

## Rule 313. Hearing, Manner of Proceeding

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(A) When the defendant, with the advice and agreement of the defendant's attorney, indicates understanding of these proceedings, requests acceptance into the program, and agrees to the terms set forth in Rule 312, the stenographer shall close the record.

(B) The judge thereupon shall hear the facts of the case as presented by the attorney for the Commonwealth, and such information as the defendant or the defendant's attorney may present, and shall hear from any victim present. No statement presented by the defendant shall be used against the defendant for any purpose in any criminal proceeding except a prosecution based on the falsity of the information or statement supplied.

(C) After hearing the facts of the case, if the judge believes that it warrants accelerated rehabilitative disposition, the judge shall order the stenographer to reopen the record and shall state to the parties the conditions of the program. If the judge does not accept the case for accelerated rehabilitative disposition, the judge shall order that the case proceed on the charges as provided by law. No appeal shall be allowed from such order.

(D) After the stenographer reopens the record, the defendant shall thereupon state to the judge whether the defendant accepts the conditions and agrees to comply. If the statement is in the affirmative, the judge may grant the motion for accelerated rehabilitative disposition and shall enter an appropriate order as set forth in Rules 314 and 315. If the defendant answers in the negative, the judge shall proceed as set forth in Rule 317.

(E) Upon the judge's granting of the motion for accelerated rehabilitative disposition, bail shall be terminated, and any money or other form of security deposited shall be returned in accordance with the rules pertaining to bail.

### Comment:

The phrase "or civil" was deleted from paragraph (B) in the 1989 general revision of the ARD rules. Whether a defendant's statement may be used in a noncriminal proceeding is a matter of substantive law.

In any case in which a summary offense has been joined with the misdemeanor or felony charges that have been disposed of by the defendant's acceptance into an ARD program, if the summary offense has not been disposed of prior to the ARD hearing, the trial judge may not remand the summary offense to the issuing authority for disposition, but must dispose of the summary offense at the ARD hearing. The Crimes Code § 110, [18 Pa.C.S. § 110](#), *Commonwealth v. Cauffman*, 541 Pa. 299, 662 A.2d 1050 (1995), and *Commonwealth v. Campana*, 455 Pa. 622, 304 A.2d 432 (1973), vacated and remanded, 414 U.S. 808 (1973), on remand, [454 Pa. 233, 314 A.2d 854 \(1974\)](#), may require in a particular case that the trial judge have the defendant execute a "Campana" waiver prior to disposing of the summary offense at the ARD hearing.

When bail is terminated upon acceptance of the defendant into the ARD program, such action constitutes a "full and final disposition" for purposes of Rule 534 (Duration of Obligation) and Rule 535 (Receipt of Deposit; Return of Deposit).