

RULE [31] 141. APPEALS FROM CONTEMPT ADJUDICATIONS BY DISTRICT JUSTICES, PITTSBURGH MAGISTRATES COURT JUDGES, OR PHILADELPHIA TRAFFIC COURT JUDGES.

(A) An appeal authorized by 42 Pa.C.S. §§ 4137(d), 4138(d), or 4139(d) of the action of an issuing authority in a contempt proceeding shall be perfected by filing a notice of appeal within 30 days after the action of the issuing authority with the clerk of courts and by appearing in the court of common pleas for the *de novo* hearing.

(B) In all cases, the punishment imposed for contempt shall be stayed for 30 days from the imposition of the punishment. If an appeal is filed within the 30-day period, the stay shall remain in effect pending disposition of the appeal.

(C) The notice of appeal shall contain the following information:

- (1) the name and address of the appellant;
- (2) the name and address of the issuing authority who heard the case;
- (3) the magisterial district number where the case was heard;
- (4) the date of the imposition of punishment;
- (5) the punishment imposed;
- (6) the type or amount of bail furnished to the issuing authority, if any; and
- (7) the name and address of the attorney, if any, filing the notice of appeal.

(D) Within 5 days after the filing of the notice of appeal, the clerk of courts shall serve a copy either personally or by mail upon the issuing authority.

(E) The issuing authority shall, within 20 days after receipt of the notice of appeal, file with the clerk of courts:

- (1) the transcript of the proceedings;
- (2) either the notice of the hearing or a copy of the attachment;
- (3) the contempt order; and
- (4) any warrant of arrest.

(F) Upon the filing of the transcript and other papers by the issuing authority, the case shall be heard *de novo* by the appropriate division of the court of common pleas as the president judge shall direct. If the appellant fails to appear for the *de novo* hearing, the judge assigned to hear the matter may dismiss the appeal and enter judgment in the court of common pleas on the judgment of the issuing authority.

COMMENT: This rule provides the procedures for taking an appeal from a finding of contempt by a district justice, a Pittsburgh Magistrates Court judge, or a Philadelphia Traffic Court judge.

As used in this rule, "issuing authority" refers only to district justices, Pittsburgh Magistrates Court judges, and Philadelphia Traffic Court judges when acting within the scope of their contempt powers. See 42 Pa.C.S. §§ 4137, 4138, and 4139.

Pursuant to paragraph (B), any punishment imposed for contempt will be automatically stayed for 30 days from the date of the imposition of the punishment, during which time a notice of appeal may be filed with the clerk of courts. To the extent that 42 Pa.C.S. §§ 4137(d), 4138(d), and 4139(d) are inconsistent with this rule, they are suspended by Rule **[39 (Suspension of Acts of Assembly -- Chapter 30)] 1101 (Suspension of Acts of Assembly)**.

If no notice of appeal is filed within the 30-day period following imposition of the punishment, Rule **[30] 140** requires the issuing authority to direct the contemnor on a date certain to pay any fine imposed or to appear for execution of any punishment of imprisonment.

See 42 Pa.C.S. § 4137(e) concerning the imposition of bail as a condition of release by a district justice.

Paragraph (F) makes it clear that the judge assigned to conduct the *de novo* hearing may dismiss an appeal of the action of an issuing authority in a contempt proceeding when the judge determines that the appellant is absent without cause from the *de novo* hearing. If the appeal is dismissed, the judge should enter judgment and order execution of any punishment imposed by the issuing authority.

NOTE: **Rule 31 [A]** adopted October 1, 1997, effective October 1, 1998 [.] ; **renumbered Rule 141 and Comment revised March 1, 2000, effective April 1, 2001.**

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COMMITTEE EXPLANATORY REPORTS:

Final Report explaining the provisions of new Rule 31 published with the Court's Order at 27 Pa.B. 5405 (October 18, 1997).

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