the post-conviction proceeding, but were not, may be waived. See 42 Pa.C.S. § 9544(b).

(4) Pursuant to Rule 904 (Appointment of Counsel; In Forma Pauperis), the trial judge will appoint new counsel for the purpose of post-conviction collateral review, unless:

(A) the defendant has elected to proceed pro se or waive post-conviction collateral proceedings, and the judge finds, after a colloquy on the record, that the defendant is competent and the defendant's election is knowing, intelligent and voluntary;

(B) the defendant requests continued representation by original trial counsel or direct appeal counsel, and the judge finds, after a colloquy on

the record, that the petitioner's election constitutes a knowing, intelligent and voluntary waiver of a claim that counsel was ineffective; or

(C) the judge finds, after a colloquy on the record, that the defendant has engaged counsel who has entered, or will promptly enter, an appearance for the collateral review proceedings.

Official Note:: See Pa.R.Crim.P. 900(B), which also includes the identical requirement in death penalty cases that notice of the information concerning the statutory time limitations for filing petitions for post-conviction collateral relief and the right to counsel enumerated in subdivision (b) of this rule be sent by the prothonotary with the order or opinion sent pursuant to subdivision (a) of this rule. Because of the importance of this notice requirement to judges, attorneys and defendants, the requirement that the Supreme Court Prothonotary mail the aforesaid notice has been included in both the Rules of Criminal Procedure and the Rules of Appellate Procedure.

Source

The provisions of this Rule 2521 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended March 26, 2002, effective July 1, 2002, 32 Pa.B. 1839. Immediately preceding text appears at serial page (274554).

APPLICATION FOR REARGUMENT

Rule 2541. Form of Papers. Number of Copies.

All papers relating to applications for reargument shall be prepared in the manner prescribed by Rule 2171 (method of reproduction) through Rule 2174 (table of contents and citations). An original and eight copies of each application for reargument shall be filed with the Supreme Court. An original and 23 copies of each application for reargument shall be filed with the Superior Court. An original and 11 copies of each application for reargument shall be filed with Commonwealth Court.

Official Note: This rule and the succeeding rules on reargument practice are patterned after the practice in Rules 1111 et seq. (petition for allowance of appeal).

Counsel are advised to check with the prothonotary of the appellate court before filing as the number of copies required may change from time to time without formal amendment of these rules.

Source

The provisions of this Rule 2541 amended 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 January 22, 2001, effective July 1, 2001, 31 Pa.B. 627. Immediately preceding text appears at serial page (236410).

Rule 2542. Time for Application for Reargument. Manner of Filing.

(a) *Time.*

(1) *General rule.*—Except as otherwise prescribed by this rule, an application for reargument shall be filed with the prothonotary within 14 days after entry of the judgment or other order involved.

(2) *Children’s fast track appeals.*—In a children’s fast track appeal, an application for reargument shall be filed with the prothonotary within 7 days after entry of the judgment or other order involved.

(b) *Manner of Filing.*—If the application for reargument 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 Rule 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 or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or 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 reargument 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.

Official Note: Former Supreme Court Rule 64, former Superior Court Rules 55 and 58 and former Commonwealth Court Rule 113A required the application for reargument to be filed within ten days of the entry of the order. Under Rule 105(b) (enlargement of time) the time for seeking reargument may be enlarged by order, but no order of the Superior Court or of the Commonwealth Court, other than an actual grant of reargument meeting the requirements of Rule 1701(b)(3) (authority of lower court or agency after appeal), will have the effect of postponing the finality of the order involved under Rule 1113 (time for petitioning for allowance of appeal).

The 1986 amendment provided that an application shall be deemed received on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing.

The 2008 amendment provides that an application shall be deemed received on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing or other similar United States Postal Service form from which the date of deposit can be verified.

Source

The provisions of this Rule 2542 amended through December 26, 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 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. Immediately preceding text appears at serial pages (338853) to (338854).

Rule 2543. Considerations Governing Allowance of Reargument.

Reargument before an appellate court is not a matter of right, but of sound judicial discretion, and reargument will be allowed only when there are compelling reasons therefor. An application for reargument is not permitted from a final order of an intermediate appellate court under: (1) the Pennsylvania Election Code; or (2) the Local Government's Unit Debt Act or any similar statute relating to the authorization of public debt.

