Supreme Court of Kentucky

IN RE: ORDER APPROVING AMENDMENTS TO THE CRIMINAL RULES FOR PIKE COUNTY, 35TH JUDICIAL CIRCUIT

The attached amendments to the criminal rules for Pike County, 35th Judicial Circuit, are hereby approved by the undersigned.

ENTERED: January 13, 2004.

Chief Justice

COMMONWEALTH OF KENTUCKY
PIKE CIRCUIT COURT

ORDER AMENDING LOCAL RULES
**** **** **** ****

IT IS HEREBY ORDERED BY THE COURT that the local rules of the Pike Circuit Court be amended as follows:

Criminal Rule 1 Grand Juries

Grand Juries will be empaneled on the first Monday of March, the first Monday of June, the first Tuesday of September and the first Monday in November. The November grand jury shall meet during the week after a general election is held.

Criminal Rule 5 Arraignment

A. Upon the return of an indictment by the Grand Jury, the Clerk shall issue a summons for the appearance of the defendant unless the Court has ordered that a warrant of arrest is to be issued. The Commonwealth Attorney's request for a warrant shall be in writing in a form suitable to be filed.

B. For all indictments where a summons has been issued, the Court shall schedule an arraignment at a reasonable date and time following the return of the indictment.[1] The Clerk shall mail a copy of the order assigning the indictment for arraignment to the Commonwealth Attorney, and to the Defendant. If the Grand Jury charge was originally made in District Court, the Clerk shall also mail a copy of the order assigning the indictment for arraignment to his

[1]Usually the second or third Friday after the indictment is returned.

attorney of record in District Court and to the surety on his District Court bond.

C. When a defendant is arrested on an indictment warrant he shall be arraigned without unreasonable delay.

D. At arraignment, the judge shall assign the indictment for pre-trial or trial. The judge shall assign the indictment for a new date after each hearing or after a trial has been continued.

E. Defense counsel at arraignment shall represent the defendant at all future proceedings unless and until written motion to withdraw is sustained by the Court. Upon withdrawal, former counsel shall forward a copy of all pleadings, motions, responses to discovery and other papers to succeeding counsel. If the court finds the defendant is without counsel and qualifies for appointment of counsel, the court shall direct the Office of Public Advocacy to represent him.

F. An arraignment order shall be issued indicating the name of the defendant's attorney and any conditions or modifications of bail.

Civil Rule 4 Jury Trial Periods

The Court being one of continuous session, jury trials will be assigned at the discretion of the presiding judge.[2]

These amendments are to be effective upon approval by the Chief Justice of the Supreme Court of Kentucky.

So Ordered, this the 26th day of November 2003.

Hon. Eddy Coleman, Judge
Division No. I

Hon. Steven D. Combs
Division No. II

[2]Under this amended rule the month of July may be used for jury trials.

Supreme Court of Kentucky

IN RE: ORDER APPROVING AMENDED LOCAL RULES FOR PIKE COUNTY, 35th JUDICIAL CIRCUIT

The Amended Local Rules for Pike County, 35th Judicial Circuit, are hereby approved by the undersigned.

ENTERED February 25, 1994.

Robert F. Stephens

Chief Justice

PIKE CIRCUIT COURT
GENERAL TERM

IN RE: AMENDMENT TO RULE 15

WHEREAS, the Court recognizes the potential harm to children caused by the process of legal dissolution of marriage; and

WHEREAS, a purpose of KRS Chapter 403 is to mitigate such potential harm to children; and

WHEREAS, the Court feels that professional counseling prior to final dissolution of marriage may mitigate such potential harm to children; therefore,

IT IS HEREBY ORDERED that Rule 15 of the Civil Rules of Pike Circuit Court shall be amended to read as follows:

E.) In any dissolution of marriage filed on or after February 1, 1994, where there are minor children of the marriage, neither a partial decree or final decree of dissolution of marriage shall be entered by the Court until the parties have attended and participated in the Parents Education Clinic held at least twice a month in the Pike County Hall of Justice or other such locations as shall be approved by the Court.

