November 3, 2023-Briefs in BPR Appeals

Tennessee Supreme Court Rule 9, section 33.1(d):

Either party dissatisfied with the decree of the circuit or chancery court may prosecute an appeal directly to the [Supreme] Court. *The appeal shall be determined upon the transcript of the record from the circuit or chancery court, which shall include the transcript of evidence before the hearing panel, and upon the parties briefs' but without oral argument, unless the Court orders otherwise.* . . . Except as otherwise provided in this Rule, Tenn. R. App. P. 24, 25, 26, 27, 28, 29, and 30 shall apply to such appeals to this Court.

Tennessee Supreme Court Rule 9, section 33. Appeal

Tennessee Rule of Appellate Procedure 24. Content and Preparation of the Record. (See also Tenn. Sup. Ct. R. 9, section 34.1(b) concerning the preparation of the transcript in an appeal)

Tennessee Rule of Appellate Procedure 25. Completion and Transmission of the Record.

Tennessee Rule of Appellate Procedure 26. Filing of the Record.

Tennessee Rule of Appellate Procedure 27. Content of the Briefs.

Tennessee Rule of Appellate Procedure 28. Optional Appendix to the Briefs.

Tennessee Rule of Appellate Procedure 29. Filing and Service of Briefs.

Tennessee Rule of Appellate Procedure 30. Form of Briefs and Other Papers.

Tennessee Rule of Appellate Procedure 22. Motions

West's Tennessee Code Annotated
State Rules of Court
Rules of the Supreme Court of the State of Tennessee
Rule 9. Disciplinary Enforcement

Sup.Ct.Rules, Rule 9, § 33
Formerly cited as TN R S CT Rule 9, § 1

Section 33. Appeal

Effective: March 24, 2022

Currentness

33.1. (a) The respondent or petitioning attorney or the Board may appeal the judgment of a hearing panel by filing within sixty days of the date of entry of the hearing panel's judgment a Petition for Review in the circuit or chancery court of the county in which the office of the respondent or petitioning attorney was located at the time the charges were filed with the Board. If the respondent or petitioning attorney was located outside this State, the Petition for Review shall be filed in the circuit court or chancery court of Davidson County, Tennessee. If a timely application for the assessment of costs is made under Section 31.3(a), the time for appeal for all parties shall run from the hearing panel's submission of its findings and judgment with respect to the application for the assessment of costs unless, upon application of the Board to the Court and for good cause shown, the Court orders otherwise. In the absence of such an application and order, a Petition for Review filed prior to the hearing panel's submission of its findings and judgment with respect to the application for the assessment of costs shall be deemed to be premature and shall be treated as filed after the submission of the hearing panel's findings and judgment with respect to the assessment of costs and on the day thereof.

(b) The review shall be on the transcript of the evidence before the hearing panel and its findings and judgment. If allegations of irregularities in the procedure before the hearing panel are made, the trial court is authorized to take such additional proof as

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may be necessary to resolve such allegations. The trial court may, in its discretion, permit discovery on appeals limited only to allegations of irregularities in the proceeding. The court may affirm the decision of the hearing panel or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the party filing the Petition for Review have been prejudiced because the hearing panel's findings, inferences, conclusions or decisions are: (1) in violation of constitutional or statutory provisions; (2) in excess of the hearing panel's jurisdiction; (3) made upon unlawful procedure; (4) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or (5) unsupported by evidence which is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the hearing panel as to the weight of the evidence on questions of fact.

(c) There shall be no petitions for rehearing in the trial court.

(d) Either party dissatisfied with the decree of the circuit or chancery court may prosecute an appeal directly to the Court. The appeal shall be determined upon the transcript of the record from the circuit or chancery court, which shall include the transcript of evidence before the hearing panel, and upon the parties' briefs but without oral argument unless the Court orders otherwise. If a timely application for the assessment of costs is made under Section 31.3(b), the time for appeal for all parties shall run from the trial court's entry of its findings and judgment with respect to the application for the assessment of costs unless, upon application of the Board to the Court and for good cause shown, the Court orders otherwise. Absent such application and order, a Notice of Appeal filed prior to the trial court's entry of its findings and judgment with respect to the application for the assessment of costs shall be deemed to be premature and shall be treated as filed after the entry of the trial court's findings and judgment with respect to the assessment of costs and on the day thereof. Prior decisions of the Court holding that appeal of disciplinary proceedings must be taken to the Court of Appeals because Tenn. Code Ann. § 16-4-108 so requires are expressly overruled. Except as otherwise provided in this Rule, Tenn. R. App. P. 24, 25, 26, 27, 28, 29 and 30 shall apply to such appeals to this Court.

33.2. The Chief Justice shall designate a trial judge or chancellor, regular or retired,

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who shall not reside within the geographic boundaries of the chancery division or circuit court wherein the office of the respondent or petitioning attorney was located at the time the charges were filed with the Board. Alternatively, the Chief Justice may designate a Senior Judge who shall not be subject to this geographic limitation. It shall be this judge's, chancellor's, or Senior Judge's duty to review the case in the manner set forth in Section 33.1 and to enter judgment upon the minutes of the circuit or chancery court of the county where the case is heard, and the judgment shall be effective as if the special judge were the regular presiding judge of said court. The duty is imposed upon the clerks and the regular trial judge to promptly notify the Chief Justice of the filing of an appeal in disciplinary cases.

33.3. (a) The judgment of the hearing panel may be stayed in the discretion of the hearing panel, pending any appeal pursuant to Section 33. Upon the filing of a Petition for Review pursuant to Section 33, and in the event the judgment is not stayed by the hearing panel, the trial court in its discretion may stay the hearing panel's judgment upon motion of a party.

(b) The final judgment of the trial court may be stayed in the discretion of the trial court, pending an appeal to the Court pursuant to Section 33. In the event the trial court does not issue a stay pending appeal, the Court may issue a stay upon the motion of a party.

Credits

[Adopted August 30, 2013, effective January 1, 2014. Amended effective March 24, 2022.]

Notes of Decisions (6)

Sup. Ct. Rules, Rule 9, § 33, TN R S CT Rule 9, § 33
State court rules are current with amendments received through July 15, 2023. Some rules may be more current; see credits for details.

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Tennessee Rules of Appellate Procedure
F. The Record on Appeal

Tennessee Rules of Appellate Procedure, Rule 24

Rule 24. Content and Preparation of the Record

Currentness

(a) Content of the Record. The record on appeal shall consist of: (1) copies, certified by the clerk of the trial court, of all papers filed in the trial court except as hereafter provided; (2) the original of any exhibits filed in the trial court; (3) the transcript or statement of the evidence or proceedings, which shall clearly indicate and identify any exhibits offered in evidence and whether received or rejected; (4) any requests for instructions submitted to the trial judge for consideration, whether expressly acted upon or not; and (5) any other matter designated by a party and properly includable in the record as provided in subdivision (g) of this rule.

The following papers filed in the trial court are excluded from the record: (1) subpoenas or summonses for any witness or for any defendant when there is an appearance for such defendant; (2) all papers relating to discovery, including depositions, interrogatories and answers thereto, reports of physical or mental examinations, requests to admit, and all notices, motions or orders relating thereto; (3) any list from which jurors are selected; (4) trial briefs; and (5) minutes of opening and closing of court. Any paper relating to discovery and offered in evidence for any purpose shall be clearly identified and treated as an exhibit. No paper need be included in the record more than once.

