

The Greene Reports

Official Legal Publication for Greene County, Pennsylvania
Owned and operated by Greene County Bar Association
Greene County Courthouse, Waynesburg, PA 15370

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Serving the Legal Community of Greene County
Since October 1982

The Greene Reports

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COURT OF COMMON PLEAS
Honorable Louis Dayich, President Judge
Honorable Jeffry N. Grimes, Judge

MOTIONS

Criminal & Civil & O.C.:
August 8 and August 10, 2022

CRIMINAL

Arraignments: August 8, 2022
ARDs: August 8, 2022
ARD Revocations: August 8, 2022
Parole Violations: August 8, 2022
Plea Court: August 9-11, 2022
License Suspension Appeals: August 23, 2022
Argument Court: TBD

ORPHANS

Accounts Nisi: August 1, 2022
Accounts Absolute: August 11, 2022

SUPREME COURT
SUPERIOR COURT
COMMONWEALTH COURT

Convenes in Pgh.: October 24-28, 2022
Convenes in Pgh.: September 19-23, 2022
Convenes in Pgh.: October 11-14, 2022

THE GREENE REPORTS

Owned and published by the GREENE COUNTY BAR ASSOCIATION
Editor: Kayla M. Sammons
E-mail address: editor.greenerreports@yahoo.com

EDITORIAL POLICY

All articles published in The Greene Reports are intended to inform, educate or amuse. Any article deemed by the editorial staff to be reasonably interpreted as offensive, demeaning or insulting to any individual or group will not be published.

The views expressed in the articles represent the views of the author and are not necessarily the views of The Greene Reports or the Greene County Bar Association.

The Greene Reports welcomes letters to the Editor both for publication and otherwise. All letters should be addressed to: Editor, The Greene Reports, Greene County Courthouse, 10 East High Street, Waynesburg, PA 15370. Letters must include signature, address and telephone number. Anonymous correspondence will not be published. All letters for publication are subject to editing and, upon submission, become the property of The Greene Reports.

THE GREENE COUNTY BAR ASSOCIATION

Christopher M. Simms, President
Timothy M. Ross, Vice-President
Allen J. Koslovsky, Secretary
Blake Birchmeier, Treasurer
Jessica L. Phillips, Ex-Officio

ARGUMENTS

Argument Court: September 21, 2022

CIVIL

Domestic Relations Contempts: August 22, 2022
Domestic Relations Appeals: August 22, 2022

JUVENILE

Plea Day: August 18, 2022

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DEED TRANSFERS

The following property transfers have been recorded in the Greene County Recorder of Deeds office.

ALEPPO, FREEPORT, GILMORE, JACKSON, MORRIS, RICHHILL, SPRINGHILL, WAYNE, AND WHITELEY TOWNSHIPS

VES Land LLC to The Mineral Company, et ux., Tracts, O&G, \$145,568.82 (8-2-22)
VES Land LLC to The Mineral Company, et ux., Tracts, O&G, Additional RTT, \$36,765.94 (8-2-22)

ALEPPO, GILMORE, PERRY, AND WHITELEY TOWNSHIPS

Beta Energy Partners LLC to Horizon Resources III LLC, 5 Tracts, O&G, \$267,666.00 (7-29-22)

CUMBERLAND TOWNSHIP

Robert C. Grimm, et ux., to Tammy S. Hawk, et ux., 2 Tracts, \$92,000.00 (7-27-22)
Charles C. Kerr, et ux., to Ridgetop Ten LLC, Tracts, O&G, \$277,023.70 (8-2-22)

DUNKARD TOWNSHIP

Joseph B. Smith to Daniel Suchy, et ux., 2 Tracts, \$35,000.00 (8-1-22)

FRANKLIN TOWNSHIP

Craig Haywood to Rebecca E. Davis, Lot 34, Jack E & Jane R Williams, \$179,900.00 (8-1-22)

FREEPORT TOWNSHIP

Marsha Keener to The Mineral Company, et ux., 1.108678 Acres, O&G, \$3,726.88 (8-2-22)
Martha Jane Burson to The Mineral Company, et ux., 87.748 Acres, O&G, \$19,499.56 (8-2-22)

