

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

January 30, 1998

Cecil W. Crowson
Appellate Court Clerk

IN RE: AMENDMENTS TO TENNESSEE)
RULES OF APPELLATE) No. _____
PROCEDURE)

ORDER

The Court adopts the attached amendments effective July 1, 1998, subject to approval by resolutions of the General Assembly.

Enter this the 30th day of January, 1998.

FOR THE COURT:

E. Riley Anderson, Chief Justice

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 15

VOLUNTARY DISMISSAL

(a) Where to File Dismissal.

An appeal may be dismissed by filing in the appellate court a stipulation for dismissal signed by all parties or on motion and notice by appellant. A copy of the dismissal shall be filed by the clerk of the appellate court with the clerk of the trial court. If the record has not been filed with the clerk of the appellate court, the clerk of the trial court shall file a copy of the appeal bond with the clerk of the appellate court.

[Delete former (a) and (b) and move former (c) to (b).]

Advisory Commission Comment

New Rule 15(a) requires voluntary dismissals to be filed at the appellate level. The change was made because cases are docketed on appeal once the trial clerk sends a copy of the notice of appeal to the appellate clerk.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 3

APPEAL AS OF RIGHT; AVAILABILITY;
METHOD OF INITIATION

(e) Initiation of Appeal as of Right.

[Amend the next to last sentence in this subsection to delete “and service” in order that the sentence shall read:]

Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal but is ground only for such action as the appellate court deems appropriate, which may include dismissal of the appeal.

Advisory Commission Comment

Because the trial clerk rather than the appellant’s lawyer is now responsible for serving the appellate clerk with a copy of the notice of appeal, the words “and service” were deleted from subsection (e).

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 40

COSTS

(d) Bill of Costs; Objections. [Change the second sentence to read as follows:]

If an application for permission to appeal to the Supreme Court or a certified question of state law from a federal court is filed, the bill of costs shall be filed within 15 days after the denial of the application or dismissal of the certification, or if the application is granted or the certified question is accepted, within 15 days after entry of the final judgment.

Advisory Commission Comment

The second sentence of subsection (d) is amended to provide for assessment of costs concerning questions certified from a federal tribunal.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 6

SECURITY FOR COSTS ON APPEAL

[Delete the second sentence.]

[Revise the fourth sentence to read as follows:]

After a bond for costs on appeal is filed, an appellee may raise on motion for determination by the trial court objections to the form of the bond or the sufficiency of the surety.

Advisory Commission Comment

The amendment deletes the set amount of \$1,000 for an appeal bond and leaves the amount open.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 9

INTERLOCUTORY APPEAL BY PERMISSION FROM THE TRIAL COURT

(d) Content of Application: Answer

[Change the fourth sentence to read as follows:]

Within 10 days after filing of the application, any other party may file an answer in opposition, with copies in the number required for the application, together with any additional parts of the record such party desires to have considered by the appellate court.

(e) Grant of Permission: Cost Bond: Filing the Record

[Change the first sentence to read as follows:]

If permission to appeal is granted, the appellant shall file a bond for costs as required by Rule 6 within 10 days after entry of the order granting permission to appeal, and the record shall be transmitted and filed within 30 days unless otherwise ordered.

Advisory Commission Comment

The housekeeping change in the fourth sentence of Rule 9(d) is to key response times to a filing date rather than a service date.

The initial sentence of Rule 9(e) was revised to make clear that the record must be filed in the Supreme Court within 30 days after a grant of permission to appeal.