1. Attorneys for the parties shall be responsible for informing their clients of this requirement and for assisting their clients to attend the Clinic. In the event that only one party is represented by counsel, counsel for that party shall be required to send, with the services of the complaint, a letter explaining the pro se party's responsibility to attend the clinic.

2. If a party refuses or fails to attend the clinic, the Court may make such orders in regard to the refusal or failure as are Just, including the following: (a) an order refusing to assign a trial date until the party requesting such trial date attends the Clinic; (b) an order declining to set or enforce visitation rights for the disobedient party until that party attends the Clinic, (c) an order reserving the granting of custody; and (d) in lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of Court the failure to obey an order to attend the Clinic.

3. If the parties have previously been referred to counseling by the Court or they have obtained professional counseling specifically regarding custody and visitation, the Court may, upon the written recommendation of the counselor, waive the requirement that the parties attend the Clinic.

4. A fee of $5.00 payable to the Mountain Comprehensive Care Center Parents' Education Clinic, a non-profit mental health facility, shall be paid by each party at the time of attendance at the Clinic. No fees shall be payable by a party granted permission to proceed In Forma Pauperis. The Court may order one party to pay the fee for the other party if the other party has obtained an In Form Pauperis order or, in the case of a party proceeding pro se, the Court is able to determine that In Forma Pauperis status is appropriate.

5. In the event that one party is either unlocatable or outside the jurisdiction of the Court the Court may grant a decree of dissolution of marriage upon motion of the other party if he or she has complied with the order to attend the clinic.

Upon entry of this order the Chief Judge of this Court shall forward a copy to the Supreme Court of Kentucky for review and final approval, and said amendment shall become effective February 1, 1994, subject to approval of the Supreme Court.

JUDGE, Pike Circuit Court

JUDGE, Pike Circuit Court

PIKE CIRCUIT COURT
GENERAL TERM

IN RE: AMENDMENT TO RULE 15

WHEREAS, the Court recognizes the potential harm to children caused by the process of legal dissolution of marriage; and

WHEREAS, a purpose of KRS Chapter 403 is to mitigate such potential harm to children; and

WHEREAS, the Court feels that professional counseling prior to final dissolution of marriage may mitigate such potential harm to children; therefore,

IT IS HEREBY ORDERED that Rule 15 of the Civil Rules of Pike Circuit Court shall be amended to read as follows:

E.) In any dissolution of marriage filed on or after February 1, 1994, where there are minor children of the marriage, neither a partial decree or final decree of dissolution of marriage shall be entered by the Court until the parties have attended and participated in the Parents Education Clinic held at least twice a month in the Pike County Hall of Justice or other such locations as shall be approved by the Court.

1. Attorneys for the parties shall be responsible for informing their clients of this requirement and for assisting their clients to attend the Clinic. In the event that only one party is represented by counsel, counsel for that party shall be required to send, with the services of the complaint, a letter explaining the pro se party's responsibility to attend the clinic.

2. If a party refuses or fails to attend the clinic, the Court may make such orders in regard to the refusal or failure as are Just, including the following: (a) an order refusing to assign a trial date until the party requesting such trial date attends the Clinic; (b) an order declining to set or enforce visitation rights for the disobedient party until that party attends the Clinic, (c) an order reserving the granting of custody; and (d) in lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of Court the failure to obey an order to attend the Clinic.

3. If the parties have previously been referred to counseling by the Court or they have obtained professional counseling specifically regarding custody and visitation, the Court may, upon the written recommendation of the counselor, waive the requirement that the parties attend the Clinic.

4. A fee of $5.00 payable to the Mountain Comprehensive Care Center Parents' Education Clinic, a non-profit mental health facility, shall be paid by each party at the time of attendance at the Clinic. No fees shall be payable by a party granted permission to proceed In Forma Pauperis. The Court may order one party to pay the fee for the other party if the other party has obtained an In Form Pauperis order or, in the case of a party proceeding pro se, the Court is able to determine that In Forma Pauperis status is appropriate.

5. In the event that one party is either unlocatable or outside the jurisdiction of the Court the Court may grant a decree of dissolution of marriage upon motion of the other party if he or she has complied with the order to attend the clinic.

