

**CHAPTER 8. SPECIAL RULES FOR CASES IN WHICH DEATH  
SENTENCE IS AUTHORIZED**

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**Rule 800. Applicability of Subchapter.**

The rules of this chapter shall apply to the guilt and penalty determination phases of all cases in which the imposition of a sentence of death is authorized by law.

**Comment**

The 1990 amendment to this rule makes it clear that Chapter 8 applies to both the guilt determination and sentencing phases of cases in which the death penalty is authorized.

Except as provided in this chapter, trial and retrial procedures in death penalty cases are governed by the Rules of Criminal Procedure generally.

For sentencing generally in death penalty cases, see the Sentencing Code, 42 Pa.C.S. § 9711.

The sentencing procedures in this chapter and in the Sentencing Code also apply when the trial court orders a new sentencing proceeding, or when the Supreme Court vacates a sentence of death and remands a case for redetermination of sentence pursuant to 42 Pa.C.S. § 9711(h)(4).

When a jury is empaneled for the first time for sentencing, or for resentencing, the jury trial rules (Chapter 600) apply. See, for example, Rule 631 (Examination and Challenges of Trial Jurors).

This chapter does not provide procedures for those cases in which the Supreme Court vacates a sentence of death and remands the case to the trial court for the imposition of a life imprisonment sentence. See 42 Pa.C.S. § 9711(h)(4).

For post-verdict procedures in cases in which a sentence of death is authorized by law, see Rule 809.

**Official Note:** Previous Rule 351 adopted September 22, 1976, effective November 1, 1976; rescinded April 2, 1978, effective immediately. Present Rule 351 adopted July 1, 1985, effective August 1, 1985; Comment revised February 1, 1989, effective July 1, 1989; amended October 29, 1990, effective January 1, 1991; renumbered Rule 800 and amended March 1, 2000, effective April 1, 2001.

*Committee Explanatory Reports:*

Report explaining the October 29, 1990 amendments published at 20 Pa.B. 5736 (November 17, 1990).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

**Rule 801. Qualifications for Defense Counsel in Capital Cases.**

In all cases in which the district attorney has filed a Notice of Aggravating Circumstances pursuant to Rule 802, before an attorney may participate in the case either as retained or appointed counsel, the attorney must meet the educational and experiential criteria set forth in this rule.

(1) EXPERIENCE: Counsel shall

- (a) be a member in good standing of the Bar of this Commonwealth;
- (b) be an active trial practitioner with a minimum of 5 years criminal litigation experience; and
- (c) have served as lead or co-counsel in a minimum of 8 significant cases that were given to the jury for deliberations. If representation is to be only in an appellate court, prior appellate or post-conviction representation in a minimum of 8 significant cases shall satisfy this requirement. A "significant case" for purposes of this rule is one that charges murder, manslaughter, vehicular homicide, or a felony for which the maximum penalty is 10 or more years.

(2) EDUCATION:

(a) During the 3-year period immediately preceding the appointment or entry of appearance, counsel shall have completed a minimum of 18 hours of training relevant to representation in capital cases, as approved by the Pennsylvania Continuing Legal Education Board.

(b) Training in capital cases shall include, but not be limited to, training in the following areas:

- (i) relevant state, federal, and international law;
- (ii) pleading and motion practice;
- (iii) pretrial investigation, preparation, strategy, and theory regarding guilt and penalty phases;
- (iv) jury selection;
- (v) trial preparation and presentation;
- (vi) presentation and rebuttal of relevant scientific, forensic, biological, and mental health evidence and experts;
- (vii) ethical considerations particular to capital defense representation;
- (viii) preservation of the record and issues for post-conviction review;
- (ix) post-conviction litigation in state and federal courts;
- (x) unique issues relating to those charged with capital offenses when under the age of 18.
- (xi) counsel's relationship with the client and family.

(c) The Pennsylvania Continuing Legal Education Board shall maintain and make available a list of attorneys who satisfy the educational requirements set forth in this rule.

**Comment**

The purpose of this rule is to provide minimum uniform statewide standards for the experience and education of appointed and retained counsel in capital cases, to thus ensure such counsel possess the ability, knowledge, and experience to provide representation in the most competent and professional manner possible. These requirements apply to counsel at all stages of a capital case, including pre-trial, trial, post-conviction, and appellate.