GILMORE TOWNSHIP

Harriet Elizabeth Rodriguez to Foss Minerals LLC, 130.67 Acres, O&G, \$2,500.00 (7-27-22)
Connie H. Jarvis, et ux., to EQT Production Company, 7.2 Acres, O&G, \$1,000.00 (8-2-22)

JACKSON TOWNSHIP

Cora B. Brownlee to EQT Production Company, .75 Acre, O&G, \$206.25 (8-2-22)

JEFFERSON TOWNSHIP

Consol Mining Company LLC to CNX Land LLC, .594 Acre, \$34,492.50 (7-29-22)

MORGAN TOWNSHIP

John Toporcer Estate, et ux., to Danny D. Sampson, Lot 62, Teagarden Home Plan, \$22,000.00 (7-27-22)

Donald L. Daniel, et al., to Jason Clayton, et ux., 86.98 Acres, \$175,000.00 (7-27-22)
Diane Taylor A/K/A Diane R Taylor, et al., to Lynn Land LLC, 74.896 Acres, \$74,898.00 (7-27-22)

SPRINGHILL TOWNSHIP

Mark A. Kerr, et ux., to The Mineral Company, et ux., 51 Acres, O&G, \$4,470.70 (8-2-22)

WASHINGTON TOWNSHIP

KD1 Development Inc to Sogar Properties LLC, 2.227 Acres, \$278,000.00 (8-2-22)
Marliese H. Summersgill, et al., to Ashly Nicole Summersgill, et ux., 1.9847 Acres, \$83,263.80 (8-2-22)

WAYNE TOWNSHIP

Susan Dodge-Aguir to EQT Production Company, 60.606 Acres, O&G, \$386.70 (8-2-22)

WAYNESBURG BOROUGH

John C. McNay, et ux., to G&H Sporting Goods LLC, Lots 15-19, Timothy J. Wisecarner Plan, \$435,000.00 (7-27-22)

Nattasha D. Brown to Samantha Caitlyn Morris, Lot, Waynesburg Fairground Plan, \$99,900.00 (7-28-22)

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Karen Sue Hull Estate A/K/A Karen S. Hull Estate, et ux., to Noah M. Grimes, et ux., Lot, \$118,000.00 (8-2-22)

WHITELEY TOWNSHIP

Esther I Brock to The Mineral Company, et ux., 79.922 Acres, O&G, \$22,200.55 (8-2-22)

ESTATE NOTICES

NOTICE is hereby given of the grant of letters by the Register of Wills to the Estates of the following named decedents. All persons having claims are requested to make known the same and all persons indebted to the decedent are requested to make payment to the personal representative or his attorney without delay.

FIRST PUBLICATION

MACK, SHARON KAY

Late of Morgan Township, Greene County, Pennsylvania
Co-Administrator, c.t.a: Angela Mack, 271 McIlvaine Road, Waynesburg, PA 15370
Co-Administrator, c.t.a: Rachele Mack Schaum, 7 Fernwood Ave., Pittsburgh, PA

15228

Attorney: Christopher Michael Simms, Esquire, Pollock Morris Belletti & Simms, LLC, 54 South Washington Street, Waynesburg, PA 15370

SECOND PUBLICATION

DURBIN, NELLIE ANNA A/K/A NELLIE A. DURBIN

Late of Center Township, Greene County, Pennsylvania
Executrix: Linda D. Engle, 128 Willow Road, Waynesburg, PA 15370
Attorney: Kirk A. King, Esquire, 77 South Washington Street, Waynesburg, PA 15370

KIGER, OLETA M.