If less than the full record on appeal as defined in this subdivision is deemed sufficient to convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal or if a party wishes to include any

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papers specifically excluded in this subdivision, the party shall, within 15 days after filing the notice of appeal, file with the clerk of the trial court and serve on the appellee a description of the parts of the record the appellant intends to include on appeal, accompanied by a short and plain declaration of the issues the appellant intends to present on appeal. If the appellee deems any other parts of the record to be necessary, the appellee shall, within 15 days after service of the description and declaration, file with the clerk of the trial court and serve on the appellant a designation of additional parts to be included. All parts of the record described or designated by the parties shall be included by the clerk of the trial court as the record on appeal. The declaration and description of the parts of the record to be included on appeal provided in this subdivision may be filed and served with the declaration and description of the parts of the transcript to be included in the record provided in subdivision (b) of this rule. If a party wishes to include any papers specifically excluded in this subdivision, but fails to timely designate such items, the trial court clerk may supplement the record as provided for in subdivision (e) without modifying the previously prepared record.

(b) Transcript of Stenographic or Other Substantially Verbatim Recording of Evidence or Proceedings. Except as provided in subdivision (c), if a stenographic report or other contemporaneously recorded, substantially verbatim recital of the evidence or proceedings is available, the appellant shall have prepared a transcript of such part of the evidence or proceedings as is necessary to convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal. Unless the entire transcript is to be included, the appellant shall, within 15 days after filing the notice of appeal, file with the clerk of the trial court and serve on the appellee a description of the parts of the transcript the appellant intends to include in the record, accompanied by a short and plain declaration of the issues the appellant intends to present on appeal. If the appellee deems a transcript of other parts of the proceedings to be necessary, the appellee shall, within 15 days after service of the description and declaration, file with the clerk of the trial court and serve on the appellant a designation of additional parts to be included. The appellant shall either have the additional parts prepared at the appellant's own expense or apply to the trial court for an order requiring the appellee to do so. The transcript, certified by the appellant, the appellant's counsel, or the reporter as an accurate account of the proceedings, shall be filed with the clerk of the trial court within 60 days after filing the notice of appeal. Upon filing the transcript, the appellant shall simultaneously serve notice of the filing on the appellee. Proof of service shall be filed with the clerk of the trial court with the filing of the transcript. If the appellee has objections to the transcript as filed, the appellee shall file objections thereto with the clerk of the trial court within fifteen days after service of notice of the filing of the transcript. Any

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differences regarding the transcript shall be settled as set forth in subdivision (e) of this rule.

Within 15 days after filing the notice of appeal the appellant in a criminal action shall order from the reporter a transcript of such parts of the evidence or proceedings not already on file as the appellant deems necessary. The order shall be in writing and within the same period a copy shall be filed with the clerk of the trial court. If funding is to come from the state of Tennessee, the order shall so state.

(c) Statement of the Evidence When No Report, Recital, or Transcript Is Available. If no stenographic report, substantially verbatim recital or transcript of the evidence or proceedings is available, or if the trial court determines, in its discretion, that the cost to obtain the stenographic report in a civil case is beyond the financial means of the appellant or that the cost is more expensive than the matters at issue on appeal justify, and a statement of the evidence or proceedings is a reasonable alternative to a stenographic report, the appellant shall prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement should convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal. The statement, certified by the appellant or the appellant's counsel as an accurate account of the proceedings, shall be filed with the clerk of the trial court within 60 days after filing the notice of appeal. Upon filing the statement, the appellant shall simultaneously serve notice of the filing on the appellee, accompanied by a short and plain declaration of the issues the appellant intends to present on appeal. Proof of service shall be filed with the clerk of the trial court with the filing of the statement. If the appellee has objections to the statement as filed, the appellee shall file objections thereto with the clerk of the trial court within fifteen days after service of the declaration and notice of the filing of the statement. Any differences regarding the statement shall be settled as set forth in subdivision (e) of this rule.

(d) Procedure When No Transcript or Statement Is to Be Filed. If no transcript or statement of the evidence or proceedings is to be filed, the appellant shall, within 15 days after filing the notice of appeal, file with the clerk of the trial court and serve upon the appellee a notice that no transcript or statement is to be filed. If the appellee deems a transcript or statement of the evidence or proceedings to be necessary, the appellee shall, within 15 days after service of the appellant's notice, file with the clerk of the trial court and serve upon the appellant a notice that a transcript or statement is

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to be filed. The appellee shall prepare the transcript or statement at the appellee's own expense or apply to the trial court for an order requiring the appellant to assume the expense. The other provisions of subdivisions (b) and (c) of this rule are applicable to the transcript or statement filed by the appellee under this subdivision, except that the appellee under this subdivision shall perform the duties assigned to the appellant in subdivisions (b) and (c) of this rule and the appellant under this subdivision shall perform the duties assigned to the appellee in subdivisions (b) and (c) of this rule.

(e) Correction or Modification of the Record. If any matter properly includable is omitted from the record, is improperly included, or is misstated therein, the record may be corrected or modified to conform to the truth. Any differences regarding whether the record accurately discloses what occurred in the trial court shall be submitted to and settled by the trial court regardless of whether the record has been transmitted to the appellate court. Absent extraordinary circumstances, the determination of the trial court is conclusive. If necessary, the appellate or trial court may direct that a supplemental record be certified and transmitted.

(f) Approval of the Record by Trial Judge or Chancellor. The trial judge shall approve the transcript or statement of the evidence and shall authenticate the exhibits as soon as practicable after the filing thereof or after the expiration of the 15-day period for objections by appellee, as the case may be, but in all events within 30 days after the expiration of said period for filing objections. Otherwise the transcript or statement of the evidence and the exhibits shall be deemed to have been approved and shall be so considered by the appellate court, except in cases where such approval did not occur by reason of the death or inability to act of the trial judge. In the event of such death or inability to act, a successor or replacement judge of the court in which the case was tried shall perform the duties of the trial judge, including approval of the record or the granting of any other appropriate relief, or the ordering of a new trial. Authentication of a deposition authenticates all exhibits to the deposition. The trial court clerk shall send the trial judge transcripts of evidence and statements of evidence.

(g) Limit on Authority to Add or Subtract From the Record. Nothing in this rule shall be construed as empowering the parties or any court to add to or subtract from the record except insofar as may be necessary to convey a fair, accurate and complete account of what transpired in the trial court with respect to those issues that are the

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bases of appeal.

(h) Filing of Transcript or Statement; Service of Notice to Parties. Nothing in this rule shall be construed as prohibiting any party from preparing and filing with the clerk of the trial court a transcript or statement of the evidence or proceedings at any time prior to entry of an appealable judgment or order. Upon filing, the party preparing the transcript or statement shall simultaneously serve notice of the filing on all other parties, accompanied by a short and plain declaration of the issues the party may present on appeal. Proof of service shall be filed with the clerk of the trial court with the filing of the transcript or statement. Any differences regarding the transcript or statement shall be settled as set forth in subdivision (e) of this rule.

Credits

[Amended effective July 1, 1980; May 19, 1981; August 1, 1988; July 1, 1996; July 1, 2000; July 1, 2005; January 2, 2007, effective July 1, 2007; December 16, 2013, effective July 1, 2014.]

Editors' Notes

ADVISORY COMMISSION COMMENT

General Note. This rule seeks to provide a method of preparation of the record that is both inexpensive and simple, and to provide that the record conveys an accurate account of what transpired in the trial court.

Subdivision (a). Under this subdivision the parties need do nothing (other than order preparation of a transcript) if the full record is deemed necessary for the appeal. The full record consists of: (1) copies of all papers filed in the trial court, (2) the original of any exhibits, (3) the transcript or statement of the evidence or proceedings, and (4) any other matter designated by a party and properly includable in the record. Certain papers filed in the trial court, such as subpoenas, summonses, papers relating to discovery, and jury lists, are automatically excluded from the record since they are typically unnecessary. However, if any party desires such matters to be included in the record on appeal, the party may have them included by designating in writing that such matters are to be included.

