

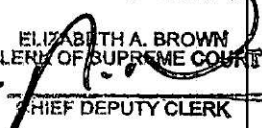
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ENACTMENT
OF LOCAL RULES FOR THE LAS
VEGAS JUSTICE COURT RELATING TO
TRAFFIC CITATIONS

ADKT 0604

FILED

SEP 28 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  CHIEF DEPUTY CLERK

ORDER SCHEDULING PUBLIC HEARING

On September 26, 2022, Melissa Saragosa, Chief Judge of the Las Vegas Justice Court, filed a petition requesting the Supreme Court to enact rules relating to traffic offenses and citations as Part 7 of the Las Vegas Justice Court Local Rules of Practice (LVJCLRP). The proposed new rules to be enacted as Part 7 of the LVJCLRP are attached as Exhibit A.

The Nevada Supreme Court will conduct a public hearing on the petition on November 9, 2022, at 3:00 p.m., in the Nevada Supreme Court Courtroom, 201 South Carson Street, Carson City, Nevada. The hearing will be videoconferenced to the Nevada Supreme Court Courtroom, 408 East Clark Avenue, Las Vegas, Nevada.

Further, this court invites written comment from the bench, bar, and public regarding the proposed amendments. Comments may be submitted to: Elizabeth A. Brown, Clerk of the Supreme Court, 201 South Carson Street, Carson City, Nevada 89701 by 5:00 p.m., November 2, 2022. Comments may be submitted to the court in hard-copy format or electronically to nvscclerk@nvcourts.nv.gov. Persons interested in participating in the hearing must notify the Clerk no later than November 2, 2022.

It is so ORDERED.

 C. J.
Parraguirre

cc: Paola Armeni, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Hon. Melissa Saragosa, Chief Judge, Las Vegas Justice Court
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Douglas County Bar Association
Elko County Bar Association
Administrative Office of the Courts

Exhibit A

PART 7. TRAFFIC CRIMINAL MISDEMEANOR CITATIONS AND CIVIL INFRACTIONS

Rule 7.1. Three types of cases. There are three types of cases involving violations of traffic offenses in the Nevada Revised Statutes; criminal misdemeanor citations, criminal misdemeanor citations alleging only regulatory offenses, and civil infractions.

(a) Criminal misdemeanor citations include all citations in which the citation is marked “criminal” or where the legislature has determined a violation of the particular charged NRS provision is punishable as a misdemeanor.

(b) Criminal misdemeanor citations alleging only regulatory offenses include all citations in which all charges relate to registration of a vehicle, insurance, licensing, and handicap parking violations.

(b) Civil infractions include:

(1) all citations in which the citation is marked “civil infraction”; and

(2) all cases in which the prosecuting attorney has elected to treat a violation of a provision of chapters 483 to 484E, inclusive, 486 or 490 of NRS as a civil infraction pursuant to NRS 484A.7049.

Criminal Misdemeanor Citations (non-regulatory)

Rule 7.2. Criminal misdemeanor random assignment. All criminal misdemeanor citations will be randomly tracked to a department assigned a general criminal docket.

Rule 7.3. Criminal misdemeanor arraignment.

(a) All arraignments for criminal misdemeanor citations, excluding criminal misdemeanor citations alleging only regulatory violations, will be held on the date and time affixed on the citation in the assigned criminal department.

(b) Failure to appear for arraignment at the date and time affixed on the citation may result in the issuance of a bench warrant.

(c) Counsel appearing on behalf of a defendant charged with a criminal misdemeanor citation must have the requisite consent of their client to enter a plea and ensure that their client was fully aware of the applicable constitutional rights when the defendant gave consent (See NRS 178.388(3)). Without such consent, counsel must ensure their client presence.

Rule 7.4. Failure to pay. For all criminal misdemeanor citations where a person was sentenced to pay a fine and administrative assessments and the person has not paid in full by the date set by the Court, the Court may:

(a) Assess a collection fee to be added to the delinquent amount,

- (b) Close the criminal misdemeanor case,
- (c) Enter a civil judgment for the total amount due, including the collection fee,
- (d) Issue a writ of execution to enforce the judgment, and
- (e) Refer the case to collections.

Criminal Misdemeanor Citations Alleging ONLY Regulatory Offenses

Rule 7.5. Resolution of regulatory violations on or before arraignment date.

