

STATE OF MINNESOTA

IN SUPREME COURT

C1-84-2137

OFFICE OF
APPELLATE COURTS

SEP 30 2010

FILED

**ORDER ESTABLISHING DEADLINE FOR
SUBMITTING COMMENTS ON PROPOSED
AMENDMENTS TO THE RULES OF
CRIMINAL PROCEDURE RELATING
TO USE OF A STATEWIDE UNIFORM
CITATION**

Over one million citations are filed in Minnesota courts each year. 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). According to the BCA Report, a recent survey suggests that there are at least 128 different versions of the paper citation. *Id.* at 4. In addition to paper citations, some citations are issued electronically. The great volume of citations filed, combined with the variations in form and format, makes the processing of citations inefficient and prone to error. We fully agree with the conclusion of 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 of the need within the criminal justice system for a statewide uniform citation, we asked our Advisory Committee on Rules of Criminal Procedure to advise us how the Minnesota Rules of Criminal Procedure could be amended to mandate the use of a statewide uniform citation. The report of the Advisory Committee, in the form of a letter from the committee chair, is attached to this order, along with the rule amendments

proposed by the Advisory Committee. We now seek public comment on the proposed amendments.

IT IS HEREBY ORDERED that any individual wishing to provide written comments relating to the proposed amendments shall submit fourteen copies of such comments addressed to Frederick K. Grittner, Clerk of the Appellate Courts, 305 Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, Minnesota 55155, on or before November 29, 2010.

Dated: September 30, 2010

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea", is written over a horizontal line.

Lorie S. Gildea
Chief Justice

ROBERT F. CAROLAN
JUDGE OF THE DISTRICT COURT
DAKOTA COUNTY JUDICIAL CENTER
HIGHWAY 55
HASTINGS, MINNESOTA 55033



CARVER, DAKOTA, GOODHUE, LE SUEUR
MCLEOD, SCOTT AND SIBLEY COUNTIES

(651) 438-4325

STATE OF MINNESOTA
FIRST JUDICIAL DISTRICT

August 12, 2010

Chief Justice Lorie Gildea
Minnesota Supreme Court
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Justice Paul H. Anderson
Minnesota Supreme Court
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Chief Justice Gildea and Associate Justice Anderson,

As you are aware, the Bureau of Criminal Apprehension (BCA) is leading an effort to update and standardize the uniform traffic ticket. By statute, the form of the uniform traffic ticket is determined by the Commissioner of Public Safety. But some concern has arisen because although the Commissioner has authority to prescribe the form of the uniform traffic ticket, this authority is limited to the form of the citation issued for traffic offenses under Chapter 169, does not bind law enforcement in cities of the third class, Minn. Stat. § 169.99, subd. 3, and does not extend to criminal or Department of Natural Resources (DNR) offenses charged under other chapters.

It is our understanding that a statewide uniform citation is needed to support several current initiatives such as eCitation, which is the process of utilizing technology to produce and file criminal and traffic citations with the courts, and the Minnesota Court Payment Center, which is an effort to centralize and streamline citation processing. For that reason, the Advisory Committee on Rules of Criminal Procedure was requested to advise the Court as to how the Minnesota Rules of Criminal Procedure could be amended to mandate the use of a statewide uniform citation.

This topic was discussed at two Committee meetings. Attached to this letter are suggested amendments to achieve the Court's purpose. In addition, the Committee noted that the statutes and rules are silent with regard to electronic citations. Since law enforcement agencies are moving to electronic citations, the Committee has proposed amendments that clearly recognize this form of the citation and place specific requirements on their content and issuance. You will

also notice that in conjunction with these proposed changes, the Committee has recommended a few additional technical amendments to Rule 1.04 in keeping with the stylistic conventions that the Committee developed in its recent redrafting of the Rules.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading "Robert Carolan", written over a horizontal line.

Robert Carolan

Chair, Minnesota Supreme Court Criminal Rules Advisory Committee

PROPOSED AMENDMENTS

Note: Throughout these proposed amendments deletions are indicated by a line drawn through the words and additions are underlined.

1. Amend Rule 1.04 to define the terms “citation” and “electronic citation.”

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 6.04~~ 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 to include more descriptive language about the form of the citation. *Note: This approach augments but does not usurp the statutory authority of the Commissioner of Public Safety.*

Rule 6.01 Release on Citation

* * *

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. 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.

Pursuant to Minnesota Statutes, sections 169.99, subd. 1(b) and 609.491, subd. 1, the citation must state that if the offense is a petty misdemeanor, failure to appear or contact the court or violations bureau will be considered a plea of guilty and waiver of the right to trial, unless the failure is due to circumstances beyond the person's control.

(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) repeats the statutory requirement that the defendant must receive notice that failure to appear for a petty misdemeanor offense results in a conviction. This statutory conviction procedure is not applicable if the defendant attempts to invoke court process, but then later fails to appear. 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.