Rules of the Supreme Court and Court of Appeals of the State of Arkansas

Rule 1-1. Hours and Places of Meeting.

The Supreme Court shall convene each Thursday at 9:00 a.m. and the Court of Appeals each Wednesday at 9:00 a.m., except during recess or as announced by either Court. The Supreme Court and the Court of Appeals shall convene in the Supreme Court and Court of Appeals Courtroom or at such other location as announced by either Court.

Rule 1-2. Appellate Jurisdiction of the Supreme Court and Court of Appeals.

(a) *Supreme Court jurisdiction*. All cases appealed shall be filed in the Court of Appeals except that the following cases shall be filed in the Supreme Court:

1. All appeals involving the interpretation or construction of the Constitution of Arkansas;

2. Criminal appeals in which the death penalty or life imprisonment has been imposed;

3. Petitions for quo warranto, prohibition, injunction, or mandamus directed to the state, county, or municipal officials or to circuit courts;

4. Appeals pertaining to elections and election procedures;

5. Appeals involving the discipline of attorneys-at-law and or arising under the power of the Supreme Court to regulate the practice of law;

6. Appeals involving the discipline and disability of judges;

7. Second or subsequent appeals following an appeal which has been decided in the Supreme Court; and

8. Appeals required by law to be heard by the Supreme Court.

(b) *Reassignment of cases*. Any case is subject to reassignment by the Supreme Court, and in doing so, the Supreme Court will consider but not be limited to the following:

(1) issues of first impression,

(2) issues upon which there is a perceived inconsistency in the decisions of the Court of Appeals or Supreme Court,

(3) issues involving federal constitutional interpretation,

(4) issues of substantial public interest,

(5) significant issues needing clarification or development of the law, or overruling of precedent, and

(6) appeals involving substantial questions of law concerning the validity, construction, or interpretation of an act of the General Assembly, ordinance of a municipality or county, or a rule or regulation of any court, administrative agency, or regulatory body.

(c) Transfer and certification. The Supreme Court may transfer to the Court of Appeals any case appealed to the Supreme Court and may transfer to the Supreme Court any case appealed to the Court of Appeals. If the Court of Appeals seeks to transfer a case, the Court of Appeals shall find and certify that the case: (1) is excepted from its jurisdiction by Rule 1-2(a), or (2) otherwise involves an issue of significant public interest or a legal principle of major importance. The Supreme Court may accept for its docket cases so certified or may remand any of them to the Court of Appeals for decision. The Clerk of the Court shall notify the parties or their counsel of the transfer of any case.

(d) Petition for review. No appeal as of right shall lie from the Court of Appeals to the Supreme Court. The Supreme Court will exercise its discretion to review an appeal decided by the Court of Appeals only on application by a party to the appeal, upon certification of the Court of Appeals, or if the Supreme Court decides the case is one that should have originally been assigned to the Supreme Court. In determining whether to grant a petition to review, the following, while neither controlling nor fully measuring the Supreme Court's discretion, indicate the character of reasons that will be considered: (i) the case was decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals rendered a decision which is arguably in conflict with a prior holding of a published opinion of either the Supreme Court or the Court of Appeals, or (iii) the Court of Appeals arguably erred in some way related to one of the grounds listed in Rule 1-2(b).

(e) Improper filing. No case filed in either the Supreme Court or the Court of Appeals shall be dismissed for having been filed in the wrong court but shall be transferred or certified to the proper court.

(f) Allocation of workload. Notwithstanding the foregoing provisions, cases may be assigned and transferred between the courts by Supreme Court order to achieve a fair allocation of the appellate workload between the Supreme Court and the Court of Appeals.

(g) In all appeals from criminal convictions or post-conviction relief matters heard in the Court of Appeals, the appellant shall not be required to petition for rehearing in the Court of Appeals or review in the Supreme Court following an adverse decision of the Court of Appeals in order to be deemed to have exhausted all available state remedies respecting a claim of error. When the claim has been presented to the Court of Appeals or the Supreme Court, and relief has been denied, the appellant shall be deemed to have exhausted all available state remedies.

Addition to Reporter's Notes, 2001 Amendment: Subdivision (h) was added in response to language in *O'Sullivan v. Boerckel*, 526 U.S. 838, 119 S. Ct. 1728 (1999) ("[N]othing in our decision today requires the exhaustion of any specific state remedy when a State has provided that that remedy is unavailable. Section 2254(c), in fact, directs federal courts to consider whether a habeas petitioner has "the right under the law of the State to raise, by any available procedure, the question presented," . . . . The exhaustion doctrine, in other words, turns on an inquiry into what

procedures are "available" under state law. In sum, there is nothing in the exhaustion doctrine requiring federal courts to ignore a state law or rule providing that a given procedure is not available.") *Id.*, 526 U.S. at 848. Petitions for review, which are discretionary under subdivision (e) of this rule, should not be required in order for a state prisoner to exhaust his state remedies.

History:

Amended and effectuve December 17, 2020.

Rule 1-3. Uniform Paper Size.

All briefs, motions, pleadings, records, transcripts, and other papers required or authorized by these Rules shall be on 8 1/2″ x 11″ paper.

Rule 1-4. Clerk's Office Business Hours.

The Clerk will record the exact time and date of filing or tender upon any document filed or tendered for filing in the Clerk's Office. Filings shall occur only between business hours of 8:00 a.m. and 5:00 p.m. on business days; however, Administrative Order 21 controls electronic filing.

If the Clerk discovers documents left in or about the Clerk's Office after business hours with a written request for filing or tender, and the documents are in order for filing or tender, they may be marked as filed or tendered as of the beginning of the following business day. Neither the Clerk nor any member of the Clerk's Office staff shall be responsible to see to it that documents are filed or tendered unless they are presented during business hours by a person delivering them to the Clerk's Office.

History:

Amended and effective December 17, 2020.

Rule 1-5. Contempt.

No argument, brief, or motion filed or made in the Court shall contain language showing disrespect for the circuit court.

Rule 1-6. Employees of the Court.

No employee of either Court shall engage in the practice of law or have a pecuniary interest in any concern that does business with either Court.

Rule 1-7. Practice Absent Specific Rule.

In cases where no provision is made by statute or other rule, proceedings in the Court shall be in accordance with existing practice.

Rule 1-8. Courtesy electronic copies.

[Rendered obsolete by per curiam order June 21, 2018.]

Reporter's Notes to Rule 1-8 (2013 adoption): Rule 1-8 serves several purposes: (1) by requiring that motions, petitions, writs, briefs, responses, and replies filed in the appellate court also be submitted in electronic PDF format, the rule allows the members of the appellate courts and court personnel to review those documents and other documents submitted in PDF format with modern computer and other portable electronic equipment; (2) the burden on the Supreme Court Clerk's staff to scan paper documents into electronic PDF format is significantly relieved; and (3) electronic filing of the prescribed documents and other documents as provided in the rule serves as a transitional step toward the anticipated requirement of electronic filing of documents in the Arkansas appellate courts (see Administrative Order No. 21-Electronic Filing).

The rule imposes a minimal burden on parties submitting the documents to which the rule applies. The motions, petitions, writs, briefs, responses, and replies required to be filed in PDF format are often created in PDF contemporaneously with the original composition of those documents or the documents can easily be converted into PDF format by the word processing program in which they were originally composed. The rule encourages, but does not require, that the case record be submitted in PDF format. The rule also encourages, but does not require, that PDF documents be submitted in text-searchable format by which electronic searches may be made for particular words or data within the documents.

Subsection (b) applies the same redaction standards for confidential information contained in the PDF documents that are applicable to the original paper documents filed with the court. PDF files must be assigned names in accordance with the file naming convention standards of the rule established by subsection (c). A helpful guide to applying the file naming convention standard is provided by an example of a file name that follows immediately after the explanation of the file naming convention standard requirement. Subsection (c) also requires that PDF files in excess of 10 megabytes in size be divided into separate parts each of which must be no larger than 10 megabytes with each part identified in the file name as required by the file naming convention standard.

Subsection (d) clarifies that submission of PDF documents does not constitute filing or serving the documents as required by the Rules of the Supreme Court and Court of Appeals. Filing and service of the original paper documents in accordance with the rules are still required for the filing and service to be legally effective. In addition, the PDF files submitted must not contain material not included in the original paper documents and subsection (e) requires that the files be free of computer viruses.

Subsection (f) prescribes that PDF documents are to be submitted only on a Compact Disk (CD), Digital Video Disk (DVD), portable "flash" or "thumb" drive, or other similar electronic media. Because of the risks associated with opening email attachments, submission of documents by email is not allowed. Under subsection (h) the paper filing for which PDF documents are submitted must include a certification that the PDF documents have been submitted and served as required by the rule, that the PDF documents are identical to the corresponding paper documents, and that to the best of the knowledge, information and belief of the person submitting the PDF documents they are free of computer viruses after having been scanned by an antivirus program. The person submitting the PDF documents must also identify original paper documents filed in connection with the appeal that are not in PDF format.

History

Adopted June 6, 2013, effective August 1, 2013; amended September 12, 2013; rendered obsolete by per curiam order June 21, 2018.

Rule 2-1. Motions, Petitions, and Responses, General Rules.

(a) *Writing required*. All motions, petitions, and responses filed in the appellate courts must be in writing and comply with the requirements of Rule 4-1(a) in regard to the style of briefs. All motions, petitions, and responses, except for those that are case initiating, shall be filed using the electronic filing system provided by the Administrative Office of the Courts. However, persons proceeding pro se and persons with disabilities or special needs that prevent electronic filing shall be entitled to submit conventional paper filings.

(b) *Number of copies*. No paper copies are required for electronic filings. For conventional paper filings in the Supreme Court or Court of Appeals, one clearly legible copy on 8 1/2″ by 11″ paper must be provided at the time of filing.

(c) *Service*. Evidence of service of a motion, petition, or response upon opposing counsel must be furnished at the time of filing.

(d) *Response*. A response may be filed within 10 calendar days of the filing of a motion or petition. Evidence of service is required.

(e) *Memorandum of authorities*. With any motion, petition, application for temporary relief, or other action of the court that is sought before the regular submission of the case, the moving party shall file and serve upon opposing counsel or an unrepresented party a short citation of statutes, rules of court, and other authorities upon which the movant or petitioner relies. Any party responding to any such motion, petition, or application shall likewise file a memorandum of authorities.

(f) *Compliance with Administrative Order 19 required*. Every motion, petition, response, similar paper, memorandum of authorities, and any document attached to any of those papers, must comply with the protective requirements for confidential information established by Administrative Order 19. Counsel and unrepresented parties shall follow the redaction and filing procedure established by Rule of Civil Procedure 5(c)(2)(A) & (B). That procedure includes: (1) eliminating all unnecessary or irrelevant confidential information; (2) redacting all necessary and relevant confidential information; and (3) filing an unredacted version under seal.

(g) *Motions for reconsideration*. Any motion to reconsider the appellate court's order deciding any motion or petition must be filed no later than eighteen calendar days after the date of the order.

(h) *Page length*. Except as otherwise provided in these rules, a motion, petition, or response, including the memorandum of authorities and supporting brief, if any, but excluding any exhibits, shall not exceed ten 8″ x 11″ double-spaced, typewritten pages and shall comply with the provisions of Rule 4-1(a), except that motions, petitions, or responses and supporting documents are not to be bound as set forth in Rule 4-1(a) but are to be stapled with a single staple in the top left-hand corner of the page. Motions for an expansion of the page limit must set forth the reason

or reasons for the request and must state that a good faith effort to comply with this rule has been made. The motion must specify the number of additional pages requested.

Addition to Reporter's Notes, 2012 Amendment: Prior to the 2012 amendment, this rule applied only to "motions." Because filings in the appellate court may also take the form of "petitions" and "responses," the amendment expands the rule to cover petitions and responses. The 2012 amendments also add subsection (h). The introductory clause to subsection (h) makes it clear that the 10-page limit of this rule is preempted by a Supreme Court rule setting a different page limit with respect to a particular motion, petition, or response. For example, Supreme Court Rule 2-4 limits petitions for review to three pages, and subsection (h) does not change that limit.

Addition to Reporter's Notes, 2014 Amendment: Rule 2-1(a) & (h) required that all motions, petitions, and responses filed in the appellate courts in excess of three pages be bound in compliance with the requirements of Rule 4-1(a) which is applied by reference in Rule 2-1 (a) & (h). This requirement created a problem for the Clerk's office because when the documents are received in the office, the bindings are removed for copying, scanning, and filing, etc. Rule 2-1(a) & (h) is amended to prescribe that the documents to which the rule applies are to be stapled in the top left-hand corner, rather than bound.

History

Amended March 13, 2014, effective July 1, 2014; amended September 15, 2016, effective September 21, 2016; amended and effective June 21, 2018; amended March 14, 2019, effective July 1, 2019.

