

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

Proposed Recommendation No. 244

**Proposed Amendment of Rule 3135 Governing
Correction of Sheriff's Deed to Real Property**

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 3135 governing the correction of the sheriff's deed to real property be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than **February 26, 2010** to:

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**or E-Mail to
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The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Rule 3135. Sheriff's Deed to Real Property. Correction of Deed

(a) When real property is sold in execution and no petition to set aside the sale has been filed, the sheriff, at the expiration of twenty days **but no later than 40 days** after either the filing of the schedule of distribution or the execution sale if no schedule of distribution need be filed, shall execute and acknowledge before the prothonotary a deed to the property sold. The sheriff shall forthwith deliver the deed to the appropriate officers for recording and for registry if required. Confirmation of the sale by the court shall not be required.

Note: See Rule 3136(a) governing the filing of the schedule of distribution.

(b) If the sheriff has made a defective return of the execution proceeding or has executed a defective deed, including the erroneous description of the real estate, the court upon petition of the purchaser or the purchaser's successors in title may correct the return or deed or order that a new return or deed be executed.

Explanatory Comment -- 2005

Prior to the present amendment, Rule 3135(a) governing execution sales provided in part that "the sheriff, at the expiration of ten days after the filing of the schedule of distribution, shall execute and acknowledge before the prothonotary a deed to the property sold." There was a gap in the rule because Rule 3136(a) provides that a schedule of distribution need not be filed where the real property is sold to the plaintiff for costs only. The amended rule eliminates this gap. Where a schedule of distribution is not required, the sheriff must execute and acknowledge the deed [**within twenty days of**] **no sooner than twenty days after** the date of the sale.

The rule has also been amended by increasing from ten to twenty days the time in which the sheriff must execute and acknowledge a deed in a sale as to which a schedule of distribution is required to be filed. The uniform twenty-day period is therefore applicable in all cases and eliminates potential confusion.

Explanatory Comment

The Civil Procedural Rules Committee is proposing the amendment of Rule 3135 in two respects. First, current Rule 3135, which provides for the sheriff to execute a sheriff's deed only at the expiration of twenty days after either the filing of a schedule of distribution or the execution sale, is inconsistent with the 2005 explanatory comment, which advises that where a schedule of distribution is not required, the sheriff must execute and acknowledge the deed within twenty days of the date of the sale. The 2005 explanatory comment was incorrect in that if the sheriff were required to execute the deed within twenty days of the date of the sale where no schedule of distribution is required, there would be no time for the debtor to petition the court before the delivery of the sheriff's deed if the sheriff were to execute the deed immediately after the sale.

Second, Rule 3135 has been amended to provide a set time period within which the sheriff must execute the deed after either the filing of the schedule of distribution or the execution sale if no schedule of distribution is required. Current Rule 3135 only provides a minimum amount of time, i.e. twenty days after the filing of the schedule of distribution or the execution sale if no schedule of distribution is required, after which the sheriff is authorized to execute the deed. It sets no future date by which the sheriff must have executed the deed. The proposed amendment establishes a twenty to forty day window within which the sheriff must execute the deed after either the filing of the schedule of distribution or the sheriff's sale. This time period will ensure that a debtor has sufficient time to petition the court to set aside the sale pursuant to Rule 3132, while encouraging the timely execution of the deed by the sheriff.

By the Civil Procedural
Rules Committee

Stewart L. Kurtz
Chair