Late of Wayne Township, Greene County, Pennsylvania
Executor: Frederick L. Kiger, 371 White Barn Road, Waynesburg, PA 15370
Attorney: David F. Pollock, Esquire, Pollock Morris Belletti & Simms LLC, 54 South

Washington Street, Waynesburg, PA 15370

MITCHELL, CHARLES KEITH A/K/A CHARLES K. MITCHELL

Late of Jefferson Township, Greene County, Pennsylvania
Executor: Matthew R. Blasinsky, 366 Cranberry Lan, Carmichaels, PA 15320
Attorney: Kirk A. King, Esquire, 77 South Washington Street, Waynesburg, PA 15370

PUHER, DOROTHY ANNE

Late of Greensboro, Greene County, Pennsylvania
Executor: Alexis Puher, 112 Poplar Drive, Morgantown, WV 26505
Attorney: Kathleen Smith-Delach, Esquire, Phillips, Phillips & Smith-Delach, PC, 29 East Beau Street, Washington, PA 15301

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STEPHENSON, JAMES COOK A/K/A JAMES C. STEPHENSON

Late of Franklin Township, Greene County, Pennsylvania
Executor: John W. Stephenson, 129 Main Street, PO Box 61, New Athens, OH 43981
Attorney: David F. Pollock, Esquire, Pollock Morris Belletti & Simms, LLC, 54 South Washington Street, Waynesburg, PA 15370

THIRD PUBLICATION

BEABOUT, DENNIS WAYNE

Late of Center Township, Greene County, Pennsylvania
Executrix: Debra Lynn Thomas, 1085 Toll Gate Road, West Alexander, PA 15376
Attorney: None

EVANS, HAROLD VICTOR A/K/A HAROLD V. EVANS

Late of Jefferson Township, Greene County, Pennsylvania
Executor: Robert A. Berdine, 186 Ferncliff Road, Rices Landing, PA 15357
Attorney: Kirk A. King, Esquire, 77 South Washington Street, Waynesburg, PA 15370

HAMILTON, RICHARD EARL A/K/A RICHARD E. HAMILTON

Late of Center Township, Greene County, Pennsylvania
Executrix: Robin Sue Hamilton, 1339 Hargus Creek Road, Waynesburg, PA 15370
Attorney: Kirk A. King, Esquire, 77 South Washington Street, Waynesburg, PA 15370

SMITLEY, PATTY LEA

Late of Morgan Township, Greene County, Pennsylvania
Executrix: Lonnetta Pitcock, 232 Happy Valley Road, Waynesburg, PA 15370
Attorney: Kirk A. King, Esquire, 77 South Washington Street, Waynesburg, PA 15370

LEGAL NOTICE

Quiet Title

Bonnie A. Fox, Harry James Reel, and Sherry L. Reel v. Gene D. Yost, Sarah E. Yost, and Rita R. Sailer

To the General Public of Perry Township:

You are hereby notified that the Plaintiffs have commenced an action to quiet title.

If you believe that you have an interest in the Subject Property described below, you are required to plead to the complaint within twenty (20) days after the service has been completed by publication.

The action concerns the land described as follows:

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An unopened roadway in Perry Township known as Virginia Street, from Locust Avenue to Alley "E," bordered by Tax Parcel ID Nos. 20-07-115, 117, 122, 169, 172, and 173. An unopened roadway in Perry Township known as Alley "G," from Virginia Street to property now or formerly owned by Gene D. Yost and Sara E. Yost, bordered by Tax Parcel ID Nos. 20-07-172, 173, 174, 175, 176, 177, 178, 179, 180, and 181. An unopened roadway in Perry Township known as Highland Avenue, from Virginia Street to property now or formerly owned by Gene D. Yost and Sara E. Yost, bordered by Tax Parcel ID Nos. 20-07-169, 171, 173, 174, 175, 176, and 181.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

By: Michael Ierino, Esquire
Makel & Associates, LLC
98 East Maiden Street
Washington, PA 15301
(724) 222-7639

SHERIFF'S SALE

By Virtue of a Writ of Execution (Mortgage Foreclosure) No. ED-17-2022 AD-263-2022

Issued out of the Court of Common Pleas of Greene County, Pennsylvania and to me directed, I will expose the following described property at public sale at the Greene County Courthouse in the City of Waynesburg, County of Greene, Commonwealth of Pennsylvania on:

**FRIDAY, AUGUST 19, 2022
AT 10:00 O'CLOCK A.M.**

All parties in interest and claimants are further notified that a proposed schedule of distribution will be on file in the Sheriff's Office no later than twenty (20) days after the date of the sale of any property sold hereunder, and distribution of the proceeds will be made in accordance with the schedule ten (10) days after said filing, unless exceptions are filed with the Sheriff's Office prior thereto.

