

RULE 515. EXECUTION OF ARREST WARRANT.

(A) A warrant of arrest may be executed at any place within the Commonwealth.

(B) A warrant of arrest shall be executed by a police officer.

**(C) When the warrant has been issued by a magisterial district judge, and the defendant cannot be found, the case shall remain in the magisterial district, and shall not be forwarded to the court of common pleas for further proceedings.**

COMMENT: No substantive change in the law is intended by paragraph (A) of this rule; rather, it was adopted to carry on those provisions of the now repealed Criminal Procedure Act of 1860 that had extended the legal efficacy of an arrest warrant beyond the jurisdictional limits of the issuing authority. The Judicial Code now provides that the territorial scope of process shall be prescribed by the Supreme Court's procedural rules. 42 Pa.C.S. §§ 931(d), 1105(b), 1123(c), 1143(b), 1302(c), 1515(b).

For the definition of police officer, see Rule 103.

Section 8953 of the Judicial Code, 42 Pa.C.S. § 8953, provides for the execution of warrants of arrest beyond the territorial limits of the police officer's primary jurisdiction. See also *Commonwealth v. Mason*, **507 Pa. 396**, 490 A.2d 421 ([Pa.] 1985).

Pursuant to Rule 540, the defendant is to receive a copy of the warrant and the supporting affidavit at the time of the preliminary arraignment.

For purposes of executing an arrest warrant under this rule, warrant information transmitted by using advanced communication technology has the same force and effect as an original arrest warrant. This rule does not require that the transmitted warrant information be an exact copy of the original warrant. Nothing in this rule, however, is intended to curtail the Rule 540(C) requirement that the issuing authority provide the defendant with an exact copy of the warrant. See Rule 513 (Requirements for Issuance).

**Paragraph (C) abolishes the traditional practice known as “NEP” or “no est inventus” as being no longer necessary.**

NOTE: Formerly Rule 124, adopted 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; renumbered Rule 122 and *Comment* revised August 9, 1994, effective January 1, 1995; renumbered Rule 515 and amended March 1, 2000, effective April 1, 2001; *Comment* revised May 10, 2002, effective September 1, 2002 [.] ; **amended February 12, 2010, effective April 1, 2010.**

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**COMMITTEE EXPLANATORY REPORTS:**

**Report explaining the August 9, 1994 *Comment* revisions 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. 1477 (March 18, 2000).**

**Final Report explaining the May 10, 2002 *Comment* revision concerning advanced communication technology published with the Court's Order at 32 Pa. B. 2582 (May 25, 2002).**

**Final Report explaining the February 12, 2010 changes adding new paragraph (C) and the *Comment* revision published with the Court's Order at 40 Pa. B. ( , 2010).**

RULE 541. WAIVER OF PRELIMINARY HEARING.

(A) The defendant who is represented by counsel may waive the preliminary hearing at the preliminary arraignment or at any time thereafter.

(B) The defendant who is not represented by counsel at the preliminary arraignment may not at that time waive the preliminary hearing.

(C) If the defendant waives the preliminary hearing and consents to be bound over to court, the defendant and defense attorney, if any, shall certify in writing that the issuing authority told the defendant of the right to have a preliminary hearing, and that the defendant voluntarily waives the hearing and consents to be bound over to court.

**(D) Once a preliminary hearing is waived and the case bound over to the court of common pleas, if the right to a preliminary hearing is subsequently reinstated, the preliminary hearing shall be held at the court of common pleas unless the parties agree, with the consent of the common pleas judge, that the preliminary hearing be held before the issuing authority.**

COMMENT: While the rule continues to require a written certification incorporating the contents set forth in paragraph (C), the form of certification was deleted in 1985 because it is no longer necessary to control the specific form of written certification.

Under paragraph (B), it is intended that the defendant who elects to proceed *pro se* may waive the preliminary hearing at a time subsequent to the preliminary arraignment.

