

Criminal Fast Track Subcommittee Preliminary Report (Feb. 25, 2022)

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Also participating: Sharon Dickinson

Our subcommittee met in person and had other discussions by e-mail. Many members initially had the position that the fast track rule for criminal cases should be abolished, but after a fair amount of discussion, a second option was developed – specifically, changing the rule by applying it to pleas of guilty, guilty but mentally ill, or nolo contendere in cases in which the defendant was represented by counsel in the district court and was not sentenced to death. The second option would both expand and limit the use of fast track statements in that the rule would apply to category A, category B, and non-probationable category C cases, which are currently not subject to the rule, while also eliminating its use in all cases for which the judgment is based upon a trial. The rationale for this approach is that issues are very limited in plea cases, the relevant record is much smaller than the typical record of a case which is resolved by trial, and the processing time for these appeals is considerably faster than that provided for under the regular rules. Should the rule be amended in this manner, it is our recommendation that the fast track form be eliminated as many of the questions asked by the form duplicate the docketing statement and are unnecessary.

A defendant who is appealing following a guilty plea could benefit from the faster resolution of the appeal, either because the case could be remanded for a new sentencing hearing at a time that the defendant could receive meaningful relief, or because affirmance of the judgment and sentence could allow the defendant to quickly proceed to post-conviction proceedings, if desired. The option of requesting full-briefing would remain, and would be especially useful for those cases in which a conditional plea has been entered under NRS 174.035(3), to challenge a dispositive pretrial motion.

Our subcommittee remains split on the two options and looks forward to hearing from the Rules Committee about the direction we should take. We hope to have redline versions of the two proposals circulated by Tuesday, March 1.