

**SUPREME COURT OF PENNSYLVANIA
CRIMINAL PROCEDURAL RULES COMMITTEE**

ADOPTION REPORT

Amendment of Pa.R.Crim.P. 454, 1002, 1005, and 1030

On January 8, 2025, the Supreme Court amended Pa.R.Crim.P. 454 (Trial in Summary Cases), 1002 (Procedure in Summary Cases), 1005 (Pretrial Applications for Relief), and 1030 (Scope of Summary Municipal Court Traffic Division Rules) to provide procedures for litigating a motion to suppress in summary cases.¹ The Criminal Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Rules Committees, not the Court.

The Committee received a request to consider amending the rules to provide for the litigation of motions to suppress in summary cases.² As the requestor observed, the only rule within the Rules of Criminal Procedure governing the suppression of evidence is Rule 581 (Suppression of Evidence), which is contained in Chapter 5 of the rules. Chapter 5 provides pretrial procedures for court cases, which, as defined in Rule 103, are cases “in which one or more of the offenses charged is a misdemeanor, felony, or murder of the first, second, or third degree.” Pa.R.Crim.P. 103. By contrast, a summary case is “a case in which the only offense or offenses charged are summary offenses.” Pa.R.Crim.P. 103. The procedures governing summary cases are set forth in Chapter 4, and unlike Chapter 5, Chapter 4 does not provide procedures for the suppression of

¹ Stylistic amendments have also been made to conform to the Supreme Court of Pennsylvania Style and Rulemaking Guide for Procedural and Evidentiary Rules.

² The Committee did not question the need to be able to litigate a suppression motion in summary cases. See *Commonwealth v. Breslin*, 732 A.2d 629, 633 (Pa. Super. 1999) (finding “no indication in our case law or rules of criminal procedure that motions to suppress are not properly brought in summary offense cases.”). While summary convictions may be subject to expungement or “Clean Slate,” they are not trifling matters tantamount to a parking violation. Convictions may result in imprisonment and the imposition of significant financial obligations, as well as reputational interest. See also *Folino v. Young*, 568 A.2d 171 (Pa. 1990) (discussing admissibility of summary conviction in a later civil proceeding).

evidence.³ Chapter 10, which provides procedures for summary cases in Philadelphia Municipal Court, also lacks procedures for litigating motions to suppress.

Preliminarily, the Committee considered which court should hear a motion to suppress in a summary case. The first option would be the court in which the case will be tried, *i.e.*, the magisterial district court or Philadelphia Municipal Court. The second option would be a court of common pleas on appeal. The Committee concluded that such motions should be heard in the first instance in a court of common pleas on appeal. The Committee's reasoning was primarily driven by the fact that magisterial district courts do not have motions practice and magisterial district judges are not currently trained regarding suppression issues and the relevant jurisprudence. Additionally, no appellate procedures — beyond those for seeking a trial *de novo* in a court of common pleas, see Pa.R.Crim.P. 462 (Trial *De Novo*) — currently exist in Chapter 4 of the rules. Thus, if suppression motions were to be allowed in magisterial district courts, in addition to needing procedures for litigating such motions, procedures for appealing rulings on those motions would also be needed.⁴ The Committee instead chose a solution less likely to

³ As Rule 581(B) explains, suppression motions are to be made “*only* after a case has been returned to court.” Pa.R.Crim.P. 581(B) (emphasis added). “Returned to court” in this context refers to a defendant being held for court either after a preliminary hearing or upon waiving a preliminary hearing before the issuing authority. See Rules of Criminal Procedure, Chapter 5 (Pretrial Procedures in Court Cases), Part D (Proceedings in Court Cases Before Issuing Authorities). Thus, a summary case is never in the proper procedural posture for filing a motion to suppress pursuant to Rule 581.

