STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENTS TO
MAINE RULES OF CRIMINAL PROCEDURE

2013 Me. Rules 06

Effective: October 9, 2013 (amendment 1)
January 1, 2014 (amendment 2)

All of the Justices concurring therein, the following amendments to the Maine Rules of Criminal Procedure are adopted to be effective on the date indicated above. The specific amendments are stated below. To aid in understanding of the amendments, an Advisory Note appears after the text of each amendment. The Advisory Note states the reason for recommending the amendment, but the Advisory Note is not part of the amendment adopted by the Court.

1. Rule 36B, subdivision (c) of the Maine Rules of Criminal Procedure is amended to read as follows:

(c) Time for Taking Appeal. An appeal may be taken within ~~5~~7 days after entry of an order of disposition or other appealed order. Upon a showing of ~~excusable neglect~~ good cause, the court may, before or after the time has expired, with or without motion and notice, extend the time for filing the notice of appeal otherwise allowed ~~for a period not to exceed 15 days from the expiration of the original time prescribed by this paragraph~~ in accordance with Rule 2(b)(5) of the Maine Rules of Appellate Procedure.

Advisory Note – December 2013

The amendment modifies Rule 36B, subdivision (c) in two respects.

First, it changes the period of time within which a juvenile may take an appeal from the juvenile court to the Superior Court from 5 days to 7 days after the entry of an order of disposition or other appealed order in response to the statutory change made to 15 M.R.S. § 3402(5) by P.L. 2013, ch. 234, § 11, effective October 9, 2013.

Second, in light of Rule 2(b)(5) of the Maine Rules of Appellate Procedure it eliminates "excusable neglect" as the criterion for an extension of time in favor of a "showing of good cause" and the extension periods therein provided.

2. Rule 41B of the Maine Rules of Criminal Procedure is amended to read as follows:

RULE 41B. SPECIAL PROVISIONS FOR SEARCHES AND SEIZURES OF CERTAIN KINDS OF PROPERTY

(a) Electronically Stored Information.

(1) **Contents of Warrant.** A warrant seeking electronically stored information may authorize the seizure of electronic storage media or the seizure or copying of electronically stored information. Unless otherwise specified, the warrant authorizes a later review of the media or information consistent with the warrant. The warrant may authorize the retention by the property owner of an electronic copy of such information necessary to avoid or mitigate business interruption or other disruptive consequences.

(2) **Execution of Warrant.** The time for executing the warrant in Rule 41~~(d)~~(g) refers to the seizure or on-site copying of the media or information, and not to any later off-site copying or review.

(3) **Inventory.** The inventory may be limited to describing the physical storage media that were seized or copied.

(b) Information Derived from a Tracking Device.

(1) **Definition of Tracking Device.** The term "tracking device" is used in this rule and in Rule 41 to mean an electronic or mechanical device which permits the tracking of the movement of a person or object.

(2) **Contents of Warrant.** A warrant for a tracking device must identify the person or property to be tracked and the District Court to which it must be returned. It must command the officer to complete any installation authorized by the warrant within a specified time and specify a reasonable length of time that the device may be used.

(3) **Execution and Return of Warrant.** Notwithstanding Rule 41~~(d)~~(g), within 10 calendar days after the use of the tracking device has ended~~,~~ the officer executing the warrant must return it ~~pursuant to Rule 41(f)~~ to the court designated in the warrant. The time for executing the warrant in this paragraph refers to the use of the tracking device and not to any later data extraction and review. The officer must enter on the warrant the date and time the device was installed and the period during which it was used.

(4) **Service of Warrant.** Within 10 calendar days after the use of the tracking device has ended, the officer executing it must serve a copy of the warrant on the person who was tracked or whose property was tracked. Service may be accomplished by (A) delivering a copy to the person who, or whose property, was tracked; (B) leaving a copy at the person's residence or usual place of abode with an individual of suitable age and discretion who resides at that location; or (C) mailing a copy to the person's last known address. The time may be extended by the court for good cause shown.

Advisory Note – December 2013

The amendment makes the following three nonsubstantive changes to Rule 41B.

First, in both paragraph (2) of subdivision (a) and paragraph (3) of subdivision (b) the reference to subdivision (d) of Rule 41 is replaced by a reference to subdivision (g) because subdivision (d) of Rule 41 was recently redesignated subdivision (g). *See* M.R. Crim. P. 41(g); *see also* Advisory Note – October 2013 to M.R. Crim. P. 41, numbered paragraph (6).

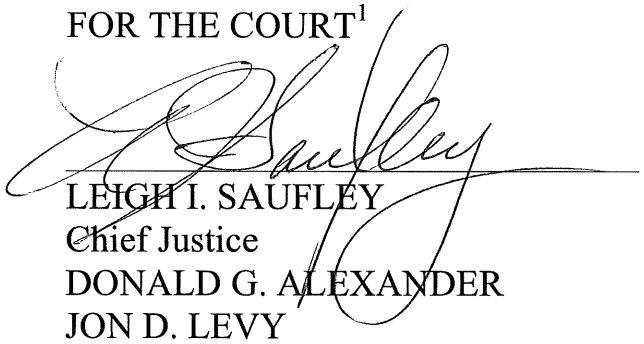
Second, in the first sentence of paragraph (3) of subdivision (b) the comma between the word "ended" and the word "the" is deleted as unnecessary.

Third, in the first sentence of paragraph (3) of subdivision (b) the words "pursuant to Rule 41(f)" are replaced by the words "to the court designated in the warrant" for correctness and clarity.

3. Upon approval, the first amendment, to Maine Rule of Criminal Procedure 36B, shall be effective October 9, 2013, to correspond to the effective date of applicable legislation. The second amendment, to Maine Rule of Criminal Procedure 41B, shall be effective January 1, 2014.

Dated: December 3, 2013

FOR THE COURT[1]



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Associate Justices

[1] This Rule Amendment Order is approved after conference of the Court, all Justices concurring therein.