The educational and experience requirements of the rule may not be waived by the trial or appellate court. A court may allow representation by an out-of-state attorney pro hac vice, if satisfied the attorney has equivalent experience and educational qualifications, and is a member in good standing of the Bar of the attorney's home jurisdiction.

An attorney may serve as "second chair" in a capital case without meeting the educational or experience requirements of this rule. "Second chair" attorneys may not have primary responsibility for the presentation of significant evidence or argument, but may present minor or perfunctory evidence or argument, if deemed appropriate in the discretion of the court. Service as a "second chair" in a homicide case will count as a trial for purposes of evaluating that attorney's experience under paragraph (1)(c) of this rule.

Paragraph (1)(c) was amended in 2007 to clarify that (1) cases that are tried to a verdict or that end with a mistrial after the case is given to the jury for deliberations satisfy the requirements of the rule, and (2) all cases charging felonies for which the term of imprisonment is 10 or more years will count as "significant cases," see, e.g., Crimes Code, 18 Pa.C.S. § 106(b), and 35 P.S. § 780-113(f)(1).

The CLE Board may approve entire courses focusing on capital litigation, or individual portions of other courses dealing with general areas relevant to capital cases (such as trial advocacy). It is expected that counsel will attend training programs encompassing the full range of issues confronting the capital litigator from the investigative and pretrial stages through appellate and post-conviction litigation in the state and federal courts.

Determination of experience will be accomplished by the appointing or admitting court, by colloquy or otherwise.

For the entry of appearance and withdrawal of counsel requirements generally, see Rule 120.

For the appointment of trial counsel, see Rule 122.

For the entry of appearance and appointment of counsel in post-conviction collateral proceedings, see Rule 904.

**Official Note:** Adopted June 4, 2004, effective November 1, 2004; amended April 13, 2007, effective immediately.

*Committee Explanatory Reports:*

Final Report explaining the April 13, 2007 changes to paragraph (1)(c) published with the Court's Order at 37 Pa.B. 1961 (April 28, 2007).

**Source**

The provisions of this Rule 801 adopted June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. From June 4, 2004, until November 1, 2004, the educational requirements in Rule 801 shall be phased in as follows: (1) from the date of this Order until the November 1, 2004 effective date, the appointing or admitting court shall determine that the attorney has attended at least 6 hours of courses relevant to representation in capital cases, using the new Rule 801 educational criteria as a guide for relevance; (2) by November 1, 2004, to be eligible for appointment or to enter an appearance pursuant to new Rule 801, an attorney shall have completed a minimum of 6 hours of training relevant to representation in capital cases, as approved by the Continuing Legal Education Board, (3) by November 1, 2005, to be eligible for appointment or to enter an appearance pursuant to new Rule 801, an attorney shall have completed a minimum of 12 hours of training relevant to representation in capital cases, as approved by the Continuing Legal Education Board; and (4) by May 1, 2006, to be eligible for appointment or to enter an appearance pursuant to new Rule 801, an attorney shall have completed a minimum of 18 hours of training relevant to representation in capital cases, as approved by the

Continuing Legal Education Board; amended April 13, 2007, effective immediately, 37 Pa.B. 1960. Immediately preceding text appears at serial pages (304128) to (304129).

### **Rule 802. Notice of Aggravating Circumstances.**

The attorney for the Commonwealth shall file a Notice of Aggravating Circumstances that the Commonwealth intends to submit at the sentencing hearing and contemporaneously provide the defendant with a copy of such Notice of Aggravating Circumstances. Notice shall be filed at or before the time of arraignment, unless the attorney for the Commonwealth becomes aware of the existence of an aggravating circumstance after arraignment or the time for filing is extended by the court for cause shown.

#### **Comment**

This rule provides for pretrial disclosure of those aggravating circumstances that the Commonwealth intends to prove at the sentencing hearing. See Sentencing Code, 42 Pa.C.S. § 9711(d). It is intended to give the defendant sufficient time and information to prepare for the sentencing hearing. Although the rule requires that notice generally be given no later than the time of arraignment, it authorizes prompt notice thereafter when a circumstance becomes known to the attorney for the Commonwealth at a later time. The language “for cause shown” contemplates, for example, a situation in which, at the time of arraignment, an ongoing investigation of an aggravating circumstance must be completed before the attorney for the Commonwealth can know whether the evidence is sufficient to warrant submitting the circumstance at the sentencing hearing.