⁴ The Court abolished *certiorari* practice in summary proceedings with the amendment of Pa.R.Crim.P. 67(f), now Pa.R.Crim.P. 460(f). See *Commonwealth v. Reese*, 528 A.2d 647, 648 (Pa. Super. 1987). As the Comment to Rule 460 notes, “[c]ertiorari was abolished by the Criminal Rules in 1973 pursuant to Article V Schedule Section 26 of the Constitution of Pennsylvania, which specifically empowers the Supreme Court of Pennsylvania to do so by rule The abolition of *certiorari* continues with this rule.” Pa.R.Crim.P. 460, cmt. Thus, in order to provide procedures for appealing a suppression ruling, which is not a final order, from the minor judiciary to a court of common pleas, not only would new appellate rules need to be crafted but *certiorari* in summary cases would need to be reestablished. Compare Pa. Const. Art. 5, § 9 (Right of Appeal); 42 Pa.C.S. § 932 (Appeals from minor judiciary) (conferring jurisdiction on courts of common pleas to hear appeals “from final orders of the minor judiciary established within the judicial district.”). Additionally, whether the Commonwealth would have a right to appeal from the granting of a suppression motion in a summary case, and what procedures would be needed, see *Commonwealth v. Malinowski*, 671 A.2d 674, 678 (Pa. 1996) (noting that the Commonwealth may appeal a suppression court ruling as a matter of right, “*only* if [in addition to satisfying the requirements of Pa.R.A.P. 904] the (...continued)

result in unanticipated complications given that the procedures for appealing summary convictions and for filing suppression motions in courts of common pleas already exist.

For uniformity, the Committee proposed that suppression motions in summary cases in the First Judicial District also be heard in the first instance in the court of common pleas on appeal, even though a motions practice does exist in Philadelphia Municipal Court. The rules in Chapter 10 governing Philadelphia Municipal Court are silent on this subject. The Committee did observe, however, that Pa.R.Crim.P. 1005 acknowledges the use of pretrial applications for suppression in non-summary cases in the Philadelphia Municipal Court. Notwithstanding, the Committee believed that statewide uniformity served the purpose of statewide rules and that procedures governing like case types, e.g., all summary cases, should differ only when necessary.

As summary suppression motions would be filed in the court of common pleas on appeal in all judicial districts, the Committee chose to amend Rules 462 (Trial *De Novo*) and 1010 (Procedures for Trial *De Novo*) by including a new subdivision in each rule, subdivision (j) (Suppression Motion) in Rule 462 and subdivision (f) (Suppression Motion in Summary Cases) in Rule 1010. Rule 462(j)(1) and Rule 1010(f)(1) would both require motions to suppress evidence to be “made in the first instance” in the court of common pleas on appeal from a summary conviction. Rule 462(j)(2) and Rule 1010(f)(2) would then require such motions to “comply with subdivisions (C) through (J) of Rule 581” and to be filed with “the clerk of courts within 30 days of the filing of the notice of appeal.” Thirty days was chosen to mirror the timing requirement for a suppression motion in a court case. See Pa.R.Crim.P. 579 (Time for Omnibus Pretrial Motion and Service).

The following two paragraphs would be removed from the Comment to Rule 462, the first for being merely historical and the second for being a restatement of the rule text:

The provisions of paragraph (C) that permit the court to continue the case if there is good cause for the officer's unavailability were added in response to *Commonwealth v. Hightower*, 652 A.2d 873 (Pa. Super. 1995).

Paragraph (D) makes it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial *de novo*. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority.

Also, the Comment to each rule would be amended to advise that motions to suppress are not to be made in a magisterial district court or in Philadelphia Municipal Court but

Commonwealth certifies that the ruling terminates or substantially handicaps the prosecution.”), is an additional difficulty the Committee’s proposal avoids.

are to be filed with the clerk of courts within 30 days of a notice of appeal being filed pursuant to Pa.R.Crim.P. 460 or 1008, respectively. This proposal was published for comment. See 53 Pa.B. 3818 (July 22, 2023).

Post-publication, the Committee opted to reorganize its original proposal by relocating proposed subdivision (j) of Rule 462 (Trial *De Novo*) to a new subdivision (g) of Rule 454 (Trial in Summary Cases), a more logical location for procedures governing a pretrial motion.⁵

Additionally, rather than include identical text in Rule 1010(f), as was originally proposed, the Committee chose to revise the Comments to Rules 1002, 1005, and 1030 to direct the reader to Rule 454(g) regarding suppression in a summary case. This added commentary, coupled with the general applicability of Chapter 4 to summary proceedings in Philadelphia Municipal Court, should ensure that the bench and bar of the First Judicial District have little difficulty in finding the new procedures, regardless of whether the summary offense is a traffic offense or a non-traffic offense.

The following commentary has been removed from Rule 454:

Official Note: Rule 83 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; Comment revised April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; Comment revised February 13, 1998, effective July 1, 1998; renumbered Rule 454 and Comment revised March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised August 7, 2003, effective July 1, 2004; amended March 26, 2004, effective July 1, 2004; amended January 26, 2007, effective February 1, 2008; Comment revised July 17, 2013, effective August 17, 2013; amended March 9, 2016, effective July 1, 2016.