Rule 2-2. Motion for Rule on Clerk.

(a) *Record tendered late*. Where a record is tendered which, on its face, appears to be outside the time allotted for docketing the case, it shall be the duty of the Clerk to notify the attorney representing the appellant and note on the record the date the tender was made.

(b) *Docketing for purpose of presenting request for rule Service of motion*. If the appellant contends that the Clerk is in error in refusing to file the record, then upon payment of the regular filing fee, the case shall be tentatively docketed and numbered. The appellant shall then file a motion in accordance with Rule 2-1 to require the Clerk to docket the case as an appeal. A copy of the motion shall be served by the appellant upon opposing counsel, and evidence of service shall be furnished to the Clerk with the motion at the time of filing.

(c) *Procedure when rule granted*. If the motion is granted, the case shall proceed in the regular manner for appeals without payment of any additional fee.

(d) *Procedure when rule denied*. If the motion is denied, the case shall be stricken from the docket, the jurisdiction of the Court terminated, and the filing fee forfeited.

Rule 2-3. Petitions for Rehearing.

(a) *Filing and service*. A petition for rehearing, a brief in support of the petition, and evidence of service of the petition, brief, and a certificate of merit stating that the petition is not filed for the purpose of delay, shall be filed within 18 calendar days from the date of decision.

(b) *Response*. The respondent may file a brief on the following Monday (in the Supreme Court) or Wednesday (in the Court of Appeals) or within seven calendar days from the filing of the petition for rehearing, whichever last occurs, or may, on or before that time, obtain an extension of one week upon written motion to the Court.

(c) *Additional time*. Neither party will be granted further time than as indicated above, except upon written motion to the Court and a showing of illness of counsel or other unavoidable casualty.

(d) *Number of copies to be filed*. The petition must be filed with the Clerk, and no copies are required. A copy must be served upon opposing counsel.

(e) *Page length*. In all cases, both civil and criminal, the petition and supporting brief, if any, including the style of the case and the certificate of counsel, shall not exceed ten 81/2" x 11" double-spaced, typewritten pages.

(f) *Ground(s) stated*. The petition must specifically state the ground(s) relied upon.

(g) *Entire case not to be reargued*. The petition for rehearing should be used to call attention to specific errors of law or fact which the opinion is thought to contain. Counsel are expected to argue the case fully in the original briefs, and the brief on rehearing is not intended to afford an opportunity for a mere repetition of the argument already considered by the Court.

(h) Previous reference in the statement of the case and the facts. In no case will a rehearing petition be granted when it is based upon any fact thought to have been overlooked by the Court, unless reference has been clearly made to it in the statement of the case and the facts prescribed by Rule 4-2.

(i) *No oral argument*. Oral argument will not be permitted on a petition for rehearing.

(j) *Limited to one petition*. A party may submit only one petition for rehearing.

(k) *New counsel*. Litigants will not be permitted to substitute new counsel for the purpose of filing a petition for rehearing. Additional counsel may, however, participate in a petition for rehearing, or in opposition to the petition, by joining with the original counsel in the petition and brief, or by obtaining permission of the Court by motion.

(l) *Compliance with Administrative Order 19 required*. Every petition for rehearing, brief in support, and brief in response must comply with the protective requirements for confidential information established by Administrative Order 19. Counsel and unrepresented parties shall follow the redaction and filing procedure established by Rule of Civil Procedure 5(c)(2)(A) & (B). That procedure includes: (1) eliminating all unnecessary or irrelevant confidential information; (2) redacting all necessary and relevant confidential information; and (3) filing an unredacted version under seal.

Reporter's Notes (2019): Subdivision (e) was amended to reconcile it with Rule 2-1(a) regarding binding and stapling.

History

Amended and effective June 21, 2018; amended October 18, 2018, effective January 1, 2019; amended and effective December 17, 2020.

Rule 2-4. Petitions for Review

(a) *Time for Filing Petition for Review*. A petition to the Supreme Court for review of a decision of the Court of Appeals must be electronically filed within 10 calendar days after the end of the Court of Appeals rehearing period. The rehearing period ends upon the expiration of time for filing a petition for rehearing under Rule 2-3(a) or upon the disposition of the last pending petition for rehearing, whichever is later. A petition for review received prior to the end of the Court of Appeals rehearing period will be noted as "tendered," and the petition will be deemed filed on the day after the end of the rehearing period.

(b) *Contents of petition*. A petition to the Supreme Court for review of a decision of the Court of Appeals shall not exceed three 8 1/2″ x 11″ double-spaced pages in length. The petition must briefly and distinctly state the basis upon which the case should be reviewed and may include citations of authority or references to statutes or constitutional provisions. The petition can only be filed by a party to the appeal and is otherwise subject to Rule 1-2(e).

(c) *Briefs and oral argument prohibited*. Briefs will not be accepted and oral arguments will not be heard in support of petitions for review. However, the petitioner may attach a copy of the petition for rehearing to the petition for review.

(d) *Grounds for review*. A petition for review must allege one of the following: (i) the case was decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals rendered a decision which is in conflict with a prior holding of a published opinion of either the Supreme Court or the Court of Appeals, or (iii) the Court of Appeals otherwise erred with respect to one of the grounds listed in Rule 1-2(b).

(e) *Response*. A response to a petition for review must be filed within 10 calendar days of the date the petition was filed or deemed filed. Responses are subject to the same limitations as petitions. The respondent may attach a copy of the response to the petition for rehearing to the response to the petition for review.

(f) *Clerk's notification; request for oral argument*. When the Supreme Court grants a petition for review, the Clerk shall promptly notify all counsel and parties appearing pro se. Within10 calendar days of the notification, the parties shall provide to the Clerk six paper copies of their respective briefs that were previously submitted to the Court of Appeals. Any party may request oral argument during the 10-day period by filing a letter stating the request with a copy to all parties. The decision to grant the request for oral argument and other aspects of oral argument are governed by Rule 5-1.

(g) *Supplemental briefs*. Leave of court shall not be required to file supplemental briefs, and any party may, within 10 calendar days after the granting of review, initiate supplemental briefing by

filing a letter with the Clerk requesting the issuance of a supplemental briefing schedule. The first requesting party's supplemental brief shall be due 20 calendar days from the filing of the letter requesting the issuance of the supplemental briefing schedule. Other parties may file responsive supplemental briefs within 10 calendar days of the date the first requesting party's supplemental brief is filed. A supplemental reply brief may be filed within 5 calendar days after the filing of a responsive supplemental brief. No supplemental brief submitted pursuant to this Rule shall exceed 10 pages in length. These briefs shall otherwise conform to the requirements of Rule 4-1. Supplemental briefing is not permitted in dependency-neglect cases pursuant to Rule 6-9(j)(2).

(h) *Compliance with Administrative Order 19 required*. Every petition for review, response, and supplemental brief of any kind on review must comply with the protective requirements for confidential information established by Administrative Order 19. Counsel and unrepresented parties shall follow the redaction and filing procedure established by Rule of Civil Procedure 5(c)(2)(A) & (B). That procedure includes: (1) eliminating all unnecessary or irrelevant confidential information; (2) redacting all necessary and relevant confidential information; and (3) filing an unredacted version under seal.

History

Amended and effective June 21, 2018; amended March 14, 2019, effective July 1, 2019.

Rule 3-1. Preparation of the Record.

(a) *Generally*. All records shall begin with the style of the court in which the controversy was heard, the name of the judge presiding when the decree, judgment or order was rendered and its date, the names of all the parties litigant, and the nature of the suit or motion. For example: "Trial before A.B., judge of the circuit court on the ____ day of _____, ____;

John Doe, Plaintiff

vs. Action on Promissory Note"

Jane Doe, Defendant

(b) *Dates*. Whenever an order of the court is mentioned, the date shall be specifically stated, rather than by reference to the day and year "aforesaid".

(c) *Duplications*. No part of the record shall be copied more than once. When a particular record recurs, a reference should be made to pages in the preceding part of the record.

(d) *Depositions*. When depositions are taken on interrogatories and included in the record, the answers must be placed immediately after the questions to which they are responsive.

(e) *Record on second appeal*. When a cause has been once before the Court and a record is again required (for the purpose of correcting error which occurred on retrial), the second record shall begin where the former ended; that is, with the judgment of the appellate court, which should be entered of record in the circuit court, omitting the opinion of the appellate court. The appeal or supersede as bond should be the last entry included.

(f) Pagination. The circuit clerk's portion of the record shall be consecutively paginated, including any papers under seal, and the cover of the circuit clerk's portion shall be page one. The court reporter's portion of the record shall be separately paginated, and the cover of the court reporter's portion shall be page one. Page numbers must appear on the record pages. After the record on appeal is filed with the appellate court, the cover of any supplemental records shall begin at page one.

(g) Table of contents. The circuit clerk's portion of the record and the court reporter's portion of the record shall each include a table of contents which refers to the pages in the record where the matter identified is copied. Below is an example table of contents to a circuit clerk's portion of the record:

VOLUME I-UNSEALED PLEADINGS

VOLUME II-SEALED PLEADINGS

The table of contents shall identify all documents filed under seal.

(h) Fee for index. Clerks may add to their fee for the record a reasonable charge for these items where no charge is fixed by statute.

(i) Record fee and costs certified. The fee for the production of the record must be certified in all cases; in addition, all costs in the circuit court must be reported, and by whom paid.

(j) Clerk's record and reporter's transcript--Paper size and preparation.

The record must be prepared in the digital equivalent of plain typewriting or computer or word processor printing of the first impression, not copies, on 8½ x 11-inch paper. All transcripts shall be prepared by certified court reporters and comport with the following rules:

(1) No fewer than 25 typed lines on standard 8½ x 11-inch paper;

(2) No fewer than 9 or 10 characters to the typed inch;

(3) Left-hand margins to be set at no more than 1¾ inches;

(4) Right-hand margins to be set at no more than three-eighths of an inch;

(5) Each question and answer to begin on a separate line;

(6) Each question and answer to begin at the left-hand margin with no more than 5 spaces from the "Q" and "A" to the text;

(7) Carry-over "Q" and "A" lines to begin at the left-hand margin;

(8) Colloquy material, quoted material, parentheticals and exhibit markings to begin no more than 15 spaces from the left-hand margin with carry-over lines to begin no more than 10 spaces from the left-hand margin;

(9) All transcripts to be prepared in the lower case;

(10) All transcripts submitted on paper shall be prepared on only one side of the paper, not front and back;

(11) All transcripts of depositions shall comply with these Rules.

(k) Exhibits. Photographs, charts, drawings, real-property surveys, and other documents that can be digitized shall be included. Documents of unusual bulk or weight shall not be transmitted by the clerk of the circuit court unless the clerk is directed to do so by a party or by the Clerk of the Court. Physical exhibits other than documents shall not be transmitted by the clerk of the circuit court except by order of the Court. Digital media, such as audio and video recordings, that are part of the record shall be filed conventionally in the appellate court.

(l) Folding of record. Records portions submitted on paper must be transmitted to the Clerk without being folded or creased.

(m) Record in volumes. Where the record is 30 megabytes or larger, it shall be divided into separate files, each of which is less than 30 megabytes and is paginated continuously from the preceding file to the subsequent file. Any portion of the record filed under seal shall be a separate PDF file.

(n) The term "record" in civil cases, and as used in these Rules, refers only to the pleadings, judgment, decree, order appealed, transcript, exhibits, and certificates. Records on appeal shall be divided into a circuit court clerk's portion and into a court reporter's portion, if any proceedings in the case were transcribed by a court reporter.

(o) Sealed record portions. If any portion of the record is sealed, the sealed materials shall be saved as a separate PDF file, the name of the PDF file should indicate that the contents are sealed. The documents in the sealed file shall be paginated consecutive to where the page numbering ends in the unsealed file or files.

(p) No password protection. Electronic records on appeal shall not be password protected.

(q) Image resolution. If any portion of the record must be scanned to create an appeal record, the scanner settings should be set at an image resolution of 300 dots per inch (DPI).

History

Amended and effective by per curiam order June 26, 2014; amended and effective December 17, 2020.

Rule 3-2. Items to Be Omitted from the Record.

(a) *Generally*. The clerks of the circuit courts in making records to be transmitted to the Court, shall, unless excepted by the provisions of this Rule, include all matters in the record as required by Rule 3-1(n).

(b) *Summons*. In cases where the defendant has appeared, the clerk shall not set out any summons or other writ of process for appearance or the return thereof, but shall state: "Summons issued", (showing date) "and served", (showing date).

(c) *Amended pleadings*. In case of an amendment to the pleadings by substitution, the clerks shall treat the amended pleading as the only one and shall refrain from copying into the records any pleadings withdrawn, waived or superseded by amendment, unless it is expressly called for by a party's designation of the record.

