

## Internal Operating Procedures of the Supreme Court

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### § 6. **[Allocaturs] Allowance of Appeal.**

- A. **[Standards. Petitions for allowance of appeal (“allocaturs”) 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 this 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 this 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 this Court’s supervisory authority; or**
  7. **the intermediate appellate court has erroneously entered an order quashing or dismissing an appeal.**
- B.] **Assignment. The Prothonotary shall initially screen [allocatur] petitions for allowance of appeal for compliance with the applicable appellate rules.**

Untimely petitions may be refused for filing by the Prothonotary without further action of the Court.

Petitions for allowance of appeal shall be assigned to individual Justices by the Prothonotary on a rotating basis by seniority for preparation of an **[allocatur]allowance of appeal** report. Petitions from the same district presenting the same question shall be consolidated; petitions from different districts that present the same question may be consolidated at the discretion of the Court.

**[C.]B.** Circulation and Disposition. **[Allocatur]Allowance of appeal** reports shall be circulated within ninety (90) days of the receipt of such an assignment. The proposed disposition date shall not be greater than sixty (60) days from the date of circulation. Holds may be placed on **[allocatur]** petitions **for allowance of appeal** only upon written notice to the members of the Court as to the reasons for the hold, e.g., the existence of another petition from another district presenting the same question. No hold may be placed on a petition without the existence of a terminus, e.g., the issuance of an opinion on a petition presenting the same question. Where a hold results from the existence of another petition presenting the same issue, the parties shall be notified of the hold and the case that will determine the issue. A hold for the purpose of preparing a counter-report shall not exceed thirty (30) days; only by vote of the majority may a hold be extended beyond thirty (30) days, but in no event shall a hold for such purpose exceed ninety (90) days.

Notwithstanding any contrary procedures set forth above, **[allocatur]allowance of appeal** reports in Children's Fast Track appeals are to be circulated within thirty (30) days of the receipt of the assignment, and the proposed disposition date shall not be greater than thirty (30) days from the date of circulation. A hold for purposes of preparing a counter-report in a Children's Fast Track appeal shall not exceed fifteen (15) days; only by vote of the majority may a hold be extended beyond fifteen (15) days, but in no event shall a hold exceed forty-five (45) days.

Upon the affirmative vote of three or more Justices, **[allocatur]allowance of appeal** will be granted and the case will be listed for oral argument, unless the order indicates that the matter will be submitted on the briefs. An order granting an **[allocatur]** petition **for allowance of appeal** shall specify the issues upon which **[allocatur]allowance of appeal** was granted.

A per curiam order granting **[allocatur]allowance of appeal** and reversing an order of the lower court must cite to controlling legal authority or provide a full explanation of the reasons for reversal.

A Justice may request that the order resolving the **[allocatur]** petition **for allowance of appeal** record that he or she voted for a different disposition. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

**[D.]C.** Reconsideration Applications.

1. Assignment. The Prothonotary shall direct applications for reconsideration to the Justice who authored the **[allocatur]allowance of appeal** report.
2. Circulation and Disposition. The assigned Justice shall circulate to the Court a recommended disposition within fourteen (14) days of the date of the assignment, or within seven (7) days of the date of assignment in Children's Fast Track appeals. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation, or within seven (7) days of the date of the original recommendation in Children's Fast Track appeals. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

§ 7. Motions, Miscellaneous Petitions, and Applications for Relief.

- A. Duties of Prothonotary. All assignments of motions, miscellaneous petitions and applications for relief, including emergency motions and those requesting the exercise of King's Bench powers, extraordinary jurisdiction and original jurisdiction, shall originate in the Prothonotary's office. No motions, petitions or applications will be considered which were not first filed in the Prothonotary's office and thence assigned. Documents may be filed in paper format, or by electronic or facsimile transmission. Once received, motions, petitions and applications will be monitored by the Prothonotary's office for compliance with applicable appellate rules. Proposed filings that are not in compliance will not be docketed. Proposed filings that are in compliance will be docketed and a response will be allowed. At the expiration of the response period the documents will be forwarded to the Court.

Procedural motions (e.g., requests for extension of time, requests to exceed page limits, and requests to proceed in forma pauperis) may be resolved by the Prothonotary without further action of the Court.

Note: Time periods for responses\*

FILING	RULE	RESPONSE PERIOD
APPLICATION FOR RELIEF (EXTENSIONS)	123	14 DAYS
JURISDICTIONAL STATEMENT	909(b)	14 DAYS
PETITION FOR <u>[ALLOCATUR]ALLOWANCE OF APPEAL</u>	1116	14 DAYS
PETITION FOR <u>[ALLOCATUR]ALLOWANCE OF APPEAL</u> CHILDREN'S FAST TRACK CASES	1116(b)	10 DAYS
RECONSIDERATION	1123	NO ANSWER PERMITTED
PETITION FOR PERM. TO APPEAL	1314	14 DAYS
PETITION FOR REVIEW	1516(c)	30 DAYS
N.B. NO ANSWER REQUIRED UNLESS PETITION CONTAINS NOTICE TO PLEAD		
APPLICATION FOR RELEASE (BAIL)	1762	14 DAYS
REARGUMENT	2545	14 DAYS
ORIGINAL PROCESS (e.g., HABEAS, MANDAMUS)	3307	14 DAYS
EXTRAORDINARY RELIEF	3309	14 DAYS

\* MAY BE SHORTER IN STAY OR SUPERSEDEAS APPLICATIONS WHEN CIRCUMSTANCES REQUIRE, OR BY COURT ORDER

B. Assignment, Circulation and Disposition. All motions, petitions and applications will be assigned to the Chief Justice, except for emergency motions, motions addressed to a single Justice, and applications for stay of execution in capital cases. In matters assigned to the Chief Justice, the Chief Justice will prepare a memorandum setting forth the positions of the parties and a recommended disposition. Recommendations should be circulated within sixty (60) days from the date the answer is filed or is due to be filed, whichever occurs first, and should contain a proposed disposition date no greater than thirty (30) days from the date of circulation, except in Children's Fast Track cases, in which recommendations shall be circulated within fifteen (15) days from the date the answer is filed or due to be filed, whichever occurs first, and the proposed disposition date shall be no greater than fifteen (15) days from the date of circulation. A vote of the majority is required to implement the proposed disposition.

