

Jerry Wayne PEMBERTON v. STATE of Arkansas
CR 86-178 723 S.W.2d 372

Supreme Court of Arkansas
Opinion delivered February 9, 1987

1. **APPEAL & ERROR — LIMITATION ON LENGTH OF BRIEF — WAIVER.**
— Rule 11(f), Rules of the Arkansas Supreme Court and Court of Appeals, now provides that the argument portion of the appellant's brief shall not exceed 25 double-spaced typewritten pages or 30 printed pages, with a similar 15 typewritten and 20 printed page limit upon the reply brief, except that if either limitation is shown to be too stringent in a particular case it may be waived by the Court on

Motion.

2. APPEAL & ERROR — BRIEF TOO LONG — WHEN WAIVED. — Occasionally, the appellate court grants a waiver of the 25-page limit on the appellant's brief, but only if the party can demonstrate that the limits cannot in fairness be met.

Motion for waiver and extension of page limit denied.

Bill E. Ross, for appellant.

No objection by appellee.

PER CURIAM. [1] The appellant's attorney tendered a brief 38 pages in length, and the clerk refused to accept it because Rule 11(f) of the Rules of the Supreme Court now provides for only 25 typewritten pages. Rule 11(f) did seem in conflict with Rule 8(c) of the same rules and provided for 40 typewritten pages. This rule was reconsidered by a *per curiam* dated July 7, 1986, where we stated:

In order to bring Rule 8(c) and Rule 11(f) of the Rules of the Supreme Court and the Court of Appeals into agreement, Rule 11(f) is hereby modified by striking out the following sentence:

The appellant's brief in chief, before its printing, shall not exceed 40 double-spaced typewritten pages, with a similar 10-page limit upon the reply brief, except that if either limitation is shown to be too stringent in a particular case it may be waived by the Court on Motion.

And substituting therefor the following:

The argument portion of the appellant's brief shall not exceed 25 double-spaced typewritten pages or 30 printed pages, with a similar 15 typewritten and 20 printed page limit upon the reply brief, except that if either limitation is shown to be too stringent in a particular case it may be waived by the Court on Motion.

[2] The appellant's attorney makes no statement that he has tried to reduce the brief to the number of pages provided for in the rule. Occasionally, we grant a waiver of the 25-page limit, but

only if the party can demonstrate that the limits cannot in fairness be met. The appellant should redraft the brief and make a good faith effort to limit his argument to 25 typewritten pages. It can be done in most cases.

Motion denied.