NOTE: Rule 140A adopted April 26, 1979, effective July 1, 1979; amended November 9, 1984, effective January 2, 1985; renumbered Rule 541 and amended March 1, 2000, effective April 1, 2001[.]; **amended February 12, 2010, effective April 1, 2010.**

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**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).**

**Final Report explaining the February 12, 2010 amendments adding new paragraph (D) concerning reinstatement of a waived preliminary hearing published with the Court's Order at 40 Pa.B. (\_\_\_\_\_, 2010).**

RULE 543. DISPOSITION OF CASE AT PRELIMINARY HEARING.

(A) At the conclusion of the preliminary hearing, the decision of the issuing authority shall be publicly pronounced.

(B) If the Commonwealth establishes a *prima facie* case of the defendant's guilt, the issuing authority shall hold the defendant for court. Otherwise, the defendant shall be discharged.

(C) When the defendant has appeared and has been held for court, the issuing authority shall:

(1) set bail as permitted by law if the defendant did not receive a preliminary arraignment; or

(2) continue the existing bail order, unless the issuing authority modifies the order as permitted by Rule 529(A); and

(3) if the defendant has not submitted to the administrative processing and identification procedures as authorized by law, such as fingerprinting pursuant to Rule 510(C)(2), make compliance with these processing procedures a condition of bail.

(D) In any case in which the defendant fails to appear for the preliminary hearing:

(1) if the issuing authority finds that the defendant did not receive notice of the preliminary hearing by a summons served pursuant to Rule 511, a warrant of arrest shall be issued pursuant to Rule 509(2)(d).

(2) If the issuing authority finds that there was good cause explaining the defendant's failure to appear, the issuing authority shall continue the preliminary hearing to a specific date and time, and shall give notice of the new date and time as provided in Rule 542(E)(2). The issuing authority shall not issue a bench warrant.

(3) If the issuing authority finds that the defendant's absence is without good cause and after notice, the absence shall be deemed a waiver by the defendant of the right to be present at any further proceedings before the issuing authority.

(a) In these cases, the issuing authority shall proceed with the case in the same manner as though the defendant were present.

(b) If the preliminary hearing is conducted and the case held for court, the issuing authority shall

(i) give the defendant notice by first class mail of the results of the preliminary hearing and that a bench warrant has been

requested; and

- (ii) pursuant to Rule 547, transmit the transcript to the clerk of courts with a request that a bench warrant be issued by the court of common pleas and, if the defendant has not complied with the fingerprint order issued pursuant to Rule 510(C)(2), with a notice to the court of common pleas of the defendant's noncompliance.

(c) If the preliminary hearing is conducted and the case is dismissed, the issuing authority shall give the defendant notice by first class mail of the results of the preliminary hearing.

(d) If a continuance is granted, the issuing authority shall give the parties notice of the new date and time as provided in Rule 542(E)(2), and may issue a bench warrant. If a bench warrant is issued and the warrant remains unserved for the continuation of the preliminary hearing, the issuing authority shall vacate the bench warrant. The case shall proceed as provided in paragraphs (D)(3)(b) or (c).

(E) If the Commonwealth does not establish a *prima facie* case of the defendant's guilt, and no application for a continuance is made and there is no reason for a continuance, the issuing authority shall dismiss the complaint.

(F) In any case in which a summary offense is joined with misdemeanor, felony, or murder charges:

(1) If the Commonwealth establishes a *prima facie* case pursuant to paragraph (B), the issuing authority shall not adjudicate or dispose of the summary offenses, but shall forward the summary offenses to the court of common pleas with the charges held for court.

(2) If the Commonwealth does not establish a *prima facie* case pursuant to paragraph (B), upon the request of the Commonwealth, the issuing authority shall dispose of the summary offense as provided in Rule 454 (Trial In Summary Cases).