(d) *Incidental matters*. Clerks shall not insert in the record any matter concerning the organization or adjournment of court, the impaneling or swearing of the jury, the names of jurors, including any motion, affidavit, or order or ruling in reference thereto, any continuance or commission to take testimony or the return thereto, any notice to take depositions or the caption or certificate of the officer before whom such depositions are taken, or any other incidental matter, unless it is expressly called for by a party's designation of the record.

Rule 3-3. Record in Civil Cases.

Not all records in civil cases will have the same contents. To the extent possible, items will be arranged in chronological order according to filing date, which will usually be in the following sequence:

(a) Circuit clerk's portion of the electronic appellate record.

1. Cover;

2. Table of Contents;
3. Complaint;
4. Plaintiff's exhibits that accompany the Complaint;
5. Statement regarding summons, set out in Rule 3-2(b);
6. Answer;
7. Defendant's exhibits that accompany the Answer;
8. Subsequent pleadings and orders in chronological order;
9. Final judgment, decree, or order appealed;
10. Post-judgment decree, order or motion (e.g., motions for new trial);
11. Orders granting or denying post-judgment motions;
12. Notice of appeal and designation of record;
13. Statement of points to be relied upon if abbreviated record designated;
14. Extensions of time to file record on appeal;
15. Stipulations to abbreviated records;
16. Narrative of testimony upon stipulations;
17. Supersedeas bond;
18. Circuit clerk's certificate, duly acknowledged; and
19. Certificate of costs of circuit clerk's portion of appellate record, indicating payor.

(b) Court reporter's portion of the electronic appellate record.

1. Cover;
2. Table of Contents;
3. Transcription of proceedings;
4. Digitized transcript exhibits;
5. List of exhibits not included in the electronic transcript;
6. Court reporter's certificate; and
7. Court reporter's certificate of costs of the transcript, indicating payor.

History

Amended and adopted December 17, 2020.

Rule 3-4. Record in Criminal Cases.

Not all records in criminal cases will have the same contents. To the extent possible, items will be arranged in chronological order according to filing date, which will usually be the following sequence:

(a) Circuit clerk's portion of the electronic appellate record.

1. Cover;
2. Table of Contents;
3. Return of the indictment or information;
4. Defendant's pleadings;
5. Subsequent pleadings and orders in chronological order;

6. Final judgment and commitment or order appealed;
7. Verdict forms and written jury instructions;
8. Motion for new trial, to set aside, amend, etc.;
9. Order granting or denying above motions;
10. Notice of appeal and designation of record;
11. Extensions of time to file record on appeal;
12. Appeal bond;
13. Circuit clerk's certificate, duly acknowledged; and
14. Certificate of costs of circuit clerk's portion of appellate record, indicating payor.

(b) Court reporter's portion of the electronic appellate record.

1. Cover;
2. Table of Contents;
3. Transcription of proceedings;
4. Digitized transcript exhibits;
5. List of exhibits not included in the electronic transcript;
6. Court reporter's certificate; and
7. Court reporter's certificate of costs of the transcript, indicating payor.

(c) Record of jury matters. (1) The record shall not include the impaneling or swearing of the jury, the names of the jurors, or any motion, affidavit, order, or ruling in reference thereto unless expressly called for by a party's designation of the record. (2) Verdict forms shall be inserted in the record. Written jury instructions and proffered jury instructions shall be inserted in the record when expressly identified by a party's designation of the record.

Reporter's Notes, 2019 Amendment. Subdivision (b)(2) was added to provide for verdict forms, written jury instructions, and proffered jury instructions to be inserted in the record.

History

Amended October 18, 2018, effective January 1, 2019; amended and adopted January 17, 2020.

Rule 3-5. Certiorari to Complete the Record.

(a) *Authorization for writ of certiorari*. When jurisdiction is conferred by filing, within the time allowed for appeal, a dated and certified copy of the order or judgment appealed from, the Clerk may, upon authorization by the Court, issue a writ of certiorari to the clerk of the circuit court, the reporter, or any other person charged with the duty of preparing the record on appeal, directing that any omissions or errors in the record be corrected.

(b) *Contents of writ*. The writ shall order that the record be completed and certified within thirty days, and the explanation for any default in complying with the writ must be made on the return within the time directed. This procedure may be used in appeals of civil, criminal, and administrative agency or commission cases.

Rule 3-6. Disposal of Record and Exhibits.

(a) *Procedure to obtain — Failure to return.* Attorneys may obtain from the Clerk the record in a disposed of case by giving a receipt and may retain the record for a period of not more than thirty days. No extension of time will be granted until the record has been returned, and then only upon order of the Court. Upon failure to return the record within the time allotted, the Clerk shall demand its return. If the demand is not complied with within ten days, the delinquency shall be reported to the Court at which time a citation shall issue commanding the attorney to appear before the Court immediately and show cause why a citation for contempt should not issue.

(b) *Failure to claim exhibits in civil cases*. All exhibits filed in civil cases and not attached to the transcript, in the Supreme Court and Court of Appeals, must be claimed by the party who presented the exhibit to the circuit court and be removed from the Clerk's office within 90 days from the date the mandate is issued. The attorney receiving the exhibits must sign the docket showing their receipt. If an exhibit is not claimed within the 90 days, the Clerk may destroy or dispose of it after giving the parties, or the attorneys of record, 30 days' notice of the Clerk's intention to do so.

(c) *Exhibits in criminal cases*.

(1) Exhibits in cases in which the mandate has been issued for more than five years shall be disposed of in the following manner:

(A) Physical exhibits consisting of weapons, in whatever form, shall be transferred to the U.S. Bureau of Alcohol, Tobacco & Firearms for disposal pursuant to Bureau policy.

(B) Controlled substances, in whatever form, shall be transferred to the Arkansas Department of Health for disposal pursuant to Department policy.

(C) All other exhibits, except those contained in the record, may be destroyed at the discretion of the Clerk.

(2) All exhibits shall be retained in cases that are subject to continuing litigation or in which the defendant received a sentence of death.

(3) Exhibits in cases which are reversed on appeal shall be transferred to the Office of the Prosecutor Coordinator when the mandate from the Court issues.

Rule 3-7 Cover Sheet

(a) When an initial record or pleading is filed with the Clerk of the Supreme Court and Court of Appeals, a cover sheet shall be completed and filed. The cover sheet shall be used for case initiation purposes. The cover sheet shall not replace or supplement the filing and service of other papers as required by law or the Rules of the Supreme Court and Court of Appeals.

(b) The Administrative Office of the Courts shall be responsible for the content and format of the cover sheet and instructions for its use.

The Clerk shall not accept an initial record or pleading that is not accompanied by the cover sheet. The Clerk shall place the completed cover sheet in the case file.

The attorney or pro se litigant at the time of filing an initial record or pleading shall be responsible for completing the information on the cover sheet. The cover sheet shall be type written; however, a pro se litigant may submit a handwritten cover sheet.

Rule 4-1. Style of Briefs.

(a) *Format.* Briefs filed by represented parties shall be typewritten using word-processing software, shall be contained in a single electronic file, and shall be in word-searchable portable document format (PDF). PDF files shall be converted from the word-processing software from which they were created, rather than by scanning paper documents. Electronic briefs shall not contain hyperlinks to external papers or websites.

(b) *Spacing.* Briefs shall be double-spaced, except for quoted material, which may be single-spaced and indented. Footnote lines, except quotations, shall be double-spaced. Use of footnotes is not encouraged and should be used sparingly.

(c) *Margins.* The margins at the top bottom, and sides of each page shall be not less than one inch except that the top margin of the brief cover shall be not less than two inches to accommodate the file-mark.

(d) *Font*. Typeface shall be proportionally spaced, shall not be less than 14 points, and must include serifs, but sans-serif type may be used in headings and captions.

(e) *Pagination and bookmarks.* Briefs shall be paginated consecutively, and the cover page shall be page one. Briefs shall also be bookmarked for ease of navigation. There shall be a bookmark for each section of the brief referenced in Rule 4-2(a).

(f) *Compliance with Administrative Order No. 19 required.* Briefs shall comply with the requirements of Administrative Order Number 19 concerning confidential information and the following requirements.

(1) *Redaction.* Confidential information shall be redacted from appellate briefs in the manner described in Arkansas Rule of Civil Procedure 5(c).

(2) *Redaction Not Required for Sealed Cases.* If the entire record on appeal is sealed pursuant to statute, court rule, court order, or court practice, all briefs filed in the case shall be filed under seal, and no redaction is required.

(3) *Unredacted briefs.* If court review of any confidential information redacted from a brief is necessary to decide the appeal, the party filing the brief must file an unredacted version of the brief under seal. If court review of redacted confidential information is not necessary to decide the appeal, the party filing the brief is not required to file an unredacted brief.

Addition to Reporter's Notes, 2014 Amendment: Both Rule 4-1 and Rule 4-4 required the filing on appeal of nine copies of redacted briefs and nine copies of unredacted briefs, for a total of eighteen copies. However, only one copy of the redacted brief need be filed---for public viewing, while 17 copies of unredacted briefs should be filed for use by the courts and court personnel. Rules 4-1 and 4-4 are amended accordingly.

History

Amended March 13, 2014, effective July 1, 2014; amended and effective December 17, 2020.

Rule 4-2. Contents of Briefs.

(a) *Appellants' briefs*. The contents of appellants' briefs shall be in the following order.

(1) *Cover*. On the cover of every brief there should appear the number and style of the case in the Supreme Court or Court of Appeals; a designation of the court from which the appeal is taken, and the name of its presiding judge; the title of the brief; and the name or names of counsel who prepared it, including their bar numbers, addresses, telephone numbers, and e-mail addresses.

(2) *Table of contents.* Each brief must include a table of contents. It should reference the page number for the beginning of each of the major sections identified in Rule 4-2(a)(2)-(10). Internal hyperlinks in the table of contents to each section is permissible, but not required.

(3) *Points on appeal.* The appellant shall list and separately number, concisely and without argument, the points relied upon for a reversal of the judgment or decree. The appellee must follow the same sequence and arrangement of points as contained in the appellant's brief and may then state additional points. Either party may insert under any point not more than two citations which the party considers the principal authorities on that point.

(4) *Table of authorities*. The table of authorities shall be an alphabetical listing of authorities with a designation of the page number of the brief on which the authority appears. The authorities shall be grouped as follows:

(A) Cases
(B) Statutes and Rules
(C) Books and Treatises
(D) Miscellaneous

(5) *Jurisdictional Statement*. Briefs must contain a brief statement, supported by citations to applicable authority and to the pages of the appellate record, demonstrating the appellate court's jurisdiction. The statement must identify:

(A) Information demonstrating that the appeal is from a final order or judgment that disposes of all of the parties' claims, or information establishing the appellate court's jurisdiction on some other basis;

(B) The filing dates establishing the timeliness of the appeal; and

(C) Whether, under Supreme Court Rule 1-2, the appeal should be decided by the Arkansas Supreme Court or the Arkansas Court of Appeals.

(6) *Statement of the case and the facts*. The appellant's brief shall contain a concise statement of the case and the facts without argument. The statement shall identify and discuss all material factual and procedural information contained in the record on appeal. Information in the appellate record is material if the information is essential to understand the case and to decide the issues on

appeal. All material information must be supported by citations to the pages of the appellate record where the information can be found.

(7) *Argument.* Arguments shall be presented under subheadings numbered to correspond to the outline of points to be relied upon. For each issue, the applicable standard of review shall be concisely stated at the beginning of the discussion of the issue. Citations of decisions of the Arkansas Supreme Court and Court of Appeals must be from the official reports, and all citations to both official and unofficial reports shall follow the format prescribed in Rule 5-2. All citations of decisions of any other court must state the style of the case and cite the official reporter (including a regional reporter so designated by the issuing court) in which the case is found. If the case is also reported by unofficial publishers, including an unofficial electronic database, one of these should also be cited. Reference in the argument portion of the parties' briefs to material found in the appellate record shall be followed by a reference to the page number of the appellate record at which such material may be found.

(8) *Request for* Relief. The appellant shall request, with specificity, all relief sought on appeal.

(9) *Certificate of service*. All briefs must include a certificate of service evidencing service of the brief in compliance with Rule 4-4(e).

(10) *Certificate of Compliance with Administrative Order No. 19, Administrative Order 21 Sec. 9, and With Word-Count Limitations.* All briefs must include a statement that the brief complies with (1) Administrative Order No. 19's requirements concerning confidential information; (2) Administrative Order 21, Section 9, which states that briefs shall not contain hyperlinks to external papers or websites, and (3) the word-count limitations identified in Rule 4-2(d). The person preparing the certificate may rely on the word count of the word-processing system used to prepare the document. The certificate must state the number of words in the document.

