

Rule 42. Criminal Contempt

(a) **Disposition After Notice.** Any person who commits criminal contempt may be punished for that contempt after prosecution on notice.

(1) **Notice.** The court must give the person notice in open court, in an order to show cause, or in an arrest order. The notice must:

(A) state the time and place of the trial;

(B) allow the defendant a reasonable time to prepare a defense; and

(C) state the essential facts constituting the charged criminal contempt and describe it as such.

(2) **Appointing a Prosecutor.** The court must request that the contempt be prosecuted by an attorney for the government, unless the interest of justice requires the appointment of another attorney. If the government declines the request, the court must appoint another attorney to prosecute the contempt.

(3) **Trial and Disposition.** A person being prosecuted for criminal contempt is entitled to a jury trial in any case in which the law so provides and must be released or detained as provided by statute or these rules. If the criminal contempt involves disrespect toward or criticism of a judge, that judge is disqualified from presiding at the contempt trial or hearing unless the defendant consents. Upon a finding or verdict of guilty, the court must impose the punishment.

(b) **Summary Disposition.** Notwithstanding any other provision of these rules, a judge may summarily punish a person who commits criminal contempt in his or her presence if the judge saw or heard the contemptuous conduct and so certifies. The contempt order must recite the facts, be signed by the judge, and be filed with the clerk.

COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002. It differs from the federal rule in two respects.

The federal rule allows for a jury trial in contempt proceedings where provided for under "federal law." Subparagraph (a)(3) substitutes "the" for "federal." In Superior Court the right to a jury trial is defined by D.C. Code § 16-705 (2012 Repl.).

Paragraph (b) of the federal rule refers to the federal statute dealing with contempt proceedings before magistrate judges. In Superior Court, such proceedings are governed by Rule 117(h).