(3) If the Commonwealth withdraws all the misdemeanor, felony, and murder charges, the issuing authority shall dispose of the summary offense as provided in Rule 454 (Trial In Summary Cases).

**(G) Except as provided in Rule 541(D), once a case is bound over to the court of common pleas, the case shall not be remanded to the issuing authority.**

COMMENT: Paragraph (C) reflects the fact that a bail

determination will already have been made at the preliminary arraignment, except in those cases in which, pursuant to a summons, the defendant's first appearance is at the preliminary hearing. See Rules 509 and 510.

If the administrative processing and identification procedures as authorized by law, such as fingerprinting required by the Criminal History Record Information Act, 18 Pa.C.S. § 9112, that ordinarily occur following an arrest are not completed previously, when bail is set at the conclusion of the preliminary hearing, the issuing authority must order the defendant to submit to the administrative processing and identification procedures as a condition of bail. See Rule 527 for nonmonetary conditions of release on bail.

If a case initiated by summons is held for court after the preliminary hearing is conducted in the defendant's absence pursuant to paragraph (D)(2) and the defendant has not complied with the fingerprint order issued pursuant to Rule 510(C)(2), the issuing authority must include with the transmittal of the transcript a notice to the court of common pleas that the defendant has not complied with the fingerprint order. See Rule 547.

Nothing in this rule is intended to preclude judicial districts from providing written notice of the arraignment to the defendant at the conclusion of the preliminary hearing when a case is held for court. See Rule 571.

When a defendant fails to appear for the preliminary hearing, before proceeding with the case as provided in paragraph (D), the issuing authority must determine (1) whether the defendant received notice of the time, date, and place of the preliminary hearing either in person at a preliminary arraignment as provided in Rule 540(F)(2) or in a summons served as provided in Rule 511, and (2) whether the defendant had good cause explaining the absence.

If the issuing authority determines that the defendant did not receive notice, the issuing authority must issue an arrest warrant as provided in Rule 509, and the case will proceed pursuant to Rules 516 or 517. See paragraph (D)(1).

If the issuing authority determines that there is good cause explaining why the defendant failed to appear, the preliminary hearing must be continued and rescheduled for a

date certain. See paragraph (D)(2). For the procedures when a preliminary hearing is continued, see Rule 542(E).

If the issuing authority determines that the defendant received service of the summons as defined in Rule 511 and has not provided good cause explaining why he or she failed to appear, the defendant's absence constitutes a waiver of the defendant's right to be present for subsequent proceedings before the issuing authority. The duration of this waiver only extends through those proceedings that the defendant is absent.

When the defendant fails to appear after notice and without good cause, paragraph (D)(3)(a) provides that the case is to proceed in the same manner as if the defendant were present. The issuing authority either would proceed with the preliminary hearing as provided in Rule 542(A), (B), (C) and Rule 543(A), (B), (C), and (D)(3)(b) or (c); or, if the issuing authority determines it necessary, continue the case to a date certain as provided in Rule 542(E); or, in the appropriate case, convene the preliminary hearing for the taking of testimony of the witnesses who are present, and then continue the remainder of the hearing until a date certain. When the case is continued, the issuing authority may issue a bench warrant as provided in paragraph (D)(3)(d), and must send the required notice of the new date to the defendant, thus providing the defendant with another opportunity to appear.

Paragraph (D)(3)(b)(ii) requires the issuing authority to include with the Rule 547 transmittal a request that the court of common pleas issue a bench warrant if the case is held for court.

In addition to the paragraph (D)(3)(b) notice requirements, the notice may include the date of the arraignment in common pleas court.

For purposes of modifying bail once bail has been set by a common pleas judge, see Rules 529 and 536.

See Rule 571 (Arraignment) for notice of arraignment requirements.

