

Survey to Chief APOs

Issue: Gagnon II waivers

Question (from Lackawanna County):

The courts are trying to minimize Court proceedings as much as possible. We'd like to know how other counties proceed with waiving the Gagnon II hearing.

Allegheny County

In Allegheny all Violation proceedings have been postponed with the exception of Gagnon 1 hearings for jailers. They are being conducted via videoconferencing.

Armstrong County

In Armstrong County, for now all Gagnon II's are suspended at least until April 13th. The Court is only hearing "emergency" cases; therefore, the public defender is now filing motions for "emergency" hearings to lift the bench warrants on those who are being held in jail while waiting for Gagnon II.

Our PJ is on vacation this week (working from home), therefore, on Monday he is going to have to decide if he is going to do these hearings by video conferencing! Our County Jail Warden is panicking and wanting to release "low risk" offenders. Court and DA are telling him "NO" ... Procedures are changing by the hour here, fun times!!

Berks County

All are being held via video in Berks.

Bucks County

In Bucks Co., all community defendants have been continued until after 4/14/20. In custody defendants at our jail are being handled via video.

Dauphin County

Dauphin is the same as York.

Franklin County

Please see (Appendix Franklin) our waiver and waiver order from Franklin. We have been holding violations via video conferencing, however, we have practiced the Gagnon II waiver for years.

Lancaster County

Lancaster's have been continued through April 14, 2020 as of right now.

Lebanon County

Please see (Appendix Lebanon) Gagnon II waiver and orders utilized by Lebanon County. Non-waiver cases have been getting continued at this point. There is potential for them to start being held via video.

Lycoming County

Lycoming doing the same as York.

Westmoreland County

In Westmorland County, the judges continued all revocation hearings that were scheduled for March and April.

York County

We are continuing to hold Gagnon II Waiver hearings at our jail.

For those scheduled at our Courthouse, we are triaging them. If they are close to the max date and the violations are relatively minor we are letting the case go. Otherwise we are filing violation petitions.



Franklin County Adult Probation Department

Court of Common Pleas - 39th Judicial District of Pennsylvania

440 Walker Road

Chambersburg, Pennsylvania 17201-9798

FULL PROBATION/PAROLE/INTERMEDIATE PUNISHMENT VIOLATION HEARING WAIVER

Defendant Name:

Case No.(s):

Date:

Charge(s):

Having been advised of my rights to a full violation hearing before the Court of Common Pleas, to have legal counsel, to have counsel appointed if I cannot afford counsel of my own choosing, to be heard in person, to present witnesses and documentary evidence on my behalf, and to confront and cross-examine adverse witnesses at said revocation/violation hearing before the Court;

I do hereby knowingly, intelligently, and voluntarily waive my right to a full violation hearing before the Court of Common Pleas, and stipulate that I am in violation of the conditions of my probation, parole and/or intermediate punishment sentence imposed by the Court.

I further understand that the Court has the authority to revoke the original probation or intermediate punishment sentence and impose a new sentence in this matter; or in the case of a parole violation, the Court will order that I serve the balance of my original sentence in prison unless earlier re-paroled.

I understand that I may withdraw this waiver within ten (10) days from the date of my signature, and to do so must submit a Prison Request Slip to my probation officer asking for the waiver to be withdrawn. I also understand that if I request to withdraw this waiver and wish to be represented by the Public Defenders Office, I must apply for that office to represent me.

Defendant's Signature

Defendant's Printed Name

Probation Officer

Hearing Officer

**COURT OF COMMON PLEAS OF THE 39TH JUDICIAL DISTRICT OF PENNSYLVANIA
FRANKLIN COUNTY BRANCH**

COMMONWEALTH OF PENNSYLVANIA : CASE NO.
vs. :
: CHARGE :

ORDER OF COURT

_____ it appearing to the Court that on [Click here to enter a date.](#), a preliminary violation hearing (Gagnon I) was held, that the defendant has knowingly, intelligently, and voluntarily stipulated that he/she is in violation of the terms and conditions of probation; that the specific violation(s) that have occurred are noted on the attached Gagnon I hearing form; and that the defendant, after being advised of his/her right to a full hearing in this matter, has executed the waiver form to not request a full Gagnon II hearing;

IT IS ORDERED THAT:

Probation/IP Violation **Split Sentence Violation:** The defendant is found in violation of his/her conditions of supervision in this probation sentence:

An updated Pre-sentence investigation report shall be completed by the Franklin County Probation Department, and the case be listed for re-sentencing on [Click here to enter a date.](#), as scheduled by the Court Administrator's Office.

