

# See the order instruction

[Law](#)



Law Waiver court and its functions in the Philadelphia court system A waiver court is an informal reference to the court system in which the defendant can be sentenced to a lesser penalty than a stipulated mandatory one. It grants the presiding judge the authority to disregard mandatory sentences. Though not administratively stipulated, the court serves a number of functions in the judicial system. Its first and major role is to facilitate the speed at which cases are cleared from the system. It achieves this through its features that are time efficient. Unlike in the formal judicial systems such as the jury, processes in the waiver court are faster as parties and their legal representatives takes shorter time to present their cases. As a result, cases are heard faster, relieving the judicial system of backlog cases. The court, through its discretion to waiver mandatory penalties, also ensures justice to defendants in cases where such mandatory penalties would be unjust. A robber may for example be in possession of a gun and even point it at the victims but may not have had a slightest intention of using such a weapon. The mandatory penalty would however assume that the defendant intended to use the weapon, leading to injustice to the defendant. The waiver court alternatively ensures justice as was held by judge Snite in Martin Lucas' case. Another role of the waiver court is to attract cases from the formal jury courts by providing for the waiver. This reduces the number of cases for strict jury processes.

Implications of waiver court processes for defendants and victims receiving justice in waiver court

The waiver court has the implication of reducing defendants' possible penalties. This is however possible at the judge's discretion though defense lawyers intimidate the waivers. An example of such implication was in the <https://assignbuster.com/see-the-order-instruction/>

case of Wayne Nesmith who could have faced a mandatory life imprisonment under first-degree murder but ended up with a sentence of between ten to twenty years. The system however implies possible injustice to victims. This is because it considers non-legal aspects such as defendants' goodwill and intimidation from the defense representatives at the expense of the victims' justice. An example is the case of Nesmith who shot a victim six times at close range but still got a waiver. Lack of intention is highly questionable in the circumstances.

#### Fulfillment of the system's goals

The waiver court does not fulfill all the goals of the system that include retribution, rehabilitation, deterrence, and incapacitation. While it fulfils retribution by recognizing defendants' guilty plea to waiver mandatory sentences, it only partially meets the goals of deterrence and incapacitation that are limited to the defendants' terms. Statistics however show its failure to rehabilitate.

#### Fairness in waiver sentencing

Sentencing someone to a less severe penalty is fair because it considers a person's recognition of guilt that indicates a step towards rehabilitation. A less severe penalty will therefore be sufficient to rehabilitate than one in a jury case where the defendant has not pleaded guilty.

(Ditzen, 1997)

#### Reference

Ditzen, S. (1997). Crowded courts face a timely dilemma critics: Judges are "waiving" justice good-bye in nonjury trials. Retrieved from: [http://articles.philly.com/1997-02-02/news/25535361\\_1\\_jury-trial-criminal-cases-judges](http://articles.philly.com/1997-02-02/news/25535361_1_jury-trial-criminal-cases-judges)