Rule 542(D) specifically prohibits an issuing authority at a preliminary hearing from proceeding on any summary

offenses that are joined with misdemeanor, felony, or murder charges, except as provided in paragraph (F) of this rule. Paragraph (F) sets forth the procedures for the issuing authority to handle these summary offenses at the preliminary hearing. These procedures include the issuing authority (1) forwarding the summary offenses together with the misdemeanor, felony, or murder charges held for court to the court of common pleas, or (2) disposing of the summary offenses as provided in Rule 454 by accepting a guilty plea or conducting a trial whenever (a) the misdemeanor, felony, and murder charges are withdrawn, or (b) a *prima facie* case is not established at the preliminary hearing and the Commonwealth requests that the issuing authority proceed on the summary offenses.

Under paragraph (F)(2), in those cases in which the Commonwealth does not intend to refile the misdemeanor, felony, or murder charges, the Commonwealth may request that the issuing authority dispose of the summary offenses. In these cases, if all the parties are ready to proceed, the issuing authority should conduct the summary trial at that time. If the parties are not prepared to proceed with the summary trial, the issuing authority should grant a continuance and set the summary trial for a date and time certain.

In those cases in which a *prima facie* case is not established at the preliminary hearing, and the Commonwealth does not request that the issuing authority proceed on the summary offenses, the issuing authority should dismiss the complaint, and discharge the defendant unless there are outstanding detainers against the defendant that would prevent the defendant's release.

**Paragraph (G) emphasizes the general rule that once a case has been bound over to the court of common pleas, it shall not be remanded to the issuing authority. There is a limited exception to the general rule in the situation in which the right to a previously waived preliminary hearing is reinstated and the parties agree, with the consent of the common pleas judge, that the preliminary hearing be held before the issuing authority. See Rule 541(D).**

Nothing in this rule would preclude the refile of one or more of the charges, as provided in these rules.

See Rule 313 for the disposition of any summary offenses joined with misdemeanor or felony charges when the defendant is accepted into an ARD program on the misdemeanor or felony charges.

See Rule 1003 (Procedure in Non-Summary Municipal Court Cases) for the preliminary hearing procedures in Municipal Court.

NOTE: Original Rule 123, adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 123 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 143 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 142 October 8, 1999, effective January 1, 2000; renumbered Rule 543 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended December 30, 2005, effective August 1, 2006; amended March 9, 2006, effective September 1, 2006; amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007; amended July 10, 2008, effective February 1, 2009 [.] ; **amended February 12, 2010, effective April 1, 2010.**

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**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 September 13, 1995 amendments published with the Court's Order at 25 Pa.B. 4116 (September 30, 1995).**

**Final Report explaining the October 8, 1999 renumbering of Rule 143 published with the Court's Order at 29 Pa.B. 5509 (October 23, 1999).**

**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 August 24, 2004 changes concerning the procedures when a defendant fails to appear published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).**

**Final Report explaining the December 30, 2005 changes adding references to bench warrants published with the Court's Order at 36 Pa.B. 184 (January 14, 2006).**

**Final Report explaining the March 9, 2006 amendments adding new paragraphs (E) and (F) published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).**

**Final Report explaining the May 19, 2006 amendments correcting cross-references to Rule 529 published with the Court's Order at 36 Pa.B. 2633 (June 3, 2006).**

**Final Report explaining the May 1, 2007 changes clarifying the procedures when a defendant fails to appear published with the Court's Order at 37 Pa.B. 2496 (June 2, 2007).**

**Final Report explaining the amendments to paragraphs (C) and (D)(2)(c) concerning administrative processing and identification procedures published with the Court's Order at 37 Pa.B. 3971 (July 26, 2008).**

**Final Report explaining the February 12, 2010 amendments adding new paragraph (G) prohibiting remands to the issuing authority published with the Court's Order at 40 Pa.B. \_\_\_\_\_ (\_\_\_\_\_, 2010).**

RULE 561. WITHDRAWAL OF CHARGES BY ATTORNEY FOR THE COMMONWEALTH.

