I.C.R. 54.5. Stay on Appeal - Powers of Magistrate During Appeal.

Idaho Criminal Rule 54.5. Stay on Appeal - Powers of Magistrate During Appeal.

(a) Stay in Criminal Appeals. Execution of the sentence, if any, imposed by the trial court, shall be stayed when ordered by the magistrate or by the district court as provided in Rule 46 and this rule.

(b) Powers of Magistrate. The magistrate shall have the following powers and authorities to rule upon the following motions and to take the following actions during the pendency of appeal unless otherwise prohibited by order of the district court:

(1) Settle the transcript on appeal.

(2) Rule upon any motion for new trial.

(3) Rule upon any motion for arrest of judgment.

(4) Conduct any hearing, and make any order, decision or judgment allowed or permitted by section 19-2601, Idaho Code.

(5) Conduct any hearing and make any order, decision or judgment with regard to a withheld judgment entered upon a plea or verdict of guilty.

(6) Place a defendant upon probation, modify or revoke such probation, or sentence a defendant upon revocation of probation.

(7) In the event bail is not posted pursuant to section 19-3941, Idaho Code, the court may determine and order whether there shall be a stay of execution of the sentence upon a judgment of conviction during the pendency of an appeal to the district court; provided, however, any order of the district court with regard to such a stay shall take precedence over and supersede any order made by the

magistrate.

(8) Enter any other order after judgment affecting the substantial rights of the defendant as authorized by law. Provided, however, in the event the district court shall enter an order affecting a stay of execution of a sentence, provisions concerning bail, or any of the other matters set forth above, such order of the district court shall take precedence over and supersede the order of the magistrate.

(Adopted June 15, 1987, effective November 1, 1987; amended October 6, 2013, effective January 1, 2014.)

Source URL: http://www.isc.idaho.gov/icr54-5