Upon entry of this order the Chief Judge of this Court shall forward a copy to the Supreme Court of Kentucky for review and final approval, and said amendment shall become effective February 1, 1994, subject to approval of the Supreme Court.

JUDGE, Pike Circuit Court

JUDGE, Pike Circuit Court

Supreme Court of Kentucky

ORDER APPROVING LOCAL RULES

Pursuant to SCR 1.040(3)(a) the local civil and criminal practice rules of the Pike Circuit Court, 35th Judicial Circuit, attached as an appendix to this order, are appproved.

Entered August 14, 1985.

Robert F Stephens
Chief Justice

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CIVIL RULES OF PIKE CIRCUIT COURT

RULE 1. REPEAL OF PRIOR RULES

All prior rules of Practice of Pike Circuit Court are hereby repealed and/or revoked.

RULE 2. CITATION OF RULES

These rules may be cited as "RPCC" (Rules of Pike Circuit Court).

RULE 3. ORGANIZATION OF PIKE CIRCUIT COURT

A) The Pike Circuit Court shall be composed of Division # 1 and Division # 11 and each division shall have jurisdiction of both criminal and civil cases.

B) Each Judge of a Division may preside and hear and determine any case or question in the other Division when requested to do so by the Judge of the other Division, or when the Judge of that Division is not available.

C) After an action has been assigned to a Division, the Judge thereof, upon agreement of the Judge of the other Division, may for any reason transfer it to the other Division. Upon such transfer being made, the Clerk will made a proper endorsement upon the docket sheet and the record.

D) When two or more actions have been filed that may, as a matter of right, or may, in the discretion of the Court be consolidated and such actions are pending in different Divisions of the Court, any party to any of the actions, with approval of the Court, may have any of the actions transferred to that Division of the Court in which the first of the actions was filed. The Judge of the Court may order such transfers to be made without a motion by any of the parties.

RULE 4. JURY TRIAL PERIODS

The Court being one of continuous session, jury trial periods will be assigned at the discretion of the presiding Judges. However, the month of July shall not be used for jury trials.

RULE 5. ASSIGNMENT OF CIVIL CASES

A) The assignment of civil cases shall be assigned as directed by the Administrative Offices of the Court, except as otherwise directed by subsection B herein.

B) With respect to any case filed in which either presiding Judge is disqualified by reason of kinship or conflict of interest, and if the Clerk has been made aware of said conflict of interest by the filing by the Circuit Judge of a listing of

business firms and individuals, which on their face would constitute a conflict, the case shall be assigned to the Judge of the other Division. In such event the next assignment shall be made so as to equalize the case load.

RULE 6. PRE-TRIAL CONFERENCES IN CIVIL CASES

Pre-trial conference practice shall be accomplished by either standing orders applicable to all civil cases or specific order entered in individual cases defining the scope of pre-trial conference.

In the case of standing orders, each member of the bar shall be given a complete set of standing orders, or any amendments that may be adopted from time to time, and shall be expected to comply with such standing orders strictly. In the case of out of town attorneys, the Clerk shall provide counsel for the plaintiff with a copy of such standing orders at the time of the filing of the complaint and will likewise provide copies of such standing orders to counsel for the defendant or defendants promptly after answers are filed.

RULE 7. TRIALS

A) The Sheriff of Pike County or one of his deputies shall be in attendance at the Court at all times for the purpose of keeping order and seeing that the Court shall be conducted in a formal manner. At the opening of the Court, the Sheriff or his deputy shall cause all persons present to stand and shall announce the opening of the Court by saying the following:

> Hear ye! Hear ye! The Pike Circuit Court of the 35th Judicial Circuit with Judge_____ _____presiding, is now open. All persons who have business to be heard, come forward and you shall be heard. God save this Commonwealth and this Honorable Court. Be seated and remain quiet.

At each recess of the Court, said Sheriff or one of his deputies shall cause the persons present to stand then accounce that the Pike Circuit Court has recessed or adjourned by order until another period as designated by the Court.