(A) After a case is held for court, at any time before the information is filed, the attorney for the Commonwealth may withdraw one or more charges by filing notice with the clerk of courts.

(B) Upon the filing of the information, any charge not listed on the information shall be deemed withdrawn by the attorney for the Commonwealth.

**(C) In any case in which all the misdemeanor, felony, and murder charges are withdrawn pursuant to this rule, any remaining summary offenses shall be disposed of in the court of common pleas.**

COMMENT: Court approval is not required for the withdrawal of charges prior to the filing of an information. *Cf.* 42 Pa.C.S. § 8932 and Rule 585 (*Nolle Prosequi*).

NOTE: Former Rule 224 adopted November 22, 1971, effective immediately; amended February 15, 1974, effective immediately; amended April 26, 1979, effective July 1, 1979; rescinded August 12, 1993, effective September 1, 1993. New Rule 224 adopted August 14, 1995, effective January 1, 1996; renumbered Rule 561 and amended March 1, 2000, effective April 1, 2001[.]; **amended February 12, 2010, effective April 1, 2010.**

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**COMMITTEE EXPLANATORY REPORTS:**

**Report explaining the August 12, 1993 rescission published at 22 Pa.B. 3826 (July 25, 1992).**

**Final Report explaining the August 14, 1995 amendments published with the Court's Order at 25 Pa.B. 3468 (August 26, 1995).**

**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 February 12, 2010 amendments adding new paragraph (C) concerning disposition of summary offenses at the court of common pleas published at 40 Pa.B. ( \_\_\_\_\_, 2010).**

RULE 589. PRETRIAL DISPOSITION OF SUMMARY OFFENSES JOINED WITH MISDEMEANOR, FELONY, OR MURDER CHARGES.

(A) In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge, and therefore is part of the court case, when there is a dismissal of all misdemeanor, felony, and murder charges, unless the Commonwealth appeals the disposition, the trial judge shall dispose of the summary offense.

(B) **[In no event shall the trial judge remand the summary offense to the issuing authority for disposition] In any case in which all the misdemeanor, felony, and murder charges are withdrawn pursuant to Rule 561, any remaining summary offenses shall be disposed of in the court of common pleas.**

COMMENT: In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge, and therefore is part of the court case, when an appeal of a pretrial disposition of the misdemeanor, felony, or murder charge is taken, disposition of the summary offense should be delayed pending the appeal. See Rules of Appellate Procedure 311 (Interlocutory Appeals as of Right), 903 (Time for Appeal), and 1701 (Effect of Appeal Generally).

Notwithstanding the provisions of this rule, a dismissal of the prosecution pursuant to Rule 586 (Court Dismissal Upon Satisfaction or Agreement) may include the dismissal of the summary offense.

For the procedures for *nolle prosequi*, see Rule 585 (*Nolle Prosequi*).

NOTE: Adopted March 9, 2006, effective September 1, 2006 [.] ; **amended February 12, 2010, effective April 1, 2010.**

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**COMMITTEE EXPLANATORY REPORTS:**

**Final Report explaining the new rule published with the Court's Order at 36 Pa.B. 1385 (March 25, 2006).**

**Final Report explaining the February 12, 2010 amendments to paragraph (B) concerning the disposition of summary offenses at the court of common pleas published with the Court's Order at 40 Pa.B. ( , 2010).**

RULE 1002. PROCEDURE IN SUMMARY CASES.

(A) Except as provided in this rule or by local rule authorized by this rule, or elsewhere in Chapter 10, all criminal proceedings in which a person is accused only of one or more non-traffic summary offenses or violations of municipal criminal ordinances shall proceed as provided in Chapter 4 of the Rules of Criminal Procedure.

(B) Non-traffic summary proceedings shall be instituted either by a citation issued to the defendant or arresting without a warrant when arrest is specifically authorized by law.

