

**Rule 1114. [Considerations] Standards Governing Allowance of Appeal.**

**(a) General Rule.** Except as prescribed in **[Rule] Pa.R.A.P. 1101** (appeals as of right from the Commonwealth Court), review of a final order of the Superior Court or the Commonwealth Court is not a matter of right, but of sound judicial discretion, and an appeal will be allowed only when there are special and important reasons therefor.

**(b) Standards. A petition for allowance of appeal may be granted for any of the following reasons:**

- (1) the holding of the intermediate appellate court conflicts with another intermediate appellate court opinion;**
- (2) the holding of the intermediate appellate court conflicts with a holding of the Pennsylvania Supreme Court or the United States Supreme Court on the same legal question;**
- (3) the question presented is one of first impression;**
- (4) the question presented is one of such substantial public importance as to require prompt and definitive resolution by the Pennsylvania Supreme Court;**
- (5) the issue involves the constitutionality of a statute of the Commonwealth;**
- (6) the intermediate appellate court has so far departed from accepted judicial practices or so abused its discretion as to call for the exercise of the Pennsylvania Supreme Court's supervisory authority; or**
- (7) the intermediate appellate court has erroneously entered an order quashing or dismissing an appeal.**

Official Note

**The petition for allowance of appeal is synonymous with a petition for allocatur. Pa.R.A.P. 1114(b)(7) supersedes the practice described in *Vaccone v. Syken*, 587 Pa. 380, 384 n.2, 899 A.2d 1103, 1106 n.2 (2006).**

**[Based in part on U.S. Supreme Court Rule 10. The following, while neither controlling nor fully measuring the discretion of the Supreme Court, indicate the character of the reasons which will be considered:**

- (1) the holding of the intermediate appellate court conflicts with another intermediate appellate court opinion;**
- (2) the holding of the intermediate appellate court conflicts with a holding of the Pennsylvania Supreme Court or the United States Supreme Court on the same legal question;**
- (3) the question presented is one of first impression;**

(4) the question presented is of such substantial public importance as to require prompt and definitive resolution by the Pennsylvania Supreme Court;

(5) the issue involves the constitutionality of a statute of this Commonwealth;

(6) the intermediate appellate court has so far departed from accepted judicial practices or so abused its discretion as to call for the exercise of the Pennsylvania Supreme Court's supervisory authority; or

(7) an intermediate appellate court has erroneously entered an order quashing or dismissing an appeal.

Prior to the 2011 amendment to the Official Note to this Rule, the procedural mechanism to seek the Pennsylvania Supreme Court's review of an intermediate appellate court order quashing or dismissing an appeal was by petition for review. See *Vaccone v. Syken*, 587 Pa. 380, 382 n.2, 899 A.2d 1103, 1104 n.2 (2006). The current amendments now provide that such appeals should be pursued by the petition for allowance of appeal process. The 2011 amendment adds Reason (7) to the Official Note, which provides a basis for seeking review of intermediate appellate court quashals and dismissals through the Chapter 11 petition for allowance of appeal procedure, rather than the Chapter 15 petition for review procedure.]

## **Rule 1702. Stay Ancillary to Appeal**

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**[(d) *Stay of execution.*—When a trial court enters an order granting or denying a stay of execution in a capital case, such order may be reviewed by the Supreme Court upon application pursuant to Rule 123. No appeal or petition for review need be filed in connection with an application for review of a stay order in a capital case.]**

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[This is an entirely new rule.]

**Rule 1704. Application in a Capital Case for a Stay of Execution or for Review of an Order Granting or Denying a Stay of Execution.**

Prior notice of the intent to file an application in a capital case for a stay or review of an order granting or denying a stay of execution shall be provided to the Prothonotary of the Pennsylvania Supreme Court, if prior notice is practicable.

The application for stay or review shall set forth the following:

1. The date the warrant issued; the date and nature of the order that prompted the issuance of the warrant; and the date the execution is scheduled, if a date has been set;
2. Whether any direct or collateral challenges to the underlying conviction are pending, and, if so, in what court(s) or tribunal(s);
3. Whether any other applications for a stay of the pending execution have been filed, and, if so, in what court(s) or tribunal(s), when, and the status of the application(s);
4. The grounds for relief and the showing made to the trial court of entitlement to a stay under 42 Pa.C.S. § 9545(c), if applicable;
5. A statement certifying that emergency action is required and setting forth a description of the emergency.

All dockets, pleadings, and orders that are referred to in 1-5 above must be attached to the application. If any of the information provided in the application changes while the motion is pending, the party seeking the stay or review must file with the Pennsylvania Supreme Court written notice of the change within 24 hours.

No notice of appeal or petition for review needs to be filed in order to file an application under this rule.

**Rule 3316. Review of Stay of Execution Orders in Capital Cases.**

When a trial court has entered an order granting or denying a stay of execution in a capital case, such order may be reviewed by the Supreme Court in the manner prescribed in **[Rule 1702(d)] Pa.R.A.P. 1704**.

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[This is an entirely new rule.]

### **Rule 3341. Petitions for Certification of Questions of Pennsylvania Law**

**(a) General Rule.**—On the motion of a party or sua sponte, any of the following courts may file a petition for certification with the Prothonotary of the Supreme Court:

- (1) The United States Supreme Court; or
- (2) Any United States Court of Appeals.

**(b) Content of the Petition for Certification.**—A petition for certification need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

- (1) A brief statement of the nature and stage of the proceedings in the petitioning court;
- (2) A brief statement of the material facts of the case;
- (3) A statement of the question or questions of Pennsylvania law to be determined;
- (4) A statement of the particular reasons why the Supreme Court should accept certification; and
- (5) A recommendation about which party should be designated Appellant and which Appellee in subsequent pleadings filed with the Supreme Court.

There shall be appended to the petition for certification copies of any papers filed by the parties regarding certification, e.g., a motion for certification, a response thereto, a stipulation of facts, etc.

**(c) Standards.**—The Supreme Court shall not accept certification unless all facts material to the question of law to be determined are undisputed, and the question of law is one that the petitioning court has not previously decided. The Supreme Court may accept certification of a question of Pennsylvania law only where there are special and important reasons therefor, including, but not limited to, any of the following:

- (1) The question of law is one of first impression and is of such substantial public importance as to require prompt and definitive resolution by the Supreme Court;
- (2) The question of law is one with respect to which there are conflicting decisions in other courts; or
- (3) The question of law concerns an unsettled issue of the constitutionality, construction, or application of a statute of this Commonwealth.