(b) *Appellees' briefs.* Appellees' briefs shall conform to the requirements of Rule 4-2(a) except that appellees may, but are not required to, submit a jurisdictional statement and a statement of the case and facts. Appellees may adopt by reference all or part of the appellant's jurisdictional statement or statement of the case and the facts and may respond to or supplement those statements if the appellee controverts them or believes them to be insufficient.

(c) *Reply Briefs*. Reply briefs shall contain a cover, a table of contents, a table of authorities an argument, a certificate of service, and a certificate of compliance with Administrative Order No. 19 and with the word-count limitations contained in Rule 4-2(d).

(d) *Word-Count Limitations*: Briefs shall comply with the word-count limitations identified below, and only the jurisdictional statement, the statement of the case and the facts, the argument, and the request for relief shall be counted against these limitations. The cover, the table of contents, the points on appeal, the table of authorities, the certificate of service, the certificate of compliance, and any list of adverse rulings required by Rule 4-3(a) shall not count against these limitations.

(1) A*ppellants' brief and appellees'* briefs. Appellants' briefs and appellees' briefs shall be no longer than 8600 words.

(2) *Reply briefs*. Reply briefs shall be no longer than 2875 words.

(3) *Appellees/cross-appellants' briefs.* If an appellee is also a cross-appellant, the argument on cross-appeal shall appear after the appellee's argument in the brief, and appellee/cross-appellant's brief shall be no longer than 14,325 words.

(4) *Reply/cross-appellees' briefs.* If the appellant is also a cross-appellee, the cross-appellee's argument shall follow the appellant's argument in reply, and the reply/cross-appellee's brief shall be no longer than 11,475 words.

(e) *Motions for* expansion *of word-count limitations.* Motions for an expansion of the word-count limitations must set forth the reason or reasons for the request, must state that a good faith effort to comply with this rule has been made, and must specify the number of additional words requested.

(f) *Citation to electronic record.* Citation to the circuit clerk's portion of the electronic record shall be enclosed in parentheses, shall include the letters "RP" (which is short for "Record-Pleadings"), and shall include the page number or numbers where the cited information can be found in the circuit clerk's portion of the record. Citation to the court reporter's portion of the record shall be in the same format but shall include the letters "RT" (which is short for "Record-Transcript"). For example, citation to page 57 of the circuit clerk's portion would be "(RP 57)," and citation to page 456 of the court reporter's transcript would be "(RT 456)." A range of pages should be cited as "(RP 231–239) (RT 457–459)," and a series of page numbers should be cited as "(RP 7, 67, 231) (RT 45, 334)."

Addition to Reporter's Notes, 2014 Amendment. The amendment to Rule 4-2(a)(9) requiring placement of volume numbers on briefs that contain multiple volumes is a housekeeping matter to assist in the orderly operation of the Clerk's office.

History

Amended by per curiam order March 31, 2011---new subsection (b)(4); amended March 13, 2014, effective July 1, 2014; amended December 7, 2017, effective January 1, 2018; amended and effective December 17, 2020.

Rule 4-3. Briefs in Criminal Cases.

(a) *Court's review of errors in death or life imprisonment cases*. When the sentence is death or life imprisonment, the Court must review all errors prejudicial to the appellant in accordance with Ark. Code Ann. Sec. 16-91-113(a). To make that review possible, the appellant must include, in addition to the contents required by Rule 4-2, a list of all rulings adverse to him or her made by the circuit court on all objections, motions and requests made by either party, and the list must include the information needed for an understanding of each adverse ruling and the page number where each adverse ruling is located in the appellate record. The list shall be placed in the brief after the request for relief. The Attorney General will make certain and certify that all of those objections have been listed and will brief all points argued by the appellant and any other points that appear to involve prejudicial error.

(b) *Withdrawal of counsel and no-merit briefs in criminal, juvenile-delinquency, and involuntary-commitment cases.*

(1) Any motion by counsel for a defendant in a criminal, a juvenile-delinquency, or an involuntary-commitment case for permission to withdraw made after notice of appeal has been given shall be addressed to the Court, shall contain a statement of the reason for the request and shall be served upon the defendant personally by first-class mail. A request to withdraw on the ground that the appeal is wholly without merit shall be accompanied by a brief. The brief shall contain an argument section that consists of a list of all rulings adverse to the defendant made by the circuit court on all objections, motions and requests made by either party with an explanation as to why each adverse ruling is not a meritorious ground for reversal. The brief's statement of the case and the facts shall contain, in addition to the other material parts of the record, all rulings adverse to the defendant made by the circuit court and the page number where each adverse ruling is located in the appellate record.

(2) The Clerk shall furnish the appellant with a copy of the appellant's counsel's brief, and advise the appellant that he or she has 30 days within which to raise any points that he or she chooses, and that this may be done in either typewritten or clearly legible handwritten form and accompanied by an affidavit that no paid assistance from any inmate of the Department of Correction or of any other place of incarceration has been received in the preparation of the response.

(3) The Clerk shall serve all such responses by an appellant on the Attorney General, who shall file a brief for the State within 30 days after such service and serve a copy on the appellant, as well as on the appellant's counsel.

(4) After a reply brief has been filed, or after the time for filing such a brief has expired, the motion for withdrawal and the briefs shall be submitted to the Court as other cases are submitted. If, upon consideration of the motion or briefs, it shall appear to the Court that the judgment of the circuit court should be affirmed or reversed, the Court may take such action on its own motion, without any supporting opinion.

Reporter's Notes to Rule **4-3 (2008).** A 2008 amendment added subsection (f) and relettered the subsequent paragraphs.

History

Amended December 7, 2017, effective January 1, 2018; amended and effective December 17, 2020.

Rule 4-4. Filing and Service of Briefs in Civil Cases.

(a) *Electronic Filing*. Briefs shall be filed using the electronic filing system provided by the Administrative Office of the Courts. No paper copies are required. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings consistent with Rule 4-7.

(b) *Appellant's brief*. In all cases the appellant shall, within 40 days of lodging the record, file the appellant's brief with the Clerk.

(c) *Appellee's brief and appellee/cross-appellant's brief*. The appellee shall file the appellee's brief, within 30 days after the appellant's brief is filed. If the cross-appellant is also the appellee, the two separate arguments shall be contained in one brief, and the brief shall comply with the requirements of Rule 4-2(d)(3).

(d) *Reply brief, reply/cross-appellee's brief, and cross-appellant's reply brief*. The appellant may file a reply brief within fifteen days after the appellee's brief. If the appellant is also a cross-appellee, the two separate arguments shall be contained in one brief, and the brief shall comply with the requirements of Rule 4-2(d)(4). Any cross-appellant's reply brief shall be filed within fifteen days after the cross-appellee's brief is filed.

(e) *Service of Briefs*. Briefs shall be served on opposing counsel and the circuit court by any method permitted by Arkansas Rule of Civil Procedure 5(b) and Administrative Order No. 21(7). Briefs tendered to the Clerk will not be filed unless evidence of service upon opposing counsel and the circuit court has been furnished to the Clerk. Evidence of service shall be included in each brief and shall comply with the requirements of Arkansas Rule of Civil Procedure 5(e).

(f) *Submission*. The case shall be subject to call on the next Thursday (in the Supreme Court) or Wednesday (in the Court of Appeals) after the expiration of the time allowed for filing the reply brief of the appellant or the cross-appellant. After the case has been submitted to the court for decision, the court will not consider motions to dismiss because of settlement or notice of settlement.

(g) *Noncompliance with Briefing Rules*.

(1) Noncompliance discovered at the time of filing. Briefs not in compliance with Rules 4-1, 4-2, 4-3, and 4-4 shall not be accepted for filing by the Clerk. When a party timely submits a noncompliant brief that substantially complies with the rules governing briefs, the Clerk shall mark the brief "tendered," grant the party a seven-day compliance extension, and return the brief to the party for correction. If the party resubmits a compliant brief within seven calendar days, then the Clerk shall accept that brief for filing on the date it is received.

(2) Noncompliance discovered after filing. Motions to dismiss the appeal for insufficiency of briefs will not be recognized. Deficiencies in the appellants' briefs will ordinarily come to the court's attention and be handled in one of the following ways:

(A) If the appellee considers the appellant's brief to be defective, the appellee's brief should call the deficiencies to the court's attention and may, at the appellee's option, contain a supplemental statement of the case and facts. When the case is considered on its merits, the court may upon motion impose or withhold costs, including attorney's fees, to compensate either party for the other party's noncompliance with court rules. In seeking an award of costs under this paragraph, counsel must submit a statement showing the cost of the supplemental statement of the case and facts and a certificate of counsel showing the amount of time that was devoted to the preparation of the supplement.

(B) If the case has not yet been submitted to the court for decision, an appellant may file a motion to supplement the brief or to file a substituted brief. Subject to the court's discretion, the court will routinely grant such a motion and give the appellant fifteen days within which to file the

supplemental or substituted brief. If the appellee has already filed its brief, upon the filing of appellant's supplemental or substituted brief, the appellee will be afforded an opportunity to revise or supplement its brief, at the expense of the appellant or the appellant's counsel, as the court may, upon motion, direct.

(C) Regardless of whether the appellee has called attention to deficiencies in the appellant's brief, the Court may address the question at any time. If the Court finds the brief to be deficient such that the Court cannot reach the merits of the case, or such as to cause an unreasonable or unjust delay in the disposition of the appeal, the Court will notify the appellant that he or she will be afforded an opportunity to cure any deficiencies, and that he or she has fifteen days within which to file a substituted brief, at his or her own expense. Upon the filing of such a substituted brief by the appellant, the appellee will be afforded an opportunity to revise the appellee's brief, at the expense of the appellant or the appellant's counsel, as the Court may direct. If after the opportunity to cure the deficiencies, the appellant fails to file a complying brief within the prescribed time, the judgment or decree may be affirmed or the appeal dismissed for noncompliance with the Rule.

(D) If the appellate court determines that deficiencies or omissions in the brief need to be corrected, but complete rebriefing is not needed, then the court will order the appellant to file a supplemental brief within seven calendar days to provide the additional information from the record to the members of the appellate court.

(E) After the opportunity to cure deficiencies has been afforded, attorneys who fail to comply with the requirements of this rule may be referred to the Office of Professional Conduct and may be subject to any of the following: (i) contempt, (ii) suspension of the privilege to practice before the Supreme Court or Court of Appeals for a specified time or until the attorney can demonstrate a satisfactory knowledge of the rules, or (iii) imposition of any of the sanctions listed in Rule 11(c) of the Rules of Appellate Procedure-Civil.

(h) *Continuances and extensions of time*.

(1) The Clerk or a deputy clerk may extend the due date of any brief by seven (7) calendar days upon oral or electronically filed request. The party requesting a Clerk's extension must confirm the extension by sending a letter, by electronic filing, immediately to the Clerk or the deputy clerk with a copy to all counsel of record and any pro se party. If such an extension is granted, no further extension shall be granted except by the Clerk for compliance with these Rules as provided in Rule 4-2(c) or by the Court upon a written motion showing good cause.

(2) Stipulations of counsel for continuances will not be recognized. Any request for an extension of time (except in (g)(1) and (h)(1)) for the filing of any brief must be made by a written motion, addressed to the Court, setting forth the facts supporting the request. Counsel who delay the filing of such a motion until it is too late for the brief to be filed if the motion is denied, do so at their own risk.

(i) *Briefs not required in unemployment compensation cases.* Unemployment compensation cases appealed from the Arkansas Board of Review may be submitted to the Court of Appeals for decision as soon as the transcript is filed, unless notice of intent to file a brief for the appellant is made with the Clerk prior to the filing of the transcript.

Addition to Reporter's Notes, 2014 Amendment: Rules 4-1 and 4-4 both required the filing on appeal of nine copies of redacted briefs and nine copies of unredacted briefs, for a total of eighteen copies. However, only one copy of the redacted brief need be filed–for public viewing–while 17 copies of the unredacted briefs should be filed for use by the courts and court personnel. Rules 4-1 and 4-4 are amended accordingly. The appellate court practice has been that after a case has been submitted to the court for decision, the court will not consider motions to dismiss because of settlement of the litigation or notice of settlement. The amendment to Rule 4-4(e) conforms the rule to the practice.

History

Amended March 13, 2014, effective July 1, 2014; amended December 7, 2017, effective January 1, 2018; amended and effective December 17, 2020.

Rule 4-5. Failure to File Briefs in Civil Cases.

If the appellant's brief has not been filed in a civil case or in a misdemeanor case within the time allowed by Rule 4-4, the Court may dismiss the appeal and affirm the judgment or decree at cost to the appellant. When the appellee has failed to appear and file a brief, the Court may, when the case is called for submission, proceed and give judgment according to the requirements of the case.

Rule 4-6. Amici Curiae Briefs.