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ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF MICHAEL VINSICK AND REBECCA VINSICK OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY: ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN CUMBERLAND TOWNSHIP, GREENE COUNTY, PENNSYLVANIA. HAVING ERECTED THEREON A DWELLING BEING KNOWN AND NUMBERED AS 228 NEMACOLIN ROAD, CARMICHAELS, PA 15320. DBV 304, PAGE 1175. PARCELS #05-16-744, 05-16-742 AND 05-16-743.

PROPERTY ADDRESS: 228 Nemacolin Rd, Carmichaels, PA 15320

UPI/TAX PARCEL NUMBER: 05-16-742 05-16-743 05-16-744

Seized and taken into execution to be sold as the property of MICHAEL DAVID VINSICK, REBECCA VINSICK, OCCUPANT in suit of DOLLAR BANK, FEDERAL SAVINGS BANK.

Attorney for the Plaintiff:
Grenen & Birsic
Pittsburgh, PA 412-281-7650

**MARCUS N. SIMMS, Sheriff
Greene County, Pennsylvania**

SUPREME COURT NOTICE

SUPREME COURT OF PENNSYLVANIA APPELLATE COURT PROCEDURAL RULES COMMITTEE

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.A.P. 311, 1311, and 1312

The Appellate Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.A.P. 311, 1311, and 1312 governing orders sustaining venue, personal jurisdiction, or in rem jurisdiction for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the Pennsylvania Bulletin for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Karla M. Shultz, Counsel
 Appellate Court Procedural Rules Committee
 Supreme Court of Pennsylvania
 Pennsylvania Judicial Center
 PO Box 62635
 Harrisburg, PA 17106-2635
 FAX: 717-231-9551
 appellaterules@pacourts.us

All communications in reference to the proposal should be received by **September 30, 2022**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Appellate Court Procedural Rules Committee,
 Honorable J. Andrew Crompton
 Chair

Rule 311. Interlocutory Appeals as of Right.

(a) **General [rule.—] Rule.** An appeal may be taken as of right and without reference to Pa.R.A.P. 341(c) from:

(b) **Order [sustaining venue or personal or in rem jurisdiction.—] Sustaining Venue, Personal Jurisdiction, or In Rem Jurisdiction.** An appeal may be taken as of right from an order in a civil action or proceeding sustaining the venue of the matter or jurisdiction over the person or over real or personal property if:

(1) the plaintiff, petitioner, or other party benefiting from the order files of record within ten days after the entry of the order an election that the order shall be deemed final; or

(2) **[the court states in the order that a substantial issue of venue or jurisdiction is presented.] the court makes an express determination that the order presents a substantial issue of venue, personal jurisdiction, or in rem jurisdiction. If the court does not make such an express determination in its initial order:**

(i) **An aggrieved party may file an application for such a determination within 30 days of entry of the order sustaining venue, personal jurisdiction, or in rem jurisdiction.**

(ii) **Unless the court acts on the application within 30 days after it is filed, the court shall no longer consider the application and it shall be deemed denied.**

(iii) **A notice of appeal may be filed within 30 days after entry of an order containing such a determination unless a shorter time**

period is provided in Pa.R.A.P. 903(c). Any denial of such an application is reviewable only through a petition for permission to appeal under Pa.R.A.P. 1311.

(c) Changes of [venue, etc.—] **Venue, etc.** An appeal may be taken as of right from an order in a civil action or proceeding changing venue, transferring the matter to another court of coordinate jurisdiction, or declining to proceed in the matter on the basis of *forum non conveniens* or analogous principles.

(g) Waiver of [objections] **Objections.**

(1) Except as provided in [subparagraphs] **subdivisions** (g)(1)(ii), (iii), and (iv), failure to file an appeal of an interlocutory order does not waive any objections to [the interlocutory] **that** order:

(i) (Rescinded).

