

**Rule 1702. Stay Ancillary to Appeal or Review.**

**[(a) *General rule.*—Applications for relief under this chapter will not be entertained by an appellate court or a judge thereof until after a notice of appeal has been filed in the trial court or a petition for review or petition for specialized review has been filed.**

**(b) *Proceedings on petition for allowance of appeal, petition for permission to appeal, or petition for specialized review.*—Applications for relief under this chapter may be made without the prior filing of a petition for allowance of appeal, petition for permission to appeal, or petition for specialized review, but the failure to effect timely filing of such a petition, or the denial of such a petition, shall automatically vacate any ancillary order entered under this chapter. In such a case, the clerk of the court in which the ancillary order was entered shall, on *praecipe* of any party to the matter, enter a formal order under this rule vacating such ancillary order.**

**(c) *Supreme Court review of appellate court supersedeas and stay determinations.*—No appeal, petition for allowance of appeal, petition for review, or petition for specialized review need be filed in the Supreme Court in connection with an application under Pa.R.A.P. 3315.**

**Official Note:**

**In any instance in which a party seeks a stay or *supersedeas* from a trial court or government unit, that party can seek relief from the appellate court that has jurisdiction of the matter and can seek review of that intermediate appellate court's decision from the Supreme Court.]**

(This is entirely new text.)

(a) *Right of appeal or review.*— When a party has an appeal as of right, a party may seek relief under this chapter after the filing of a notice of appeal, a petition for review, or a petition for specialized review.

(b) *Discretionary appeal or review.*—When a party intends to pursue discretionary appellate review, the party may seek relief under this chapter prior to the filing of a petition for allowance of appeal or a petition for permission to appeal.

(1) The failure to timely file such petition, or its denial, shall operate to vacate any ancillary order entered under this chapter.

(2) Any party thereafter may file a *praecipe* with the prothonotary or the clerk of the court in which the ancillary order was entered directing entry of a formal order vacating such ancillary order.

(c) *Supreme Court review of appellate court supersedeas and stay determinations.*—No appeal, petition for allowance of appeal, petition for review, or petition for specialized review need be filed in the Supreme Court in connection with an application under Pa.R.A.P. 3315.

**Official Note:**

Relief sought from an appellate court should be in the form of an application in accordance with Pa.R.A.P. 123 and Pa.R.A.P. 1703.

Paragraph (a) reflects the requirement that when an appellant has a right of appeal or review, the notice of appeal, or petition for review or specialized review must be filed before the application seeking a stay is filed pursuant to Pa.R.A.P. 1732(a) (Application for Stay or Injunction Pending Appeal) or Pa.R.A.P. 1781(a) (Stay Pending Action on Petition for Review or Petition for Specialized Review). Stays pending the outcome of post-trial or post-sentence motions are not governed by this chapter. See, e.g., Pa.R.C.P. 227.1 (Post-Trial Relief); Pa.R.Crim.P. 720 (Post-Sentence Procedures; Appeal).