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In some situations it may not be desirable to prepare a full record as defined in the first paragraph of this subdivision. The third paragraph of this subdivision gives the parties the opportunity to designate which matters are to be included in the record on appeal. All matters designated by the parties are included by the clerk in the record on appeal.

Subdivision (b). Because of the need to have an exact record of what transpired in the trial court and to avoid the inaccuracies that inevitably attend preparation of a narrative record, this subdivision requires a verbatim transcript if a stenographic report or other contemporaneously recorded, substantially verbatim recital of the evidence or proceedings is available. This subdivision does not require that a stenographic report be made of all the evidence or proceedings. If a stenographic or other substantially verbatim record is not available, subdivision (c) establishes a procedure for generating a narrative record.

The procedure for preparing a verbatim transcript of the proceedings is similar to the procedure specified in subdivision (a) for taking an appeal on less than a full record as defined in that subdivision. Each party has the option to designate and have included whatever portions of the transcript the party deems relevant and appropriate for the appellate court to consider. The designation of the parts of the record to be included on appeal may be filed and served with the designation of the parts of the transcript to be included in the record.

Subdivision (c). This subdivision is available only in those situations in which a stenographic report or other substantially verbatim recital or transcript of the evidence is unavailable. It permits the preparation of a narrative record of the evidence or proceedings.

Subdivision (e). This subdivision sets forth the procedure to be followed if it is necessary to correct or modify the record. Omissions, improper inclusions, and misstatements may be remedied at any time, either pursuant to stipulation of the parties or on the motion of a party or the motion of the trial or appellate court. If it is necessary to inform the appellate court of facts that have arisen after judgment in the trial court, resort should be made not to this subdivision but to Rule 14 of these rules.

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Subdivision (f). This subdivision preserves the current requirement that the record be approved by the trial judge. This rule makes clear it is unnecessary for the judge or chancellor who presided at the trial to approve the record if such approval cannot be obtained by reason of the death or inability to act of the presiding judge or chancellor. In such circumstances any successor or replacement judge or chancellor may approve the record, though in some circumstances the fact that the judge or chancellor who presided at the proceedings is unavailable may require the ordering of a new trial. If, however, a stenographic transcript of the proceedings is available, only rarely would it be necessary to order a new trial due to the death or inability to act of the presiding judge or chancellor.

Subdivision (g). Under subdivision (a) the parties are empowered to designate any matter to be included in the record on appeal even though it is not automatically includable under the provisions of that subdivision. This subdivision makes clear, however, that the ability to designate additional parts to be included in the record extends only insofar as it is necessary to convey a fair, accurate and complete account of what transpired in the trial court. The ability to designate additional parts under subdivision (a) does not permit a party to augment the record by evidence entered ex parte.

Subdivision (h). This subdivision permits the preparation of a transcript or statement of the evidence prior to the entry of an appealable judgment if it is deemed desirable to do so. It would only be in unusual cases that it would be necessary to resort to this subdivision if a stenographic report of the proceedings is made.

[Comment amended effective May 17, 2005.]

1980 ADVISORY COMMISSION COMMENT

Most of the changes in Rule 24 amount to a simple relettering of subdivisions. There is an addition to Rule 24(b), which requires appellant in a criminal action to order the transcript from the court reporter within 15 days after filing notice of appeal, so that the court reporter will not be notified at the last minute of the need for a transcript. The only other change of substance in Rule 24 is the addition of a new subdivision (d). In some cases, no transcript or statement of the evidence or proceedings will be filed. For example, an action may be dismissed on a pretrial motion without a hearing in open court. This subdivision sets forth the procedure to be followed in such cases and any other case in which no transcript or statement is to be filed.

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[Comment amended effective May 17, 2005.]

1986 ADVISORY COMMISSION COMMENT

Amended T.R.Civ.P. 30.02(4)(B) allows for videotape depositions without a stenographic record at the parties' option. Because the appellate courts generally do not review lengthy videotapes, however, an appellant must make certain that relevant portions of any videotape deposition introduced in evidence be presented to the appellate tribunal in written form. Usually the court reporter at trial should take down the testimony while the videotape is being played in the courtroom.

ADVISORY COMMISSION COMMENT TO 1988 AMENDMENT

[Subdivision (a), first sentence.] The new fourth category of documents constituting the record makes clear that special requests for jury instructions automatically go to the appellate court. Probably that has always been the case, because the first category consists of papers "filed," which under Tenn. R. Civ. P. 5.06 includes papers filed with the trial judge as well as those filed with the clerk. The request need not be made an exhibit to the transcript of evidence, although that is a permissible procedure.

The amendment requires only submission to the judge of written requests for a jury charge under Tenn. R. Civ. P. 51 or Tenn. R. Crim. P. 30; the judge's failure to expressly deny a request does not affect inclusion of the request in the record. The traditional judicial method of writing the action, date, and signature on the document itself continues to be a desirable but not essential procedure under the amendment. The important element is that the judge be made aware of the request and be given opportunity to charge it or decline. If the requested instruction is submitted at a pretrial proceeding or simply filed with the clerk before trial, the better practice would be to specifically direct the judge's attention to the document, but that practice is not mandatory. Again, the only criterion is that the request be "submitted to the trial judge for consideration."

[Subdivision (a), second sentence.] Trial briefs are superfluous in view of appellate briefs, and they should not be sent to the appellate court absent unusual circumstances.

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Subdivision (f). The next-to-last sentence in (f) was added to relieve the trial judge from any supposed duty to separately authenticate each deposition exhibit. If a document was made an exhibit during the deposition and the deposition is authentic, the exhibits become part of the transcript of evidence.

[Comment amended effective May 17, 2005.]

ADVISORY COMMISSION COMMENT TO 1996 AMENDMENT

The final sentence of Rule 24(f) ensures that trial judges will have a record in chambers to approve.

ADVISORY COMMISSION COMMENT TO 2000 AMENDMENT

The amendment excludes from the appellate record various items, including minutes of opening and closing of court. The third paragraph provides for inclusion at a party's request.

2004 ADVISORY COMMISSION COMMENT

Termination of Parental Rights Proceedings. Rule 8A imposes special requirements governing the appeal of any termination of parental rights proceeding. In particular, Rules 8A(c) and 8A(d) impose special provisions regarding the content and preparation of the record in such an appeal.

[Comment adopted effective July 1, 2004.]

ADVISORY COMMISSION COMMENT TO 2005 AMENDMENT

Paragraph (h) is amended to remove obsolete references to "bills of exception" and "wayside bills of exception."

ADVISORY COMMISSION COMMENT TO 2007 AMENDMENT

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A transcript or statement of the evidence must be filed with the trial court clerk within 60 days after the filing of the notice of appeal unless extended by the court. The period was formerly 90 days.

ADVISORY COMMISSION COMMENT [2012]

Tenn. R. App. P. 3(b) and (c), as well as Tenn. R. Crim. P. 36, were amended in 2012 to provide for an appeal as of right from the trial court's filing of a corrected judgment or order.

Tenn. R. App. P. 24(a) lists the items which must be included in the record on appeal. In an appeal as of right from the entry of a corrected judgment or order pursuant to Tenn. R. Crim. P. 36, the record on appeal should include the listed items (e.g., papers filed in the trial court, exhibits, transcript or statement of the evidence or proceedings, etc.) pertaining to the original judgment or order, as well as those items pertaining to the corrected judgment or order. As provided by Tenn. R. App. P. 24(a), however, the parties may designate that only certain items be included "[i]f less than the full record on appeal ... is deemed sufficient to convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal[.]"

ADVISORY COMMISSION COMMENT [2014]

Subdivision (b). Tenn. R. App. P. 24(b) was amended to cross-reference subdivision (c), which sets out an exception to subdivision (b)'s requirement that the appellant prepare a "stenographic report or other contemporaneously recorded, substantially verbatim recital of the evidence or proceedings[,]" if "available."

