

FINAL REPORT¹

Amendment to Pa.R.Crim.P. 550 Revision to the Comment to Pa.R.Crim.P. 591

WITHDRAWAL OF GUILTY PLEAS UNDER RULE 550

On January 6, 2014, effective March 1, 2014, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the amendment of Rule 550 (Pleas of Guilty Before Magisterial District Judge in Court Cases) to increase the amount of time available to a defendant to withdraw a guilty plea entered pursuant to Rule 550 and approved the correlative revision to the *Comment* to Rule 591 (Withdrawal of Plea of Guilty or *Nolo Contendere*).

As directed by the Court in *Commonwealth v. Garcia*, 615 Pa. 435, 43 A.3d 470 (Pa. 2012), the Committee examined the question of appeals or other relief from a guilty plea to a third degree misdemeanor entered before a magisterial district judge pursuant to Rule 550 other than the 10-day withdrawal provision in Rule 550(D), particularly the perceived “inconsistency in the rules of procedure as applied to defendants who plead guilty to a misdemeanor in the district court as compared to defendants who plead to the same charge in the court of common pleas and as applied to defendants who plead in the district court to misdemeanors as compared to defendants who plead in the district court to summary offenses.” 615 Pa. at 448, 43 A.3d at 478, fn.8.

In *Garcia*, the defendant sought relief from her entry of a guilty plea to a third degree misdemeanor before a magisterial district judge pursuant to Rule 550 about a month after its entry and well beyond the 10-day withdrawal period provided in Rule 550(D). Had she entered a plea to a summary offense before the magisterial district

¹ The Committee's *Final Reports* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the Committee's explanatory *Final Reports*.

judge, she would have had a right to appeal for a trial *de novo* in the court of common pleas. Had she entered a plea to the third degree misdemeanor before a common pleas judge, she could have appealed to the Superior Court. The Commonwealth argued that the Rule 550(D) 10-day withdrawal provision was the exclusive remedy. The question of relief from a Rule 550 guilty plea was not addressed because the Superior Court lacked jurisdiction to review an order from the magisterial district court.

Initially, the Committee examined the circumstances in which relief would be sought for a Rule 550 guilty plea outside of the 10-day withdrawal period. The Committee concluded that the most likely scenario would be for a defendant who enters the plea *pro se* but subsequently seeks advice of counsel due to learning of some collateral consequence to the entry of the plea, such as ineligibility to enter the military or receive a professional license.

The Committee concluded that a majority of these types of cases could be resolved simply by permitting a defendant 30 days to withdraw the appeal. This would be consistent with the 30-day period for summary appeal and the 30-day common pleas guilty plea appeal period. In other words, the case would stay with the magisterial district court for 30 days after the entry of the plea during which the plea could be withdrawn.

The Committee examined the history of Rule 550 to determine if there were any impediments to increasing the period for withdrawal of the guilty plea. Based on that history, the provisions regarding the time limitation for withdrawal of the guilty plea and the certification of the case to the court of common pleas were entirely products of the rules, implemented as a means of providing structure to statutory changes to magisterial district judges' jurisdiction to permit them to accept guilty pleas in third degree misdemeanor cases. The Committee concluded that the period for withdrawal as well as the period for certifying the case to the court of common pleas could be changed from 10 days to 30 as a rules matter.

This would be the only relief available while the case remained at the magisterial district court. In those exceptional cases in which relief is sought after the 30-day period for withdrawal, further relief would have to be sought in the court of common pleas, likely by a motion to withdraw *nunc pro tunc*.

Therefore, the amendments provide for a simple change to the language to Rule 550 changing the period for withdrawal of the guilty plea from 10 to 30 days. Additionally, the time at which the case would be certified from the magisterial district court to the court of common pleas has been increased from 10 to 30 days. *Comment* language describes the reasoning for this change. Finally a cross-reference to Rule 550 has been added to the *Comment* to Rule 591 (Withdrawal of Plea of Guilty or Nolo Contendere) to clarify that, when a guilty plea to a third degree misdemeanor is entered before a magisterial district judge, the withdrawal of the plea would be made pursuant to Rule 550.