The 1995 amendment requires the Commonwealth to file the Notice of Aggravating Circumstances.

For purposes of this rule, the notice requirement is satisfied if the copy of the notice to the defendant sets forth the existing aggravating circumstances substantially in the language of the statute. See 42 Pa.C.S. § 9711(d). The extent of disclosure of underlying evidence is governed by Rule 573.

See Rule 571 concerning arraignment procedures.

If the trial court orders a new sentencing hearing, or the Supreme Court remands a case for a re-determination of penalty pursuant to 42 Pa.C.S. § 9711(h)(4), the attorney for the Commonwealth may not introduce any new aggravating circumstance except when there has been an intervening conviction for an offense committed prior to the present conviction which would constitute an aggravating circumstance. The trial judge must set the time within which the attorney for the Commonwealth must notify the defendant of such an additional circumstance, and the time set for notice must allow the defendant adequate time to prepare for the new sentencing hearing. No additional notice is required for those aggravating circumstances previously offered and not struck down upon review.

**Official Note:** Previous Rule 352 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 353 February 1, 1989, effective July 1, 1989. Present Rule 352 adopted February 1, 1989, effective as to cases in which the arraignment is held on or after July 1, 1989; Comment revised October 29, 1990, effective January 1, 1991; amended January 10, 1995, effective February 1, 1995; renumbered Rule 801 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; renumbered Rule 802 June 4, 2004, effective November 1, 2004.

#### *Committee Explanatory Reports:*

Report explaining the October 29, 1990 Comment revision published at 20 Pa.B. 5736 (November 17, 1990).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court’s Order at 30 Pa.B. 1477 (March 18, 2000).

Final Report explaining the May 10, 2002 amendments published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

#### Source

The provisions of this Rule 801 amended May 10, 2002, effective September 1, 2002, 32 Pa.B. 2582; amended June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. Immediately preceding text appears at serial pages (289114) to (289115).

### **Rule 803. Guilty Plea Procedure.**

(A) When a defendant charged with murder enters a plea of guilty to a charge of murder generally, the judge before whom the plea is entered shall alone determine the degree of guilt.

(B) If the crime is determined to be murder of the first degree the sentencing proceeding shall be conducted as provided by law.

#### Comment

For the procedure for the entry of guilty pleas, see Rule 590. For the sentencing procedure if the crime is determined to be murder of the first degree, see Sentencing Code, 42 Pa.C.S. § 9711(b).

**Official Note:** Original Rule 352 adopted September 22, 1976, effective November 1, 1976; amended May 26, 1977, effective July 1, 1977; rescinded April 2, 1978, effective immediately. Former Rule 352 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 353 February 1, 1989, effective July 1, 1989; renumbered Rule 802 and amended March 1, 2000, effective April 1, 2001; renumbered Rule 803 June 4, 2004, effective November 1, 2004.

#### *Committee Explanatory Reports:*

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at Pa.B. 1477 (March 18, 2000).

#### Source

The provisions of this Rule 803 amended June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. Immediately preceding text appears at serial page (289115).

### **Rule 804. Procedure When Jury Trial is Waived.**

(A) When a defendant charged with murder waives a jury trial, the trial judge shall alone hear the evidence, determine all questions of law and fact, and render a verdict which shall have the same force and effect as a verdict of a jury.

(B) If the crime is determined to be murder of the first degree the sentencing proceeding shall be conducted as provided by law.

#### Comment

For the procedure for waiver of jury trial, see Rules 620 and 621. For the sentencing procedure if the crime is determined to be murder of the first degree, see Sentencing Code, 42 Pa.C.S. § 9711(b).

**Official Note:** Original Rule 353 adopted September 22, 1976, effective March 1, 1977, effective date extended to April 1, 1977; amended May 26, 1977, effective July 1, 1977; rescinded April 2, 1978, effective immediately. Former Rule 353 adopted July 1, 1985, effective August 1, 1985, renumbered Rule 354 February 1, 1989, effective July 1, 1989; renumbered Rule 803 and amended March 1, 2000, effective April 1, 2001; renumbered Rule 804 June 4, 2004, effective November 1, 2004.