Subdivision (c). Tenn. R. App. P. 24(c) was amended to provide that a statement of the evidence or proceedings may be filed in a civil case--instead of a stenographic report or other contemporaneously recorded, substantially verbatim recital of the evidence or proceedings--if the trial court determines, in its discretion, that the cost to obtain the stenographic report is beyond the financial means of the appellant or that the cost is more expensive than the matters at issue on appeal may justify. In making its determination, the trial court should start with the presumption that the cost to obtain the stenographic report is beyond the financial means of an appellant who is appealing as an indigent person as allowed by Tenn. R. App. P. 18. The amendment to subdivision (c) is limited to civil cases because matters pertaining to the transcript in criminal proceedings are governed by statute and by case law. *See* Title 40, Chapter

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14, Part 3 ("Transcripts and Court Reporters"), Tennessee Code Annotated; *Britt v. N. Carolina*, 404 U.S. 226 (1971) (stating, "the State must, as a matter of equal protection, provide indigent prisoners with the basic tools of an adequate defense or appeal, when those tools are available for a price to other prisoners"); *accord State v. Elliott*, 524 S.W.2d 473, 475 (Tenn. 1975).

Notes of Decisions (220)

Rules App. Proc., Rule 24, TN R RAP Rule 24
State court rules are current with amendments received through July 15, 2023. Some rules may be more current; see credits for details.

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West's Tennessee Code Annotated
State Rules of Court
Tennessee Rules of Appellate Procedure
F. The Record on Appeal

Tennessee Rules of Appellate Procedure, Rule 25

Rule 25. Completion and Transmission of the Record

Currentness

(a) Time for Completion of the Record; Duty of the Parties. The record on appeal shall be assembled, numbered and completed by the clerk of the trial court within 45 days after filing of the transcript or statement prepared in accordance with Rule 24(b) or 24(c) or, if no transcript or statement is to be filed, within 45 days after filing of appellant's notice under Rule 24(d) that no transcript or statement is to be filed, unless the time is extended by an order entered under subdivision (d) of this rule. Unless the time has been extended by order, if the appellant fails to file within 60 days from the filing of the notice of appeal either the transcript or statement of evidence prepared pursuant to Rule 24(b) or 24(c) or the notice under Rule 24(d) that no transcript or statement is to be filed, the clerk of the trial court shall provide written notice within 10 days to the clerk of the appellate court of the appellant's failure to comply with Rule 24(b) or (c) or (d), with a copy provided to counsel and pro se parties. After the filing of the notice of appeal, the parties shall comply with the provisions of Rule 24 and shall take any other action necessary to enable the clerk to complete the record. The clerk of the trial court shall number the pages of the documents comprising the record and shall prepare for transmission with the record a list of the documents correspondingly numbered and identified with reasonable definiteness. Copies of all papers filed in the trial court, except the transcript or statement of the evidence or proceedings and exhibits, shall be bound together in chronological order; such bound volume (or, if more than one bound volume, the first such volume) shall contain a table of contents listing in chronological order all of the papers filed in the trial court with each document's corresponding page number.

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Exhibits shall be compiled in numerical order and bound in a volume or volumes separate from the volume of papers filed in the trial court and separate from the transcript or statement of the evidence or proceedings. The volume of exhibits shall contain a table of contents listing all exhibits, whether or not they are included in the record. Each exhibit to be included in the record shall be securely stapled to a blank page, or placed in a durable envelope which shall be securely stapled to a blank page, or placed within a plastic sheet protector; each such page or plastic sheet protector then shall be bound within the volume of exhibits. If an exhibit is not included in the record pursuant to subdivision (b) of this rule, or if an exhibit is included in the record but cannot be bound into the volume of exhibits due to the nature of the exhibit, the trial court clerk shall include in numerical order in the volume of exhibits a page indicating the number of the exhibit, a description of the exhibit, and a statement of the reason the exhibit is not contained in the volume of exhibits. All exhibits which are to be included in the record but which cannot be bound in the volume of exhibits due to the nature of the exhibits shall be placed securely in a durable envelope or other suitable container, which shall be labeled with the style of the case, the docket number, and the exhibit number of the exhibit contained therein.

(b) Duty of Clerk to Transmit the Record. When the record is complete for purposes of the appeal, the clerk of the trial court shall transmit the record to the clerk of the appellate court and shall transmit therewith the list identifying the documents required by subdivision (a) of this rule. Documents of unusual bulk or weight and physical exhibits, other than documents, shall not be transmitted by the clerk. The clerk of the trial court shall notify the parties if any documents or physical exhibits are not to be transmitted. The clerk of the trial court shall transmit any such documents or physical exhibits if directed to do so by a party or the clerk of the appellate court. A party must make advance arrangements with the clerks for the transportation and receipt of exhibits or documents of unusual bulk or weight.

Transmission of the record is effected when the clerk of the trial court mails or otherwise forwards the record to the clerk of the appellate court. The clerk of the trial court shall indicate by endorsement on the face of the record or otherwise the date upon which it is transmitted to the appellate court.

(c) Duty of Clerk to Make Record Available to Prepare Appellate Papers. An attorney may request the clerk of the appellate court to transmit the record for the purpose of preparing appellate papers. The clerk shall comply with the request by

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making the record available at the clerk's office or by sending the record to the attorney at the attorney's expense. Upon receiving the record, the attorney is responsible for its safekeeping and shall return the record to the clerk of the appellate court no later than the day upon which the party's brief is to be filed. The attorney shall return the record to the clerk in its entirety and in an organized manner, with all volumes of the record intact and with all exhibits accounted for. In the event the returned record is either incomplete or in disarray, the appellate court in its discretion may require the attorney to pay the cost of reconstructing the record and/or may suspend the attorney's privilege to check out records in the future. The clerk shall keep a written account of requests for and return of the record.

Pro se litigants shall be allowed to remove the record from the appellate clerk's office only upon order of the appellate court. However, pro se litigants may inspect the record at the appellate clerk's office pursuant to Supreme Court Rule 34.

(d) Extension of Time for Completion of the Record. If the record cannot be completed within the time permitted by subdivision (a) of this rule, the clerk of the trial court shall request an extension of time from the appellate court to which the appeal has been taken. The request shall set forth the reason for the requested extension and must be made within the time originally prescribed for completing the record or within an extension previously granted. The time for completing the record shall not be extended to a day more than 60 days after the date of the filing of the transcript or statement prepared in accordance with rule 24(b) or 24(c) or the appellant's notice filed in accordance with rule 24(d). In the event of the failure of the clerk of the trial court to complete the record within the time allowed, the clerk of the appellate court shall notify the trial court and take such other steps as may be directed by the appellate court.

(e) Retention of the Record in the Trial Court by Order of the Court. If the record or any part thereof is required in the trial court for use there pending the appeal, the trial court may make an order to that effect, and the clerk of the trial court shall retain the record or parts thereof subject to the request of the appellate court. The clerk of the trial court shall transmit a certified copy of the order together with such parts of the original record as the trial court shall allow and certified copies of any retained parts.

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(f) Stipulation of Parties That Parts of the Record Be Retained in the Trial Court. The parties may agree by written stipulation filed in the trial court that designated parts of the record shall be retained in the trial court unless thereafter the appellate court shall order or any party shall request their transmittal. The parts thus designated shall nevertheless be a part of the record on appeal for all purposes.

(g) Record for Preliminary Hearing in the Appellate Court. If prior to the time the record is transmitted a party desires to make in the appellate court a motion or application for an order appropriately granted by the appellate court, the clerk of the trial court shall transmit to the appellate court such parts of the record or certified copies thereof as any party shall designate.