(ii) **[Failure to file an appeal from an interlocutory order under subparagraph (b)(1) or paragraph (c) of this rule shall constitute a waiver of all objections to jurisdiction over the person or over the property involved or to venue, etc., and the question of jurisdiction or venue shall not be considered on any subsequent appeal.] All objections to venue, personal jurisdiction, and in rem jurisdiction are waived if no appeal is taken from an order deemed final under subdivision (b)(1) or appealable under subdivision (c).**

(iii) Failure to file an appeal from an interlocutory order under [paragraph] **subdivision** (e) of this rule shall constitute a waiver of all objections to such an order.

(iv) Failure to file an appeal from an interlocutory order refusing to compel arbitration, appealable under 42 Pa.C.S. § 7320(a)(1) and [subparagraph] **subdivision** (a)(8) of this rule, shall constitute a waiver of all objections to such an order.

(2) **[Where no election that an interlocutory order shall be deemed final is filed under subparagraph (b)(1) of this rule, the objection may be raised on any subsequent appeal.] If an election permitted by subdivision (b)(1) is not filed, the objections to the order sustaining venue, personal jurisdiction, or in rem jurisdiction may be raised on any subsequent appeal.**

(3) **If an application is denied under subdivision (b)(2), the objections to the order sustaining venue, personal jurisdiction, or in rem jurisdiction may be raised on any subsequent appeal.**

[Official Note] **Comment:**

Paragraph (b)—[Paragraph (b) is based in part on the Act of March 5, 1925, P. L. 23. The term “civil action or proceeding” is broader than the term “proceeding at law or in equity” under the prior practice and is intended to include orders entered by the orphans’ court division. Cf. *In the Matter of Phillips*, 370 A.2d 307 (Pa. 1977).]

In subparagraph (b)(1), a plaintiff is given a qualified (because it can be overridden by petition for and grant of permission to appeal under Pa.R.A.P. 312) option to gamble that the venue of the matter, [or] personal jurisdiction, or *in rem* jurisdiction will be sustained on appeal. [Subparagraph] Subdivision (g)(1)(ii) provides that if the plaintiff timely elects final treatment, the failure of the defendant to appeal constitutes a waiver. The appeal period under Pa.R.A.P. 903 ordinarily runs from the entry of the order, and not from the date of filing of the election, which procedure will ordinarily afford at least 20 days within which to appeal. See Pa.R.A.P. 903(c) as to treatment of special appeal times. If the plaintiff does not file an election to treat the order as final, the case will proceed to trial unless (1) the trial court makes a finding under [subparagraph] subdivision (b)(2) of the existence of a substantial question of jurisdiction and the defendant elects to appeal, (2) an interlocutory appeal is permitted under Pa.R.A.P. 312, or (3) another basis for appeal appears, for example, under [subparagraph] subdivision (a)(1), and an appeal is taken. Presumably, a plaintiff would file such an election where plaintiff desires to force the defendant to decide promptly whether the objection to venue or jurisdiction will be seriously pressed. [Paragraph] Subdivision (b) does not cover orders that do not sustain jurisdiction because they are, of course, final orders appealable under Pa.R.A.P. 341.

[Subparagraph (b)(2)—The 1989 amendment to subparagraph] Subdivision (b)(2) permits an interlocutory appeal as of right where the trial court [certifies] determines that a substantial question of venue, personal jurisdiction, or in rem jurisdiction is present. [This eliminated an inconsistency formerly existing between paragraph (b) and subparagraph (b)(2).] The procedures for obtaining a determination are based, in part, on those found at Pa.R.A.P. 341(c)(1)-(3).

Rule 1311. Interlocutory Appeals by Permission.

(a) General [rule.—] Rule. An appeal may be taken by permission from an interlocutory order:

- (1) certified under 42 Pa.C.S. § 702(b) or for which certification pursuant to 42 Pa.C.S. § 702(b) was denied; *see* Pa.R.A.P. 312;
- [or]
- (2) for which certification pursuant to Pa.R.A.P. 341(c) was denied;
- (3) that determined that a defendant’s motion to dismiss on the basis of double jeopardy is frivolous[.] or;

(4) for which an application for an express determination that the order presents a substantial issue filed pursuant to Pa.R.A.P. 311(b)(2) was denied.