*Committee Explanatory Reports:*

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

**Source**

The provisions of this Rule 804 amended June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. Immediately preceding text appears at serial page (289115).

**Rule 805. No Sealed Verdict.**

No sealed verdict shall be permitted under this chapter.

**Official Note:** Original Rule 354 adopted September 22, 1976, effective November 1, 1976; rescinded April 2, 1978, effective immediately. Former Rule 354 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 355 February 1, 1989, effective July 1, 1989; renumbered Rule 804 and amended March 1, 2000, effective April 1, 2001; renumbered Rule 805 June 4, 2004, effective November 1, 2004.

*Committee Explanatory Reports:*

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

**Source**

The provisions of this Rule 805 amended June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. Immediately preceding text appears at serial pages (289115) to (289116).

**Rule 806. Closing Arguments at Sentencing Hearing.**

After the presentation of evidence at the sentencing hearing, each party shall be entitled to present one closing argument for or against the sentence of death. The defendant's argument shall be made last.

**Comment**

See Sentencing Code, 42 Pa.C.S. § 9711(a)(3).

**Official Note:** Rule 356 adopted February 1, 1989, effective July 1, 1989; renumbered Rule 805 and Comment revised March 1, 2000, effective April 1, 2001; renumbered Rule 806 June 4, 2004, effective November 1, 2004.

*Committee Explanatory Reports:*

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

**Source**

The provisions of this Rule 806 amended June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. Immediately preceding text appears at serial page (289116).

**Rule 807. Sentencing Verdict Slip.****(A) JURY**

(1) In all cases in which the sentencing proceeding is conducted before a jury, the judge shall furnish the jury with a jury sentencing verdict slip in the form provided by Rule 808.

(2) Before the jury retires to deliberate, the judge shall meet with counsel and determine those aggravating and mitigating circumstances of which there

is some evidence. The judge shall then set forth those circumstances on the sentencing verdict slip using the language provided by law.

(3) The trial judge shall make the completed sentencing verdict slip part of the record.

(B) TRIAL JUDGE

(1) In all cases in which the defendant has waived a sentencing proceeding before a jury and the trial judge determines the penalty, the trial judge shall complete a sentencing verdict slip in the form provided by Rule 809.

(2) The trial judge shall make the completed sentencing verdict slip part of the record.

Comment

The purpose of this rule is to provide statewide, uniform jury and trial judge sentencing verdict slips in death penalty cases. The jury sentencing verdict slip is not intended to replace those jury instructions required by law. See Sentencing Code, 42 Pa.C.S. § 9711(c). For the sentencing procedure under paragraph (B), see Sentencing Code, 42 Pa.C.S. § 9711(b).

**Official Note:** Rule 357 adopted February 1, 1989, effective July 1, 1989; renumbered Rule 806 and amended March 1, 2000, effective April 1, 2001; renumbered Rule 807 June 4, 2004, effective November 1, 2004.

*Committee Explanatory Reports:*

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Source

The provisions of this Rule 807 amended June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. Immediately preceding text appears at serial pages (289116) and (264363).

**Rule 808. Form for Jury Sentencing Verdict Slip.**

IN THE COURT OF COMMON PLEAS OF  
COUNTY, PENNSYLVANIA  
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA:

vs. : NO.  
:

FIRST DEGREE MURDER  
SENTENCING VERDICT SLIP

I. GENERAL INSTRUCTIONS

A. READ THROUGH THE ENTIRE VERDICT SLIP BEFORE BEGINNING DELIBERATIONS.

B. AGGRAVATING AND MITIGATING CIRCUMSTANCES PRESENTED TO THE JURY.

1. The following aggravating circumstance(s) (is) (are) submitted to the jury and must be proved by the Commonwealth beyond a reasonable doubt:

(1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

(4) \_\_\_\_\_

2. The following mitigating circumstance(s) (is) (are) submitted to the jury and must be proved by the defendant by a preponderance of the evidence:

(1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

(4) Any other evidence of mitigation concerning the character and record of the defendant and the circumstances of the defendant's offense.

C. DO NOT COMPLETE THIS SENTENCING VERDICT SLIP UNTIL YOUR DELIBERATIONS ARE CONCLUDED. THIS SENTENCING VERDICT SLIP IS ONLY TO BE USED TO RECORD YOUR SENTENCING VERDICT AND THE FINDINGS UPON WHICH IT IS BASED.

