

IN THE SUPREME COURT OF PENNSYLVANIA

IN RE:	:	NO. 264
	:	
ORDER AMENDING	:	
RULE OF CRIMINAL	:	
PROCEDURE 21 ¹	:	
	:	
	:	CRIMINAL PROCEDURAL RULES
	:	
	:	
	:	
	:	DOCKET NO. 2

ORDER

PER CURIAM:

NOW, this 19th day of September, 2000, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication in the interests of justice pursuant to Pa.R.J.A. 103(a)(3), and a *Final Report* to be published with this **ORDER**:

IT IS ORDERED pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 21 is amended in the attached form.

This **ORDER** shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2001.

¹ Rule 21 will be renumbered Rule 130 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

RULE 21. VENUE; TRANSFER OF PROCEEDINGS.

(A) VENUE

All criminal proceedings **in summary and court cases** shall be brought before the issuing authority for the magisterial district in which the offense is alleged to have occurred or before an issuing authority on temporary assignment to serve such magisterial district, subject, however, to the following exceptions:

- (1) A criminal proceeding may be brought before any issuing authority of any magisterial district within the judicial district whenever the particular place within the judicial district **[where] in which** the offense is alleged to have occurred is unknown.
- (2) When charges arising from the same criminal episode occur in more than one magisterial district within the same judicial district, the criminal proceeding on all the charges should be brought before one issuing authority in any one of the magisterial districts in which the charges arising from the same criminal episode occurred.
- (3) When charges arising from the same criminal episode occur in more than one judicial district, the criminal proceeding on all the charges should be brought before one issuing authority in a magisterial district within any of the judicial districts in which the charges arising from the same criminal episode occurred.
- (4) Whenever an arrest is made without a warrant for any summary offense arising under the Vehicle Code, which allegedly occurred on a highway of the Pennsylvania Turnpike System or any controlled or limited access highway, or any right-of-way of such System or highway, or any other highway or highways of the Commonwealth, the defendant shall be taken and the proceeding shall be brought either where the offense allegedly occurred, or before the issuing authority for any other magisterial district within the same judicial district which, in the judgment of the arresting officer, is most convenient to the place of arrest without regard to the boundary line of any magisterial district or county.
- (5) When any offense is alleged to have occurred within 100 yards of the boundary between two or more magisterial districts of a judicial district, the proceeding may be brought in either or any of the magisterial districts without regard to the boundary lines of any county.
- (6) When the president judge designates a magisterial district or a location in that district in which certain classes of offenses, which occurred in other specified magisterial districts, may be heard.

(B) TRANSFER OF PROCEEDINGS IN COURT CASES

(1) Prior to the completion of the preliminary hearing:

(a) When charges arising from a single criminal episode, which occurred in more than one judicial district,

(i) are filed in more than one judicial district, upon the filing with the issuing authority of a written agreement by the attorneys for the Commonwealth, the proceedings shall be transferred to the magisterial district in the judicial district selected by the attorneys for the Commonwealth; or

(ii) are filed in one judicial district, upon the filing of a written agreement by the attorneys for the Commonwealth, the proceedings shall be transferred to the magisterial district in the judicial district selected by the attorneys for the Commonwealth.

(b) When charges arising from a single criminal episode, which occurred in more than one magisterial district,

(i) are filed in more than one magisterial district, the proceedings may be transferred to the magisterial district selected by the attorney for the Commonwealth; or

(ii) are filed in one magisterial district, the proceedings may be transferred to another magisterial district selected by the attorney for the Commonwealth.

(2) The issuing authority shall promptly transmit to the issuing authority of the magisterial district to which the proceedings are being transferred a certified copy of all docket entries, together with all the original papers filed in the proceeding, a copy of the bail bond and any deposits in satisfaction of a monetary condition of bail, and a bill of the costs which have accrued but have not been collected prior to the transfer.

COMMENT: Except as otherwise provided in paragraph (A)(3), paragraph (A) of this rule governs *venue* between magisterial districts within the same judicial district, *i.e.*, the matter of where a proceeding is to be brought within the judicial district having jurisdiction.

Paragraph (A)(3), which is an exception to the general rule governing *venue*, was added in 2000 in view of *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), in which the Court held that "all charges stemming from a single criminal episode" must be joined in a single trial "despite the fact that some of the charges arose in a different county." Accordingly, when charges arising from a single criminal episode occur in more than one judicial district, the magisterial district in which the proceeding on all the charges is brought, *i.e.*, the one with *venue*, may be any one of the magisterial districts in which the charges occurred. **See Commonwealth v. Geyer, 687 A.2d 815 (Pa. 1996) (the compulsory joinder rule and 18 Pa.C.S. § 110 apply when two or more summary offenses arise from a single criminal episode.)**

Similarly, when charges arising from a single criminal episode occur in more than one magisterial district within one judicial district, the magisterial district in which the proceeding on all the charges is brought, *i.e.*, the one with *venue*, may be any one of the magisterial districts in which the charges occurred.

The decision of in which magisterial district in paragraph (A)(2) or in which judicial district in paragraph (A)(3) the proceedings are to be brought is to be made initially by the law enforcement officers or attorneys for the Commonwealth. In making the decision, the law enforcement officers or attorneys for the Commonwealth must consider in which magisterial district under paragraph (A)(2) or in which judicial district under paragraph (A)(3) it would be in the interests of justice to have the case proceed, based upon the convenience of the defendant and the witnesses, and the prompt administration of justice.

See Rule 25 (Objections to *Venue*)² for the procedures to challenge a transfer of proceedings under this rule.

See Rule 151 for the procedures to withdraw the prosecution.³

² Rule 25 will be renumbered Rule 134 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

³ Rule 151 will be renumbered Rule 551 as part of the renumbering and reorganization of

See Chapter 4000 concerning bail.⁴

NOTE: Formerly Rule 154, adopted January 16, 1970, effective immediately; section (a)(3) adopted July 1, 1970, effective immediately; renumbered Rule 21 September 18, 1973, effective January 1, 1974; amended July 1, 1980, effective August 1, 1980; amended January 28, 1983, effective July 1, 1983; renumbered Rule 130 and amended March 1, 2000, effective April 1, 2001; amended April 20, 2000, effective July 1, 2000 [.] ; **amended September 19, 2000, effective January 1, 2001.**

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COMMITTEE EXPLANATORY REPORTS:

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 April 20, 2000 amendments concerning multiple charges arising from a single criminal episode published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

Final Report explaining the September 19, 2000 amendments clarifying the application of the rule to both summary and court cases published with the Court's Order at 30 Pa.B. (, 2000).

the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

⁴ Chapter 4000 will be renumbered Chapter 5 Part C as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.