Official Note: The following, while neither controlling nor fully measuring the discretion of the court, indicate the character of the reasons which will be considered:

- (1) Where the decision is by a panel of the court and it appears that the decision may be inconsistent with a decision of a different panel of the same court on the same subject.
- (2) Where the court has overlooked or misapprehended a fact of record material to the outcome of the case.
- (3) Where the court has overlooked or misapprehended (as by misquotation of text or misstatement of result) a controlling or directly relevant authority.
- (4) Where a controlling or directly relevant authority relied upon by the court has been expressly reversed, modified, overruled or otherwise materially affected during the pendency of the matter sub judice, and no notice thereof was given to the court pursuant to Rule 2501(b) (change in status of authorities).

The 1997 amendment clarifies that applications for reargument are not to be filed in matters arising under the Pennsylvania Election Code, the Act of June 3, 1937, P.L. 1333, 25 P.S. §§ 2600—3591 or the Local Government Unit Debt Act, 53 Pa.C.S. §§ 8001—8271. Matters involving elections and authorization of public debt require expeditious treatment. See, e.g., Rule 1113(c).

Source

The provisions of this Rule 2543 amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503. Immediately preceding text appears at serial pages (115461) to (115462).

Rule 2544. Contents of Application for Reargument.

(a) *General rule.*—The application for reargument need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

- (1) A reference to the order in question, or the portions thereof sought to be reargued, and the date of its entry in the appellate court. If the order is voluminous, it may, if more convenient, be appended to the application.
- (2) A specification with particularity of the points of law or fact supposed to have been overlooked or misapprehended by the court.
- (3) A concise statement of the reasons relied upon for allowance of reargument. See Rule 2543 (considerations governing allowance of reargument).
- (4) There shall be appended to the application a copy of any opinions delivered relating to the order with respect to which reargument is sought, and, if reference thereto is necessary to ascertain the grounds of the application for reargument, slip opinions in related cases. If whatever is required by this para-

graph to be appended to the application is voluminous, it may, if more convenient, be separately presented.

(b) *No supporting brief.*—All contentions in support of an application for reargument shall be set forth in the body of the application as prescribed by Paragraph (a)(3) of this rule. No separate brief in support of an application for reargument will be received, and the prothonotary of the appellate court will refuse to file any application for reargument to which is annexed or appended any supporting brief.

(c) *Length.*—Except by permission of the court, an application for reargument shall not exceed 15 pages when produced on a word processor/computer or typewriter, exclusive of pages containing table of contents, table of citations and any addendum containing opinions, *etc.*, or any other similar supplementary matter provided for by this rule.

(d) *Essential requisites of application.*—The failure of an applicant to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring reconsideration will be a sufficient reason for denying the application.

(e) *Multiple applicants.*—Where permitted by Rule 512 (joint appeals) a single application for reargument may be filed.

Official Note: Former Supreme Court Rule 64, and former Superior Court Rule 113A permitted the applicant in effect to dump an undigested mass of material (i.e., briefs in and opinions of the court) in the lap of the court, with the burden on the individual judges and their law clerks to winnow the wheat from the chaff. This rule, which is patterned after Rule 1115 (content of petition for allowance of appeal), places the burden on the applicant to prepare a self-contained succinct and coherent presentation of the case and the reasons in support of allowance of reargument.

Source

The provisions of this Rule 2544 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended September 22, 2006, effective immediately, 36 Pa.B. 6086. Immediately preceding text appears at serial pages (236412) to (236413).

Rule 2545. Answer to Application for Reargument.

(a) *General rule.*—Except as otherwise prescribed by this rule, within 14 days after service of an application for reargument, 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. The answer shall set forth any procedural, substantive or other argument or ground why the court should not grant reargument. No separate motion to dismiss an application for reargument 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 application for reargument

will not be filed. The failure to file an answer will not be construed as concurrence in the request for reargument.

(b) *Children's fast track appeals.*—In a children's fast track appeal, within 7 days after service of an application for reargument, 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. The answer shall set forth any procedural, substantive or other argument or ground why the court should not grant reargument. No separate motion to dismiss an application for reargument 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 application for reargument will not be filed. The failure to file an answer will not be construed as concurrence in the request for reargument.

