

Introduction to 2025–2026 Edition

The following are a few of the important highlights and developments that are discussed in the 2025-2026 Edition of Pennsylvania Appellate Practice:

- In the context of election matters, the Supreme Court has made clear that it “will neither impose nor countenance substantial alterations to existing laws and procedures during the pendency of an ongoing election.” *New PA Project Educ. Fund v. Schmidt*, 327 A.3d 188 (Pa. 2024). Thus, the timing of filing challenges to election procedures is an additional factor in a narrow and challenging area of law.
- Effective April 2025, the Supreme Court amended the definition of Children’s Fast Track Appeals to include delinquency, extending expedited review to orders involving those adjudications. That same amendment explicitly excluded out-of-home placements from the definition. See § 102:9.1.
- The explanatory comments accompanying the procedural rules are not binding on courts, but may be cited for their “persuasive and instructive” value. See § 126:8.
- A petition to set aside an upset tax sale filed under Section 607 of the Real Estate Tax Sale Law is a statutory appeal of a local agency determination for which a post-trial motion is not permitted. In contrast, a challenge to a judicial sale ordered under Section 612 of the Tax Sale Law seeks equitable and declaratory relief and results in a trial disposition to which post-trial motions are required. § 302:8.
- Where a motion in limine to exclude evidence is filed before trial and is denied at trial, failure to object at trial to the denial will not result in waiver. Similarly, where the trial court denies a motion in limine to exclude evidence of a defendant’s prior conviction, the defendant’s preemptive concession of his prior conviction on direct examination does not waive the defendant’s right to challenge the denial of the motion in limine on appeal. § 302:60.1.
- Under Rule 311(a)(1), an order that refuses to open a judgment, refuses to vacate a judgment, or refuses to strike off a judgment, is immediately appealable as a matter of right, but failure to take an immediate appeal will not result in waiver. § 311:10.
- In a criminal proceeding involving restitution as part of sentencing, where the parties agree to bifurcate sentencing so that the restitution amount can be established at a later date, an initial order imposing the non-restitution component of sentencing is interlocutory; the judgment of sentence is not appealable until the final restitution amount is imposed. § 312:14.1.

- A shelter care order issued under the Juvenile Act is an unappealable temporary order removing a child from the home to protect the child’s best interests and welfare pending a final adjudicatory hearing, which must be held within 10 days of the filing of a dependency petition if the child is in protective custody. § 312:43.3.
- Orders granting nunc pro tunc appeals have been deemed collateral orders because they irretrievably deprive the party that prevailed in the lower tribunal of the right to free from further litigation. § 313:19.7.
- In 2025, the Comment to Rule 1113 was amended to explain the difference between cross-appeals as a matter of right and appeals by allowance, clarifying when a cross-petition is necessary to preserve issues. See §§ 1113:13; 511:4.
- An expanded explanation by the Supreme Court Prothonotary on how her office screens petitions for allowance of appeal for compliance with the applicable appellate rules. See § 1111:1.
- Practitioners should be wary of confusing a minority-majority decision with a plurality decision. The former constitutes precedent and binds lower courts. The latter does not constitute precedent if fewer than a majority of sitting justices agree on any issue. There are cases, however, where the court will agree on some, but not all issues, resulting in a fragmented decision. Under “the Marks rule,” after *Marks v. United States*, 430 U.S. 188, 97 S. Ct. 990, 51 L. Ed. 2d 260 (1977), the “holding” may be viewed as that position taken by the Justices or Judges who concurred in the judgment on the narrowest grounds. See §§ 3102:2-3102.2.1.