

RULE **[84] 455**. TRIAL IN DEFENDANT'S ABSENCE.

(A) If the defendant fails to appear for trial in a summary case, the trial shall be conducted in the defendant's absence, unless the issuing authority determines that there is a likelihood that the sentence will be imprisonment or that there is other good cause not to conduct the trial in the defendant's absence. If the trial is not conducted in the defendant's absence, the issuing authority may issue a warrant for the defendant's arrest.

(B) At trial, the issuing authority shall proceed to determine the facts and render a verdict.

(C) If the defendant is found not guilty, any collateral previously deposited shall be returned.

(D) If the defendant is found guilty, the issuing authority shall impose sentence, and shall give notice to the defendant of the conviction and sentence by first class mail. In those cases in which the amount of collateral deposited does not satisfy the fine and costs imposed or the issuing authority imposes a sentence of restitution, the notice shall also state that failure within 10 days of the date on the notice to pay the amount due or to appear for a hearing to determine whether the defendant is financially able to pay the amount due may result in the issuance of an arrest warrant.

(E) Any collateral previously deposited shall be forfeited and applied only to the payment of the fine and costs. When the amount of collateral deposited is more than the fine and costs, the balance shall be returned to the defendant.

(F) If the defendant does not respond within 10 days to the notice in paragraph (D), the issuing authority may issue a warrant for the defendant's arrest.

COMMENT: In those cases in which the issuing authority determines that there is a likelihood that the sentence will be imprisonment or that there is other good cause not to conduct the trial in the defendant's absence, the issuing authority may issue a warrant for the arrest of the defendant in order to have the defendant brought before the issuing authority for the summary trial. See Rule **[75] 430 [(2)] (B)**. The trial would then be conducted with the defendant present as provided in these rules. See Rule **[83] 454**.

Paragraph (D) **[was amended in 1989 to]** provides notice to the defendant of conviction and sentence after trial *in absentia* to alert the defendant that the time for filing an appeal has begun to run. See Rule **[63(b)] 413(B)(3)**.

For the defendant's right to counsel, see Rule **[316] 122**.

For arrest warrant procedures in summary cases, see Rules **[75 and 76] 430 and 431**.

NOTE: **Rule 84 [A]** adopted 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 April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998 **[.]**; **renumbered Rule 455 and Comment revised March 1, 2000, effective April 1, 2001.**

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COMMITTEE EXPLANATORY REPORTS:

Final Report explaining the April 18, 1997 amendments mandating a summary trial *in absentia* with certain exceptions published with the Court's Order at 27 Pa.B. 2117 (May 3, 1997).

Final Report explaining the October 1, 1997 amendments to paragraphs (D) and (E) published with the Court's Order at 27 Pa.B. 5414 (October 1, 1997).

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