

The Supreme Court of South Carolina

Re: Amendments to South Carolina Appellate Court
Rules

Appellate Case No. 2022-001647

ORDER

Pursuant to Article V, § 4A of the South Carolina Constitution, the South Carolina Appellate Court Rules are amended as set forth in the attachment to this order. These amendments shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

s/ D. Garrison Hill J.

Columbia, South Carolina
January 31, 2024

1. Rule 203(e)(1)(B) and (e)(2)(B), SCACR, are amended to provide:

(e)(1)(B) The docket number of the case in the lower court. If the appellant has knowledge of a related appeal, the docket number or appellate case number of any related appeals that are pending.

. . .

(e)(2)(B) The docket number of the case before the administrative law court, or if the appeal is from an agency, the docket number before the agency. If the appellant has knowledge of a related appeal, the docket number or appellate case number of any related appeals that are pending.

2. Rule 209(c), SCACR, is amended to provide:

**RULE 209
DESIGNATION OF MATTER TO BE INCLUDED IN THE
RECORD ON APPEAL**

. . .

(c) Certification. The Designation shall be signed. The signature constitutes a certificate that the Designation contains no matter which is irrelevant to the appeal.

3. Rule 210(a), (b), (c), and (g), SCACR, are amended to provide:

**RULE 210
RECORD ON APPEAL**

(a) Time for Service. Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court. Whenever a paper copy of the Record is served on another party, the Record shall be bound as provided by Rule 267(d), unless this requirement is waived by the receiving party.

(b) Time for Filing. The appellant must file the Record on Appeal with the clerk of the appellate court no later than the date his brief(s) are due under Rule 211. As provided by Rule 267(d), one copy filed with the appellate court shall be filed unbound or filed by electronic means. The appellate court may require an appellant to file additional copies of the Record on Appeal.

(c) Content. The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal. Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, and exhibits and other materials or documents. . . .

. . .

(g) Certificate of Counsel. The act of filing the Record on Appeal constitutes a certificate that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

4. Rule 211(a), SCACR, is amended to provide:

**RULE 211
FINAL BRIEFS**

(a) Time to Serve and File. Within twenty (20) days after the service of the Record on Appeal, each party shall serve a copy of the party's final brief(s) on every other party to the appeal, and file the final brief(s) with the clerk of the appellate court. As provided by Rule 267(d), one copy filed with the appellate court shall be filed unbound. The final brief(s) shall be signed. The signature constitutes a certificate that the final brief(s) complies with Rule 211(b). The appellate court may require a party to file additional copies of its brief(s).

5. Rule 212(c), SCACR, is amended to provide:

(c) Appendix. Supplemental materials filed under Rule 212(b) shall be included in an Appendix to the Record on Appeal. Unless otherwise agreed by the parties or ordered by the Court, the Appendix shall be compiled, served and filed by the party initially proposing it. Whenever a paper copy of the Appendix to the Record on Appeal is served on another party, the Appendix shall be bound as provided by Rule 267(d), unless this requirement is waived by the receiving party.

6. Rule 221(a), SCACR, is amended to provide:

**RULE 221
REHEARING AND REMITTITUR**

(a) Rehearing. Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court. A petition for rehearing shall be in accordance with Rule 240, and shall state with particularity the points supposed to have been overlooked or misapprehended by the court. No return to a petition for rehearing may be filed unless requested by the appellate court. Ordinarily, however, rehearing will not be granted in the absence of such a request. No petition for rehearing shall be allowed from an order denying a petition for a writ of certiorari under Rule 242, SCACR, declining to entertain a matter under Rule 245, SCACR, or denying a motion to reinstate under Rule 260, SCACR. A petition for rehearing shall not exceed fifteen (15) pages.