(b) Petition for [permission to appeal.—] Permission to Appeal. Permission to appeal from an interlocutory order listed in paragraph (a) may be sought by filing a petition for permission to appeal with the prothonotary of the appellate court within 30 days after entry of such order or the date of deemed denial in the trial court or other government unit with proof of service on all other parties to the matter in the trial court or other government unit and on the government unit or clerk of the trial court, who shall file the petition of record in such trial court. An application for an amendment of an interlocutory order to set forth expressly [either] the statement specified in 42 Pa.C.S. § 702(b), [or the one in] Pa.R.A.P. 311(b)(2), or Pa.R.A.P. 341(c) shall be filed with the trial court or other government unit within 30 days after the entry of such interlocutory order, and permission to appeal may be sought within 30 days after entry of the order as amended. Unless the trial court or other government unit acts on the application within 30 days after it is filed, the trial court or other government unit shall no longer consider the application and it shall be deemed denied. If the petition for permission to appeal is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the petition shall be deemed received by the prothonotary for the purposes of Pa.R.A.P. 121(a) (filing) on the date deposited in the United States mail, as shown on a United States Postal Service Form 3817 Certificate of Mailing, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the trial court or other government unit, and shall be either enclosed with the petition or separately mailed to the prothonotary. The petitioner must file the original and one copy. Upon actual receipt of the petition for permission to appeal, the prothonotary of the appellate court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this paragraph, shall constitute the date when permission to appeal was sought, which date shall be shown on the docket. The prothonotary of the appellate court shall immediately note the appellate docket number assignment upon the petition for permission to appeal and give notice of the docket number assignment to the government unit or clerk of the trial court, to the petitioner, and to the other persons named in the proof of service accompanying the petition.

[Official Note] Comment:

[Pa.R.A.P. 1311 originally implemented only 42 Pa.C.S. § 702(b) (interlocutory appeals by permission). The accompanying note provided that an order refusing to certify an order as meeting the requirements of 42 Pa.C.S. § 702(b) was reviewed by filing of a petition for review under Chapter 15. The rule was amended in 2020 to expand the use of] Pa.R.A.P. 1311 expands the use of a petition for permission to appeal to requests for review of interlocutory orders that were not certified for immediate review pursuant to 42 Pa.C.S. § 702(b) or Pa.R.A.P. 341(c) and of interlocutory orders that found a criminal defendant’s claim that further proceedings would cause the defendant to be placed in double jeopardy to be frivolous.

See the Official Note to Pa.R.A.P. 1112 (appeals by allowance) for an explanation of the procedure when Form 3817 or other similar United States Postal Service form from which the date of deposit can be verified is used.

Rule 1312. Content of the Petition for Permission to Appeal.

(a) **General [rule.—] Rule.** The petition for permission to appeal need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

(1) A statement of the basis for the jurisdiction of the appellate court.

(2) The text of the order in question, or the portions thereof sought to be reviewed, the text of any order ruling on any subsequent request for certification, and the date of their entry in the trial court or other government unit. If the order(s) are voluminous, it may, if more convenient, be appended to the petition.

(3) A concise statement of the case containing the facts necessary to an understanding of the basis for the order of the trial court or other government unit.

(4) The proposed questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of questions presented will be deemed to include every subsidiary question fairly comprised therein. Only the questions set forth in the petition, or fairly comprised therein, will ordinarily be considered by the court in the event permission to appeal is granted.

(5) A concise statement of the reasons for an immediate appeal:

(i) For a petition for permission to appeal an order certified pursuant to 42 Pa.C.S. § 702(b), a statement of the reasons why the order involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an appeal from the order may materially advance the ultimate termination of the matter;

(ii) For a petition for permission to appeal an order for which certification pursuant to 42 Pa.C.S. § 702(b) was denied or deemed denied, a statement of reasons why the order involves a controlling question of law as to which there is substantial ground for difference of opinion, that an appeal from the order may materially advance the ultimate termination of the matter, and why the refusal of certification

was an abuse of the trial court’s or other government unit’s discretion that is so egregious as to justify prerogative appellate correction;

