

JAN 13 2011

FILED

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8049 (formerly C1-84-2137)

PROMULGATION OF AMENDMENTS
TO THE RULES OF CRIMINAL PROCEDURE
RELATING TO USE OF A STATEWIDE
UNIFORM CITATION

ORDER

In an Order dated September 30, 2010, we noted that over one million citations are filed in Minnesota courts each year. We also noted that in March 2010, a workgroup of stakeholders in the criminal justice system, coordinated by the Bureau of Criminal Apprehension, issued a report recommending creation of a uniform statewide citation standard. *Report to the Commissioner of Public Safety & the Chief Justice of the Minnesota Supreme Court: Recommendation for a Statewide Citation Standard* (March 2010) (BCA Report). We agreed with the conclusion in the BCA Report that “[s]tandardization is important to ensure that the appropriate and correct information on the citation is communicated to the defendant, that law enforcement officers are comfortable in the information they are communicating, and that State Courts can efficiently and accurately enter information into MNCIS.” *Id.*

Because we concluded that the criminal justice system would benefit by having a statewide uniform citation, we asked the Advisory Committee on Rules of Criminal Procedure to advise us as to how the Minnesota Rules of Criminal Procedure could be amended to mandate the use of a statewide uniform citation. The Advisory Committee submitted proposed amendments in a letter report dated August 12, 2010. The Committee also advised the Court that although the Commissioner of Public Safety has authority under Minn. Stat. § 169.99, subd. 2, to prescribe the form of the uniform traffic ticket, this authority: (1) is limited to the form of the citation issued for traffic offenses under Minn. Stat. ch. 169; (2) does not bind law enforcement in cities of the first class;

and (3) does not establish the form of the citation issued for criminal or Department of Natural Resources offenses established in chapters outside of chapter 169.

We then published the proposed amendments and set a November 29, 2010 deadline for written comments to be submitted. The Court received one public comment, from the State Court Administrator, requesting additional amendments to Minn. R. Crim. P. 23 to eliminate a conflict created by the definition proposed by the Committee for the term “violations bureau” and existing language in Minn. R. Crim. P. 23.03, subds. 4 and 5. The Court has reviewed the proposed amendments and submitted comment, and is fully advised in the premises.

NOW, THEREFORE, IT IS HEREBY ORDERED:

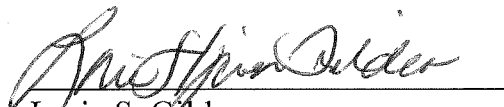
1. The attached amendments to the Minnesota Rules of Criminal Procedure are prescribed and promulgated for the regulation of practice and procedure in criminal matters in the courts of the State of Minnesota to be effective January 1, 2012.

2. Minnesota Statutes §§ 84.0835, subd. 2(2), 169.99, subds. 2 and 3, and 484.91, subd. 3 (2010) are superseded to the extent that they conflict with these amendments.

3. The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the comments.

Dated: January 13, 2011

BY THE COURT:


Lorie S. Gildea
Chief Justice

AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE

In the following amendments, deletions are indicated by a line drawn through the words and additions by a line drawn under the words.

1. Amend Rule 1.04 as follows:

Rule 1.04 Definitions. As used in these rules, the following terms have the meanings given.

(a) Misdemeanor. ~~Unless these rules direct otherwise, “misdemeanor,” as used in these rules,~~ includes state statutes, local ordinances, charter provisions, or rules or regulations punishable – either alone or alternatively – by a fine or imprisonment of not more than 90 days.

(b) Designated Gross Misdemeanor. ~~As used in these rules,~~ A “designated gross misdemeanor” is a gross misdemeanor charged or punishable under Minnesota Statutes, sections 169A.20, 169A.25, 169A.26, or 171.24.

(c) Tab Charge. ~~As used in these rules,~~ A “tab charge” is a brief statement of the charge entered in the record by the court administrator that includes a reference to the statute, rule, regulation, ordinance, or other provision of law the defendant is alleged to have violated. A tab charge is not synonymous with “citation” as defined by Rule 6.01 in paragraph (e).

(d) Aggravated Sentence. ~~As used in these rules,~~ An “aggravated sentence” is a sentence that is an upward durational or dispositional departure from the presumptive sentence provided for in the Minnesota Sentencing Guidelines based on aggravating circumstances or a statutory sentencing enhancement.

(e) Citation. A “citation” is a charging document issued under Rule 6. The citation may be filed in paper form or by electronic means.

(f) Electronic Citation. An “electronic citation” is a citation transmitted to the court by electronic means.

(g) Violations Bureau. “Violations bureau” refers to court staff who process citations. A violations bureau may consist of one or more employees within a single court location, a dedicated court division, or the Minnesota Court Payment Center implemented and operated by the State Court Administrator.

2. Amend Rule 6.01, subd. 4 as follows:

Subd. 4. Form of Citation.