7. Rule 240(d), (e), and (f), SCACR, are amended to provide:

(d) Filing of Motions and Petitions. The motion or petition shall be filed with the clerk of the appellate court, and a copy shall be served upon each party. The motion or petition filed with the appellate court shall be accompanied by the filing fee set by order of the Supreme Court. This filing fee shall not be required for motions or petitions in criminal appeals; petitions for writs of certiorari under Rules 242, 243,

and 247; certified questions under Rule 244; petitions to invoke the original jurisdiction of the Supreme Court under Rule 245; or motions or petitions filed by the State of South Carolina or its departments or agencies. In extraordinary cases, the appellate court may relieve a party from paying the filing fee.

(e) Return to Motion. Any party opposing a motion or petition shall have ten (10) days from the date of service thereof to file a return with the clerk and serve on all parties a copy of the return; provided, however, that a return to a petition for rehearing may only be filed if permitted under Rule 221(a). The court may in its discretion enlarge or limit the time for filing the return. The provisions of Rule 240(c) shall apply to a return. Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition.

(f) Reply. The moving party shall have five (5) days from the date of service of a return to file a reply with the clerk and serve on all parties a copy of the reply. The provisions of Rule 240(c) apply to a reply.

8. Rule 241(d)(2) and (d)(5), SCACR, are amended to provide:

(d) Procedure for Obtaining Lift of Stay or Supersedeas.

. . .

(2) After the lower court or administrative tribunal has ruled, any party may petition the appellate court where the appeal is pending for review of this order. An individual judge or justice may grant or deny the relief on a temporary basis, and refer the matter to the full appellate court to hear and determine the matter, or he or she may issue a final order. Upon the issuance of a final order by an individual judge or justice, an aggrieved party may petition the full appellate court for review of that decision.

. . .

(5) The petition and accompanying documents shall be served

on the opposing party(ies) and filed with the clerk of the appellate court together with proof of service.

9. Rule 242(d), SCACR, is amended to delete current paragraph (d)(1) and renumber the remaining paragraphs accordingly.

10. Rule 242(c), (e), (f), (g), and (i), SCACR, are amended to provide:

**RULE 242
CERTIORARI TO THE COURT OF APPEALS**

. . .

(c) Time for Petitioning and Filing Fee. A decision of the Court of Appeals is not final for the purpose of review by the Supreme Court until the petition for rehearing or reinstatement has been acted on by the Court of Appeals. A petition for writ of certiorari shall be served on opposing counsel and filed with proof of service with the Clerk of the Court of Appeals and the Clerk of the Supreme Court within thirty (30) days after the petition for rehearing or reinstatement is finally decided by the Court of Appeals. The petition filed with the Supreme Court shall be accompanied by the filing fee set by order of the Supreme Court. No filing fee shall be required in criminal cases or petitions filed by the State of South Carolina or its agencies or departments.

. . .

(e) Appendix. At the same time the petition is filed, the petitioner shall also file the Appendix with the Clerk of the Supreme Court. As provided by Rule 267(d), the Appendix filed with the Supreme Court shall be filed unbound or filed by electronic means. Whenever a paper copy of the Appendix is served on another party, the Appendix shall be bound as provided by Rule 267(d), unless this requirement is waived by the receiving party. The Appendix shall include the following:

. . .

(f) Return to Petition. Within thirty (30) days after service of the petition, respondent shall serve a copy of the return on opposing counsel, and shall file with the Clerk of the Supreme Court the return and proof of service showing that the return has been served. The return shall include an argument on each question and may include a counter-statement of the case and of the questions presented for review. The total length of a return shall not exceed twenty-five (25) pages. If review is being sought regarding a post-conviction relief case, the respondent need not file a return unless requested by the Supreme Court.

(g) Reply. The petitioner shall have ten (10) days from the date of service of the return to file with the Clerk of the Supreme Court a reply and proof of service showing that the reply has been served. The total length of the reply shall not exceed fifteen (15) pages.

. . .