B) The Sheriff or one of his deputies shall keep order in the Court Room and see that all jurors are seated in the benches

which are perpendicular to the bar and are located on either side of the Court Room; the doors leading into the Court Room from either side shall be closed to all persons except those who have business in the Court or those who intend to remain in the Court Room as spectators in the seats provided for such spectators.

C) No persons shall be allowed inside the bar except prospective jurors during empanelment or during the trial of the case, or while they are being qualified or selected as jurors, attorneys, parties to the case on trial, the Court and its officials.

D) No one shall sit at the Judge's bench except the presiding Judge, or Judges and such bailiffs requested by the Court. The Sheriff or his deputy shall have a table adjoining the Clerk's table. No persons shall be permitted to interrupt the Court while in session except concerning matters on trial.

E) The Judges shall wear robes at all times in Open Court.

F) All attorneys shall wear suitable attire at all times during Open Court except for Motion Day.

RULE 8. MOTION PRACTICE

A) Motion Hour as previously practiced in this Court is hereby abolished except to the extent hereinafter provided.

B) Except with respect to hearings on motions for rule, no motion shall be heard by a presiding Judge unless, contemporaneously with its filing, a short concise statement of the reasons in support of the motion, or citation of governing authority, is submitted to the presiding Judge. If no such supporting statement or citation of authority is made, the motion will stand automatically overruled without hearing on the next Friday occurring more than nine (9) days after its filing, or sooner if by order of the Court. The party filing a motion will submit a proposed order with sufficient copies for distribution.

If a statement or citation in support is filed, the opposing party shall have five (5) calendar days in which to file a response. The presiding Judge will then rule on said motion, without hearing, unless the presiding Judge believes that a hearing is necessitated, or if a hearing is requested affirmatively in said response, at which time such hearing will be set by order.

C) On each Friday, the Judge of each Division shall announce cases in which contested motions are pending with the Court's ruling thereupon.

D) The Clerk shall by 1 P.M. on each Thursday deliver all records in which contested motions are pending to each presiding Judge. The Clerk shall return the records to her office by 4 P.M. on each Friday.

E) Hearings on contested motions shall be assigned by order, with Fridays preferred as the date of assignment, but the Court may assign such hearings at any time. By 12 o'clock on each Thursday, each Judge shall deliver to the Clerk a list of cases in which contested motions are to be heard and the Clerk shall deliver such records to each presiding Judge by no later than 8:30 A.M. on the following Friday morning. The Trial Court will promptly notify the Clerk that such records are ready for return to the office of the Clerk. It shall be the duty of the Clerk to pick up such records within a reasonable time thereafter.

RULE 9. TRIAL DOCKETS

The Clerk shall maintain for each Division a jury trial docket wherein the Clerk shall enter cases set for trial. Said jury trial docket shall be made available for public inspection and copying. This is in addition to the Civil docket required by CR 79.01.

RULE 10. NON-AVAILABILITY OF JUDGE

A) If it appears that any matter, including the trial of Civil or Criminal cases, demands immediate attention and the Judge of the Division to which said cause has been assigned is not, or will not be available, then said matter may be taken up and disposed of by the Judge who is available and consents thereto.

RULE 11. RULES FOR CONTEMPT

The procedure in obtaining a rule for contempt shall be as follows:

A motion shall be filed requesting the issuance of the rule.

The motion shall be supported by an affidavit showing that applicant is entitled to the relief sought.

No notice shall be required of the motion for a rule. The rule, when it is issued, shall fix a time and place for hearing and shall be served upon the party against whom the rule is sought as provided by the Civil Rules. A copy of the motion for rule shall be attached to the rule for purposes of service of process.

RULE 12. ENTRY OF ORDERS AND JUDGMENTS

Except for Orders prepared by the Court and unless an Order is tendered and signed in Open Court, whenever any ruling is made or opinion rendered, an Order or Judgment in conformity therewith which, at the direction of the Court, shall immediately be prepared by counsel for the successful party, shall be signed by counsel for all parties thereto as in conformity to the ruling or opinion, and shall be presented to the Court. If the party against whom the Order or Judgment is to be entered is not represented by counsel, or be represented by counsel who declines to attest within a reasonable time the Order or Judgment, such fact and dates shall be endorsed thereon.