(a) General Form. Any citation, including an electronic citation, filed or e-filed with the court must be in a form prescribed by this rule and approved by the State Court Administrator and the Commissioner of Public Safety, who shall, to the extent practicable, include in the citation the information required by Minnesota Statutes, section 169.99, subds. 1, 1a, 1b, and 1c, and Minnesota Statutes, section 97A.211, subd. 1. The citation must contain the summons and complaint, and must direct the defendant to appear at a designated time and place.

~~— In any county with a violations bureau, the citation may direct the defendant to appear at that bureau or direct the defendant to contact the court or violations bureau to schedule an appearance.~~

(b) Notices Regarding Failure to Appear. The citation must state that failure to appear or contact the court or violations bureau as directed may result in the issuance of a warrant. A summons or warrant issued after failure to respond to a citation may be based on sworn facts establishing probable cause contained in or with the citation and attached to the complaint.

The citation must contain notice regarding failure to appear when the offense is a petty misdemeanor as required in Minnesota Statutes, sections 169.99, subd. 1(b), and 609.491, subd. 1.

(c) Notice Regarding Fine Payment. The citation must contain the notice regarding fine payment and waiver of rights in Rule 23.03, subd. 3.

(d) Electronic Citation. If the defendant is charged by electronic citation, the defendant must be issued a copy of the citation. This copy must include:

(1) the directive to appear or contact the court or violations bureau in paragraph (a); and

(2) the notices in paragraphs (b) and (c).

3. Amend the second paragraph and add new third and fourth paragraphs to the comments to Rule 6 as follows:

The “uniform traffic ticket” may be defined in Minn. Stat. § 169.99 is used to issue a citation under Rule 6.01. Minn. Stat. § 169.99. The citation is used to charge not only traffic offenses under Minnesota Statutes Chapter 169, but also criminal or Department of Natural Resources (DNR) offenses defined in other chapters. The State

Court Administrator and the Commissioner of Public Safety determine the required content of the citation in consultation with the courts, law enforcement, and other affected agencies, including the DNR.

Rule 6.01, subd. 4(b) reiterates that the citation must contain the statutorily required notice that failure to appear for a petty misdemeanor offense results in a conviction. As stated in the rule, the citation must direct the defendant to either appear or contact the court by a particular date. This means a conviction will be entered under the statutory process: (1) if the defendant fails to appear on the scheduled court date; (2) if the defendant fails to pay the fine or otherwise contact the court by the scheduled deadline; or (3) if the defendant requests an initial hearing on the citation but then fails to appear for it. The statutory conviction procedure is not applicable, however, if the defendant invokes the process available in the Rules of Criminal Procedure by making an initial appearance but then fails to appear for a subsequent hearing. See State v. Haney, 600 N.W.2d 469 (Minn. Ct. App. 1999) and Judicial Council Policy 515, Petty Misdemeanor Failure to Appear.

Rule 6.01, subd. 4(d) sets forth the content that must be included on the defendant's copy of an electronic citation. The defendant's copy of a paper citation typically contains additional information such as court contact information, payment methods, and collateral consequences. Since the Rules do not specifically require this information to be on the citation, when the defendant is issued an electronic citation, the additional information could be given to the defendant by other means such as directing the defendant to a website or providing a separate information sheet.

4. Amend Rule 23.03 as follows:

Rule 23.03 Violations Bureaus

Subd. 1. Establishment. The district court may establish misdemeanor implement and operate violations bureaus. The State Court Administrator may implement and operate the Minnesota Court Payment Center.

Subd. 2. Fine Schedules.

(1) **Uniform Fine Schedule.** The Judicial Council must adopt and, as necessary, revise a uniform fine schedule setting fines for statutory petty misdemeanors and for statutory misdemeanors as it selects. The uniform fine schedule is applicable statewide.

(2) **County Fine Schedules.** On establishment of a violations bureau, the Each district court ~~must~~ may establish by court rule, for each county, a fine for any misdemeanor ordinance that may be paid to the violations bureau in lieu of a court

appearance by the defendant. When an ordinance offense is substantially the same as an offense included on the uniform fine schedule, the fine established must be the same.

Subd. 3. Fine Payment. A defendant must be advised in writing before paying a fine to a violations bureau that payment constitutes a plea of guilty to the charge and an admission that the defendant understands and waives the right to:

- a. a court or jury trial;
- b. counsel;
- c. be presumed innocent until proven guilty beyond a reasonable doubt;
- d. confront and cross-examine all witnesses; and
- e. to remain silent or to testify for the defense.

~~**Subd. 4. Functions of Violations Bureau.** The violations bureau must process all citations for misdemeanors included on the county fine schedule, accept all fines payable on such citations at the bureau, set dates for arraignment, accept bail, keep records, and perform other duties as the court directs.~~

~~**Subd. 5. Procedures of the Violations Bureau.** The district court must supervise, and the court administrator must operate, the misdemeanor violations bureaus. The district court must issue rules governing the duties and operation of the bureaus consistent with these rules. The court administrator must assign one or more clerks to perform the duties of the bureaus.~~