Committee Explanatory Reports:

Final Report explaining the October 28, 1994 amendments published with the Court's Order at 24 Pa.B. 5841 (November 26, 1994).

⁵ Although the Committee had also proposed amending the Comment to Rule 462, as published for comment, the proposed commentary was merely a restatement of the amended rule text and has therefore been discarded rather than relocated to the Comment to Rule 454.

Final Report explaining the April 18, 1997 Comment revision cross-referencing new Rule 87 published with the Court's Order at 27 Pa.B. 2119 (May 3, 1997).

Final Report explaining the October 1, 1997 amendments to paragraph (E) and the Comment concerning the procedures at the time of sentencing published with the Court's Order at 27 Pa.B. 5414 (October 18, 1997).

Final Report explaining the February 13, 1998 Comment revision concerning questioning of witnesses published with the Court's Order at 28 Pa.B. 1127 (February 28, 1998).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the February 28, 2003 amendments published with the Court's Order at 33 Pa.B. 1326 (March 15, 2003).

Final Report explaining the August 7, 2003 changes to the Comment concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

Final Report explaining the March 26, 2004 changes concerning Alabama v. Shelton published with the Court's Order at 34 Pa.B. 1929 (April 10, 2004).

Final Report explaining the January 26, 2007 amendments adding paragraph (E) concerning intermediate punishment published with the Court's Order at 37 Pa.B. 752 (February 17, 2007).

Final Report explaining the July 17, 2013 Comment revision concerning mandatory incarceration offenses and juveniles published with the Court's Order at 43 Pa.B. 4323 (August 3, 2013).

Final Report explaining the March 9, 2016 amendments to paragraph (F) concerning required elements of the sentence published with the Court's Order at 46 Pa.B. 1532 (March 26, 2016).

The following commentary has been removed from Rule 1002:

Official Note: Rule 6002 adopted June 28, 1974, effective July 1, 1974; amended July 1, 1980, effective August 1, 1980; Comment revised January

28, 1983, effective July 1, 1983; amended July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended February 1, 1989, effective July 1, 1989; amended August 9, 1994, effective January 1, 1995; renumbered Rule 1002 and amended March 1, 2000, effective April 1, 2001. Rule 1002 rescinded August 15, 2005, effective February 1, 2006, and replaced by new Rule 1002; amended May 12, 2009, effective February 1, 2010; Comment revised February 12, 2010, effective April 1, 2010; amended December 22, 2010, effective February 20, 2011; Comment revised May 7, 2014, effective immediately.

Committee Explanatory Reports:

Report explaining the August 9, 1994 amendments published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. 4918 (September 3, 2005).

Final Report explaining the May 12, 2009 changes to paragraph (B) concerning issuing citations and arrest without warrants in summary cases published at 39 Pa.B. 2568 (May 23, 2009).

Final Report explaining the February 12, 2010 Comment revision concerning the disposition of summary offenses at the court of common pleas published with the Court's Order at 40 Pa.B. 1068 (February 27, 2010).

Final Report explaining the December 22, 2010 amendments published with the Court's Order at 41 Pa.B. 216 (January 8, 2011).

Final Report explaining the May 7, 2014 Comment revisions concerning the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published with the Court's Order at 44 Pa.B. 3056 (May 24, 2014).

The following commentary has been removed from Rule 1005:

Official Note: Rule 6005 adopted December 30, 1968, effective January 1, 1969; amended July 1, 1980, effective August 1, 1980; renumbered Rule 1005 and amended March 1, 2000, effective April 1, 2001; amended November 9, 2017, effective January 1, 2018.

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. 1478 (March 18, 2000).

Final Report explaining the November 9, 2017 amendment regarding the effect that taking an appeal has on the ability of the Municipal Court to take further action in a case published with the Court's Order at 47 Pa.B. 7182 (November 25, 2017).

The following commentary has been removed from Rule 1030:

Official Note: Adopted September 9, 2005, effective February 1, 2006; amended May 7, 2014, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. 5329 (September 24, 2005).

Final Report explaining the May 7, 2014 Comment revision concerning the transfer of functions from the Philadelphia Traffic Court to the Philadelphia Municipal Court published with the Court's Order at 44 Pa.B. 3056 (May 24, 2014).

The amendment of Rules 454, 1002, 1005, and 1030 become effective April 1, 2025.