

Rule Change #1999(20)
Corrective Order

CHAPTER 29.7 THE COLORADO RULES FOR TRAFFIC INFRACTIONS

Rule 1. Scope and Purpose

These rules are promulgated pursuant to section 13-6-501 (9), C.R.S., and govern practice and procedures for the handling of noncriminal traffic infractions, which are defined as civil offenses in section 42-4-~~1501~~1701 (1), C.R.S. The purpose of these rules is to provide for the orderly, expeditious, and fair disposition of this class of traffic offenses. For this purpose, the rules apply concepts of both civil and criminal law, as deemed appropriate, to establish informal hearing procedures in the county courts.

Rule 2. Application

These rules apply to actions in which only the commission of statutory traffic infractions are charged. In any action in which the commission of a traffic infraction and a criminal offense are alleged in one complaint, all charges shall be returnable and judgment shall be entered pursuant to section 42-4-~~1505.3~~1708 (1), C.R.S., and the action shall be treated as one proceeding governed by the rules and statutes applicable to the alleged criminal offense.

Rule 3. Definitions

The following definitions shall apply in these rules:

(a) "Charging document" means the document commencing or initiating the traffic infraction matter, whether denoted as a complaint, summons and complaint, citation, penalty assessment notice, or other document charging the person with the commission of a traffic infraction or infractions.

(b) "Defendant" means any person charged with the commission of a traffic infraction, including but not limited to the following terms used in the implementing legislation: "cited person," "cited party," "individual," "person charged with a traffic violation," "violator," or "accused."

(c) "Docket fee" means a fee assessed according to the provisions of section 42-4-~~1505.7~~1710 (2), (3), or (4), C.R.S., or a fee in the same amount as provided in these rules.

(d) "Judgment" means the admission of guilt or liability for any traffic infraction, the entry of judgment of guilt or liability, or the entry of default judgment as used in section 42-4-~~1505.5~~1709 (7), C.R.S., against any person for the commission of a traffic infraction.

(e) "Officer" means a law enforcement agent who tenders or serves a charging document under these rules.

(f) "Penalty" means a fine pursuant to sections 42-4-~~1501~~ ~~(3)~~ 1701 (4) (a) and 42-4-1505.7, C.R.S., if the charging document is a penalty assessment notice; or a fine pursuant to sections 42-4-~~1501~~ ~~(2)~~ 1701 (3) (a) (I) and 42-4-~~1501~~ ~~(4)~~ 1701 (5) (c) (II), C.R.S., if the charging document is any document other than a penalty assessment notice.

(g) "Referee" means any person appointed as a referee under section 13-6-501, C.R.S., and any judge acting as a referee to hear traffic infractions.

Rule 4. Commencement of Action

(a) An action under these rules is commenced by the tender or service of a charging document upon a defendant and by the filing of a charging document with the court.

Rule 5. Prohibition of Plea Agreements

Repealed June 16, 1988, effective January 1, 1989.

Rule 6. Payment Before Appearance

(a) The clerk of court shall accept payment of a penalty assessment notice by a defendant without an appearance before the referee, if payment is made within the period beginning two business days before the date of first hearing set out in the penalty assessment notice and ending at the time scheduled for the appearance.

(b) At the time of payment, the defendant shall sign a waiver of rights and acknowledgment of guilt or liability form, as set forth as Form A in the appendix to these rules, and pay a docket fee.

(c) This procedure shall constitute an entry and satisfaction of judgment.

Rule 7. First Hearing

(a) If the defendant has not previously acknowledged guilt or liability and satisfied the judgment, he shall appear before the referee at the time scheduled for first hearing.

(b) The defendant may appear in person or by counsel, who shall enter appearance in the case, providing, however, if an admission of guilt or liability is entered, the referee may require the presence of the defendant for the assessment of the penalty.

(c) If the defendant appears in person, the referee shall advise him in open court of the following:

(1) The nature of the infractions alleged in the charging document;

(2) The penalty and docket fee that may be assessed and the penalty points that may be assessed against the driving privilege;

(3) The consequences of the failure to appear at any subsequent hearing including entry of judgment against the defendant and reporting the judgment to the state motor vehicle division, which may assess points against the driving privilege and may deny an application for a driver's license;

(4) The right to be represented by an attorney at the defendant's expense;

(5) The right to deny the allegations and to have a hearing before the referee;

(6) The right to remain silent, because any statement made by the defendant may be used against him;

(7) Guilt or liability must be proven beyond a reasonable doubt;

(8) The right to testify, subpoena witnesses, present evidence, and cross-examine any witnesses for the state;

(9) Any answer must be voluntary and not the result of undue influence or coercion on the part of anyone; and

(10) An admission of guilt or liability constitutes a waiver of the foregoing rights and any right to appeal.

(d) The defendant personally or by counsel shall answer the allegations in the charging document either by admitting guilt or liability or by denying the allegations.

(e) If the defendant admits guilt or liability, the referee shall enter judgment and assess the appropriate penalty and the docket fee, after determining that the defendant understood the matters set forth in Rule 7(c) and has made a voluntary, knowing, and intelligent waiver of rights.