(a) *Permission required; Scope limited.* Briefs of amici curiae may be filed only with permission of the court, obtained on motion as provided in this rule. The briefs shall be limited to matters in the record on appeal and shall address only the issues raised by the parties at the appellate level. No new issues shall be introduced.

(b) *Motion for permission; How and when filed.*

(i) A motion for permission to file an amicus brief shall be filed at any time after the filing of the appellee's brief but no later than the day that the appellant's reply brief is due. It shall not exceed five double-spaced typewritten pages and shall not include a memorandum of authorities but shall otherwise comply with Rule 2-1.

(ii) The motion shall be accompanied by the proposed amicus brief and shall state whether the brief supports the appellant's or appellee's position or is neutral.

(iii) The motion shall specify the nature of the movant's interest and set forth with particularity the reasons why the amicus brief is necessary. The motion shall contain the following statement: "The movant has read the briefs of the appellant and appellee, and the amicus brief is necessary to address the following issue(s) _____[list issue(s).]"

(c) *Disclosures.* A brief filed under this rule shall indicate: (i) whether counsel for a party authored the brief in whole or in part, and (ii) whether such counsel or a party made a monetary contribution intended to fund the preparation or submission of the brief or otherwise collaborated in the preparation or submission of the brief. It shall also identify every person or entity, other than the amicus curiae, its members, or its counsel, who made such monetary contribution to the brief or

collaborated in its preparation. These disclosures shall be made in an unnumbered footnote on the first page of the argument section of the brief.

(d) *Oral arguments.* Attorneys for amici curiae will not be permitted to participate in oral arguments.

(e) *Petitions for rehearing.* Attorneys for amici curiae will not be permitted to file a petition for rehearing or to join in the petition of a party.

(f) *Certificate of Compliance with Administrative Order No. 19, Administrative Order No. 21 Sec. 9, and with word-count limitations*. Amicus briefs must include a statement that the brief complies with (1) Administrative Order No. 19's requirements concerning confidential information; (2) Administrative Order No. 21, Section 9, which states that briefs shall not contain hyperlinks to external papers or websites, and (3) the word-count limitations identified in subsection (g) of this Rule. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the document. The certificate must state the number of words in the document.

(g) *Word-count limitations.* Amicus briefs shall be no longer than 5,000 words. The cover, the table of contents, the table of authorities, the certificate of service, and the certificate of compliance shall not count against this limitation.

Reporter's Notes (2018 Amendments): *See Ferguson v. Brick*, 279 Ark. 168, 649 S.W.2d 397 (1983) (Amicus briefs are limited to the facts proven at trial and the points raised by the parties on appeal, and the movant seeking permission to file the brief must show why it is necessary.)

This rule was rewritten in 2018. The revised rule changes the time to file the motion until after the appellee's brief is filed (paragraph (b)). The movant must set out why the amicus brief is necessary. In addition, paragraph (c) requires certain disclosures to be made.

History

Amended December 7, 2017, effective January 1, 2018; amended May 12, 2022, effective June 1, 2022.

Rule 4-7. Briefs in Postconviction and Certain Civil Appeals Where Appellant Is Incarcerated and Proceeding Pro Se.

(a) *Style of pro se briefs.* Briefs filed by self-represented parties shall substantially comply with Rules 4-1, 4-2, and 4-4 except that they may be handwritten and filed in conventional paper form. A handwritten brief shall be clearly legible, shall not exceed 30 lines per page and 15 words per line with left-hand and right-hand margins of at least 1½ inches and upper and lower margins of at least 2 inches. The argument section of a handwritten brief shall be no longer than 30 pages. Briefs shall be of uniform size on 8½ x 11-inch paper and firmly bound on the left-hand margin by staples or other binding devices. Typed briefs shall be double-spaced, except for quoted material, which may be single-spaced and indented. Footnotes, except quotations therein, shall be double-spaced. Use of footnotes is not encouraged and should be used sparingly. The brief need not be signed by the appellant.

(b) *Affidavit*. If the pro se appellant is incarcerated, the brief shall also be accompanied by a notarized affidavit that the appellant has prepared it without the paid assistance of any other prison

inmate. Where the appellant in a criminal appeal is entitled to representation by counsel, pro se briefs will be accepted only when the appellant has filed an affidavit stating that the appellant has knowingly and intelligently refused the services of an attorney on appeal. Such a brief shall also be accompanied by an affidavit that the appellant has prepared it without the paid assistance of any other prison inmate.

(c) *Noncompliance*. Briefs not in substantial compliance with this Rule shall not be accepted for filing by the Clerk. When a party submits a brief on time that does not substantially comply with these Rules, the Clerk shall mark the brief "tendered," grant the party a 14-day compliance extension, and return the brief to the party for correction. If the party resubmits a compliant brief within fourteen calendar days, then the Clerk shall accept that brief for filing on the date it is received.

(d) *Number of briefs, time for filing, and page* limitations. One copy of all conventionally filed pro se briefs shall be filed by the deadlines set forth in Rule 4-4.

(e) *Continuances and extensions of time*. The Clerk or a deputy clerk may extend the due date of any brief by seven calendar days upon oral or letter request. If such an extension is granted, no further extension shall be granted except by the Court upon a written motion showing good cause.

History

Amended and effective by per curiam order May 11, 2017; amended and effective by per curiam order June 21, 2018; amended and effective December 17, 2020.

~~Rule 4-8. Procedure for No-Merit Briefs, Pro Se Points, and Responses in Involuntary-Commitment Cases.~~ [ABOLISHED]

~~(a) After studying the record and researching the law, if appellant's counsel in an involuntary-commitment case determines that the appellant has no meritorious basis for appeal, then counsel may file a no-merit brief and move to withdraw. Counsel's no-merit brief must include the following information:~~

> ~~(1) The argument section of the brief shall list all adverse rulings to the appellant made by the circuit court on all objections, motions, and requests made by the party at the hearing from which the appeal arose and explain why each adverse ruling is not a meritorious ground for reversal.~~
>
> ~~(2) The abstract and addendum shall contain all rulings adverse to the appellant made by the circuit court at the hearing from which the order of appeal arose.~~

~~(b) Appellee is not required to, but may, respond to a no-merit brief. Appellee may file a concurrence letter supporting the no-merit brief. Any appellee's response shall be filed within thirty (30) days of the filing of the no-merit brief.~~

~~(c) The Clerk of the Supreme Court shall mail the appellant, at the appellant's last known address, a copy of the no-merit brief and the motion to withdraw. The Clerk shall notify the appellant in writing that the appellant may raise any points that the appellant chooses and that these points may be typewritten or hand-printed. The Clerk shall also notify the appellant that the points must be~~

~~received by the Supreme Court Clerk by mail or other method of delivery within thirty (30) days from the date that the Clerk mailed the appellant the notification.~~

~~(d) The Clerk shall mail a copy of appellant's points to the appellee and appellant's counsel within three (3) business days after receiving them.~~

~~(e) Appellee is not required to respond to appellant's points. Appellee may do so, however, by filing a response within thirty (30) days of the date the points were received by the Clerk of the Supreme Court.~~

~~**Explanatory Note.** In appeals in criminal, termination-of-parental-rights, and adult long-term protective-custody cases, appointed counsel may discharge their professional obligations by filing a no-merit brief and moving to withdraw. The Clerk must serve the brief and motion on the appellant, who then has the opportunity to file pro se points, which the appellee may in turn respond to. Ark. Sup. Ct. R. 4-3(j) and 6-9(i); *see generally Anders v. California*, 386 U.S. 738 (1967); *Linker-Flores v. Ark. Dep't of Human Servs.*, 359 Ark. 131, 194 S.W.3d 739 (2004); *Adams v. Ark. Dep't of Health & Human Servs.*, 375 Ark. 402, 291 S.W.3d 172 (2009). This procedure balances the appellant's right to counsel on appeal and due process with the lawyer's obligation as an officer of the court not to pursue frivolous arguments. Involuntary-commitment cases raise similar constitutional and procedural concerns. But no *Anders* procedure currently exists in our rules for those kinds of cases. While the deprivation of liberty is neither as extended as a prison sentence nor as final as losing parental rights, involuntary commitment is nonetheless a "massive curtailment of liberty," and thus constitutionally significant. *Humphrey v. Cady*, 405 U.S. 504, 509 (1972). The supreme court recently noted this issue, *Dickinson v. State*, 372 Ark. 62, 67, 270 S.W.3d 863 (2008), but did not decide whether an *Anders* procedure is needed in involuntary-commitment cases. *Dickinson*, 372 Ark. at 70371, 270 S.W.3d at 866-67 (Imber and Brown, JJ., dissenting). The new rule creates this procedure for these cases.~~

History

Abolished. See *In re Acceptance of Records in Electronic Format*, 2019 Ark. 213 (per curiam), and *In re Final Rules for Acceptance of Records on Appeal in Electronic Format*, 2020 Ark. 421 (per curiam).

Rule 5-1. Oral Arguments.

(a) *Written request required*. Any party may request oral argument by filing, contemporaneously with that party's brief, a letter, separate from the brief, stating the request with a copy to all parties. The request for oral argument may be filed contemporaneously with either the party's initial brief or reply brief. Oral argument will be allowed upon request unless it is determined that

(1) the appeal is frivolous;

(2) the dispositive issue or set of issues has been decided authoritatively; or

(3) the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the decision-making process.

The court may at its discretion and on its own motion select any case for oral argument when it appears to the court that the matters presented for consideration are such that oral arguments are appropriate for a full presentation of the issues.

(b) *Argument date fixed*. The Clerk will notify counsel or the parties of the date oral argument is to be held or that the case will be submitted on briefs only. Thereafter, the date for argument may be changed only upon written motion to the court and upon a showing of good cause. If attempts to schedule oral argument may result in undue delay, the court may decide the case without oral argument. Counsel who have not requested oral argument are not required to appear at the argument but must, at least five days before the date the argument is to be heard, notify the Clerk in writing that they do not intend to appear. If counsel fails to provide notification and makes no appearance, he or she shall be subject to sanctions under Rule 11 of the Rules of Appellate Procedure Civil.

(c*) Counsel and time limitations*. Only two attorneys will be heard for each side, and not more than 20 minutes will be allowed to each side for argument unless special leave of Court has been granted prior to the argument. Applications for additional time for argument must be by written motion, filed not less than one week before the case is scheduled for submission, and setting forth the reasons why additional time is necessary.

(d) *Apportionment of time*. The time allowed may be apportioned between the counsel on the same side at their discretion; provided, always, that a fair presentation of the case shall be made by the party having the opening and closing argument.

(e) *Reading from books*. Counsel are not permitted to read from books, briefs, or records, except those short extracts which they consider necessary to properly emphasize some point.

(f) *Substance of authorities stated*. Instead of reading authorities, counsel are expected to cite them in their briefs and to state the substance in argument.

(g) *Interruptions not permitted*. Counsel will not be permitted to interrupt opposing counsel with questions or otherwise, except by leave of the Court.

(h) *Petitions for rehearing*. Oral arguments are not permitted in support of or in opposition to petitions for rehearing.

(i) *Amici curiae counsel*. Amici Curiae counsel will not be permitted to participate in the oral argument.

(j) *Citing cases outside the brief*. If a case outside the brief is to be cited during oral argument, the citation must be furnished opposing counsel and the Court before the date of argument.

Rule 5-2. Opinions.

(a) *Filing, Notice, and Publication*. The Supreme Court and Court of Appeals shall file every opinion with the Clerk, who shall provide a copy of the opinion to each pro se litigant and all counsel of record for each party in the case without charge. The Reporter of Decisions shall post every opinion on the Arkansas Judiciary's website and maintain a secure and searchable library of opinions on the website, which shall include all opinions issued after February 14, 2009. The Administrative Office of the Courts is authorized to develop an advanced search engine with

additional features and to charge subscribers for its use. The Administrative Office of the Courts is also authorized to charge a reasonable fee for providing reports of opinions on disc or other physical medium.

(b) *Official Reports*.

(1) *The Arkansas Reports* and the *Arkansas Appellate Reports* shall contain the official report of decisions of the Supreme Court and Court of Appeals issued before February 14, 2009. The official report of decisions issued after that date shall be an electronic file created, authenticated, secured, and maintained by the Reporter of Decisions on the Arkansas Judiciary website.

(2) After an opinion is announced, the Reporter shall post a preliminary report of the opinion's text on the website. This version is subject to editorial corrections. After the mandate has issued, and any needed editorial corrections are made, the Reporter shall replace the preliminary report with an authenticated and secure electronic file containing the permanent and final report of the decision.