(h) Return of Record to Trial Court for Non-Compliance. If the clerk of the appellate court determines that the record transmitted to the appellate court fails to comply with the provisions of these rules governing the preparation, completion, and transmission of the record, the clerk is authorized to return the record to the trial court with a notification to the clerk of the trial court as to the specific lack of compliance with the rules. In such cases, the clerk of the trial court shall promptly remedy the lack of compliance and then promptly transmit the modified record to the clerk of the appellate court.

Credits

[Amended effective July 1, 1980; July 1, 1999; July 1, 2003; July 1, 2005; January 2, 2007, effective July 1, 2007; December 16, 2013, effective July 1, 2014; July 1, 2017.]

Editors' Notes

ADVISORY COMMISSION COMMENT

After the transcript or statement prepared in accordance with Rule 24(b) or 24(c) has been filed with the clerk of the trial court, or after a notice is filed in accordance with Rule 24(d), the clerk must assemble, number and complete the record within 45 days after filing of the transcript or statement or notice. If unable to complete the record

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within 45 days, the clerk, not one of the parties, must request an extension from the appellate court to which the appeal has been taken. Under Rule 40(g), the clerk forfeits the clerk's entire cost of preparing and transmitting the record, or such portion thereof as appropriate, if the clerk fails to complete the record on appeal within the time specified in this rule. When the record is complete for purposes of appeal, the clerk of the trial court transmits the record to the clerk of the appellate court.

[Comment amended effective May 17, 2005.]

ADVISORY COMMISSION COMMENT TO 1980 AMENDMENT

Subdivision (a). Rule 25(a) makes clear that the clerk is not required to bind together the transcript of evidence with the other parts of the record.

[Comment amended effective May 17, 2005.]

ADVISORY COMMISSION COMMENT TO 2003 AMENDMENT

Subdivision (a). The new second sentence covers situations where lawyers take no action concerning the transcript of evidence after notice of appeal is filed.

[Comment amended effective May 17, 2005.]

2004 ADVISORY COMMISSION COMMENT

Termination of Parental Rights Proceedings. Rule 8A imposes special requirements governing the appeal of any termination of parental rights proceeding. In particular, Rules 8A(e) and 8A(f) impose special provisions regarding the completion and transmission of the record in such an appeal.

[Comment adopted effective July 1, 2004.]

ADVISORY COMMISSION COMMENT TO 2005 AMENDMENT

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Subdivision (a). The amendment to subdivision (a) changes the manner in which the exhibits included in the record are transmitted to the appellate court. Because individual exhibits occasionally are lost by attorneys who check out the record or by appellate court personnel, the rule is amended to require that the exhibits to the extent possible be compiled into bound volumes separate from the transcript of the evidence or proceedings. The Commission believes that having the original exhibits bound into volumes will reduce the possibility that an individual exhibit will be lost.

Because individual exhibits occasionally are lost after the record is transmitted to the appellate court, attorneys are well-advised to retain duplicates of all exhibits pending the final disposition in the case. If the parties have duplicates of the exhibits, a lost exhibit can be replaced with relative ease; on the other hand, if neither party has a copy of the missing exhibit, it might not be possible to replace the missing exhibit. In the latter case appellate review of the case can be adversely affected.

Subdivision (c). The appellate court clerk's experience shows that some attorneys have returned records to the clerk with bound volumes of the record disassembled, with exhibits missing, or with the components of the record disorganized. The purpose of the amendment to the first paragraph of subdivision (c), requiring attorneys to return the record intact and in an organized manner, is two-fold: (1) to assist the clerk's personnel in efficiently verifying that each record returned to the appellate clerk is complete; and (2) to assist the appellate court, which subsequently will be reviewing the record when deciding the appeal.

The second paragraph of subdivision (c) is amended to refer to Rule 34, Rules of the Tennessee Supreme Court, governing access to appellate judicial records.

ADVISORY COMMISSION COMMENT TO 2007 AMENDMENT

A transcript or statement of the evidence must be filed with the trial court clerk within 60 days after the filing of the notice of appeal unless extended by the court. The period was formerly 90 days.

ADVISORY COMMISSION COMMENT [2014]

Tenn. R. App. P. 25(a) also was amended to require that the bound volume(s) of the papers filed in the trial court include a table of contents listing those papers in the

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order in which the papers were filed in the trial court. Prior to the adoption of the amendment, the practice among trial court clerks varied, with some clerks preparing a table of contents in chronological order, while others prepared a table of contents in alphabetical order (by the clerk's description of each document). Having a table of contents arranged in chronological order greatly assists the appellate court in its efficient review of the record.

Subdivision (h). Tenn. R. App. P. 25 was amended to add subdivision (h), authorizing the clerk of the appellate court to return to the trial court any record that fails to comply with the provisions of the Rules of Appellate Procedure governing the preparation, completion, and transmission of the record. *See also* Tenn. R. App. P. 40(i) (providing that the trial court clerk's statutory fee shall be forfeited for failing to complete and transmit the record on appeal in the time and manner provided in these rules); *Aclin v. Speight*, 611 S.W.2d 54, 56 (Tenn. Ct. App. 1980) (disallowing trial court clerk's costs because of inclusion of extraneous documents in the record on appeal). Like the amendments to subdivision (a), this amendment was intended to promote the appellate court's efficient review of the record.

ADVISORY COMMISSION COMMENT [2017]

The first sentence of subdivision (a) of this rule is amended by deleting the following obsolete text, formerly at the end of that sentence: "or if proof of service of the notice of appeal has not been filed[.]"

Notes of Decisions (17)

Rules App. Proc., Rule 25, TN R RAP Rule 25
State court rules are current with amendments received through July 15, 2023. Some rules may be more current; see credits for details.

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West's Tennessee Code Annotated
State Rules of Court
Tennessee Rules of Appellate Procedure
F. The Record on Appeal

Tennessee Rules of Appellate Procedure, Rule 26

Rule 26. Filing of the Record

Currentness

(a) Filing and Notice of Filing of the Record. Upon receipt of the record following transmittal, the clerk of the appellate court shall file the record. The clerk shall immediately serve notice on all parties of the date on which the record was filed.

(b) Dismissal for Failure of Appellant Timely to File the Transcript or Statement. If the appellant shall fail to file the transcript or statement within the time specified in Rule 24(b) or (c), or if the appellant shall fail to follow the procedure in Rule 24(d) when no transcript or statement is to be filed, the appellate court may dismiss the appeal on its own initiative or any appellee may file a motion in the appellate court to dismiss the appeal. The motion shall be supported by a certificate of the clerk of the trial court showing the date and substance of the judgment or order from which the appeal was taken and the date on which the notice of appeal was filed. The appellant may respond within 14 days after the motion is filed. In lieu of granting the motion or at any time on its own initiative, the appellate court may order the filing of the transcript or statement. Nothing in this subdivision shall be construed to authorize dismissal of an appeal due to the errors or omissions of the clerk of the trial court.

Credits

[Amended effective July 1, 1997; December 29, 2015, effective July 1, 2016.]

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Editors' Notes

ADVISORY COMMISSION COMMENT

Subdivision (a). The docketing of an appeal under these rules takes place when the clerk of the appellate court receives a copy of the notice of appeal from the trial court clerk. Under this subdivision the clerk of the appellate court files the record immediately upon its receipt and notifies all parties of the date on which the record was filed.

Subdivision (b). The failure of a party to file the transcript or statement within the time specified in Rule 24 may result in dismissal of the appeal on the appellate court's own initiative or upon motion. The motion should be in the form set forth in Rule 22 of these rules. Nothing in this rule permits the dismissal of an appeal due to the errors or omissions of the clerk of the trial court.

[Comment amended effective May 17, 2005; December 29, 2015, effective July 1, 2016.]

