

SUPREME COURT OF PENNSYLVANIA

In Re: Order Adopting New Rule 791 and Amending Rules 490 and 790 of the Pennsylvania Rules of Criminal Procedure

In re Order Adopting New Rule 791 · Decided November 9, 2016

SUMMARY

This document contains Pennsylvania Rules of Criminal Procedure 490, 790, and new Rule 791. Rules 490 and 790 establish procedures for seeking expungement in summary and court cases, respectively, while Rule 791 establishes procedures for obtaining limited-access orders in court cases. The rules address petition contents, criminal history reports, Commonwealth responses, hearings, appeals, orders, and service on criminal justice agencies.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Pennsylvania
DECIDED	November 9, 2016
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Pennsylvania exercised its rulemaking authority to adopt new Pennsylvania Rule of Criminal Procedure 791 and amend Rules 490 and 790.
PRECEDENTIAL VALUE	Rulemaking order; establishes binding Pennsylvania Rules of Criminal Procedure rather than a conventional precedential adjudication.

TOPICS

[criminal procedure](#) [post-conviction relief](#) [remedies](#) [state post-conviction relief](#)

PRACTICE AREAS

[criminal procedure](#) [expungement](#) [criminal-record privacy](#) [post-conviction relief](#)

QUESTIONS PRESENTED

1. What procedures should govern petitions and orders for expungement of summary cases under Rule 490?

2. What procedures should govern petitions and orders for expungement of court cases under Rule 790?
3. What procedures should govern petitions and orders for limited access to criminal history record information under new Rule 791?
4. When should an expungement or limited-access order be stayed pending appeal, particularly when the Commonwealth consents?

HOLDINGS

1. Rule 490 establishes the required procedure for seeking and obtaining expungement of a summary case, including the petition contents, criminal-history-report requirement, service on the Commonwealth, response period, hearing and decision procedures, order contents, and service of certified orders on identified criminal justice agencies.
2. Rule 790 establishes the required procedure for seeking and obtaining expungement of a court case, including the required petition and order information, criminal-history-report requirement, service and response periods, hearings, appeal stays, and service of certified orders.
3. New Rule 791 establishes the procedure for obtaining a limited-access order under 18 Pa.C.S. § 9122.1, including petition requirements, the criminal-history-report requirement, Commonwealth response and hearing procedures, order contents, appeal stays, and restricted dissemination.
4. An expungement or limited-access order is stayed for 30 days pending appeal, and remains stayed if a timely appeal is filed, except when the attorney for the Commonwealth has consented to the petition.

KEY QUOTATIONS

“the judge shall enter an order directing that the petitioner’s criminal record history information that is subject to the limited access order shall not be disseminated to an individual, a noncriminal justice agency, or an internet website” (Rule 791(B)(4))

“Additional information shall not be required by local rule or practice.” (Rule 490(A)(2))

FACTUAL BACKGROUND

The court addressed the need for procedural rules governing criminal-record expungement and limited-access orders. Rules 490 and 790 already governed expungement in summary and court cases, while new Rule 791 was created to implement the statutory limited-access procedure under 18 Pa.C.S. § 9122.1. The rules prescribe the required contents of petitions and orders, service, Commonwealth responses, hearings, stays pending appeal, and dissemination restrictions.

PROCEDURAL HISTORY

The court promulgated procedural rules governing petitions and orders for expungement in summary and court cases and for limited access to criminal history information. The order also amended the stay provisions applicable when the Commonwealth consents to relief and established related petition and order requirements and procedures.

DISPOSITION

other

CASES CITED

- In re Administrative Order No. 1-MD-2003, 594 Pa. 346, 936 A.2d 1 (Pa. 2007)
- Commonwealth v. J.H., 563 Pa. 248, 759 A.2d 1269 (Pa. 2000)

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