(3) Every report of every decision shall contain an official citation created by the Reporter. This citation shall include the year in which the decision was issued, the abbreviated name of the issuing court, and the sequential appellate decision number for the year. For example, the citation *White v. Green*, 2010 Ark. 171, reflects that the decision was issued in 2010, by the Arkansas Supreme Court, and was the one hundred seventy-first opinion issued by that court that calendar year. The citation *Roe v. State*, 2010 Ark. App. 745, reflects that this decision was made by the Court of Appeals and was the seven hundred forty-fifth appellate opinion issued by that court in calendar year 2010.

(c) *Precedential Value*. Every Supreme Court and Court of Appeals opinion issued after July 1, 2009, is precedent and may be relied upon and cited by any party in any proceeding. Opinions of the Supreme Court and Court of Appeals issued before July 1, 2009, and not designated for publication shall not be cited, quoted, or referred to by any court or in any argument, brief, or other materials presented to any court (except in continuing or related litigation upon an issue such as res judicata, collateral estoppel, or law of the case).

(d) *Uniform citation*.

(1) Decisions included in the *Arkansas Reports* and *Arkansas Appellate Reports* shall be cited in all court papers by referring to the volume and page where the decision can be found and the year of the decision. Parallel citations to the regional reporter, if available, are required. Pinpoint citations to specific pages are strongly encouraged. For example: *Smith v. Jones*, 338 Ark. 556, 558, 999 S.W.2d 669, 670 (1999). *Doe v. State*, 74 Ark. App. 193, 198, 45 S.W.3d 860, 864 (2001).

(2) Published decisions issued between February 14, 2009, and July 1, 2009, and all decisions issued after July 1, 2009, and available on the Arkansas Judiciary website shall be cited in all court papers by referring to the case name, the year of the decision, the abbreviated court name, and the appellate decision number. Arkansas Supreme Court shall be abbreviated "Ark." Arkansas Court of Appeals shall be abbreviated "Ark. App." Parentheticals containing a date or court abbreviation shall not be used. Parallel citations

to the regional reporter, if available, are required. If the regional reporter citation is not available, then parallel citations to unofficial sources, including unofficial electronic databases, may be provided. Pinpoint citations to specific pages are strongly encouraged. A pinpoint citation to the official version of a decision on the Arkansas Judiciary website shall refer to the page of the electronic file where the matter cited appears. For example: *Smith v. Hickman*, 2009 Ark. 12, at 1, 273 S.W.3d 340, 343. *Doe v. State*, 2009 Ark. App. 318, at 7, 2009 WL 240613, at *8. *White v. Green*, 2010 Ark. 171, at 3, 2010 WL 3109899, at *2. *Roe v. State*, 2010 Ark. App. 745, at 6, 279 S.W.3d 495, 497. (3) When an unpublished decision may be cited in continuing or related litigation pursuant to subdivision (c), the opinion's date determines the citation form. Opinions issued before February 14, 2009, shall be cited by referring to the case name, the appellate docket number, the abbreviated name of the issuing court and the complete date of the opinion in the first parenthetical, and including "unpublished" in a second parenthetical. Opinions issued after February 14, 2009, and before July 1, 2009, shall be cited by referring to the case name, the year of the decision, the abbreviated court name, the appellate decision number, and including "unpublished" in a parenthetical. Parallel citations to unofficial sources, including unofficial electronic databases, may be provided. For example: *Holt v. Newbern*, No. CA07-345, slip op. at 4, 2008 WL 30117, at *2 (Ark. App. Apr. 16, 2008) (unpublished). *Byrd v. Battle*, 2009 Ark. App. 114, at 8, 2009 WL 47129, at *6 (unpublished).

(e) *Opinion Form*. Opinions of the Court of Appeals shall only be in conventional form.

(f) *Affirmance Without Opinion*. In appeals from decisions of the Arkansas Board of Review in unemployment-compensation cases, when the appellate court finds the decision appealed from is supported by substantial evidence, that there is an absence of fraud, no error of law appears in the record, and an opinion would have no precedential value, the order may be affirmed without opinion.

Explanatory Note. Rule 5-2 has been completely rewritten to reflect the electronic publication of the official reports of appellate decisions. This comprehensive amendment is effective July 1, 2009.

Subdivision (a) reflects, in part, long-standing practice. All opinions are filed with the Clerk, and the Clerk sends a copy to each party or their lawyer if they have one. The Reporter of Decisions (or our Librarian) has been posting opinions on the Arkansas Judiciary website since 1996. As amended, the rule obligates the Reporter to continue doing so and to maintain a secure and searchable library containing all opinions issued after February 14, 2009, on the website. The rule also authorizes the Administrative Office of the Courts to develop and charge for the use of an advanced search engine. The AOC may also charge for providing the official reports in other formats, such as on CD.

Subdivision (b) has three parts. Section (1) defines what constitutes the official report of a decision of the Arkansas Supreme Court and Court of Appeals. For decisions issued before February 14, 2009, the official report is the opinion printed in a volume of the *Arkansas Reports* or *Arkansas Appellate Reports*. For opinions issued after that date, the official report is the electronic file created, authenticated, and maintained by the Reporter on the Arkansas Judiciary website.

Subdivision (b)(2) prescribes the Reporter's responsibilities in releasing and finalizing opinions. The first version of an opinion, the "preliminary report," must be posted on the website after the court announces the decision. The preliminary report is subject to editorial corrections by the Reporter. After the mandate has issued, and any editorial corrections have been made, the "final report" of the decision will be posted on the website in place of the preliminary report. Both the preliminary and final reports are official reports of the decision, which may be cited as otherwise allowed in the rule. All reports will be secure and authenticated.

Subdivision (b)(3) obligates the Reporter to create an official citation, in a new prescribed form, for every appellate decision issued after February 14, 2009. This obligation includes opinions that are not designated for publication between that date and July 1, 2009. The rule contains examples and an explanation of the new citation form, which looks much like a citation to the *Arkansas Reports* or *Arkansas Appellate Reports*. The book volume number has been replaced with the year of the decision. And the page number has been replaced with a "sequential appellate decision number for the year." The Reporter assigns this number, starting with 1 for the first opinion issued by each appellate court each calendar year. This is not a global numbering system covering all opinions of both appellate courts. Instead, there will be one annual list for Supreme Court opinions and one annual list for Court of Appeals opinions.

Subdivision (c) eliminates the distinction between unpublished opinions. All opinions issued after July 1, 2009, are precedent and may be cited in any filing or argument in any court.

Subdivision (d) is entirely new. It prescribes a uniform citation form for all appellate decisions. If a decision appears in the *Arkansas Reports* or *Arkansas Appellate Reports*, then the familiar citation form must be used. The only new requirement is a parallel citation, if one is available, to the regional reporter. Pinpoint citations are strongly encouraged.

All opinions issued after February 14, 2009, will be in the new electronic database of official reports. These opinions must be cited using the new citation form described earlier: case name, year of decision, abbreviated court name, and sequential appellate decision number. The amended rule abandons parentheticals in almost all citations. With the date and issuing court embedded in the citation itself, the parenthetical is rendered superfluous. Parallel cites to a regional reporter, if available, are required. Parallel cites to other unofficial sources, such as electronic databases, are allowed but not required. Pinpoint citations are strongly encouraged in general. The amended rule also prescribes how to do a pinpoint cite to an electronic report (preliminary or final) of an Arkansas case: cite the page of the electronic file where the matter cited appears. The electronic file will be secure, with the pages locked in place so that they are the same no matter what computer they are viewed on.

Subdivision (d)(3) covers citation of unpublished decisions issued before the effective date of this rule (July 1, 2009). The opinion's date determines the citation form. Pre-February 14, 2009, unpublished opinions are cited by case name and docket number, with the abbreviated court name and full date in the first parenthetical and a second parenthetical denoting the unpublished status. Pinpoint cites should use the "slip opinion" designation. Unpublished opinions issued between February 1, 2009, and July 1, 2009, should be cited using the new citation form, year, abbreviated court name, and sequential appellate opinion number, with one additional element: a parenthetical denoting the opinion's "unpublished" status.

Subdivisions (e) and (f) are carry-overs from the old rule. The former authorizes the Court of Appeals to issue opinions in conventional or memorandum form. *In re Memorandum Opinions*, 15 Ark. App. 301, 700 S.W.2d 63 (1985) (per curiam). The latter authorizes unemployment appeals from the Board of Review to be affirmed without an opinion.

History

Amended and effective by per curiam order June 8, 2017.

Rule 5-3. Mandate.

(a) *Mandate to be issued in all cases*. In all cases, civil and criminal, the Clerk will issue a mandate when the decision becomes final and will mail it to the clerk of the circuit court from which the appeal was taken for filing and recording. A decision is not final until the time for filing of petition for rehearing or, in the case of a decision of the Court of Appeals, the time for filing a petition for review has expired or, in the event of the filing of such petition, until there has been a final disposition thereof.

(b) *Immediate issuance, upon leave of court*. No transcript of any judgment, decision or opinion of the Court shall be certified by the Clerk, or mandate issued, within 18 calendar days after the judgment is rendered without special leave of the Court or upon stipulation of counsel, except in the case of the denial of a petition under Rule 37 of the Arkansas Rules of Criminal Procedure, in which case the decision of the Court shall be certified by the Clerk and the mandate issued on the day the decision is rendered.

(c) *Stay of mandate*.

(1) Parties desiring to prosecute proceedings to the Supreme Court of the United States by filing a petition for a writ of certiorari may obtain an order either staying the issuance of a mandate or recalling a mandate upon motion to the Court and a showing that:

(A) the petition for a writ of certiorari presents a substantial question;

(B) there is good cause for a stay or a recall; and

(C) an order has been placed with the Clerk for a copy of the record, with payment of an advance deposit of $50.00.

Such stay or recall is discretionary with the Court.

(2) The stay shall not exceed 90 days from the date the stay is issued, unless the period is extended for good cause or the party who obtained the stay timely files a petition with Supreme Court of the United States and so notifies the Clerk of this Court, in which case the stay shall remain in effect until the Supreme Court's final disposition.

(3) Bond may be required as a condition for granting or continuing the stay.

(4) The Clerk shall issue the mandate immediately upon the filing of a copy of the Supreme Court order denying the petition for writ of certiorari.

(d) *Motion to recall mandate*. A motion to recall the mandate must be served upon opposing counsel, and an objection to the motion may be filed. Should the motion be granted, the moving party shall pay all costs accrued after the filing of the mandate.

Amendments: Subsection (c) amended by per curiam order dated October 28, 2010.

Rule 6-1. Extraordinary Writs, Expedited Consideration, and Temporary Relief.

(a) *Extraordinary writs*

(1) Proceedings for an extraordinary writ such as prohibition, mandamus, and certiorari are commenced by filing a petition in the Supreme Court. These writs are not available if appeal is an adequate remedy. A party seeking appellate review of a circuit court's decision on a request for an extraordinary writ must file a notice of appeal in the circuit court, not a petition for the writ in the Supreme Court. When a party petitions the Supreme Court for an extraordinary writ, the certified pleadings, orders, and exhibits from the circuit court, if applicable, are treated as the record.

(2) The petitioner is required to electronically file with the Clerk the petition along with the certified record. The petitioner shall not identify the circuit court or judge as a respondent to the petition. Instead, the petitioner should identify as respondents all the other parties to the circuit court action. Evidence of service of a copy of the petition and record upon the respondents or their counsel of record in the circuit court is required. The petitioner must also provide a copy of the petition to the circuit judge to alert the judge of the filing of the petition. The Clerk may refuse to accept for filing any petition that does not comply with the requirements of these rules.

(3) Unless modified by the Court, a response to a petition for extraordinary relief may be filed within 10 calendar days from the date of the filing of the petition for extraordinary relief. Circuit judges and other non-parties shall not be permitted to file any response except upon order of the Supreme Court requesting a response.

(b) *Emergency or accelerated proceedings.* In situations where time limitations do not allow a proper response time of ten days, upon the filing of the pleading, the pleader shall inform the Clerk's office of the need for an emergency or accelerated hearing by the Court. Upon notification, the Court will determine the date of the response and date of consideration of the pleading. If the pleader desires oral argument, such argument will be addressed to the Court at the regularly called sessions at 9:00 a.m. on Thursday (in the Supreme Court) or Wednesday (in the Court of Appeals) morning; otherwise, oral argument will not be entertained. The pleading must be properly filed and the party or attorney of record notified before oral argument will be heard.

(c) *Applications for temporary relief*. When the petitioner intends to apply to the full Court for temporary relief staying the circuit court proceedings pending the consideration of the petition upon its merits, reasonable notice of the application for temporary relief must be served upon the other party or the counsel of record in the circuit court and the circuit court. If, after its review and consideration of the record and pleading filed, the Court shall determine that a temporary stay is

warranted and granted, briefs shall be required as in other cases under Rule 4-4, and the parties' brief time will be calculated from the date the temporary relief is granted. However, the Court may decide the matter without ruling on the request for a briefing schedule.