ADVISORY COMMISSION COMMENT TO 1997 AMENDMENT

Subdivision (b). The amendment to the first sentence fills a gap left in the original rule. If an appellant did not intend to file a transcript of evidence, but failed to follow the prescribed procedure in Rule 24(d), it was unclear where the appellee would file a motion to dismiss. The amended language makes it clear that the appellate court is the proper forum. The amendment to the third sentence keys response deadlines concerning a motion to dismiss to filing dates, not service dates.

[Comment amended effective May 17, 2005.]

ADVISORY COMMISSION COMMENT [2016]

Rule 26(b) is amended to authorize the appellate court to dismiss an appeal on its own initiative if the appellant fails to file the transcript or statement of the evidence within the time specified in Rule 24(b) or (c), or if the appellant fails to follow the procedure

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in Rule 24(d) when no transcript or statement is to be filed. The appellate courts have case-management procedures under which the appellate court can be notified when the transcript or statement of the evidence (or a notice that neither will be filed) has not been timely filed in the trial court. For that reason, the appellate court should be authorized to dismiss an appeal in such circumstances, even if no motion to dismiss has been filed by an appellee. The Rule, however, continues to authorize any appellee to file such a motion.

Prior to dismissing an appeal on the appellate court's own initiative pursuant to Rule 26(b), the court usually will issue a show-cause order and permit the parties an opportunity to file written responses to the order.

Consistent with the amendment to subdivision (b) of the Rule, the original Advisory Commission Comment to subdivision (b) is amended to indicate that the appellate court can dismiss the appeal on its own initiative for failure to timely file the transcript or statement of the evidence.

Notes of Decisions (5)

Rules App. Proc., Rule 26, TN R RAP Rule 26
State court rules are current with amendments received through July 15, 2023. Some rules may be more current; see credits for details.

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West's Tennessee Code Annotated
State Rules of Court
Tennessee Rules of Appellate Procedure
G. Briefs

Tennessee Rules of Appellate Procedure, Rule 27

Rule 27. Content of Briefs

Effective: July 1, 2022

Currentness

(a) Brief of the Appellant. The brief of the appellant shall contain under appropriate headings and in the order here indicated:

(1) A table of contents, with references to the pages in the brief;

(2) A table of authorities, including cases (alphabetically arranged), statutes and other authorities cited, with references to the pages in the brief where they are cited;

(3) A jurisdictional statement in cases appealed to the Supreme Court directly from the trial court indicating briefly the jurisdictional grounds for the appeal to the Supreme Court;

(4) A statement of the issues presented for review;

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(5) A statement of the case, indicating briefly the nature of the case, the course of proceedings, and its disposition in the court below;

(6) A statement of facts, setting forth the facts relevant to the issues presented for review with appropriate references to the record;

(7) An argument, which may be preceded by a summary of argument, setting forth:

(A) the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record (which may be quoted verbatim) relied on; and

(B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);

(8) A short conclusion, stating the precise relief sought.

(b) Brief of the Appellee. The brief of appellee and all other parties shall conform to the foregoing requirements, except that items (3), (4), (5) (6) and 7(B) of subdivision (a) of this rule need not be included except to the extent that the presentation by the appellant is deemed unsatisfactory. If appellee is also requesting relief from the judgment, the brief of the appellee shall contain the issues and arguments involved in his request for relief as well as the answer to the brief of appellant.

(c) Reply Briefs. The appellant may file a brief in reply to the brief of the appellee. If the appellee also is requesting relief from the judgment, the appellee may file a brief in reply to the response of the appellant to the issues presented by appellee's request

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for relief.

(d) Citation of Supplemental Authorities. When pertinent and significant authorities come to the attention of a party after the party's brief has been filed, or after oral argument but before decision, a party may promptly advise the clerk of the court, by letter, extra copies to the clerk for each judge of the appellate court, and a copy to all other parties, setting forth the citations. There shall be a reference either to the page of the brief or to a point argued orally to which the citations pertain, but the letter shall without argument state the reasons for the supplemental citation. Any response shall be made promptly and shall be similarly limited.

(e) Reproduction of Constitutional Provisions, Statutes, Rules and Regulations. If determination of the issues presented requires consideration of a constitutional provision, statute, rule, regulation or other similar matter, they shall be reproduced in pertinent part in the brief or in an addendum at the end of the brief, or they may be supplied to the court in pamphlet form.

(f) Reference in Briefs to the Parties. In the briefs the parties shall be referred to as in the trial court or in the other proceedings under review, or by using the actual names of the parties or descriptive terms.

(g) Reference in Briefs to the Record. Except as provided in rule 28(c), reference in the briefs to the record shall be to the pages of the record involved. Intelligible abbreviations may be used. If reference is made to evidence, the admissibility of which is in controversy, reference shall be made to the pages in the record at which the evidence was identified, offered, and received or rejected.

(h) Citation of Authorities. Citation of cases must be by title, to the page of the volume where the case begins, and to the pages upon which the pertinent matter appears in at least one of the reporters cited. It is not sufficient to use only supra or infra without referring to the page of the brief at which the complete citation may be found. Citation of Tennessee cases may be to the official or South Western Reporter

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or both. Citation of cases from other jurisdictions must be to the National Reporter System or both the official state reports and National Reporter System. If only the National Reporter System citation is used, the court rendering the decision must also be identified. All citations to cases shall include the year of decision. Citation of textbooks shall be to the section, if any, and page upon which the pertinent matter appears and shall include the year of publication and edition if not the first edition. Tennessee statutes shall generally be cited to the Tennessee Code Annotated, Official Edition, but citations to the session laws of Tennessee shall be made when appropriate. Citations of supplements to the Tennessee Code Annotated shall so indicate and shall include the year of publication of the supplement.

(i) Word Limitations. Except by order of the appellate court or a judge thereof, briefs shall comply with the word limitations provided in Rule 30(e).

(j) Briefs in Cases Involving Multiple Parties. In cases involving multiple parties, including cases consolidated for purposes of the appeal, any number of parties may join in a single brief, and any party may adopt by reference any part of the brief of another party. Parties may similarly join in reply briefs.

Credits

[Amended effective July 1, 2010; July 1, 2022.]

Editors' Notes

ADVISORY COMMISSION COMMENT

Briefs will be oriented toward a statement of the issues presented in a case and the arguments in support thereof.

Subdivision (g) envisions that the clerk of the trial court will have numbered the pages of the record consecutively from start to finish as provided in Rule 25(a) of these rules.

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The page limitations on arguments in briefs are based on the expectation that most arguments need not extend beyond the 50 pages authorized under subdivision (i). It should be noted that the limitation relates to the argument. The full brief may exceed the 50-page limitation.

This rule should be read in connection with Rule 40(f), which provides that the cost of reproducing briefs cannot be taxable at rates higher than those generally charged for photocopying. The parties may have their briefs commercially printed only at their own expense.

[Comment amended effective May 17, 2005.]

1994 ADVISORY COMMISSION COMMENT

In addition to this rule, internal rules of the intermediate appellate courts state that no trial error will be considered on appeal if briefs do not cite pages of the trial record where the alleged error occurred. The advocate is directed to Rule 6 of the Court of Appeals and Rule 10 of the Court of Criminal Appeals.

2010 ADVISORY COMMISSION COMMENT

Rule 27(a) is amended to require that the appellant's brief include, for each issue presented, a statement of the applicable standard of review. Rule 27(b) is amended to add a cross-reference to amended Rule 27(a)(7)(B).

ADVISORY COMMISSION COMMENT [2022]

Rule 27(i) has been revised to reflect the length of briefs and other referenced papers is now determined by word limitations as opposed to page limitations in accordance with revisions to Rule 30(e).