The _____ months probation and conditions originally imposed in this case on [Click here to enter a date.](#), shall be reinstated, and computed from [Click here to enter a date.](#).

Parole Violation: The defendant is found in violation of his/her parole, and is directed to serve the balance of his/her originally imposed sentence _____, to be computed from [Click here to enter a date.](#), unless earlier re-paroled; the defendant is eligible for participation in the Pre-Release Program, an approved re-entry plan as defined by the Sentencing Code §9756(e), and must comply with the terms and special conditions approved by the Court pursuant to Local Rule of Court for Criminal Procedures 39th Jud. Dist. C.R. No. 708.

The defendant shall receive credit for time previously served: _____.

By the Court,

J.

IN THE COURT OF COMMON PLEAS OF LEBANON COUNTY
PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : ACTION NO:
vs. :
: CHARGE:

ORDER OF COURT

_____, It appearing to the Court that on
the defendant waived his/her preliminary violation hearing (Gagnon I) and has knowingly,
intelligently, and voluntarily stipulated that he/she is in violation of the terms and conditions of
parole. The specific violation (s) of parole are noted on the attached preliminary hearing
(Gagnon I) form. The defendant, after being advised of his/her right to a full hearing, has
executed his/her right to waive a Gagnon II Hearing for the above docket.

IT IS ORDERED that:

- x The defendant is found in violation of his/her **parole**, and the order heretofore entered
granting parole is vacated. On this date, _____ the defendant is directed to
serve the balance of his/her originally imposed sentence, _____
without credit for street time, unless earlier paroled. The service of the balance of the
defendant's sentence shall be computed from the date his/her Gagnon II (Revocation Hearing)
was waived. Any time heretofore served on this Docket shall be credited towards the
defendant's originally imposed maximum sentence.

The defendant is eligible for participation in the work release program effective this date.

The defendant shall be considered for re-parole after he/she has served a period of:

(2) two months (4) four months serve balance of maximum sentence.

By the Court,

SAMUEL A. KLINE J.

IN THE COURT OF COMMON PLEAS OF LEBANON COUNTY
PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : ACTION NO:
vs. :
: CHARGE: PROBATION VIOLATION
: Interpreter Required: NO
Language:
If Other Please Specify:

ORDER OF COURT

(Probation/Intermediate Punishment Violation)

_____, It appearing to the Court that on
the defendant waived his/her preliminary violation hearing (Gagnon I) and has knowingly,
intelligently, and voluntarily stipulated that he/she is in violation of the terms and conditions of
probation and/or intermediate punishment. The specific violation (s) of probation and/or
intermediate punishment are noted on the attached preliminary hearing (Gagnon I) form.
The defendant, after being advised of his/her right to a full hearing, has executed his/her right
to waive a Gagnon II Hearing for the above docket.

IT IS ORDERED that:

(X) The defendant is found in violation of his/her probation and/or intermediate punishment.
This case shall be listed for re-sentencing by Court Administration.

By the Court,

CHARLES T. JONES, JR. J.

**WAIVER
OF FULL PROBATION/PAROLE/INTERMEDIATE PUNISHMENT
VIOLATION HEARING
(GAGNON II)**

Defendant Name:

Action No(s):

Charge(s):

I, _____, have been advised of my rights to a full violation hearing before the Court of Common Pleas, to have legal counsel appointed if I cannot afford counsel of my own choosing, to be heard in person, to present witnesses and documentary evidence on my behalf, and to confront and cross-examine adverse witnesses at said revocation/violation hearing before the Court.

I do hereby knowingly, intelligently, and voluntarily waive my right to a full violation hearing (Gagnon II) before the Court of Common Pleas, and stipulate that I am in violation of the conditions of my probation, parole, and/or intermediate punishment sentence imposed by the Court.

I understand that the Court has the authority to revoke the original probation or intermediate punishment sentence and impose a new sentence in this matter; or in the case of a parole violation, the Court will order that I serve the balance of my original sentence without credit for street time in prison unless earlier reparaoled.

I understand that the Court may modify and/or add special conditions to my supervision that are designed to assist with my rehabilitation and/or protect sociey.

I also understand that I may withdraw this waiver of a full violation hearing within ten (10) days from the date of my signature.

Defendant's Signature

Date

Witness:

Probation Officer

Revised 01-24-19