When signed by the Judge, the Order or Judgment shall be delivered to the Clerk for entry. Counsel preparing the Order or Judgment shall also deliver to the Clerk a sufficent number of copies to permit the Clerk to complete service thereof when required by CR 77.04. Counsel may waive service of any Order or Judgment, and notice of entry.

RULE 13. MOTIONS FOR RULE FOR CONTEMPT (DOMESTIC RELATIONS PROCEEDINGS)

Upon the presentations of the Court of an appropriate Motion for Rule for Contempt, in any domestic relations proceeding, upon same having been appropriately and properly verified by the moving party, the Court may, upon being requested to do so, and in instances where the nature of the proceeding relates to the payment or non-payment of child support and maintenance; visitation, or the denial of same; or such other matters, as the Court deems appropriate, the Court may issue the Rule prior to the next regularly scheduled announcement of the Motion Docket, in order to expedite the Service of Process of same, and in order to eliminate unnecessary delays in proceeding in such matters, when same demand the Court's immediate attention.

RULE 14. STANDING TEMPORARY CHILD SUPPORT ORDERS AND MINIMUM TEMPORARY (PENDENTE LITE) CHILD SUPPORT FEE SCHEDULE (DOMESTIC RELATIONS PROCEEDINGS)

The Court shall adopt jointly a minimum temporary (pendente lite) child support fee schedule to be couched in terms of minimum monthly payments for each child, with said minimum

monthly payments for each child, with said minimum child support, to be placed in a Standing Order of the Court, to be issued, at such times and occasions, as the Judges, of the Pike Circuit Court deem appropriate and further, with said minimum child support Standing Order to be distributed to all members of the practicing bar, and attached with Summons, in each domestic relations proceeding, in which children are an issue, so as to apprise all litigants of the minimum child support schedule.

The minimum support schedule shall take immediate effect upon Service of Process, and support under the terms of said schedule shall be due and payable no later than twenty (20) days after Service of Process by the non-custodial parent to the custodial parent.

Either party may file an appropriate Motion to Modify by either increasing or decreasing the support established in said fee schedule, if it is deemed in their best interest to do so.

It is specifically intended, that this Rule and the Standing Order referenced herein shall eliminate the necessity of Motions for Pendente Lite Allowance being filed in every case, and further to eliminate the lengthy delays between the filing of said Motion and the hearing of same.

RULE 15. DOMESTIC RELATIONS ACTIONS (GENERAL)

A) All uncontested divorce actions shall be heard by the respective Division as assigned by the request of one or more counsel of record.

B) By Standing Order of the Court the following matters shall be referred to the Master Commissioner: contested divorces, child support, custody and visitation, termination of parental rights and modification of child support, and maintenance.

The presiding Judge of either Division at his discretion may enter an Order assigning any of the above matters to be heard before him.

Other domestic relations matters may be referred to the Master Commissioner for hearing.

C) Where such matters are referred to the Commissioner by Standing Order or referral, either attorney shall schedule the matter for hearing before the Commissioner who shall then furnish the Clerk an Order setting the matter for hearing with copies to all counsel of record.

D) All uncontested domestic matters, including but not limited to the entry of Partial Decrees by Notice or the entry of Final Decrees upon agreement or the completion of all evidence,

where no further controversy exists, shall be heard on Wednesday and Friday afternoons at the hour of 1:00 o'clock P.M. in the respective Court Rooms of the Pike Circuit Court. The Circuit Judges, through their respective secretaries, shall maintain a docket for purposes of scheduling same in advance, for those Attorneys wishing to bring forward uncontested matters for finalization. The Court shall establish the date, time and place for said finalization upon appropriate request by the respective attorneys.

RULE 16. DOMESTIC RELATIONS COMMISSIONER

A) The Master Commissioner of the Pike Circuit Court may hear the following matters: contested divorces, child support, custody and visitation, maintenance pendente lite, termination of parental rights and modification of child support, custody, visitation, and support and maintenance, and such other matters that the Court may from time to time determine to be appropriate for referral.