Notes of Decisions (206)

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Rules App. Proc., Rule 27, TN R RAP Rule 27
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State Rules of Court
Tennessee Rules of Appellate Procedure
G. Briefs

Tennessee Rules of Appellate Procedure, Rule 28

Rule 28. Optional Appendix to the Briefs

Currentness

(a) Option of Appellant to Prepare and File Appendix; Contents; Time for Filing; Number of Copies. The appellant may prepare and file an appendix to the briefs that shall contain: (1) any relevant portions of the pleadings, charge, findings or opinion; (2) the judgment, order or decision in question; and (3) any other parts of the record the appellant deems essential for the judges to read in order to determine the issues presented. The appellant shall accurately reproduce in the appendix all parts of the record that must be studied in order to determine the issues presented; the appellant may not reproduce only those parts that support the appellant's argument. If in the judgment of the appellee the parts of the record reproduced by the appellant are inadequate for the determination of the issues presented, the appellee may reproduce in an appendix to the appellee's brief such other parts of the record the appellee deems essential for the judges to read. The parties are encouraged to agree as to the contents of the appendix. The fact that parts of the record are not included in the appendix shall not prevent the parties from relying on such parts. The appendix shall be served and filed with the brief. A sufficient number of copies of the appendix shall be filed to provide the clerk and each judge of the appellate court with one copy, and one copy thereof shall be served on each party in the manner provided in rule 20 for the service of papers unless the appellate court shall by order direct the filing or service of a greater or lesser number.

(b) Unnecessary Reproduction of Record to Be Avoided. In determining the parts of the record to be reproduced in an appendix, the parties shall have regard for the fact

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that the entire record is always available to the court for reference and examination and shall avoid reproduction of parts that need not be read by the judges in determining the issues presented.

(c) Reference in Briefs to the Record. References in the briefs to parts of the record reproduced in an appendix shall be to the pages of the appendix at which those parts appear. If references are made to parts of the record not reproduced, the reference shall be to the pages of the record involved.

(d) Arrangement of the Appendix. At the beginning of the appendix there shall be inserted a list of the parts of the record that it contains, in the order in which the parts are set out therein, with references to the pages of the appendix at which each part begins. The parts of the record shall be set out in chronological order. The pages of the appendix shall be numbered consecutively at the bottom thereof. When matter contained in a transcript of the evidence or proceedings is set out in the appendix, the page of the transcript at which such matter may be found shall be indicated in brackets immediately before the matter that is set out. Omissions in the text of papers or of the transcript must be indicated by asterisks. Immaterial formal matters (e.g., captions, subscriptions, acknowledgments) shall be omitted. A question and its answer may be contained in a single paragraph.

(e) Reproduction of Exhibits. Exhibits or parts thereof designated for inclusion in the appendix may be contained in a separate volume, or volumes, suitably indexed. If contained in a separate volume, the appellant shall prepare, file and serve the same number of copies of such volume as are required for the appendix.

Editors' Notes

ADVISORY COMMISSION COMMENT

Perhaps the most notable feature of this rule is the fact that preparation of an appendix is not required but is an option afforded the parties if they care to take advantage of this rule. Each party is free to reproduce as an appendix to that party's brief those portions of the record that party deems essential for the judges to read. If an appendix is prepared, it is important to keep in mind that the full record always remains

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available to the court for reference and examination. It should also be noted that under Rule 40(c) the cost of preparing an appendix is not a recoverable cost on appeal.

[Comment amended effective May 17, 2005.]

Notes of Decisions (2)

Rules App. Proc., Rule 28, TN R RAP Rule 28
State court rules are current with amendments received through July 15, 2023. Some rules may be more current; see credits for details.

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West's Tennessee Code Annotated
State Rules of Court
Tennessee Rules of Appellate Procedure
G. Briefs

Tennessee Rules of Appellate Procedure, Rule 29

Rule 29. Filing and Service of Briefs

Currentness

(a) Time for Serving and Filing Briefs. The appellant shall serve and file a brief within 30 days after the date on which the record is filed with the clerk. The appellee shall serve and file a brief within 30 days after the appellant's brief is filed with the clerk. Reply briefs shall be served and filed within 14 days after filing of the preceding brief. If separate briefs are filed on behalf of multiple appellants or multiple appellees, the time for filing and serving a responsive brief shall not commence to run until all briefs on behalf of all appellants or appellees have been filed.

(b) Number of Copies to Be Filed and Served. A sufficient number of copies of each brief shall be filed with the clerk of the appellate court to provide the clerk and each judge of the appellate court with one copy, and one copy shall be served on each party in the manner provided in rule 20 for the service of papers unless the appellate court shall by order direct the filing or service of a greater or lesser number.

(c) Consequence of Failure to File Briefs. If an appellant fails to file his brief within the time provided by this rule or within the time as extended, any appellee may file a motion in the appellate court to dismiss the appeal. The appellant may respond within 14 days after filing of the motion. In lieu of granting the motion or at any time on its own motion, the appellate court may order service and filing of any brief. If an appellee fails to file a brief within the time provided by this rule or within the time as extended, any appellant may file a motion in the appellate court to have the case

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submitted for decision on the record and appellant's brief. The appellee may respond within 14 days after filing of the motion.

Credits

[Amended effective July 1, 1980; July 1, 1995; July 1, 1997.]

Editors' Notes

ADVISORY COMMISSION COMMENT

The time for filing briefs is measured from the date on which the record is filed in the appellate court.

Under subdivision (c) an appellee may move for dismissal of an appeal if the appellant does not timely file a brief. Similarly, an appellant may move to have a case determined on the appellant's brief alone if the appellee fails timely to file a brief. In addition, under Rule 35(a) of these rules a party who has not filed a brief may not argue orally.

[Comment amended effective May 17, 2005.]

ADVISORY COMMISSION COMMENT TO 1980 AMENDMENT

The sentence added to Rule 29(a) deals with situations in which there are multiple appellants or multiple appellees. It allows a party to wait to respond until all of the briefs have been served by all adverse parties.

ADVISORY COMMISSION COMMENT TO 1995 AMENDMENT

Amended Rule 29(a) substitutes court filing dates for service dates, making more precise the running of time periods.

ADVISORY COMMISSION COMMENT TO 1997 AMENDMENT

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The response time runs from the *filing* date rather than the *service* date of a motion.

[Comment amended effective May 17, 2005.]

2004 ADVISORY COMMISSION COMMENT

Termination of Parental Rights Proceedings. Rule 8A imposes special requirements governing the appeal of any termination of parental rights proceeding. In particular, Rule 8A(g) imposes a special provision regarding the filing of briefs in such an appeal.

[Comment adopted effective July 1, 2004.]

Notes of Decisions (10)

Rules App. Proc., Rule 29, TN R RAP Rule 29
State court rules are current with amendments received through July 15, 2023. Some rules may be more current; see credits for details.

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West's Tennessee Code Annotated
State Rules of Court
Tennessee Rules of Appellate Procedure
G. Briefs

Tennessee Rules of Appellate Procedure, Rule 30

Rule 30. Form of Briefs and Other Papers

Effective: July 1, 2022

Currentness

(a) Production Methods; Paper. Briefs, transcripts or statements, applications, answers in opposition, petitions, motions, supporting papers, and objections should be produced on opaque, unglazed white paper by any printing, duplicating, or copying process that provides a clear black image. The use of recycled paper with the highest feasible percentage of postconsumer waste content is recommended and encouraged. Original typewritten pages may be used, but not carbon copies except on behalf of parties allowed to proceed as indigent persons. All printed matters should be on paper 6 ⅛ by 9 ¼ inches in type not smaller than 11 point and type matter 4 ¼ by 7 ¼ inches. If not printed, copies should be on paper 8 ½ by 11 inches, double spaced, except for quoted matter, which may be single spaced, with the text (1) when typewriter generated not smaller than standard elite type or (2) when computer generated not smaller than times new roman 12 point font and, in either event, not to exceed 6 ½ by 9 ½ inches on the page. Papers should be numbered on the bottom and fastened on the left.