(1) Issuance of Citation

(a) The law enforcement officer shall issue the citation to the defendant pursuant to Rule 405 (Issuance of Citation), together with a notice to appear, unless required to proceed pursuant to paragraph (B)(1)(e). The notice to appear shall direct the defendant to appear before a judge or trial commissioner on a date and at a time certain in a specified court room.

(b) When authorized by local rule promulgated pursuant to Rule 105 (Local Rules), the law enforcement officer may prepare, verify, and transmit a citation electronically. The law enforcement officer contemporaneously shall give the defendant a paper copy of the citation containing all the information required by Rule 403(A) (Contents of Citation) and a notice to appear. The notice to appear shall direct the defendant to appear before a judge or trial commissioner on a date and at a time certain in a specified court room.

(c) Within 5 days after issuance of the citation and notice to appear, the citation shall be filed with the clerk of Municipal Court.

(d) When the defendant appears before the judge or trial commissioner as provided in paragraph (B)(1)(a) or (B)(1)(b), the judge or trial commissioner shall explain the process to the defendant.

- (i) If the defendant enters a guilty plea, the judge or trial commissioner shall impose the fines and costs.
- (ii) If the defendant enters a not guilty plea, the judge or trial commissioner shall set a date for trial before a judge and issue a subpoena to the defendant.
- (iii) If applicable, after paying any fee imposed, the

defendant may be accepted into the Municipal Court's summary case diversionary program, or any other diversionary program offered pursuant to local rule promulgated pursuant to Rule 105 (Local Rules). When the defendant successfully completes the Municipal Court's summary case diversionary program, the defendant's arrest record automatically will be expunged.

(e) When required by local rule promulgated pursuant to Rule 105 (Local Rules), the law enforcement officer shall take the defendant into custody and transport him or her to the appropriate district police station, where, without unnecessary delay, the law enforcement officer or a superior officer shall prepare and issue the citation to the defendant. Thereafter, the law enforcement officer without unnecessary delay shall transport the defendant to the Municipal Court for proceedings before a judge, and the case shall proceed as provided by local rule promulgated pursuant to Rule 105 (Local Rules).

(f) The defendant shall not be slated, fingerprinted, or photographed, except as provided by law.

## (2) Arrest Without a Warrant

(a) When an arrest without a warrant in a non-traffic summary case is authorized by law, the police officer shall take the defendant into custody and transport him or her to the appropriate district police station, where, without unnecessary delay, the police officer or a superior officer shall prepare and issue a citation to the defendant.

(b) Except when the police officer is required to proceed pursuant to paragraph (B)(1)(e), or as otherwise provided in this rule, the case shall proceed as provided in Rule 441.

(c) If the defendant is to be released pursuant to Rule 441(B), the defendant shall be released on his or her own recognizance and given a notice to appear on a date and at a time certain in a specified court room.

(d) If the defendant is not released under Rule 441(B), the defendant without unnecessary delay shall be brought before a judge, who shall proceed as provided in Rule 441(C).

(C) If the defendant fails to appear pursuant to the notice to appear or a subpoena, a bench warrant shall be issued.

(D) When the same conduct is proscribed under an Act of Assembly and a municipal criminal ordinance, the charge shall be brought under the Act of Assembly and not under the ordinance.

COMMENT: This rule, which replaced former Rule 1002 in 2005, was developed to accommodate the procedures Philadelphia Municipal Court has implemented to address the issues in non-traffic summary cases unique to Philadelphia to more efficiently handle the vast number of non-traffic summary cases, to protect the defendants' rights to a fair and prompt disposition of their cases, and, when appropriate, to provide the necessary rehabilitation or social services. Municipal Court is required to implement local rules pursuant to Rule 105 (Local Rules) enumerating the details of the summary proceedings following the issuance of a citation or a summons. For purposes of this rule, "local rule" includes all memoranda of understanding and administrative orders that affect non-traffic summary case procedures.

