

**CHAPTER 4**  
**JUDGMENT AND SENTENCE**

**401. JUDGMENT**

**Rule 401 JUDGMENT**

A judgment of conviction shall set forth in writing the charge, plea, verdict or findings, and the sentence imposed. If the defendant is found not guilty or is otherwise entitled to be released, judgment shall be entered accordingly. The judgment form shall be signed by the Judge and entered by the Clerk.

**402. PRESENTENCE INVESTIGATION REPORTS**

**Rule 402 PRESENTENCE INVESTIGATION REPORTS**

- a. The court shall order the preparation of the presentence investigation report by the Nation Probation Officer as soon as possible after conviction of the defendant.
- b. Each presentence report prepared for an offender to be sentenced shall include:
  1. A summary of the factual circumstances of the crime or crimes of conviction.
  2. If the defendant desires to do so, a summary of the defendant's version of the crime.
  3. When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. The report shall include a complete listing of restitution for damages suffered by the victim.
  4. A listing of prior adult convictions or juvenile adjudications for felony or misdemeanor crimes or violations. Such listing shall including the source of information regarding each listed prior conviction any available source of documents through which the listed convictions may be verified. They shall be attached to the presentence investigation report.
  5. The presentence report will become part of the court record and shall be accessible to the public, except that the official version, defendant's version and the victim's statement, any psychological reports and drug and alcohol reports shall be accessible only to the parties and the sentencing judge.

#### **403. SENTENCE**

##### **Rule 403 SENTENCE**

Sentence shall be set forth as follows:

- a. Sentence shall be imposed without unreasonable delay in accordance with the provisions of the criminal statute or ordinance violated and Chapter 7 of this Rules. Pending sentence the Court may commit the defendant to jail or continue or alter the bail. Before imposing sentence, the Court shall allow counsel or other persons an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement on his own behalf and to present any information in mitigation of punishment.
- b. Time served in jail prior to the judgment and sentence while awaiting or during trial shall be allowed as a credit toward any sentence of imprisonment in accordance with Rule 707 (6).

#### **404. DEFENDANTS SENTENCED TO INCARCERATION**

##### **Rule 404 DEFENDANTS SENTENCED TO INCARCERATION**

- a. If the defendant is to be sentenced to incarceration, the court shall prepare a judgment form which shall be signed by the court and filed with the clerk. The judgement form shall reflect the conviction, the sentence and the commitment, and shall contain the following:
  1. The pronouncement of guilty including:
    - A. The title of the crime;
    - B. the statute violated; and
    - C. the date the offense occurred.
  2. The sentence imposed including a statement of the effective date of the sentence indicating whether it is the date of imposition or some date earlier to give credit for time confined pending disposition of the case or credit for time on probation.

#### **405. NEW TRIAL**

##### **Rule 405 NEW TRIAL**

The court, on motion of a defendant, may grant a new trial to him if required in the interest of justice. If trial was by the Court without a jury, the Court, on motion of a defendant for a new trial, may vacate the judgment, if entered, take additional testimony, and direct the entry of a new judgment. A motion for a new trial based on the ground of newly discovered evidence may be made only within one month after final judgment, but if an appeal is pending the Court may grant the motion only on remand of the case. a motion for a new trial based on any other grounds shall be made within seven (7) days after verdict or finding of guilty or within such further time as the Court may fix during the seven-day period.

#### **406. ARREST OF JUDGMENT**

##### **Rule 406 ARREST OF JUDGMENT**

The Court, on motion of a defendant, shall dismiss the action if the complaint does not charge an offense or if the court was without jurisdiction of the offense charged. The motion in arrest of judgment shall be made within seven (7) days after verdict or finding of guilty or plea of guilty, or within such further time as the Court may fix during the seven-day period.

#### **407. CORRECTION OR REDUCTION OF SENTENCE**

##### **Rule 407 CORRECTION OR REDUCTION OF SENTENCE**

The Court shall correct an illegal sentence at any time and shall correct a sentence imposed in an illegal manner within thirty days after the sentence is imposed, or within thirty days after receipt by the Court of a mandate issued upon affirmance of the judgment or dismissal of the appeal by the Appellate Court. The court may also reduce a sentence upon revocation of probation.

#### **408. CLERICAL MISTAKES**

##### **Rule 406 CLERICAL MISTAKES**

Clerical mistakes in judgments, orders, or other parts of the record and errors in the record arising from oversight or omission may be corrected by the Court at any time and after such notice, if any, as the Court orders.