(a) All criminal misdemeanor citations alleging only regulatory offenses as defined by Rule 7.1(b) must be resolved using the Court's Online Traffic Dispute Resolution System on or before the arraignment/appearance date set forth on the citation. Resolution means that either a plea was entered for each violation contained on the citation.

(b) Regulatory violations eligible for dismissal include:

(1) Violations of NRS 485.187 where the person presents evidence to the court on or before the arraignment date that the insurance required by NRS 485.185 was in effect at the time demand was made for it;

(2) Violations of licensing requirements of NRS Chapter 483 where the person presents evidence to the court on or before the arraignment date that the person was the holder of a valid driver's license at the time demand was made for it;

(3) Violations of vehicle registration requirements of NRS Chapter 482 where the person presents evidence to the court on or before the arraignment date that the motor vehicle registration was in effect at the time demand was made for it; and

(4) Violations of NRS 484B.467 restricting parking in spaces designated for persons who are handicapped where the person presents evidence to the court on or before the arraignment date that the driver was eligible to park in such space as set forth in NRS 484B.187(5).

(c) Regulatory violations in which the person presents evidence to the court that the violation was cured on or prior to the arraignment date may be eligible for a reduced fine pursuant to statute or by the prosecuting attorney's plea negotiation.

(d) Evidence of eligibility for dismissal or reduced fine must be presented to the Court at any time on or before the arraignment/appearance date on the citation. Such evidence may be:

(1) Uploaded into the case via the Court's Online Traffic Dispute Resolution System by creating an account; or

(2) Presented at the Court's customer service window.

(e) Failure to resolve a regulatory violation that is identified by the legislature as a misdemeanor on or before the arraignment date may result in the issuance of a bench warrant.

(f) Cases in which a defendant has entered a not guilty plea to a criminal regulatory violation will be randomly assigned to a department with a general criminal docket and set for trial.

Rule 7.6. Failure to pay. For all criminal misdemeanor citations alleging regulatory offenses where a person was sentenced to pay a fine and administrative assessments and the person has not paid in full by the date set by the Court, the Court may:

- (a) Assess a collection fee to be added to the delinquent amount,
- (b) Close the criminal misdemeanor case,
- (c) Enter a civil judgment for the total amount due, including the collection fee,
- (d) Issue a writ of execution to enforce the judgment, and
- (e) Refer the case to collections.

Civil Infraction Citations

Rule 7.7. Prosecutorial election to treat violation as civil infraction.

(a) A prosecuting attorney electing to treat a violation of a provision of chapters 483 to 484E, inclusive, 486 or 490 of NRS as a civil infraction must prepare a civil infraction using a form authorized by the Court and follow the procedural requirements of NRS 484A.7049.

(b) A prosecuting attorney who elects to have all violations of a specific provision of chapters 483 to 484E, inclusive, 486 or 490 of NRS treated as civil infractions may provide written notice to the Court identifying the specific Nevada Offense Codes (NOC). Upon the filing of a criminal traffic citation containing only misdemeanor offenses the prosecuting attorney elects to treat as a civil infraction, the Court will:

- (1) electronically prepare the civil infraction and file the infraction in a civil case,
 - (2) attempt to deliver a copy of the notice and the civil infraction to the defendant via an email address or via text message if such information is provided on the citation, and
 - (3) dismiss the underlying criminal charge.
- (c) Notices and civil infractions that are unable to be served by email or text message will be sent to the prosecuting attorney for service via regular mail.
- (d) The prosecuting attorney is responsible for ensuring service of the notice and civil infraction and filing proof of service with the court in the civil infraction case.
- (e) Criminal traffic citations containing multiple misdemeanor offenses where the prosecuting attorney has only elected to treat a portion of the misdemeanor offenses as civil infractions cannot be accomplished by the Court as set forth in subsection (b) above. Instead, the prosecuting attorney must follow the procedural requirements of NRS 484A.7049 on each individual case.

Rule 7.8. Two options to resolve traffic civil infraction. A defendant issued a traffic civil infraction must use the Court's Online Traffic Dispute Resolution System to resolve the case. No court hearings will be set before a judicial officer other than as outlined in section (b) below.

(a) ***Uncontested Violations.*** A defendant who does not desire to contest the violation(s) in the civil infraction must indicate the intent not to contest and pay the civil penalty in full on or before 90 calendar days after the date the citation was issued. A defendant may make several payments to pay the civil penalty as long as the civil penalty is paid in full on or before 90 calendar days after the date the citation was issued.