**Once a summary case is appealed to the Court of Common Pleas for trial *de novo*, the case shall remain in the Court of Common Pleas. See also Rule 462 and its Comment.**

The 2009 amendments to paragraph (B) conform the non-traffic summary citation procedures in Philadelphia with the statewide procedures governing the institution of a non-traffic summary case by issuing a citation to the defendant in person or arresting the defendant without a warrant. See Rules 405 (Issuance of Citation) and 440 (Arrest Without Warrant). The amendments require the police officer to issue a citation as provided in Rule 405 and proceed pursuant to paragraph (B)(1)(a) or (B)(1)(b), unless the case falls within the jurisdiction of one of Philadelphia Municipal Court's Nuisance Night Courts or Community Courts, or to arrest without a warrant when such an arrest is authorized by law.

The contents of the citation must comply with the requirements of Rule 403(A). The notice to appear

required by paragraphs (B)(1)(a), (B)(1)(b), and (B)(2)(c) may be added to the citation form.

Arrests without a warrant in summary cases are authorized only in exceptional circumstances, such as cases involving enhanced penalties, or when the defendant fails to produce identification, or when there is violence or the imminent threat of violence, or when there is a likelihood that the defendant will flee.

Nothing in this rule prevents the filing of a citation pursuant to Rules 410 and 411.

The 2009 amendments do not modify the current procedures governing Philadelphia Municipal Court's Nuisance Night Courts and Community Courts that are implemented by paragraph (B)(1)(e).

Although defendants in summary cases ordinarily are not slated, photographed, or fingerprinted, the issuing authority should require the defendant to submit to administrative processing and identification procedures (such as fingerprinting) as authorized by law. *See, e.g.*, 18 Pa.C.S. § 3929(g) concerning fingerprinting in retail theft cases.

All summary offenses under the motor vehicle laws and parking violations are under the jurisdiction of the Philadelphia Traffic Court. *See* 42 Pa.C.S. §§ 1301-1303, 1321.

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 6, 2009, effective February 1, 2010 [.]; **Comment revised February 12, 2010, effective April 1, 2010.**

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**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. (\_\_\_\_\_, 2010).**

RULE 1010. PROCEDURE ON APPEAL.

**(A)** The attorney for the Commonwealth, upon receiving the notice of appeal, shall prepare an information and the matter shall thereafter be treated in the same manner as any other court case.

**(B)** **If the defendant fails to appear for the trial *de novo*, the Common Pleas Court judge may dismiss the appeal and enter judgment in the Court of Common Pleas on the judgment of the Municipal Court judge.**

**(C)** **If the defendant withdraws the appeal, the Common Pleas Court judge shall enter judgment in the Court of Common Pleas on the judgment of the Municipal Court judge.**

COMMENT: In any case in which there are summary offenses joined with the misdemeanor charges that are the subject of the appeal, the attorney for the Commonwealth must include the summary offenses in the information. See *Commonwealth v. Speller*, 311 Pa. Super. 569, 458 A.2d 198 (1983).

NOTE: Rule 6010 adopted December 30, 1968, effective January 1, 1969; amended July 1, 1980, effective August 1, 1980; amended August 28, 1998, effective immediately; renumbered Rule 1010 March 1, 2000, effective April 1, 2001; *Comment* revised March 3, 2006, effective September 1, 2006 [.] ; **amended February 12, 2010, effective April 1, 2010.**

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**COMMITTEE EXPLANATORY REPORTS:**

**Final Report explaining the August 28, 1998 amendment published with the Court's Order at 28 Pa.B. 4627 (September 12, 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 March 9, 2006 Comment revision concerning joinder of summary offenses with misdemeanor charges published with the Court's Order at 36 Pa.B. 1385 (March 25, 2006).**

**Final Report explaining the February 12, 2010 amendments to paragraph (B) concerning the disposition of summary offenses at the court of common pleas published with the Court's Order at 40 Pa.B. ( , 2010).**