

Rule 104. Consent Decree

(a) Terms and conditions. Upon approval of the Office of the Attorney General and the respondent, and upon suspension of the proceedings by the Court, a consent decree authorized by D.C. Code § 16-2314 may be entered. The consent decree may contain any term or condition that could be imposed in an order of probation.

(b) Reinstatement of original petition.

(1) Rearrest. When a new delinquency or need of supervision petition is filed concerning a respondent under a consent decree, the Office of the Attorney General may reinstate the original petition by filing a praecipe, after consultation with the Director of Social Services. Following reinstatement of the original petition, the case shall be placed on the trial calendar and a status date shall be set.

(2) Violations other than rearrest. When a respondent under a consent decree is alleged to have violated any of the consent decree other than by rearrest, the original petition may be reinstated upon motion by the Office of the Attorney General, following a consultation with the Director of Social Services. Following reinstatement of the original petition, the case shall be placed on the trial calendar and a status date shall be set.

(c) Evidence. Evidence of violation of the terms and conditions of the consent decree shall not be admitted for any purpose at the factfinding hearing but may be admitted at the disposition hearing. Statements made by a respondent to the Office of the Attorney General or to the Director of Social Services or the Director's delegate during negotiations leading to a consent decree shall not be admitted for any purpose at a factfinding hearing, but may be admitted at a disposition hearing.

COMMENT

Paragraph (b) provides the mechanism for reinstatement under D.C. Code § 16-2314(c). The first sentence of paragraph (c) insures that a violation of the consent decree will not prejudice the factfinding hearing on the original petition. Of course the evidence would be admissible if the violation of the consent decree was also a law violation and was itself the subject of the factfinding hearing. The last sentence of paragraph (c) is designed to insure that meaningful negotiations toward a consent decree can take place.