(b) ***Contested Violations.*** A defendant who desires to contest the violation(s) in the civil infraction must request a hearing to contest the determination that the person has committed the civil infraction using the Court's Online Traffic Dispute Resolution System and post a bond in the amount of the civil penalty.

(1) An indigent defendant may apply for a waiver of the bond by filing a written application to proceed in forma pauperis. Such application must be filed with the Court at the Court's customer service window or may be filed online using the Court's electronic filing system.

(2) Notice of the hearing date will be provided to the defendant at the time the bond is posted with the Court's Online Traffic Dispute Resolution System or upon approval of a bond waiver. No further notice will be provided.

(3) Failure to complete both the request for a hearing and post the bond (or obtain an order approving waiver of the bond) on or before 90 calendar days after the date the citation was issued will be treated as if the defendant took no action to respond to the civil infraction in the manner specified by NRS 484A.704. In such case, the Court will enter an order pursuant to NRS 484A.7043 finding that the person committed the civil infraction and assess the monetary penalty and administrative assessments prescribed for the civil infraction.

(c) Pleadings filed into a civil infraction case through the Court's case management system that amount to either an election to contest the violation(s) and request a hearing, or not contest the violations, that bypass the use of the Court's Online Traffic Dispute Resolution System will be stricken as nonconforming.

Rule 7.9. Demerit Point Reduction. A defendant facing a civil infraction is eligible for a demerit point reduction through an amendment to a non-moving violation as follows:

(1) The civil infraction is the first traffic violation for the defendant in the immediately preceding thirty-six month period;

(2) The defendant has utilized the Court's Online Traffic Dispute Resolution System to indicate an intent not to contest the civil infraction;

(3) The defendant has paid the civil penalty in full on or before 90 calendar days after the date the civil infraction citation was issued; and

(4) A course of traffic safety of at least five hours in length has been completed at a school approved by the Nevada Department of Motor Vehicles and evidence of completion is provided to the Court on or before 90 calendar days after the date the civil infraction citation was issued. In lieu of completing the traffic safety course, a Defendant may elect to pay a demerit point reduction fee (in addition to the civil penalty). The demerit point reduction fee must be paid in full on or before 90 calendar days after the date the civil infraction citation was issued in order to be eligible for the amendment to a non-moving violation.

Rule 7.10. Failure to Pay Civil Penalty. If a civil penalty or administrative assessment is not paid in full by a date 90 days after the issuance of the civil infraction citation, the Court may:

- (a) Enter an order finding that the person committed the civil infraction and assessing a monetary civil penalty and administrative assessments,
- (b) Assess a collection fee to be added to the delinquent amount,
- (c) Issue a writ of execution to enforce the judgment,
- (d) Order the suspension of the driver's license of the defendant, and
- (e) Refer the case to collections.

Rule 7.11. Community Service

- (a) Persons assessed a civil penalty are authorized to perform community service in lieu of payment without an order allowing such from the Court.
- (b) A referral to an organization at which to perform community service must be obtained at the Court's customer service window.
- (c) Persons residing outside of the jurisdiction of the Las Vegas Justice Court may perform community service at any non-profit organization with 501(c)(3) status. Proof of such community service work must contain the following information in order to be accepted:
 - (1) Name and address of the non-profit organization on letterhead.
 - (2) Name of individual supervising the work performed.
 - (3) Email address and phone number of the individual supervising the work performed.
 - (4) Dates community service work was performed.
 - (5) Total number of hours of community service work completed.

Rule 7.12. Motions

- (a) Legal motions on all three types of traffic cases must be electronically filed into the Court case using the Court's electronic filing system.
- (b) The moving party is responsible for service of the motion on the opposing party. Motions may be served via regular mail or through the Court's electronic filing system.

(c) Motions will be reviewed in chambers and only be set for hearing if the reviewing judicial officer finds it necessary.

Rule 7.13. Case Closure.

(a) A case that has been brought to final judgment or verdict in a criminal traffic case (including regulatory offenses) or has been brought to final adjudication and entry of order in a civil infraction case will be deemed closed.

(b) All cases in which a fine, assessment, civil penalty, or collection fee remains delinquent, has been sent to collections, and for which the time to appeal has passed will not be re-opened.