

RULE 1013. PROMPT TRIAL -- MUNICIPAL COURT.

(A) **[(1) Trial in a Municipal Court case in which a preliminary arraignment is held after June 30, 1974, but before July 1, 1975, shall commence no later than 210 days from the date on which the preliminary arraignment is held.]**

[(2)] (1) Trial in a Municipal Court case shall commence no later than 180 days from the date on which the preliminary arraignment is held.

[(3)] (2) Trial in a Municipal Court case in which the defendant appears pursuant to a summons shall commence no later than 180 days from the date on which the complaint is filed.

[(4)] (3) Trial in a case that commenced as a Common Pleas Court case but was later ordered to be tried in Municipal Court shall commence no later than 180 days from the date on which the preliminary arraignment is held or 60 days from the date on which the order is made, whichever is greater.

[(5)] (4) Trial in a case which is transferred from the juvenile court to the Municipal Court shall commence no later than 180 days from the date of filing the transfer order.

(B) For the purpose of this rule, trial shall be deemed to commence on the date the Municipal Court judge calls the case to trial, or the defendant tenders a plea of guilty or *nolo contendere*.

(C) (1)(a) At any time prior to the expiration of the period for commencement of trial, the attorney for the Commonwealth may apply to the Court orally or in writing for an order extending the time for commencement of trial. The defendant shall have the right to be heard on the Commonwealth's motion.

(b) If the motion is in writing, a copy shall be served upon the defendant through the defendant's attorney, if any.

(c) Such motion shall allege facts in support thereof, and shall be granted only upon findings based upon a record showing that trial cannot be commenced within the prescribed period despite due diligence by the Commonwealth and, if the delay is due to the Court's inability to try the defendant within the prescribed period, upon findings based upon a record showing the causes of the delay and the reasons why the delay cannot be avoided.

(d) Any order granting a motion for extension shall specify the date or period within which trial shall be commenced. Trial shall be scheduled for the earliest date or period consistent with the extension request and the court's business, and the record shall so indicate.

(2) It shall be the responsibility of the Court Administrator of Philadelphia, in addition to any prior listings, to list cases for trial not more than 40 days nor less than 20 days prior to the expiration of the period specified in paragraph (A). If the case cannot be tried at that listing, there shall be a judicial determination as to when trial shall commence.

(D) In determining the period for commencement of trial, there shall be excluded therefrom:

(1) any period of time for which the defendant expressly waives Rule 1013; and

(2) such period of delay at any stage of the proceedings as results from:

(a) the unavailability of the defendant or counsel; and

(b) any continuance granted at the request of the defendant or counsel.

(E) At any time before trial, the defendant or counsel may apply to the court orally or in writing for an order dismissing the charges with prejudice on the ground that this rule has been violated. If in writing, a copy of such motion shall be served upon the attorney for the Commonwealth. The attorney for the Commonwealth shall have the right to be heard on the motion for dismissal. Any order granting such motion shall dismiss the charges with prejudice and discharge the defendant.

(F) Nothing in this rule shall be construed to modify any time limit contained in any statute of limitations.

(G) A trial *de novo* in the Court of Common Pleas shall commence within a period of 120 days after the notice of appeal from the Municipal Court is filed. In all other respects the provisions of Rule 600 shall apply to such trials in the Court of Common Pleas.

(H) When a retrial is required in Municipal Court, the retrial shall commence within 90 days after the date of the order requiring the retrial.

(I) When a judge has ordered that a defendant's participation in the ARD program be terminated pursuant to Rule 318, trial shall commence within 90 days of the termination order.

COMMENT: For a discussion of the general principles underlying this rule and for other explanatory comments applicable to it, see the *Comment* to Rule 600. It should be noted, however, that in several technical respects the text of this rule differs from that of Rule 600.

Paragraph ~~[(A)(3)]~~ (A)(2) is intended to apply only when a defendant appears in compliance with a summons. It is not intended to apply when a defendant is arrested after non-compliance with or return of a summons.

Paragraph ~~[(A)(4)]~~ (A)(3) is intended to provide a minimum 60-day period for trial of those cases which become Municipal Court cases when, at the preliminary hearing, in court, or otherwise after preliminary arraignment, all offenses punishable by more than five years imprisonment are discharged.

The time for trial in cases that originate as Court of Common Pleas cases and are transferred to the Municipal Court but are subsequently transferred back to the Court of Common Pleas are governed by Rule 600. See *Commonwealth v. Far*, 616 Pa. 149, 46 A.3d 709 (2012).

"Order requiring the retrial," as used in paragraph (H) is intended to include, for example, the declaration of a mistrial, or the withdrawal, rejection of, or successful challenge to a guilty plea.

NOTE: Rule 6013 adopted June 28, 1974, effective prospectively as set forth in paragraphs (A)(1) and (A)(2) of this rule; amended July 1, 1980, effective August 1, 1980; amended October 22, 1981, effective January 1, 1982; the amendment to paragraph (D) as it regards exclusion of defense-requested continuances was specifically made effective as to continuances requested on or after January 1, 1982, and paragraph (H), which provides the time for retrials, was specifically made effective as to retrials required by orders entered on or after January 1, 1982; amended September 3, 1993,

effective January 1, 1994; renumbered Rule 1013 and amended March 1, 2000, effective April 1, 2001; amended August 8, 2002, effective January 1, 2003; amended June 26, 2003, effective July 1, 2003; *Comment* revised July 1, 2013, effective August 1, 2013 **[.] ; amended October 24, 2013, effective immediately.**

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COMMITTEE EXPLANATORY REPORTS:

Report explaining the September 3, 1993 amendments published with the Court's Order at 23 Pa.B. 4492 (September 25, 1993).

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 8, 2002 amendments to paragraphs (A)(2) and (A)(3) expanding the time for trial from 120 days to 180 days published with the Court's Order at 32 Pa.B. 4123 (August 24, 2002).

Final Report explaining the June 26, 2003 amendments to paragraphs (A)(4) and (A)(5) expanding the time for trial from 120 to 180 days, and to paragraph (G) expanding the time for trial from 90 days to 120 days published with the Court's Order at 33 Pa.B. 3363 (July 12, 2003).

Final Report explaining the July 1, 2013 *Comment* revision cross-referencing *Commonwealth v. Far* published with the Court's Order at 43 Pa.B. 4062 (July 20, 2013).

Final Report explaining the October 24, 2013 amendment deleting paragraph (A)(1) as obsolete published with the Court's Order at 43 Pa.B. _____ (_____, 2013).