(b) Content of Front Covers of the Briefs. The front covers of the briefs shall contain: (1) the number of the case in the appellate court and the name of that court; (2) the title of the case as it appeared in the trial court, except that the status of each party in the appellate court shall also be indicated; (3) the nature of the proceeding in the appellate court and the name of the court, agency or board below; (4) the title of the document; and (5) the name and address of counsel or, if unrepresented by

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counsel, the party filing the brief.

(c) Colors of Covers of the Briefs. If available, the colors of the covers shall be: the brief of the appellant, blue; the brief of the appellee, red; reply briefs, gray; briefs of amicus curiae, green.

(d) Caption on Other Papers. Papers other than briefs addressed to the appellate court shall contain a caption setting forth: (1) the number of the case in the appellate court and the name of that court, (2) the title of the case as it appeared in the trial court, (3) a brief descriptive title indicating the purpose of the paper.

(e) Word Limitations of Briefs and Other Papers. Except by order of the court, briefs and other specifically referenced papers shall comply with the following word limitations: (1) principal briefs and applications pursuant to Rule 11 shall be limited to 15,000 words, (2) reply briefs, answers pursuant to Rule 11, and supplemental briefs pursuant to Rule 11 shall be limited to 5,000 words, and (3) amicus briefs shall be limited to 7,500 words.

The following sections of a brief and other referenced papers shall be excluded from these word limitations: Title/Cover page, Table of Contents, Table of Authorities, Certificate of Compliance, Attorney Signature Block, and Certificate of Service.

All briefs and other papers subject to word limitations under these rules must include a certificate by the attorney or unrepresented party that the brief or other paper complies with the applicable word limitation and must state the number of words in the brief or other paper. The person certifying compliance may rely on the word count of the word processing system used to prepare the brief or other paper.

Credits

[Amended effective July 1, 1993; July 1, 2012; July 1, 2013; July 1, 2022.]

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Editors' Notes

ADVISORY COMMISSION COMMENT

This rule adopts a uniform system of page size for briefs, transcripts, applications, answers in opposition, petitions, motions, supporting papers, and objections. This rule permits, in effect, the use of any process, other than the carbon copy process, that produces a clean, readable page. It should be noted that while appellate papers may be commercially printed, under rule 40(f) of these rules the cost of reproducing appellate papers is taxable at a rate not higher than that generally charged for photocopying.

COURT AND ADVISORY COMMISSION COMMENT TO 1993 AMENDMENT

It is the public policy of the State of Tennessee to encourage recycling and the use of recycled products and materials. This policy is reflected in the Tennessee Solid Waste Planning and Recovery Act (T.C.A. § 68-31-601, et seq.) and in the Solid Waste Management Act of 1991 (T.C.A. § 68-31-801, et seq.). The underlined portion of Rule 30(a) denotes the addition to Rule 30(a) effective July 1, 1993, in which the Court recommends and encourages that all papers filed in the Tennessee courts be submitted on recycled paper.

ADVISORY COMMISSION COMMENT [2012]

Paragraph (a) is amended to specify the minimum font size for non-printed papers generated by a computer.

ADVISORY COMMISSION COMMENT [2013]

Paragraph (a) of the rule was amended to replace the term "poor persons" with the term "indigent persons." The amendment was not intended to change the meaning or application of the rule.

ADVISORY COMMISSION COMMENT [2022]

This rule adopts a word limitation provision for all briefs and other referenced papers. This rule is also amended to require a certification of compliance with the word limitation provisions of this rule.

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Notes of Decisions (6)

Rules App. Proc., Rule 30, TN R RAP Rule 30
State court rules are current with amendments received through July 15, 2023. Some rules may be more current; see credits for details.

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West's Tennessee Code Annotated
State Rules of Court
Tennessee Rules of Appellate Procedure
E. Practice on Appeal

Tennessee Rules of Appellate Procedure, Rule 22

Rule 22. Motions

Currentness

(a) Contents of Motion; Response. Unless another form is elsewhere prescribed by these rules, an application for an order, unless made during a hearing, shall be made by filing a written motion for such order or relief with proof of service on all other parties. The motion shall contain or be accompanied by any matter required by a specific provision of these rules governing such a motion and the papers, if any, on which it is based. The motion shall state the grounds on which it is based and the order or other relief requested. Each copy of a motion shall be accompanied by a memorandum of law and if the motion is based on matters not appearing of record, by affidavits or other evidence in support thereof. Any showing in opposition to a motion, other than a procedural motion, shall be served and filed within 10 days after the motion is filed. The court may shorten or extend the time for responding to any motion.

(b) Motions for Procedural Orders. Notwithstanding the provisions of (a) of this Rule 22 as to motions generally, motions for procedural orders, including any motion under Rule 21(b), may be acted upon at any time, without awaiting a response. The motion shall contain a statement concerning efforts to contact adverse counsel and shall reflect whether there is opposition to the motion. Any party adversely affected by such action may by application to the court request consideration, vacation or modification of such action. Pursuant to rule or order of the courts, motions for specified types of procedural orders may be disposed of by the clerk.

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(c) Disposition of Motions. On request of a party or on its own motion, the appellate court may place any motion on the calendar for hearing or the court may otherwise dispose of the motion as it may determine. When a motion has been placed on the calendar for hearing, the clerk shall notify each party of the date and the time designated for the hearing. Pursuant to rule or order of the court, motions for specified types of procedural orders may be disposed of by the clerk.

(d) Power of Single Judge to Entertain Motions. A single judge of the appellate court may entertain and may grant or deny any request for relief that under these rules may be sought by motion, except that a single judge may not dismiss or otherwise finally dispose of an appeal or other proceeding. The action of a single judge may be reviewed by the court.

(e) Form of Motions; Number of Copies. All papers relating to motions shall comply with the form prescribed in rule 30. Two copies of the motion shall be filed, but the court may require that additional copies be furnished.

Credits

[Amended effective July 1, 1995; July 1, 1997; July 1, 2012.]

Editors' Notes

ADVISORY COMMISSION COMMENT

Subdivision (d). This subdivision permits a single judge to grant or deny any requested relief that under these rules may be sought by motion. It is, however, expressly provided that a single judge may not dismiss or otherwise finally dispose of an appeal or other proceeding. Final disposition of an appeal means the termination of an appeal, whether by decision, dismissal, or otherwise. Nothing in this subdivision authorizes a single judge of an appellate court to grant relief that must be sought by some procedure other than by a motion. Some rules require preparation of an application or petition. Since relief under those rules may not properly be sought by motion, a single judge may not grant the requested relief. It would, therefore, be

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inappropriate for a single judge to grant a request for permission to appeal, since permission is requested by the filing of an application, not by a motion. On the other hand, a single appellate judge may grant a stay or injunction under Rule 7 pending disposition of an application for permission to appeal by the full court. In all cases, the disposition of a motion by a single judge is subject to review by the entire court.

[Comment amended effective May 17, 2005.]

ADVISORY COMMISSION COMMENT TO 1995 AMENDMENT

Paragraph (b) allows expeditious disposition of purely procedural motions by the court or the clerk, without awaiting a response. In instances where justice miscarries, a lawyer could apply to the court for retroactive remedy. Paragraph (c) authorizes the court, in its discretion, to grant a hearing on a motion.

[Comment amended effective May 17, 2005.]

ADVISORY COMMISSION COMMENT TO 1997 AMENDMENT

Filing rather than service of a motion triggers the response time. The time for opposing a motion is extended from 5 to 10 days.

[Comment amended effective May 17, 2005.]

ADVISORY COMMISSION COMMENT [2012]

Paragraphs (b) and (c) are amended to supply a subtitle for each paragraph.

Notes of Decisions (4)

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