(f) If the defendant denies the allegations, the matter shall be set for final hearing, and the defendant and officer shall be notified.

Rule 8. Discovery

(a) Discovery shall not be available prior to final hearing.

(b) At the time of final hearing, the defendant is entitled to inspect all documents prepared by the officer which the officer intends to use in the presentation of evidence.

Rule 9. Subpoena

(a) A subpoena shall be issued only for the attendance of a witness or for the production of documentary evidence at final hearing.

(b) A subpoena shall be issued to any county within the state either by the clerk of court at the request of the officer or

the defendant, or by counsel who has entered an appearance in the case.

(c) The service of a subpoena shall be by first class mail, if the person to whom it is directed waives personal service, as provided in Form B in the appendix to these rules. No fees or mileage need be tendered with service by mail.

(d) If the person to whom a subpoena is directed does not waive personal service, the issuance and service of a subpoena shall be as provided in Rule 345, C.R.C.P., except as otherwise provided in this rule.

Rule 10. Dismissal Before Final Hearing

(a) Except as provided in Rule 15, the charges shall be dismissed with prejudice if the officer fails to appear at the final hearing.

(b) The charges shall be dismissed if the final hearing is not held within six months from the defendant's answer, pursuant to the provisions of section 42-4-~~1505-7~~1710 (3), C.R.S.

Rule 11. Final Hearing

(a) The hearing of all cases shall be informal, the object being to dispense justice promptly and economically. The referee shall ensure that evidence shall be offered and questioning shall be conducted in an orderly and expeditious manner and according to basic notions of fairness. The referee may call and question any witness consistent with the referee's obligation to be an impartial fact finder favoring neither the state nor the defense.

(b) The order of proceedings at the hearing shall be as follows:

(1) Before commencement of the hearing, the referee shall briefly describe and explain the purposes and procedures of the hearing.

(2) The officer shall offer sworn testimony and evidence to the facts concerning the alleged infraction. After such testimony, the referee and the defendant or counsel may examine the officer.

(3) Thereafter, the defendant may offer sworn testimony and evidence and shall answer questions, if such testimony is offered, as may be asked by the referee.

(4) If the testimony of additional witnesses is offered, the order of testimony and the extent of questioning shall be within the discretion of the referee.

(5) Upon the conclusion of such testimony and examination, the referee may further examine or allow examination and rebuttal testimony and evidence as deemed appropriate.

(6) At the conclusion of all testimony and examination, the defendant or counsel shall be permitted to make a closing statement.

(c) The Colorado Rules of Evidence do not apply to hearings under these rules.

Rule 12. Judgment After Final Hearing

(a) If all elements of a traffic infraction are proven beyond a reasonable doubt, the referee shall find the defendant guilty or liable and enter appropriate judgment.

(b) If any element of a traffic infraction is not proven beyond a reasonable doubt, the referee shall dismiss the charge and enter appropriate judgment, provided, however, that the referee may find the defendant guilty of or liable for a lesser included traffic infraction, if based on the evidence offered, and enter appropriate judgment.

(c) If the defendant is found guilty or liable, the referee shall assess the appropriate penalty and the docket fee, and any additional costs authorized by section 13-16-122 (1), C.R.S.

(d) The judgment shall be satisfied upon payment to the clerk of the total amount assessed as set forth above.

(e) If the defendant fails to satisfy the judgment in the time allowed, such failure shall be treated as a default under section 42-4-~~1505.7~~1710 (3) or (4), C.R.S. The provisions of Rule 16(d) and (e) shall apply to a default under this rule.

Rule 13. Posthearing Motions and Appeal

(a) There shall be no posthearing motions except for a motion to set aside a default judgment as provided in Rule 16.

(b) Appeal procedure shall be according to section 13-6-504, C.R.S., and Rule 37, Crim. P.

Rule 14. Venue

Venue shall be as provided by statute.

Rule 15. Continuances

Continuances may be granted on a showing of good cause by the officer, his supervisor, or the defendant.

Rule 16. Default

(a) If the defendant fails to appear for any hearing, the referee shall enter judgment against the defendant.

(b) The amount of the judgment shall be the appropriate penalty assessed after a finding of guilt or liability, the docket fee, and any additional costs assessable under these rules.

(c) The referee may set aside a judgment entered under this rule on a showing of good cause or excusable neglect by the

defendant. A motion to set aside the judgment shall be made to the court not more than seven calendar days after entry of judgment.

(d) The defendant may satisfy a judgment entered under this rule by paying the clerk.

(e) No warrant shall issue for the arrest of a defendant who fails to appear at a hearing or fails to satisfy a judgment.

Rule 17. Effective Date

These rules take effect January 1, 1983, and shall apply to traffic infractions alleged to have been committed on or after that date.

Rule 18. Title

These rules shall be known and cited as the Colorado Rules for Traffic Infractions, or C.R.T.I.

This Corrective Order is issued to conform these Rules with current statutory references, November 12, 1999, effective immediately.

BY THE COURT:

**Gregory J. Hobbs, Jr.
Justice, Colorado Supreme Court**