D. IF, AFTER SUFFICIENT DELIBERATION, YOU CANNOT UNANIMOUSLY REACH A SENTENCING VERDICT, DO NOT COMPLETE OR SIGN THIS SLIP, BUT RETURN IT TO THE JUDGE. THE JUDGE WILL DETERMINE IF FURTHER DELIBERATIONS ARE REQUIRED; IF THEY ARE NOT, THE JUDGE WILL SENTENCE THE DEFENDANT TO LIFE IMPRISONMENT.

II. SENTENCING VERDICT AND FINDINGS

If you have reached a unanimous verdict, complete this part of the form.

In Section A, indicate whether the sentencing verdict is death or life imprisonment. If the sentence is death, indicate the basis for that verdict by completing Section B. If the sentence is life imprisonment, indicate the basis for that verdict by completing Section C.

A. We, the jury, unanimously sentence the defendant to (check one):

DEATH SENTENCE

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\_\_\_\_\_ Death

\_\_\_\_\_ Life Imprisonment

B. The findings on which the sentence of death is based are (check one):

\_\_\_\_\_ 1. At least one aggravating circumstance and no mitigating circumstance.

The aggravating circumstance(s) unanimously found (is) (are):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ 2. One or more aggravating circumstances which outweigh(s) any mitigating circumstance(s).

The aggravating circumstance(s) unanimously found (is) (are):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ The mitigating circumstance(s) found by one or more of us (is) (are):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. The findings on which the sentence of life imprisonment is based are (check one):

\_\_\_\_\_ 1. No aggravating circumstance exists.

\_\_\_\_\_ 2. The mitigating circumstance(s) (is) (are) not outweighed by the aggravating circumstance(s).

The mitigating circumstance(s) found by one or more of us (is) (are):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ The aggravating circumstance(s) unanimously found (is) (are):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ DATE

\_\_\_\_\_ JURY FOREPERSON

**Comment**

The general instructions contained in Part I of the verdict slip are not intended to replace the jury instructions required by law. See Sentencing Code, 42 Pa.C.S. § 9711(c)(1) and (2).

The judge should caution the jury that the verdict slip is to be used to record the sentencing verdict and findings, and that the slip should be completed only after their deliberations are concluded.

In Part I, General Instructions, the judge should set forth those aggravating and mitigating circumstances of which there is some evidence. The list should include the mitigating circumstance “concerning the character and record of the defendant and the circumstances of his offense.” 42 Pa.C.S. § 9711(e)(8). See *Commonwealth v. Moody*, 382 A.2d 442 (Pa. 1977), cert. den. 438 U.S. 914 (1978), and *Lockett v. Ohio*, 438 U.S. 586 (1978).

The list of aggravating and mitigating circumstances completed by the judge in Part I, and by the jury foreperson in Part II, should use the language provided by law for each circumstance. See Sentencing Code, 42 Pa.C.S. § 9711(d) and (e). The judge’s instructions on the weighing of aggravating and mitigating circumstances must comply with *Mills v. Maryland*, 108 S.Ct. 1860 (1988).

**Official Note:** Rule 358A adopted February 1, 1989, effective July 1, 1989; renumbered Rule 807 and amended March 1, 2000, effective April 1, 2001; renumbered Rule 808 June 4, 2004, effective November 1, 2004.

*Committee Explanatory Reports:*

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court’s Order at 30 Pa.B. 1477 (March 18, 2000).

**Source**

The provisions of this Rule 808 amended June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. Immediately preceding text appears at serial pages (264363) to (264365).

**Rule 809. Form for Trial Judge Sentencing Verdict Slip.**

IN THE COURT OF COMMON PLEAS OF \_\_\_\_\_ COUNTY,  
PENNSYLVANIA  
CRIMINAL  
COMMONWEALTH OF PENNSYLVANIA:  
vs. \_\_\_\_\_ : NO. \_\_\_\_\_  
:

FIRST DEGREE MURDER  
SENTENCING VERDICT SLIP

A. I, \_\_\_\_\_ J., sentence the defendant to:  
\_\_\_\_\_ Death  
\_\_\_\_\_ Life Imprisonment

B. The findings on which the sentence of death is based are:  
\_\_\_\_\_ 1. At least one aggravating circumstance and no mitigating  
circumstance.