B) The Master Commissioner or Deputy Commissioner shall receive a fee of Forty Dollars ($40.00) per hour for services performed in the hearing of referred matters, depositions, and the preparation of a Report and Recommendation. The Master Commissioner or Deputy Commissioner shall also be entitled to expenses as per the rules of the Supreme Court of Kentucky.

Fees shall be payable by either party or jointly by the parties at the conclusion of the taking of proof or as soon thereafter as possible with the Commissioner making a Recommendation in his Report and Recommendation as to which party or parties shall be responsible for fees and costs. The Clerk of the Court shall collect any unpaid fees or costs at the time of the entry of the Final Judgment or Decree.

C) Matters heard by the Commissioner shall be reported by a reporter retained by the Commissioner who shall charge a reporter's fee commensurate with the prevailing reporters' fees in the immediate area but in no event more than reporters' fees commensurate with those charged by the Kentucky Shorthand Reporter's Association. The reporter shall be paid by the parties at the conclusion of the taking of proof or as soon thereafter as possible based upon her estimate of the reporting fee. In the event of any overpayment the reporter shall refund that amount to the parties as per their ratio of payment to her.

In the event the matter before the Commissioner is cancelled for any reason by the parties after the reporter has appeared at the office of the Commissioner for the hearing, the reporter shall be allowed an appearance fee of Twenty-Five Dollars ($25.00).

D) The Master Commissioner and the Deputy Commissioner, if any, shall be engaged in the practice of law in the Pike Circuit Court.

E) The Master Commissioner shall hear all referred matters. In the event the Master Commissioner is unable to hear the matter for any reason or disqualifies, the matter shall be referred to the Deputy Commissioner.

F) The Master Commissioner or Deputy Commissioner shall keep a permanent schedule or calendar of all matters referred to him and shall have all hearings scheduled at a hearing room at his office or at a location convenient to all parties.

G) The Master Commissioner shall spend a minimum of twenty (20) hours per week in the performance of his duties as Commissioner.

RULE 17. EFFECTIVE DATE

A) These rules shall become effective in all criminal and civil cases filed or pending after approved by the General Term of the Pike Circuit Court and the Chief Justice of the Supreme Court of Kentucky at which time these rules shall supercede and rescind all earlier local rules.

APPROVED:

JUDGE, DIVISION NO. 1

JUDGE, DIVISION NO. 11

CHIEF JUSTICE, SUPREME COURT
OF COMMONWEALTH OF KENTUCKY

Proposed by Local Rules Committee

CRIMINAL RULES OF THE PIKE CIRCUIT COURT

RULE 1 GRAND JURIES

Grand Juries will be empaneled on the first Tuesday in September, the first Monday after general election in November, the first Monday in March and the first Monday in June.

RULE 2 TIME

Unless otherwise indicated by these rules, the computation of any period of time prescribed by these rules shall be made in the manner prescribed by RCr 1.10 (a).

RULE 3 RETURNS ON WARRANTS

The Sheriff shall make a return on each indictment warrant within 10 days unless the defendant does not reside in Pike County or has absconded.

RULE 4 JAIL LOG

The pretrial officer shall maintain a daily log in two parts; pre-arraignment and post-arraignment prisoners. The pretrial officer shall review the logs and make distribution to the judges and others as required by the court.

RULE 5 ARRAIGNMENT

A. All arraignments shall be conducted within 14 calendar days after the return of indictment or information. The clerk shall specify the date and hour of arraignment on the face of the warrant or summons issued. The clerk shall issue

a summons when the highest offense charged by the indictment is a class D felony, unless the defendant's address appearing on the indictment is not located in Pike County, or unless the attorney for the Commonwealth files a request for warrant under RCr 6.52. If the defendant fails to appear for arraignment without good cause, the court may forfeit bail.

B. In the event a defendant is held in jail in lieu of bail, he shall be arraigned forthwith after indictment.

C. The judge of either division may admit any defendant to bail, who has been arrested before the case has been assigned.

D. If a person is arrested on a bench warrant, he or she shall be brought before the division to which the case was allotted the following day.