(d) *Response*. A response to an application for temporary relief in subsection (c) may be filed within 10 calendar days unless modified by the Court. Additional time for filing a response must be requested within the 10-day period.

(e) *Page limitation*. Absent leave of court for good cause shown, no petition or response shall exceed fifteen pages excluding any addendum.

(f) *Time for filing briefs*. If the proceedings in the circuit court have been stayed, or the time before a hearing or trial will allow a briefing schedule, briefs are required as in other cases, the parties' brief time under Rule 4-4 for filing a brief to be calculated from the date on which the petition is filed. The mere filing of a petition for relief under this section does not automatically entitle the petitioner to file briefs and stay the proceedings in the circuit court.

History

Subsection (b) amended June 30, 1997, effective September 1, 1997; subsections (a), (c), and (e) amended June 7, 2001, effective July 1, 2001; amended October 9, 2008, effective January 1, 2009; amended June 17, 2010, effective July 1, 2010; amended and effective June 21, 2018; amended June 6, 2019, effective September 1, 2019.

Rule 6-2. Appeals Prosecuted for Purposes of Delay.

(a) *Motion alleging delay*. When counsel for the appellee has examined the record and believes that the appeal has been prosecuted merely for the purposes of delay, counsel may file a motion alleging such delay with a plea to the Court to advance and affirm.

(b) *Contents of motion*. The motion shall provide citations to the record to show that the appeal has been prosecuted merely for the purpose of delay. Counsel shall state in the motion that he or she has carefully examined the record and specify the reasons for the belief that the appeal has been filed for the purpose of delay.

(c) *Procedure*. The motion shall be in the form required by Rule 2-1 and will be called for submission three weeks after filing.

(d) *Response*. Counsel for the appellant may file a response within 21 days of the filing of the motion.

Rule 6-3. Anonymity in Certain Appellate Proceedings, Opinions and Case Styles.

(a) *Adoption and Juvenile Appeals.* The record and accompanying briefs, motions, or other filings in all adoption appeals and all appeals originating in the juvenile division of circuit court shall be sealed. The Clerk shall ensure that pseudonyms are used on the public docket to protect the identity of the juveniles in those appeals. Counsel and the Court shall preserve the juvenile's anonymity by using pseudonyms in all subsequent captions, opinions, motions, and briefs, as well as in oral argument, if any. The record and papers on appeal shall be open for inspection only to counsel and parties of record, or, only upon order of the Court after review of a written motion.

(b) *Anonymity of Minors*.

(1) *Briefs and Motions*. In all cases, pseudonyms shall be used in lieu of the names of minors in all briefs, oral argument, motions, petitions, or related filings. In the rare instance where use of a minor's name is necessary, the filer shall provide the Clerk with a redacted copy of the document that uses pseudonyms, and the Clerk shall seal the unredacted document.
(2) *Appellate Records.* In any case in which the appellate record identifies a minor, any party to the appeal may, without leave of court, redact information identifying the minor from a copy of the record and file the redacted copy with the Clerk. The Clerk shall then seal the original unredacted record. Any dispute concerning the redactions shall be submitted to the Court by motion.

(c) In any other appeal in which counsel for either side believes that a person's identity or other information should be confidential but is not protected by subsection (b), Administrative Order Number 19, or the procedures available under Rule 6(g) of the Rules of Appellate Procedure-Civil, counsel may move the Court to protect the person's identity or other information. The motion shall be accompanied by a redacted copy of the record or other filing that will be available to the public, and the Clerk shall seal the unredacted record or other filing pending the Court's decision on the motion. If the Court grants the motion, the Clerk shall ensure that the public docket complies with the Court's order. Counsel and the Court shall preserve the person's anonymity by using pseudonyms to identify the protected party in all subsequent captions, opinions, motions, and briefs, as well as in oral argument, if any. If the Court denies the motion, the Clerk shall unseal the record as appropriate, and the appeal shall proceed in accordance with these Rules.

History

Amended and effective January 23, 2014; amended and effective October 6, 2022.

Rule 6-4. Motion Requesting Disqualification.

Counsel for any party may file a motion requesting that one or more justices or judges disqualify. The motion shall be in the form required by Rule 2-1 and shall state the particular facts alleged to require the disqualification. The motion shall be filed a reasonable time prior to the submission of the case to the Court.

Rule 6-5. Original Actions.

(a) *Original jurisdiction*. The Supreme Court shall have original jurisdiction in extraordinary actions as required by law, such as suits attacking the validity of statewide petitions filed under Amendment 7 of the Arkansas Constitution, or where the Supreme Court's contempt powers are at issue.

(b) *Procedure*. In such proceedings, the procedure will conform to that prevailing in bench trials in the circuit courts. Upon filing the original pleading and payment of a filing fee, a summons or other process will be issued by the Clerk. The respondent's pleading must be filed within the time provided by the Rules of Civil Procedure.

(c) *Fact finding*. Evidence upon issues of fact will be taken by a master to be appointed by the Court. As a condition to the appointment of a master, the Court may require both parties to file a bond for costs to be approved by the Clerk. Upon the filing of the master's findings, the parties shall file briefs as in other cases.

(d) *Fact finding unnecessary*. When the issues involve questions of law only, and there is no need for appointment of a master to determine facts, the parties shall file briefs as in other cases. Time limits under Rule 4-4 will be calculated from the date the respondent's pleading is filed or due to be filed.

History

Amended and effective June 21, 2018.

Rule 6-6. Pauper's Oath and Motions for Attorney's Fees in Criminal Cases.

(a) *Jurisdiction of request to proceed in forma pauperis.* When a criminal case is appealed to the Supreme Court or Court of Appeals, a request to proceed in forma pauperis may be filed with the appellate court at any time after the record is docketed with the clerk of the court. Prior to the docketing of the record with the clerk of the appellate court, the trial court shall have exclusive jurisdiction to consider a request to proceed in forma pauperis. Any petition or motion requesting to proceed in forma pauperis that is filed with the appellate court before the record is docketed with the clerk of the court shall be returned for failure to comply with this Rule.

(b) *Pauper's oath and affidavit; requirement.* A petition or motion filed with the Supreme Court or Court of Appeals requesting to proceed in forma pauperis shall be accompanied by an assertion of indigency, verified by a supporting affidavit. The affidavit form will be provided by the Clerk of the Court for such purposes. Any petition or motion not in compliance with this Rule will be returned to the petitioner or counsel for failure to comply.

(c) *Form for affidavit in support of request to proceed in forma pauperis.* The form of the affidavit shall be as follows:

IN THE SUPREME COURT OF ARKANSAS
OR ARKANSAS COURT OF APPEALS

_____ PETITIONER

V. NO. ____

STATE OF ARKANSAS RESPONDENT

AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS

I, _____, being first duly sworn, depose and say that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress.

I further swear that the responses which I have made to questions and instructions below are true.

1. Are you presently employed? Yes ____ No ____

(a) If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer. _____
(b) If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. _____

2. Have you received within the past twelve months any money from any of the following sources?
(a) Business, profession or any form of self-employment? Yes ____ No ____
(b) Rent payments, interest or dividends? Yes ____ No ____
(c) Pensions, annuities or life insurance payments? Yes ____ No ____
(d) Gifts or inheritances? Yes ____ No ____
(e) Any other sources? Yes ____ No ____

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past twelve months. _____
_____

3. Do you own any cash, or do you have money in a checking or savings account? Yes ___ No ___
If the answer is yes, state the total amount in each account. _____
_____

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? Yes ____ No ____
If the answer is yes, describe the property and state its approximate value. _____
_____

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support. _____
_____

6. TO BE COMPLETED ONLY IF PETITIONER IS INCARCERATED IN THE ARKANSAS DEPARTMENT OF CORRECTION OR ANY OTHER PENAL INSTITUTION.
Do you have any funds in the inmate welfare funds? Yes ____ No ____
If the answer is yes, state the total amount in such account and have the certificate found below completed by the authorized officer of the institution. _____
_____

I understand that false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

_____
Signature of Petitioner

STATE OF _____
COUNTY OF _____
Petitioner, _____, being first duly sworn under oath, presents that he/she has read and subscribed to the above and states that the information therein is true and correct.
SUBSCRIBED AND SWORN to before me this _____ day of _____, 20__.

_____
Notary Public

My commission expires:
_____
……..

CERTIFICATE

(To be completed by authorized officer of penal institution) I hereby certify that the petitioner herein, _____, has the sum of $ _____ on account to his/her credit at the _____ institution where he/she is confined. I further certify that petitioner likewise has the following securities to his/her credit according to the records of said institution: _____
_____

_____
Authorized Officer of Institution

(d) *Content of motions for attorney's fees.* All motions for attorney's fees from attorneys appointed to represent indigent appellants in criminal cases shall contain the following information: (1) the date of appointment; (2) the court which appointed counsel; (3) the number of hours expended by counsel in research, court appearances, and preparation of pleadings and briefs; (4) counsel's customary rate of compensation in similar cases; (5) the customary rate of compensation in similar cases of attorneys in the community; (6) expenses incurred by counsel which are directly attributable to the case; (7) the experience of counsel in the representation of criminal appellants; and (8) the relative complexity of the case. The motion shall be filed not later than 30 days after the issuance of the mandate.

Reporter's Notes, 2013 Amendment. The 2013 amendment added subsection (c) to clarify which court has jurisdiction to consider a request to proceed in forma pauperis.

History

Amended and effective by per curiam order Sep. 26, 2013.

Rule 6-7. Taxation of Costs.

(a) *Affirmance*. The appellee may recover brief costs not to exceed $3.00 per page; total costs not to exceed $500.00.

(b) *Reversal*. The appellant may recover (1) brief costs not to exceed $3.00 per page with total costs of the brief not to exceed $1000.00, (2) the filing fee of $150.00 and the technology fee of $15.00, (3) the circuit clerk's costs of preparing the record, (4) the court reporter's cost of preparing the transcript, and (5) the electronic filing charge of $20.00, if applicable.

(c) *Affirmed in part and reversed in part.* The Court may assess appeal costs according to the merits of the case.

(d) *Imposing or withholding costs*. Whether the case be affirmed or reversed, the Court will impose or withhold costs in accordance with Rule 4-2(b).

Explanatory Note. The fee for filing an appeal increased to $150.00 on July 31, 2007. The Rule is amended to reflect this increase.

Explanatory Note, 2011 Amendment: Ark. Code Ann. § 21-6-416 added a technology fee to be charged by the clerk of the Supreme Court, and it may be recovered as a cost.

History

Amended and effective December 17, 2020.

Rule 6-8. Certification of Questions of Law.

(a) *Power to Answer*.

(1) The Supreme Court may, in its discretion, answer questions of law certified to it by order of a federal court of the United States if there are involved in any proceeding before it questions of Arkansas law which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the Supreme Court.

(2) The Supreme Court shall decide whether to answer the question so certified within 30 days of the filing of the certification order. The Clerk shall mail notice of this decision to the certifying court, counsel of record, and parties appearing without counsel. The notice shall also state whether portions of the record, if any, are to be filed pursuant to subdivision (d) of this rule, as well as the briefing schedule and the approximate date the question certified will come before the Supreme Court for consideration.

(3) If the Supreme Court takes no action within 30 days of the filing of the certification order, the Court shall be deemed to have declined to answer the question unless it has by order extended the time.

(4) If the certification order is filed when the Supreme Court is formally in recess, the 30-day time period shall commence when the Court returns from the recess.

(5) In its discretion, the Supreme Court may at any time rescind its decision to answer a certified question. The Clerk shall promptly mail notice to the certifying court, counsel of record, and parties appearing without counsel.

(b) *Method of Invoking*. This rule may be invoked upon motion of a federal court of the United States or upon motion of any party to the cause pending before the court.

(c) *Contents of Certification Order*.

(1) A certification order shall contain: (A) the question of law to be answered; (B) the facts relevant to the question, showing fully the nature of the controversy out of which the question arose; (C) a statement acknowledging that the Supreme Court, acting as the receiving court, may reformulate the question; and (D) the names and addresses of counsel of record and parties appearing without counsel.

(2) If the parties cannot agree upon a statement of facts, the certifying court shall determine the relevant facts and state them as a part of its certification order.

(d) *Preparation of Certification Order*. The certification order shall be prepared by the certifying court, signed by the judge presiding at the hearing, and forwarded to the clerk of the Supreme Court by the clerk of the certifying court under its official seal. The Supreme Court may require the original or copies of all or any portion of the record before the certifying court to be filed if, in the opinion of the Supreme Court, the record or portion thereof may be necessary in answering the questions.

(e) *Costs of Certification*. Fees and costs shall be the same as in civil appeals docketed before the Supreme Court and shall be equally divided between the parties unless otherwise ordered by the certifying court in its certification order.

(f) *Briefs and Argument*. Proceedings in the Supreme Court shall be those provided in these rules.