The aggravating circumstance(s) (is) (are):

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ 2. One or more aggravating circumstances which outweigh(s) any mitigating circumstance(s).

The aggravating circumstance(s) (is) (are):

\_\_\_\_\_  
\_\_\_\_\_

The mitigating circumstance(s) (is) (are):

\_\_\_\_\_  
\_\_\_\_\_

C. The findings on which the sentence of life imprisonment is based are:

\_\_\_\_\_ 1. No aggravating circumstance exists.

\_\_\_\_\_ 2. The mitigating circumstance(s) (is) (are) not outweighed by the aggravating circumstance(s).

The mitigating circumstance(s) (is) (are):

\_\_\_\_\_  
\_\_\_\_\_

The aggravating circumstance(s) (is) (are):

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ DATE \_\_\_\_\_, J.

**Comment**

In listing aggravating and/or mitigating circumstances in Sections B or C, the trial judge should use the language provided by law for each circumstance. See Sentencing Code, 42 Pa.C.S. § 9711(d) and (e).

**Official Note:** Rule 358B adopted February 1, 1989, effective July 1, 1989; renumbered Rule 808 and Comment revised March 1, 2000, effective April 1, 2001; renumbered Rule 809 June 4, 2004, effective November 1, 2004.

*Committee Explanatory Reports:*

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

**Source**

The provisions of this Rule 809 amended June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. Immediately preceding text appears at serial pages (264366) to (264367).

**Rule 810. Sentence.**

In all cases in which a verdict of guilty of murder of the first degree has been returned, once a sentence has been determined, the court may immediately impose that sentence.

**Comment**

Although this rule authorizes the immediate imposition of sentence, there may be circumstances in an individual case when the judge would want to delay imposition of sentence. The case should then proceed under the time limits in Rule 704(A).

When sentence is imposed immediately pursuant to this rule, the judge must still comply with the applicable requirements of Rule 704(C).

Once sentence has been imposed, the time for filing the post-sentence motion begins to run. See Rules 811 and 720.

**Official Note:** Previous rule, originally numbered Rule 355, adopted September 22, 1976, effective November 1, 1976; rescinded April 2, 1978, effective immediately. Former Rule 355 adopted July 1, 1985, effective August 1, 1985; amended and renumbered Rule 359 December 31, 1987, effective immediately; Comment revised October 29, 1990, effective January 1, 1991; rescinded March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994, and replaced by present Rules 810, 704, and 720. Present Rule 359 adopted March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule 809 and Comment revised March 1, 2000, effective April 1, 2001; renumbered Rule 810 and Comment revised June 4, 2004, effective November 1, 2004.

*Committee Explanatory Reports:*

Final Report explaining the provisions of the new rule published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

**Source**

The provisions of this Rule 810 amended June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. Immediately preceding text appears at serial page (264367).

**Rule 811. Post-Sentence Motion.**

In all cases in which a sentence has been imposed, the case shall proceed pursuant to Rule 720, except that, in cases in which a death sentence has been determined and imposed, the post-sentence motion shall be decided promptly, but shall not be denied by operation of law.

**Comment**

This rule, Rule 810, Rule 704, and Rule 720 replace previous Rule 359.

When a sentence of death has been imposed, the sentence may be challenged initially at the trial level as part of the general post-sentence motion.

Under Rule 720, the post-sentence motion must be decided within 120 days of filing or is deemed denied by operation of law. It is intended that, as to those cases in which a life sentence has been

imposed, this and all other Rule 720 time limits for disposition of the post-sentence motion apply. In cases in which a sentence of death has been imposed, however, the post-sentence motion may not be denied by operation of law if the judge fails to decide the motion within the 120-day limit. The judge must rule on the motion as promptly as the interests of justice allow.

**Official Note:** Rule 360 adopted March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule 810 and amended March 1, 2000, effective April 1, 2001; renumbered Rule 811 and Comment revised June 4, 2004, effective November 1, 2004.

*Committee Explanatory Reports:*

Final Report explaining the provisions of the new rule published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

**Source**

The provisions of this Rule 811 amended June 4, 2004, effective November 1, 2004, 34 Pa.B. 3105. Immediately preceding text appears at serial page (264368).

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