(i) Consideration by the Supreme Court. The petition will be considered by the Supreme Court without oral argument. The petition may be granted or denied on any question presented. If the petition is granted, the Clerk shall notify each party or each party's attorney specifying the question or questions to be considered, and the parties shall prepare briefs addressing the question(s). Petitioner shall have thirty (30) days from the date the petition is granted to serve a copy of his brief and the Appendix on all parties to the appeal, and file the brief and the Appendix with the Clerk of the Supreme Court, along with proof of service. Whenever a paper copy of the Appendix is served on another party, the Appendix shall be bound as provided by Rule 267(d), unless this requirement is waived by the receiving party. Within thirty (30) days after service of petitioner's brief, respondent shall serve a copy of his brief on all parties to the appeal, and file the brief with the Clerk of the Supreme Court, along with proof of service. Petitioner may file a reply brief. If a reply brief is prepared, petitioner shall, within ten (10) days after service of respondent's brief, serve a copy of the reply brief on all parties to the appeal and file the reply brief with the Clerk of the Supreme Court, along with proof of service. The briefs shall, to the extent possible, comply with the requirements of Rule 208(b). Oral argument shall not be permitted

unless ordered by the Supreme Court.

. . . .

11. Rule 243(d), (g), (h), and (j), SCACR, are amended to provide:

**RULE 243
CERTIORARI TO REVIEW POST-CONVICTION RELIEF
ACTIONS**

. . . .

(d) Service and Filing of Petition and Appendix. Within thirty (30) days of receipt of the transcript, petitioner shall serve a copy of the Appendix and petition for writ of certiorari on opposing counsel and shall file the Appendix and petition and proof of service showing the Appendix and petition have been served with the Clerk of the Supreme. Whenever a paper copy of the Appendix is served on another party, the Appendix shall be bound as provided by Rule 267(d), unless this requirement is waived by the receiving party. As provided by Rule 267(d), the Appendix filed with the Supreme Court shall be filed unbound or filed by electronic means.

. . . .

(g) Return of Respondent. Within thirty (30) days after service of the petition and Appendix, respondent shall serve a copy of his return on opposing counsel, and shall file the return and proof of service showing the return has been served with the Clerk of the Supreme Court. The return may rephrase the questions, offer additional sustaining grounds, and present a concise counter-statement. The total length of a return shall not exceed twenty-five (25) pages.

(h) Reply. The petitioner shall have ten (10) days from the date of service of the return to file a reply and proof of service showing the reply has been served with the Clerk of the Supreme Court. The total length of the reply shall not exceed fifteen (15) pages.

. . . .

(j) Procedure Upon Grant of Certiorari. Upon the concurrence of any two justices, the petition may be granted on any question presented. The petition will be considered by the Supreme Court without oral argument. If the petition is granted, the Clerk shall notify each party or each party's attorney, specifying the question or questions to be considered, and the parties shall prepare briefs addressing the question(s). Petitioner shall have thirty (30) days from the date the petition is granted to serve a copy of his brief on all parties to the appeal, and file the brief and proof of service with the Clerk of the Supreme Court. Within thirty (30) days after service of petitioner's brief, respondent shall serve a copy of his brief on all parties to the appeal, and file the brief and proof of service with the Clerk of the Supreme Court. Petitioner may file a reply brief. If a reply brief is prepared, petitioner shall, within ten (10) days after service of respondent's brief, serve a copy of his reply brief on all parties to the appeal and file the reply brief and proof of service with the Clerk of the Supreme Court. The briefs shall, to the extent possible, comply with the requirements of Rule 208(b). Oral argument shall not be permitted unless ordered by the Supreme Court.

12. Rule 245(c), SCACR, is amended to provide:

RULE 245

ORIGINAL JURISDICTION OF THE SUPREME COURT

(c) Actions. A party seeking to have the Supreme Court entertain an action in its original jurisdiction (petitioner) shall serve on all other parties (respondents) a petition for original jurisdiction, a complaint setting forth the claim for relief in the manner specified by Rule 8, SCRCF, and a notice advising each respondent he has twenty (20) days from the date of service to serve and file a return to the petition. Service shall be in the same manner as required for summons and complaints in Rule 4, SCRCF. The petitioner shall file the petition, notice and complaint with the Clerk of the Supreme Court, along with proof of service on each respondent. Any party opposing the petition shall have twenty (20) days from the date of service to file a return with the Clerk of the Supreme Court and serve on all parties a copy of the return. Failure of a party to timely file a return may be deemed a consent by that party to the matter being heard in the original jurisdiction. Unless otherwise ordered by the Supreme Court, the petition shall be decided without oral argument.