Source

The provisions of this Rule 2545 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 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. Immediately preceding text appears at serial page (338856).

Rule 2546. Transmission of Papers to and Action by the Court.

(a) *Transmission of papers.*—Upon receipt of the application for reargument and any answers in opposition, such papers shall be distributed by the prothonotary to the court for its consideration.

(b) *Action by court.*—If an application for reargument is granted, the court may restore the matter to the calendar for reargument, make final disposition of the matter without further oral argument or take such other action as may be deemed appropriate under the circumstances of the particular case. Reargument may be allowed limited to one or more of the issues presented in the application, in which case the order allowing the reargument shall specify the issue or issues which will be considered by the court.

Official Note: See Rule 2140 regarding the filing and content of briefs following the grant of reargument or reconsideration.

Where there is a deemed denial of an application for reargument, a party seeking a further appeal must follow subdivision (d) of Rule 301 and praecipe for entry of the deemed denial on the docket, if the prothonotary has failed to do so.

Source

The provisions of this Rule 2546 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; amended July 7, 1997, effective in 60 days, 27 Pa.B. 3503. Immediately preceding text appears at serial page (124500).

Rule 2547. Subsequent and Untimely Applications.

Second or subsequent applications for reargument, and applications for reargument which are out of time under these rules, will not be received.

REMAND OF RECORD**Rule 2571. Content of Remanded Record.**

(a) *General rule.*—The record, as remanded to the lower court or other tribunal, shall consist of the record as certified to the appellate court and, unless the appellate court shall otherwise order, a certified copy of:

- (1) The judgment of the appellate court.
- (2) The opinion of the appellate court, if one has been filed.
- (3) Any direction as to costs or damages entered in the appellate court pursuant to Chapter 27 (fees and costs in appellate courts and on appeal).
- (4) Any papers filed in the appellate court evidencing denial of review of the judgment by the Supreme Court of Pennsylvania or the Supreme Court of the United States.
- (5) In a criminal matter, a copy of the docket entry under Rule 2572(e) (docket entry of remand).

(b) *Briefs.*—The prothonotary of an appellate court shall not forward any brief in a matter to the lower court either prior to or in connection with the remand of the record. The lower court on remand may direct any party to the appeal to file of record in the lower court and serve on the trial judge a copy of any brief filed in the appeal.

(c) *Writs abolished.*—The procedendo, the venire for new trial, and other similar writs of remittitur are abolished.

Official Note: Paragraph (a)(2) of this rule is based upon former Supreme Court Rule 68, former Superior Court Rule 59 and former Commonwealth Court Rule 115B. Rule 2591(b) (enforcement of appellate court orders) authorizes the entry of specific enforcement orders when necessary or appropriate.

Source

The provisions of this Rule 2571 amended July 2, 1976, 6 Pa.B. 1557; amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802; amended February 27, 1980, 10 Pa.B. 1038, effective date 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 pages (322822) and (236415).

Rule 2572. Time for Remand of Record.

(a) *General rule.*—Unless otherwise ordered:

- (1) The record shall be remanded to the court or other tribunal from which it was certified at the expiration of 30 days after the entry of the judgment or other final order of the appellate court possessed of the record.

(2) The pendency of an application for reargument, or of any other application affecting the order, or the pendency of a petition for allowance of appeal from the order, shall stay the remand of the record until the disposition thereof, and until after 30 days after the entry of a final order in the appellate court possessed of the record.

(b) *Supreme Court orders.*—The time for the remand of the record pursuant to subdivision (a) following orders of the Supreme Court shall be

(1) 7 days after expiration of the time for appeal or petition for writ of certiorari to the United States Supreme Court in cases in which the death penalty has been imposed, and

(2) 14 days in all other cases.

Official Note: Subdivision (a) is based upon former Commonwealth Court Rule 115A. Former Superior Court Rule 58 permitted the record to be returned to the lower court before the order became final upon expiration of the time to petition for allowance of appeal.

Subdivision (b) extends the ten day period of former Supreme Court Rule 67 to 14 days to conform to the 14 day period for applying for reargument under Rule 2542(a)(1) (time for application for reargument).

