

Rule 38. Staying a Sentence

(a) [Omitted].

(b) Imprisonment.

(1) Stay Granted. If the defendant is released pending appeal, the court must stay a sentence of imprisonment.

(2) Stay Denied; Place of Confinement. If the defendant is not released pending appeal, the court may recommend to the Attorney General that the defendant be confined near the place of the trial or appeal for a period reasonably necessary to permit the defendant to assist in preparing the appeal.

(c) Fine. If the defendant appeals, the court, or the Court of Appeals under District of Columbia Court of Appeals Rule 8, may stay a sentence to pay a fine or a fine and costs. The court may stay the sentence on any terms considered appropriate and may require the defendant to:

(1) deposit all or part of the fine and costs into the Superior Court's registry pending appeal;

(2) post a bond to pay the fine and costs; or

(3) submit to an examination concerning the defendant's assets and, if appropriate, order the defendant to refrain from dissipating assets.

(d) Probation. If the defendant appeals, the court may stay a sentence of probation. The court must set the terms of any stay.

(e) Restitution and Reparation.

(1) In General. If the defendant appeals, the court, or the Court of Appeals under District of Columbia Court of Appeals Rule 8, may stay—on any terms considered appropriate—any sentence providing for restitution or reparation under D.C. Code § 16-711 (2012 Repl.).

(2) Ensuring Compliance. The court may issue any order reasonably necessary to ensure compliance with a restitution or reparation order after disposition of an appeal, including:

(A) a restraining order;

(B) an injunction;

(C) an order requiring the defendant to deposit all or part of any monetary restitution or reparation into the court's registry; or

(D) an order requiring the defendant to post a bond.

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 several respects.

Paragraph (a) of the federal rule regarding a stay of execution for a sentence of death is not applicable in the Superior Court. The District of Columbia has no death penalty.

Paragraphs (c) and (e) of this rule refer to the local appellate rule; paragraph (e) refers to the local statute regarding restitution and reparation.

Paragraph (f) of the federal rule dealing with forfeitures is inapplicable to the Superior Court. Proceedings for the forfeiture of property in the Superior Court are brought pursuant to Superior Court Civil Rule 71A-1.

Paragraph (g) of the federal rule has not been adopted in the Superior Court.