(iii) For a petition for permission to appeal an order for which certification pursuant to Pa.R.A.P. 341(c) was denied or deemed

denied, the petition must contain a statement of reasons why an immediate appeal would facilitate resolution of the entire case and why the refusal of certification was an abuse of the trial court’s or other government unit’s discretion that is so egregious as to justify prerogative appellate correction;

(iv) For a petition for permission to appeal pursuant to Pa.R.A.P. 1311(a)(3), the petition must set forth why the claim of double jeopardy is colorable[.];

(v) For a petition for permission to appeal an order for which an application for an express determination that the order presents a substantial issue filed pursuant to Pa.R.A.P. 311(b)(2) was denied or deemed denied, the petition must contain a statement of reasons why a substantial issue of venue, personal jurisdiction, or in rem jurisdiction is present.

**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES COMMITTEE**

PUBLICATION REPORT

Proposed Amendment of Pa.R.A.P. 311, 1311, and 1312

The Appellate Court Procedural Rules Committee is considering proposing to the Supreme Court the amendment of Pennsylvania Rules of Appellate Procedure 311, 1311, and 1312 governing orders sustaining venue, personal jurisdiction, or in rem jurisdiction.

Pa.R.A.P. 311 identifies several interlocutory orders that may be appealed as of right regardless of finality. One of those orders is an order sustaining venue, personal jurisdiction, or in rem jurisdiction. See Pa.R.A.P. 311(b). The party benefitting from that order may appeal within 10 days of the order; a party aggrieved from that order may appeal if “the court states in the order that a substantial issue of venue or jurisdiction is presented.” Pa.R.A.P. 311(b)(1)-(2). As a matter of practice, if the order sustaining venue or jurisdiction does not state that a substantial issue is present, then the aggrieved party may seek amendment of the order to include such a statement. See, e.g., *United Farm Bureau Mut. Ins. Co. v. U.S. Fid. & Guar. Co.*, 462 A.2d 1300, 1302 (Pa. 1983); *Frick v. Fuhai Li*, 225 A.3d 573, 575 n.1 (Pa. Super. 2019); *Dep’t of Transp. v. Yudacufski*, 562 A.2d 424, 426 (Pa. Cmwlth. 1989).

It was in this context that the Committee observed the Rules of Appellate Procedure are silent on when to request this statement, e.g., within 30 days of the interlocutory order, or whether the trial court must rule on the request or whether the request is deemed denied after a specified time. Cf., Pa.R.A.P. 341(c)(1)-(c)(3); Pa.R.A.P. 1311(b).

Accordingly, the Committee proposes expanding Pa.R.A.P. 311(b)(2) to include procedures for a party to follow when the court does not make an express determination as to venue, personal jurisdiction, and in rem jurisdiction. The proposed amendment would require:

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- the party to file an application to request an express determination within 30 days of the entry of the court's initial order;
- the court to act on the application within 30 days; otherwise the application is deemed denied; and
- the party to file a notice of appeal within 30 days after the entry of the order with an express determination unless a shorter time period is provided in Pa.R.A.P. 903(c) (time for appeal).

In fashioning this proposal, the Committee reviewed the procedures set forth in Pa.R.A.P. 341(c)(1)-(3) for a determination of finality as a basis for the amendment of Pa.R.A.P. 311(b)(2), subject to certain refinements. Additionally, the Committee proposes permitting review of a denied application through a petition for permission to appeal pursuant to Pa.R.A.P. 1311, and subject to the requirements of Pa.R.A.P. 1312. Appellate consideration of the denial would be consistent with Pa.R.A.P. 341.

The proposed amendments to Pa.R.A.P. 311(g) are intended to be stylistic and non-substantive.

The Committee considered whether the qualifier for an interlocutory appeal pursuant to Pa.R.A.P. 311(b)(2), i.e., "substantial issue," should be retained or altered to more closely hew to that found in 42 Pa.C.S. § 702(b), i.e., "a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the matter." See also Pa.R.A.P. 1312(a)(5)(ii). The Committee believes that maintaining the existing qualifier is preferable rather than introducing a new qualifier into the analysis.

All comments, concerns, and suggestions regarding this proposal are welcome.