E. Upon motion by the defendant or the Commonwealth or by the Court, all cases in which the defendants plead not guilty shall be assigned to the trial docket on a day certain by the judge of the division to which the case is assigned.

F. If the judge of either division is absent at the time of arraignment, the judge present and presiding shall take the arraignment; and if the plea be guilty, he may fix the penalty, and take all other necessary steps as a result of the guilty plea in accordance with Rules 11, 12, and 13 hereof.

G. Defense counsel at arraignment shall represent the defendant at all future proceedings unless and until written

motion to withdraw is sustained by the Court. Upon withdrawal, former counsel shall forward all pleadings, motions, and other papers to succeeding counsel. If the court finds the defendant is without counsel and qualifies for appointment of counsel, the court shall direct the Office of Public Advocacy to represent him. If counsel is appointed at arraignment, the time for filing of pre-arraignment motions shall be extended by five calendar days.

H. An arraignment order shall be issued indicating the name of the defendant's attorney and any conditions or modifications of bail.

RULE 6 SUPERSEDING INDICTMENTS

A superseding indictment is an indictment that replaces and dispenses with one previously returned.

A. When a superseding indictment is being returned, the attorney for the Commonwealth shall attach a notice to the superseding indictment so indicating and identifying the indictment being replaced.

B. The clerk shall file a copy of all papers from the former indictment in the file of the superseding indictment. All motions and orders regarding the former indictment shall apply to the superseding indictment except as stated in paragraphs C and E hereof. The superseding indictment shall be docketed in the same division as the former indictment.

C. The bail bond posted in the former indictment shall apply to the superseding indictment unless the defendant is charged with an additional or greater offense.

D. The court shall issue an order requiring the defendant and his attorney to appear for arraignment to enter a plea to the superseding indictment.

E. A superseding indictment returned within seven days before the trial date of the former indictment shall be assigned a new trial date at arraignment.

RULE 7 PRETRIAL MOTIONS

A. All pretrial motions and notices shall be filed in the clerk's office at least 20 days before trial or at such other time as the Court may provide by order. Additional time will not be granted except by leave of the court upon a showing of good cause pursuant to written motion of counsel stating with particularity the grounds therefor. Such motions will not be granted routinely.

B. All pretrial motions shall be made in strict conformity with RCr 4.40, 4.42, 4.48, 8.12, 8.14, 8.16, 8.18, 8.20, 8.22, 8.26, 9.04, 9.12, 9.14, 9.16, and 9.26. All pretrial motions requesting an evidentiary hearing and motions to suppress under RCr 9.78 shall allege the facts to be relied upon with particularity. All such motions shall be accompanied by any citations of authorities to be relied upon by counsel.

C. Any party desiring to respond to such motions or citations of authorities shall do so promptly after the filing of such motion.

D. Failure to comply with this rule shall constitute ground to overrule such motions.

E. Oral argument upon such a motion shall be permitted only when an evidentiary hearing is held, unless the motion specifically requests oral argument and the court determines that the issues raised thereby merit oral argument.

F. All pending pre-trial motions shall be ruled upon no later than the date of the pre-trial conference; or if no pre-trial conference is to be held in that particular case, all pending pre-trial motions shall be ruled upon no later than the Friday preceding the day of trial.

G. The Commonwealth may erase the tape of the Grand Jury testimony regarding a particular case after the first date on which that case is called for trial (whether or not the trial is postponed) or after the attorneys for all defendants in that case have purchased and received a transcript of the testimony, whichever occurs first, unless the Court orders the tape preserved until a later date upon motion of a defendant for good cause shown.

RULE 8 PRETRIAL CONFERENCES

A. In accordance with RCr 8.03, the court may order a case assigned for pretrial conference. The defendant and his attorney, the attorney for the Commonwealth who will try the case, and the prosecuting witness or victim (or his nearest surviving relative) shall appear. In accordance with Rule 7 hereof, all pretrial motions, notices, and responses thereto shall be filed before the conference. The Commonwealth shall file all statements of witnesses discoverable under RCr 7.26 at the pretrial conference.

