

In the
Indiana Supreme Court

CAUSE NUMBER: 94S00-1003-MS-128



ORDER AMENDING INDIANA RULES OF CRIMINAL PROCEDURE

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Indiana Criminal Rule 13, 16, and 19 are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

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Rule 13. Case reassignment and special judges; selection

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(C) **Selection under Local Rule Adopted by Counties.** In counties where four (4) or more judges receive assignment of felony or misdemeanor cases under Ind.Crim.Rule 2.2, upon the granting of a change of judge or the disqualification or recusal of a judge, a successor judge shall be assigned in the same manner as the initial judge. In counties where there are fewer than four (4) judges, the local rule required by Ind.Crim.Rule 2.2 shall include an alternative assignment list with judges of contiguous counties and senior judges assigned to the court for use in the event a change of judge is granted or a judge is disqualified or recuses. Except for those serving pursuant to Criminal Rule 12(G)(4), judges previously assigned to the case are ineligible for reassignment.

A person appointed to serve as special judge under this subsection must accept jurisdiction in the case unless the appointed special judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under this Rule, or excused from service by the Indiana Supreme Court.

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Rule 16. Motion to Correct Error; ~~Filing with Judge or Clerk~~

~~Motion to Correct Error within thirty (30) days of sentencing.~~

(A) **When Mandatory.** A Motion to Correct Error is not a prerequisite for appeal, except when a party seeks to address newly discovered material evidence, including alleged jury misconduct, capable of production within thirty (30) days ~~of final judgment~~ after the date of sentencing which, with reasonable diligence, could not have been discovered and produced at trial.

All other issues and grounds for appeal appropriately preserved during trial may be initially addressed in the appellate brief.

(B) **Time for Filing; Service on ~~with Judge or Clerk.~~**

~~It shall be deemed sufficient filing of a Motion to eCorrect eError, if any, shall be filed within thirty (30) days ~~following~~after the date of sentencing, or the date of notation in the Chronological Case Summary of an order of dismissal or an order of acquittal, and shall be served upon in a cause if said motion is filed with the judge having jurisdiction of the cause, ~~who shall immediately make an entry showing the filing thereof, or if said judge is not available for the presentation and the entry of said motion, then said motion to correct error shall be filed with the clerk of the court in which said cause is pending, and the clerk shall immediately thereupon note the filing of said motion to correct error on the court's Chronological Case Summary in the cause, and the clerk shall thereafter call said filing of said motion to correct error to the attention of the judge in the case at the first opportunity.~~ Trial Rule 59 (Motion to Correct Error) and Trial Rule 53.3 (Motion to Correct Error: Time Limitation for Ruling) will apply to criminal proceedings insofar as applicable and when not in conflict with any specific rule adopted by the Indiana Supreme Court for the conduct of criminal procedure.~~

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Rule 19. Time Within Which the Appeal Must be Submitted

The nNotice of aAppeal designating what is to be included in the record on appeal must be filed within thirty (30) days ~~of~~ after the date of sentencing, or the date of notation in the Chronological Case Summary of an order of dismissal or an order of acquittal; provided however that if a Motion to Correct Error is timely filed pursuant to Criminal Rule 16, the Notice of Appeal must be filed ~~or~~ within thirty (30) days ~~after~~of the ruling on the mMotion to eCorrect

~~e~~Error is noted in the Chronological Case Summary or the Motion to Correct Error is deemed denied under Trial Rule 53.3, whichever occurs earlier. ,if one is filed. The time for filing other documents is governed by the Rules of Appellate Procedure. Unless a Notice of Appeal is filed filings are made within these time limits the right to appeal ~~may~~will be forfeited.

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These amendments shall take effect January 1, 2011.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Public Defender's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and Thomson Reuters. The Clerk is also directed to post this Order to the Court's website.

Thomson Reuters is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this 21st day of September, 2010.

/s/Randall T. Shepard
Randall T. Shepard
Chief Justice of Indiana

All Justices concur.