(c) *Stay of remand pending United States Supreme Court Review.*—A stay of the remand of the record pending review in the Supreme Court of the United States may be granted upon application to the appellate court possessed of the record in the case. The stay shall not exceed 30 days unless the period is extended for cause shown. If during the period of the stay there is filed with the prothonotary of the appellate court possessed of the record a notice from the Clerk of the Supreme Court of the United States that the party who has obtained the stay has filed a jurisdictional statement or a petition for a writ of certiorari in that court, the stay shall continue until final disposition by the Supreme Court of the United States. Upon the filing of a copy of an order of the Supreme Court of the United States dismissing the appeal or denying the petition for a writ of certiorari the record shall be remanded immediately.

(d) *Security.*—Appropriate security in an adequate amount may be required as a condition to the grant or continuance of a stay of remand of the record.

(e) *Docket entry of remand.*—The prothonotary of the appellate court shall note on the docket the date on which the record is remanded and give written notice to all parties of the date of remand.

Official Note: Subdivision (a) is based upon former Commonwealth Court Rule 115A. Former Superior Court Rule 58 permitted the record to be returned to the lower court before the order became final upon expiration of the time to petition for allowance of appeal.

Subdivision (b) extends the ten day period of former Supreme Court Rule 67 to 14 days to conform to the 14 day period for applying for reargument under Rule 2542(a)(1) (time for application for reargument).

Subdivision (c) is patterned after Fed. Rules App. Proc. 41(b) and fills a void in the prior practice. The time periods may be modified by order under Rule 105 (waiver and modification of rules).

Source

The provisions of this Rule 2572 amended through June 28, 1985, effective July 20, 1985, 15 Pa.B. 2635; amended January 13, 2009, effective as to all appeals filed 60 days or more after adoption, 39 Pa.B. 1094. Immediately preceding text appears at serial pages (338858) to (338859).

Rule 2573. Direct Remand to Court of First Instance.

Unless otherwise ordered by the appellate court in which the matter is finally determined, whenever the final order in the matter does not contain any direction for further proceedings in an intermediate court in which the matter was previously pending, the prothonotary of the appellate court shall remand the record directly to:

(1) The lower court specified in the final order of the appellate court, if a direction for further proceedings in such lower court is contained in such final order.

(2) The court of first instance whose order or other determination was affirmed or otherwise permitted to remain unaffected by such final order.

The prothonotary of the appellate court shall give written notice in person or by first class mail to the clerk of each intermediate court below through which the record would otherwise be remanded and to each party of the direct remand pursuant to this rule.

Official Note: The term “intermediate court” as used in this rule includes not only the Superior and the Commonwealth Courts, but also the courts of common pleas, e.g. in matters where the court of common pleas reviews on the record an order of the Philadelphia Municipal Court.

Source

The provisions of this Rule 2573 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802. Immediately preceding text appears at serial page (27978).

Rule 2591. Proceedings on Remand.

(a) *General rule.*—On remand of the record the court or other government unit below shall proceed in accordance with the judgment or other order of the appellate court and, except as otherwise provided in such order, Rule 1701(a) (effect of appeals generally) shall no longer be applicable to the matter.

(b) *Enforcement of appellate court orders.*—At any time, upon its own motion or upon application, an appellate court may issue any appropriate order requiring obedience to or otherwise enforcing its judgment or other order.

Official Note: 42 Pa.C.S. § 707 (lien of judgments for money) provides that any judgment or other order of the Supreme Court, the Superior Court or the Commonwealth Court for the payment of money shall not be a lien upon real property in any county until it is entered of

record in the office of the clerk of the court of common pleas of the county where the property is situated, or in the office of the clerk of the branch of the court of common pleas embracing such county, in the same manner as a judgment transferred from the court of common pleas of another county.

42 Pa.C.S. § 5105(f) (effect of reversal or modification) provides that the reversal or modification of any order of a court in a matter in which the court has jurisdiction of the sale, mortgage, exchange or conveyance of real or personal property shall not divest any estate or interest acquired thereunder by a person not a party to the appeal. See also 20 Pa.C.S. § 793 (effect of appeal), which is expressly saved from repeal by Section 2(i) of the Judiciary Act Repealer Act (42 P. S. § 20002(i)).

Source

The provisions of this Rule 2591 amended December 11, 1978, effective December 30, 1978, 8 Pa.B. 3802. Immediately preceding text appears at serial page (27978).

[Next page is 27-1.]

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