

Rule 22. Sentence, judgment and commitment.

1 (a) **Time for sentencing.** Upon the entry of a plea or verdict of guilty or plea of no
2 contest, the court shall set a time for imposing sentence which may be not less than two
3 nor more than 45 days after the verdict or plea, unless the court, with the concurrence
4 of the defendant, otherwise orders. Pending sentence, the court may commit the
5 defendant or may continue or alter bail or recognizance. Before imposing sentence the
6 court shall afford the defendant an opportunity to make a statement and to present any
7 information in mitigation of punishment, or to show any legal cause why sentence
8 should not be imposed. The prosecuting attorney shall also be given an opportunity to
9 present any information material to the imposition of sentence.

10 (b) **Defendant's absence.** On the same grounds that a defendant may be tried in
11 defendant's absence, defendant may likewise be sentenced in defendant's absence. If a
12 defendant fails to appear for sentence, a warrant for defendant's arrest may be issued
13 by the court.

14 (c) **Sentencing advisories.**

15 (c)(1) Upon a verdict or plea of guilty or plea of no contest, the court shall impose
16 sentence and shall enter a judgment of conviction which shall include the plea or the
17 verdict, if any, and the sentence. Following imposition of sentence, the court shall
18 advise the defendant of defendant's right to appeal, the time within which any appeal
19 shall be filed, and the right to retain counsel or have counsel appointed by the court if
20 indigent. Upon request by an indigent defendant not already represented by appointed
21 counsel, the court must appoint counsel for appeal in accordance with Utah Code § 77-
22 32-302 and Utah Code § 77-32-304.

23 (c)(2) If the defendant is convicted of a misdemeanor crime of domestic violence, as
24 defined in Utah Code § 77-36-1, the court shall advise the defendant orally or in writing
25 that, if the case meets the criteria of 18 U.S.C. § 921(a)(33) or Utah Code § 76-10-503,
26 then pursuant to federal law or state law it is unlawful for the defendant to possess,
27 receive or transport any firearm or ammunition. The failure to advise does not render
28 the plea invalid or form the basis for withdrawal of the plea.

29 (d) **Commitment.** When a jail or prison sentence is imposed, the court shall issue its
30 commitment setting forth the sentence. The officer delivering the defendant to the jail or
31 prison shall deliver a true copy of the commitment to the jail or prison and shall make
32 the officer's return on the commitment and file it with the court.

33 (e) **Correcting the sentence.** The court may correct a sentence when the sentence
34 imposed:

35 (e)(1)(A) exceeds the statutorily authorized maximums;

36 (e)(1)(B) is less than statutorily required minimums;

37 (e)(1)(C) violates Double Jeopardy;

38 (e)(1)(D) is ambiguous as to the time and manner in which it is to be served;

39 (e)(1)(E) is internally contradictory; or

40 (e)(6) omits a condition required by statute or includes a condition prohibited by statute.

41 (e)(2) **Time for filing.** A motion under (e)(1)(C), (e)(1)(D), or (e)(1)(E) shall be filed no
42 later than one year from the date the facts supporting the claim could have been
43 discovered through the exercise of due diligence. A motion under the other provisions
44 may be filed at any time.

45 (f) **Sentencing and mentally ill offenders.** Upon a verdict or plea of guilty and
46 mentally ill, the court shall impose sentence in accordance with Title 77, Chapter
47 16a, Utah Code. If the court retains jurisdiction over a mentally ill offender committed to
48 the Department of Human Services as provided by Utah Code § 77-16a-202(1)(b), the
49 court shall so specify in the sentencing order.