Every motion, petition or application shall be decided within sixty (60) days, or within thirty (30) days in Children's Fast Track cases. A Justice may request that the order record that he or she voted for a different disposition. Orders disposing of motions, petitions and applications shall indicate if a Justice did not participate in the consideration or decision of the matter.

C. Emergency Motions.

1. Assignment. On or before the first Monday in January, the Chief Justice shall publish a calendar of duty assignments for the handling of emergency motions. Two Justices will be assigned by the Chief Justice on a monthly rotating basis to review emergency motions for the Eastern and Western Districts. Cases filed in the Middle District will be assigned alternately between the Eastern and Western District duty Justices.
2. Circulation and Disposition. Any motion assigned to the duty Justice may at the discretion of that Justice be referred to the full Court for consideration, with or without the entry of an interim order.

D. Motions Directed to a Single Justice. A Justice may entertain and may grant or deny any request for relief which may under Pa.R.A.P. 123 or 3315 properly be sought by motion, except that a single Justice may not dismiss or otherwise determine an appeal or other proceeding.

E. Applications for Stay of Execution in a Capital Case **or for Review of an Order Granting or Denying a Stay of Execution.**

1. **[Contents of application. The applicant shall set forth the procedural history of the case, certify that the matter involves an emergency, and specify any other applications for stay of execution that have been or will be filed, including those in federal courts. The application shall include any relevant orders and trial court docket entries. Whenever possible, applicants shall give the Prothonotary advance notice of the anticipated filing of an application for a stay of execution.**
- 2.] Assignment. The application **[for stay of execution]** will be assigned to the duty Justice.
- [3.]2.** Circulation and Disposition. The assigned Justice shall promptly circulate a proposed disposition and the application shall be resolved according to the vote of the majority.

F. Reconsideration Applications.

1. Assignment. The Prothonotary shall direct applications for reconsideration to the Justice who entered the order resolving the application.

2. Circulation and Disposition. The assigned Justice shall circulate to the Court a recommended disposition within fourteen (14) days of the date of the assignment, within seven (7) days of the date of assignment in Children's Fast Track appeals, or as soon as practicable in emergency and stay of execution matters. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation, within seven (7) days of the date of the original recommendation in Children's Fast Track appeals, or as soon as practicable in emergency and stay of execution matters. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

§ 8. Certification of Questions of Law.

- A. Court Limitation. This Court will accept Certification Petitions from the United States Supreme Court or any United States Court of Appeals.

- B. **[Contents of Certification Petition. A court may file a Certification Petition either on the motion of a party or sua sponte. A Certification Petition shall contain the following:**

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 this Court should accept certification; and**
5. **A recommendation as to which party should be designated as the appellant and which should be designated as the appellee in subsequent pleadings filed with this Court.**

The petitioning court shall attach to the Certification Petition copies of any papers filed by the parties regarding certification, e.g., a Motion for Certification, a response thereto and a Stipulation of Facts.

- C. **Standards for Acceptance. Acceptance of certification is a matter of judicial discretion. The Court may accept certification of a question of Pennsylvania law only when 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 this 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.

The 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 Court shall decide whether to accept or decline certification without hearing oral argument.

**D.]** Assignment, Circulation and Disposition. The Prothonotary shall refer Certification Petitions to the Chief Justice, who will prepare a memorandum setting forth the positions of the parties and a recommended disposition. **Acceptance of certification is a matter of judicial discretion. The Court shall decide whether to accept or decline certification without hearing oral argument.** The recommendation should be circulated within thirty (30) days from the date of assignment, and should contain a proposed disposition date no greater than thirty (30) days from the date of circulation. Every Certification Petition should be decided within sixty (60) days. A vote of the majority is required to implement the proposed disposition. A Justice may request that the order record that he or she voted for a different disposition. Orders disposing of Certification Petitions shall indicate if a Justice did not participate in the consideration or decision of the matter.

Upon acceptance of certification by the Court, the Prothonotary shall (1) issue an order accepting certification, which shall specify the questions of law for which certification was accepted, and whether the case is to be submitted on the briefs or heard at an argument session; (2) establish a briefing schedule; (3) list the matter for oral argument if oral argument has been granted; and (4) take such further action as the Court directs.

**[E.]C.** Amicus curiae briefs. After the Court accepts certification, amicus curiae briefs may be submitted without prior leave of Court. Such briefs shall be filed and served in the manner and within the time directed by the Prothonotary.

**[F.]D.** Reconsideration Applications.

1. Assignment. Upon receipt of an application for reconsideration following an order resolving a Certification Petition, the Prothonotary shall direct the reconsideration application to the Chief Justice for assignment.
2. Circulation and Disposition. The assigned Justice shall circulate to the Court a recommended disposition within fourteen (14) days of the date of the assignment. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

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