

STATE OF MINNESOTA

IN SUPREME COURT

C1-84-2137

OFFICE OF
APPELLATE COURTS

JAN 21 2010

FILED

PROMULGATION OF AMENDMENTS
TO THE RULES OF CRIMINAL PROCEDURE

ORDER

On October 31, 2003, the Supreme Court issued an order eliminating the mandatory production of transcripts for felony and gross misdemeanor guilty plea and sentencing hearings. Order Promulgating Amendments to the Rules of Criminal Procedure, No. C1-84-2137 (Oct. 31, 2003) (October 31 Order). Recognizing that sentencing transcripts contained information that was necessary to the defendant and our criminal justice partners in understanding and carrying out a sentencing order, the October 31 Order also amended Minn. R. Crim. P. 27.03, subd. 6, to include a requirement that specific information from the sentencing hearing “be recorded in a sentencing form or order,” October 31 Order at 10, and provided two models of the sentencing form or order referenced in the amendment—Form 49A (Criminal Judgment/Warrant of Conviction) and Form 49B (Order for Conditions Prior to Criminal Judgment). In addition, the court ordered:

The Supreme Court Technology Planning Committee is directed to develop, through the MNCIS project and in consultation with appropriate criminal justice partners, a standardized, uniform statewide sentencing form or order that captures for immediate transmission essential sentencing information consistent with Minn. R. Crim. P. 27.03, subd. 6 as amended herein. The form shall be completed and implemented in conjunction with the MNCIS rollout.

Id. at 6. Minnesota Rule of Criminal Procedure 27.03, subdivision 6, was recently renumbered Minn. R. Crim. P. 27.03, subd. 7. Order Promulgating Amendments to the Rules of Criminal Procedure, No. C1-84-2137, at 114 (Oct. 27, 2009).

In response to the October 31 Order, the Technology Planning Committee (TPC) established a Sentencing Forms Subcommittee, which was a statewide group consisting of certain designated TPC members together with members from stakeholder groups that would use or be affected by Rule 27.03 sentencing orders. The stakeholders included judges, court administrators, county and city attorneys, public defenders, probation officers, and a representative from the Department of Corrections. On February 16, 2005, the Sentencing Forms Subcommittee filed a report informing the court of its findings and recommendations. The report identified the elements determined by the committee to be essential in any sentencing order, and requested minor amendments to the Rules of Criminal Procedure and the Rules of Juvenile Delinquency Procedure consistent with the sentencing elements. The subcommittee's report also indicated that the State Court Administrator's Office had been directed to commence the development of a Rule 27.03 sentencing order generated by the Judicial Branch's case management system — MNCIS. The MNCIS-generated sentencing order was to be developed in accordance with the findings and recommendations of the Sentencing Forms Subcommittee.

Work on the development of the MNCIS-generated sentencing order continued from 2005 to 2008. In July 2008, a MNCIS Sentencing Order Workgroup (Workgroup) made up of judges and court administrators was formed. The Workgroup's charge was to

advise the State Court Administrator, inform Judicial Council discussions, and provide reaction and feedback on the usability, applicability, and flexibility of the MNCIS-generated sentencing order. The Workgroup was also charged to anticipate challenges and issues associated with broader use of the MNCIS-generated sentencing order. Development of the MNCIS-generated sentencing order was completed in November 2008.

In December 2008, the Workgroup recommended that a pilot project be established to test the viability of the MNCIS-generated sentencing order. The Judicial Council authorized the pilot project, and 54 counties volunteered to be pilot sites. The Workgroup subsequently surveyed the pilot sites regarding use of the MCIS-generated sentencing order. The results of the survey were generally favorable, and in a report to the Judicial Council dated November 2009, the Workgroup concluded that MNCIS produced “a workable sentencing order.” Following the Workgroup’s report, the State Court Administrator recommended to the court that the MNCIS-generated sentencing order be approved for mandatory statewide use.

In the October 31 Order eliminating mandatory transcripts for felony and gross misdemeanor guilty plea and sentencing hearings, we said, “It is necessary for the courts and our justice system to have timely, accurate and understandable information about pleas and sentencing.” Order Promulgating Amendments to the Rules of Criminal Procedure, No. C1-84-2137, at 2 (Oct. 31, 2003). We reaffirm that conclusion today and further conclude that production of an accurate and understandable sentencing order as

soon as possible after sentencing is critical to assist a defendant in understanding the terms of the sentence.

Now, therefore, the court being fully advised in the premises,

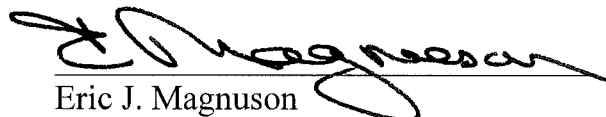
IT IS HEREBY ORDERED:

1. On or after July 1, 2010, any district court issuing a sentencing order under Minn. R. Crim. P. 27.03, subd. 7, as amended herein must generate that order using the judicial branch's case management system.

2. 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 July 1, 2010.

Dated: January 21, 2010

BY THE COURT:


Eric J. Magnuson
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 27.03, subd. 7, as follows:

Subd. 7. Sentencing Order. ~~The~~When the court ~~must issue a sentencing order for~~pronounces sentence for any counts for which the offense level before sentencing was a felony or gross misdemeanor, the court must record the sentence using an order generated from the court's case management system. This order must at a minimum contain:

- (1) the defendant's name;
- (2) the case number;
- (3) for each count:

(a) if the defendant pled guilty or was found guilty:

- i. the offense date;
- ii. the statute violated;
- iii. the terms of the sentence as outlined in pronouncements made under subdivision 4 (precise terms of sentence including any fine, time spent in custody, whether the sentence is a departure and if so, the departure reasons, whether the defendant is placed on probation and if so, the terms and conditions of probation);
- iv. the level of sentence;
- v. any restitution ordered, and whether it is joint and several with others;

(b) if the defendant did not plead guilty or was not found guilty, whether the defendant was acquitted or the count was dismissed;

(4) any ~~fine,~~ court costs, library fee, treatment evaluation cost or other financial charge; and

(5) other administrative information determined by the State Court Administrator to be necessary to facilitate transmission of the sentence to the Bureau of Criminal Apprehension, the Commissioner of Corrections, county jails, or probation services;

~~(5)~~ the judge's signature.

The sentencing order must be provided in place of the transcript required by Minn. Stat. §§ 243.49 and 631.41.

2. Amend Rule 28.05, subd. 1(2), as follows:

(2) Transmission of Record. Upon receiving a copy of the notice of appeal, the court administrator must immediately forward to the clerk of the appellate courts:

- (a) a transcript of the sentencing hearing, if any;
- (b) the sentencing order required in Rule 27.03, subd. 7, with the departure report, if any, attached;
- (c) the sentencing guidelines worksheet; and
- (d) any presentence investigation report.

3. Delete Forms 49A (Criminal Judgment/Warrant of Commitment) and 49B (Order for Conditions Prior to Criminal Judgment).