B. The attorney for the Commonwealth shall announce whether the Commonwealth is ready for trial during that term, and thereafter the attorney for the defendant shall announce whether the defendant is ready for trial during that term and whether the defendant desires to plea guilty. Upon both parties announcing ready, the Court shall assign the case for trial during that term. The announcement made at this time shall be binding on the parties on the date of trial, unless the attorney shows good cause and due diligence. Failure of the Sheriff to obtain service of a subpoena upon a material witness shall constitute good cause unless an affidavit is accepted by opposing counsel in accordance with RCr 9.04.

RULE 9 RETURNS ON SUBPOENAS

The Sheriff shall file a return on each subpoena or upon each witness list furnished by the Commonwealth Attorney to the clerk at least three calendar days before trial when the subpoena or witness list was delivered to the clerk at least nine calendar days before trial. When the subpoena or witness list was delivered to the clerk fewer than nine calendar days but at least five calendar days before trial, the Sheriff shall file the return at least one day before trial. In all other cases, returns shall be filed on the day of trial before the call of the docket unless the court grants leave for late filing.

RULE 10 PLEA BARGAINING

Plea bargaining agreements will not be accepted by the court after the pretrial conference, or if no pretrial conference is held, within five calendar days of the date set for trial, unless good cause is shown. All such agreements shall be in writing signed by the defendant and his attorney and the attorney for the Commonwealth, and filed with the court.

RULE 11 TRIAL DOCKET

The trial docket will be called at 9:00 A.M.

RULE 12 SENTENCING

When a defendant enters a plea of guilty or the jury returns a verdict of guilty, the court shall at that time assign the case for sentence hearing. Such hearing shall be held within 90 days after the plea or verdict. The probation officer shall complete the presentence investigation report at least five calendar days before the sentence hearing and notify the court, the attorney for the defendant, and the attorney for the Commonwealth when the report is completed. The probation officer shall immediately notify the court if circumstances prevent the timely completion of the report.

RULE 13 PRESENTENCE MOTIONS

A motion for new trial under RCr 10.02, a motion for judgment notwithstanding verdict under RCr 10.24, or a motion to withdraw a guilty plea under RCr 8.10 shall be

made in conformity with Rule 7B hereof. A motion to withdraw a guilty plea shall be made at least seven days before the sentence hearing. Additional time for such a motion shall not be granted unless the defendant agrees to postpone the sentence hearing.

RULE 14 POST-CONVICTION BAIL

Bail pending sentencing or bail during the pendency of an appeal or a reduction thereof shall only be granted on motion by the attorney for the defendant upon notice to the attorney for the Commonwealth.

RULE 15 IMPLEMENTATION OF APPELLATE DECISIONS

A. The clerk shall immediately notify the court when the record is returned by the clerk of an appellate and when the notice of finality regarding the appellate opinion is received.

B. When the appeal is dismissed, when the conviction is affirmed and the appellate opinion becomes final, or when discretionary review or certiorari is denied, the clerk shall also prepare a bench warrant for the defendant's arrest for the court's signature and thereupon deliver it to the Sheriff.

C. In the event of reversal by an appellate court, bail shall be permitted in accordance with RCr 4.54 (3).

RULE 16 APPLICATION OF CIVIL RULES TO CRIMINAL PROCEDURE

The Civil Rules of the Pike Circuit Court shall be applicable in criminal proceedings to the extent not superseded by or

inconsistent with these Criminal Rules of the Pike Circuit Court.

RULE 17 CITATION OF RULES

These rules may be cited as "PRCr" (Pike Circuit Court Rules of Criminal Procedure).

RULE 18 EFFECTIVE DATE

These rules shall become effective in all criminal cases filed or pending in the Pike Circuit Court after approval by the judges thereof and by the Chief Justice of the Supreme Court of Kentucky as provided in RCr 13.02 and shall supercede all earlier local rules regarding criminal cases.

APPROVED:

JUDGE, DIVISION NO. I

JUDGE, DIVISION NO. II

CHIEF JUSTICE, SUPREME COURT
OF COMMONWEALTH OF KENTUCKY