(g) *Opinion*. The written opinion of the Supreme Court stating the law governing the questions certified shall be sent by the clerk under the seal of the Supreme Court to the certifying court and to the parties.

(h) *Power to Certify; Procedure*. The Supreme Court or the Court of Appeals, on their own motion or the motion of any party, may order certification of questions of law to the highest court of any other state when it appears to the Supreme Court or the Court of Appeals that there are involved in any proceeding before the court questions of law of the receiving state which may be determinative of the cause then pending and that there are no controlling precedents in the decisions of the highest court of the receiving state. The procedures for certification from this state to the receiving state shall be those provided in the laws of the receiving state.

Rule 6-9. Rule for Appeals in Dependency-Neglect Cases.

(a) *Appealable Orders*.

(1) The following orders may be appealed from dependency-neglect proceedings:

(A) adjudication order;

(B) disposition, review, no reunification, and permanency planning order if the court directs entry of a final judgment as to one or more of the issues or parties based upon the express determination by the court supported by factual findings that there is no just reason for delay of an appeal, in accordance with Ark. R. Civ. P. Rule 54(b);

(C) termination of parental rights;

(D) denial of right to appointed counsel pursuant to Ark. Code Ann. c 9-27-316(h); and

(E) denial of a motion to intervene.

(2) The circuit court shall enter and distribute to all the parties all dependency-neglect orders no later than (thirty) 30 days after a hearing.

(b) *Notice, Indigency, and Time for Appeal*.

(1) The notice of appeal shall be filed within twenty-one (21) days following the entry of the circuit court order from which the appeal is being taken.

(A) If the court announces its ruling from the bench and an appellant files a notice of appeal prior to the entry of the order, it shall be deemed to be filed the day after the order is entered.

(B) The notice of appeal and designation of record shall be signed by the appellant, if an adult, and appellant's counsel. The notice shall set forth the party or parties initiating the appeal, the address of the parties or parties, and specify the order from which the appeal is taken.

(2) If the appellant alleges indigency for purpose of the appeal, the appellant shall file a motion, with notice to all parties, to request an indigency determination within fourteen (14) days following the entry of the order from which the appeal is taken.

(A) If the appellant has had a court determination of indigency prior to the hearing from the order from which the appeal is taken, the appellant shall seek a re-determination of indigency for purpose of appeal and shall submit a new affidavit for the court to determine indigency for the purpose of appeal.

(B) The circuit court shall rule on appellant's indigency motion within five (5) days of the indigency motion being filed. If the court conducts a hearing on the indigency motion, the judge may conduct the indigency hearing outside of the county and by teleconference. The court shall use the federal poverty guidelines provided by the Administrative Office of the Courts in making its indigency determination.

(C) If the appellant is determined indigent for purpose of appeal, the notice shall indicate that the court has made a determination of indigency for payment of the record. Trial counsel for indigent parents or custodians shall not be relieved as counsel for purpose of appeal until relieved by the Public Defender Commission as

provided in Rule 6-10(c). If appellant is determined not indigent, appellant shall state that arrangements for payment of the record have been made.

(3) If a timely notice of appeal is filed, any other party may file a notice of cross-appeal and designation of record within five (5) days from receipt of the notice of appeal.

(4) The time in which to file a notice of appeal or a notice of cross-appeal and the corresponding designation of record will not be extended.

(5) In computing time periods in Rule 6-9(a)–(d), Ark. R. Civ. P. Rule 6(a), which provides in part that when the period of time prescribed or allowed is less than fourteen (14) days, intermediate Saturdays, Sundays, or legal holidays shall be excluded in the computation, shall apply. All other time periods in Rule 6-9 shall be calculated on a calendar-day basis except when the rule expressly provides for business-day computation.

(c) *Record on Appeal*.

(1) The record for appeal shall be limited to the transcript of the hearing from which the order on appeal arose, any petitions, pleadings, and orders relevant to the hearing from which the order on appeal arose, all exhibits entered into evidence at that hearing, and all orders entered in the case prior to the order on appeal.

(2) The appellant and the cross-appellant, if any, shall (A) complete a Notice of Appeal (Cross-Appeal) and Designation of Record (Form 1); (B) file Form 1 with the Circuit Clerk; and (C) serve Form 1 on the court reporter and all parties by any form of mail which requires a signed receipt.

(3) The designation-of-record portion of Form 1 shall identify the hearing from which the order being appealed arose, and shall designate the date(s) of the hearing resulting in the order being appealed. Service of the Notice of Appeal and Designation of Record (Form 1) shall constitute a request for transcription of the hearing from which the order of the appeal arose.

(4) Within five (5) days after receipt of the Notice of Appeal and Designation of Record (Form 1), the court reporter shall file a statement by mail or fax with the Circuit Clerk indicating whether arrangements for payment have been made and that the record will be completed timely. The court reporter shall make arrangements for the record to be completed and certified within sixty (60) days.

(d) *Transmission of Record*. Absent extraordinary circumstances, the record on appeal shall be electronically filed with the Clerk of the Supreme Court within seventy (70) days of the filing of the Notice of Appeal. Within sixty (60) days after the filing of the Notice of Appeal and Designation of Record (Form 1), the Circuit Clerk and the court reporter must provide their respective portions of the record to the appellant for submission to the Clerk of the Supreme Court. After the record has been duly certified by the Circuit Clerk and the court reporter, it shall be the responsibility of the appellant to transmit the record to the Clerk of the Supreme Court for filing.

(e) *Appellants' Briefs*. Within thirty (30) days after transmission of the record to the Clerk of the Supreme Court, the appellant shall file an appellant's brief that complies with Rule 4-2(a) and that

shall also include a completed "Petition on Appeal" form (Form 2). Appellants' briefs shall be filed using the electronic filing system provided by the Administrative Office of the Courts, and no paper copies are required. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings. Parties filing conventionally shall provide one paper copy of the brief at the time of filing.

(f) *Appellees' Briefs and Cross-Appellants' Briefs*. Within twenty days after filing of the appellant's brief, any appellee may file an appellee's brief or an appellee/cross-appellant's brief that complies with Rules 4-2(b) and that includes a completed "response to the petition on appeal or cross-appeal" form (Form 3). Appellees' briefs and appellee/cross-appellants' briefs shall be filed using the electronic filing system provided by the Administrative Office of the Courts, and no paper copies are required. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings. Parties filing conventionally shall provide one paper copy of the brief at the time of filing.

(g) *Reply Briefs, Reply/Cross-Appellees' Briefs, and Cross-Appellants' Reply Briefs*. The appellant will have ten calendar days after appellee's brief or appellee/cross-appellant's brief is filed to file a reply brief or reply/cross-appellee's brief that complies with Rule 4-2(c). If appellee files a cross-appellant's brief and the appellant has filed a cross-appellee's brief, the appellee will have ten (10) calendar days to file a cross-appellant's reply brief. The briefs shall be filed using the electronic filing system provided by the Administrative Office of the Courts, and no paper copies are required. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings. Parties filing conventionally shall provide one paper copy of the brief at the time of filing.

(h) *Extensions*. The Clerk of the Supreme Court shall have the authority to grant one seven-day extension for completion of the record and one seven-day extension to any party to the appeal to file the appellant's brief or the appellee's brief. The extension shall be computed from the date the brief was originally due. Absent extraordinary circumstances, no other extensions shall be granted.

(i) *Style, Content, and Filing of Briefs*. Briefs in dependency-neglect cases shall comply with the content, style, and filing requirements of Rules 4-1, 4-2, and 4-4 except when Rule 6-9 provides differently. Reference to any minor in the briefs shall be by pseudonym. Other parties seeking anonymity shall comply with Rule 6-3 of the Rules of the Supreme Court and Court of Appeals.

(j) *Procedure for No-Merit Briefs, Pro Se Points, and State's Response*.

(1) After studying the record and researching the law, if appellant's counsel determines that the appellant has no meritorious basis for appeal, then counsel may file a no-merit brief and move to withdraw. In addition to the requirement set forth in subsection (e), counsel's no-merit brief must include the following:

(A) The argument section of the brief shall list all adverse rulings to the appellant made by the circuit court on all objections, motions, and requests made by the party at the hearing from which the appeal arose and explain why each adverse ruling is not a meritorious ground for reversal.

(B) The statement of the case and the facts shall contain all rulings adverse to the appellant, made by the Circuit Court at the hearing from which the order of appeal arose.

(2) Appellees are not required to, but may, respond to a no-merit brief. Appellees may file a concurrence letter supporting the no-merit brief. Any response by an appellee shall be filed within twenty (20) days of the filing of the no-merit brief.

(3) The Clerk of the Supreme Court shall mail the appellant, at the appellant's last known address, a copy of the no-merit brief and the motion to withdraw. The Clerk shall notify the appellant in writing that the appellant may raise any points that the appellant chooses and that these points may be typewritten or handwritten. The Clerk shall also notify the appellant that the points shall be received by the Supreme Court Clerk by mail or other method of delivery within thirty (30) days from the date the Clerk mailed the appellant the notification.

(4) The Clerk shall provide appellant's points by electronic transmission or other method of delivery to the Department of Human Services - Office of Chief Counsel, the Attorney Ad Litem, and appellant's counsel within three (3) business days.

(5) The Arkansas Department of Human Services shall respond and any other appellees may respond to appellant's pro se points by filing a/the response within twenty (20) days of receipt by the Clerk of the Supreme Court of the appellant's pro se points.

(k) *Ruling*.

(1) Dependency-neglect proceedings shall be prioritized on the calendar of the appellate court. Once a case is ready for submission, the Clerk of the Supreme Court shall submit the case for decision.

(2) If a party files a petition for rehearing with the appellate court or petition for review with the Supreme Court, it shall be filed within ten (10) calendar days of the appellate court's decision and the response shall be filed within ten (10) calendar days of the filing of the petition. A petition for rehearing shall comply with Rule 2-3 and a petition for review shall comply with Rule 2-4 of the Rules of the Supreme Court and Court of Appeals in all respects, except for the number of days for filing. No supplemental briefs or extensions shall be allowed. The Clerk of the Supreme Court shall submit the petition for decision.

Addition to Reporter's Notes, 2014 Amendment: The rule formerly provided that appellees in an appeal of a dependency-neglect proceeding were not required to respond to pro se points raised by the appellant pursuant to paragraph (i)(1) of the rule. Paragraph (i)(5) as amended now requires that the Department of Human Services, as appellee, must respond to appellant's pro se points and that any other appellees may respond.

History

Adopted May 18, 2006, effective July 1, 2006; amended September 25, 2008; amended June 2, 2011, effective July 1, 2011; amended March 13, 2014, effective July 1, 2014; amended December 7, 2017, effective January 1, 2018; amended and effective June 6, 2019; amended and effective December 17, 2020; adopted November 10, 2022, effective December 1, 2022.

Rule 6-10. Trial counsel's duties with Regard to Dependency-Neglect Appeals.

(a) Trial counsel shall explain to his/her client all rights regarding any possible appeal, including deadlines, the merits, and likelihood of success of an appeal.

(b) If appellant is indigent, trial counsel shall file a motion seeking an indigency determination for purpose of appeal with the Circuit Court and ensure that appellant has signed the notice of appeal pursuant to Rule 6-9.

(c) Trial counsel who represent indigent parents and custodians shall serve the Arkansas Public Defender Commission by electronic submission or other method of delivery a file-marked copy of the notice of appeal and the order or orders that are being appealed within three (3) business days of filing the notice of appeal with the Circuit Clerk.

> (1) Trial counsel shall timely respond to all reasonable requests for information to the Arkansas Public Defender Commission for purpose of appeal. Trial counsel for indigent parents or custodians shall not be relieved as counsel for the purpose of appeal until the Public Defender Commission timely receives the properly filed notice of appeal, questionnaire, and the order(s) appealed.
>
> (2) The Arkansas Public Defender Commission shall send confirmation of receipt to trial counsel. This confirmation shall operate to relieve trial counsel of representation of the client for the limited purpose of appeal, and no motion to be relieved will need to be filed with the appellate court.

(d) The Circuit Court shall retain jurisdiction of the dependency-neglect case and conduct further hearings as necessary. Trial counsel, whether retained or court-appointed, shall continue to represent his/her client in a dependency-neglect case in the Circuit Court throughout any appeal to the Arkansas Supreme Court or Arkansas Court of Appeals, unless permitted by the trial court to withdraw in the interest of justice or for other sufficient cause.

(e) After the notice of appeal is filed with the Circuit Court, the appellate court shall have exclusive jurisdiction to relieve counsel for the purpose of appeal, except as provided in subsection (c). All substitute counsel shall file an entry of appearance with the Clerk of the Supreme Court.

History

Adopted May 18, 2006, effective July 1, 2006; amended September 25, 2008.