If the petition is granted, the respondent shall have thirty (30) days to serve and file an answer to the complaint. The Supreme Court may provide for discovery, fact finding and/or a briefing schedule as necessary.

13. Rule 247(c), (f), (g), and (h), SCACR, are amended to provided:

**RULE 247
CERTIORARI TO REVIEW DNA TESTING DECISIONS**

. . .

(c) Service and Filing of Petition and Appendix. Within thirty (30) days of receipt of the transcript, petitioner shall serve a copy of the Appendix and petition for a writ of certiorari on opposing counsel and shall file the Appendix and petition together with proof of service showing the Appendix and petition have been served with the Clerk of the appellate court in which the matter is pending. Whenever a paper copy of the Appendix is served on another party, the Appendix shall be bound as provided by Rule 267(d), unless this requirement is waived by the receiving party. As provided by Rule 267(d), one copy of the Appendix filed with the appellate court shall be filed unbound or filed by electronic means.

. . .

(f) Return of Respondent. Within thirty (30) days after service of the petition and Appendix, respondent shall serve a copy of a return on opposing counsel, and shall file the return and proof of service showing the return has been served with the Clerk of the appellate court in which the matter is pending. The return may rephrase the questions, offer additional sustaining grounds, and present a concise counter-statement. The total length of a return shall not exceed twenty-five (25) pages.

(g) Reply. The petitioner shall have ten (10) days from the date of service of the return to file a reply and proof of service showing the reply has been served with the Clerk of the appellate court in which the matter is pending. The total length of the reply shall not exceed fifteen (15) pages.

(h) Procedure Upon Grant of Certiorari. Upon the concurrence of any two justices of the Supreme Court or one judge of a three-judge panel of the Court of Appeals, the petition may be granted on any question presented. The petition will be considered by the appellate court without oral argument. If the petition is granted, the Clerk shall notify each party or each party's attorney, specifying the question or questions to be considered, and the parties shall prepare briefs addressing the question(s). Petitioner shall have thirty (30) days from the date the petition is granted to serve a copy of a brief on all parties to the appeal, and file the brief and proof of service with the Clerk of the appellate court. Within thirty (30) days after service of petitioner's brief, respondent shall serve a copy of a brief on all parties to the appeal, and file the brief and proof of service with the Clerk of the appellate court. Petitioner may file a reply brief. If a reply brief is prepared, petitioner shall, within ten (10) days after service of respondent's brief, serve a copy of the reply brief on all parties to the appeal and file the reply brief and proof of service with the Clerk of the appellate court. The briefs shall, to the extent possible, comply with the requirements of Rule 208(b). Oral argument shall not be permitted unless ordered by the appellate court.

14. Rule 267(d) and (f), SCACR, are amended to provide:

**RULE 267
FORM OF PAPERS**

. . .

(d) Margins and Bindings. Typewritten papers or reproductions must have a blank margin of one inch on all sides. If more than two sheets are used, they shall be securely fastened on the left margin. While petitions or motions need not be bound, Records on Appeal, Appendices in post-conviction relief matters and briefs must be bound in volumes not exceeding 250 sheets each. If staples or clasps are used to bind the volumes, the spines of the volumes shall be bound with heavy tape. One copy of every Final Brief, Record on Appeal, Supplemental Record, or Appendix filed with the appellate court shall be filed unbound or filed by electronic means pursuant to any order of

the Supreme Court issued pursuant to Rule 262(a)(3).

. . .

(f) Number of Copies. Unless otherwise ordered or requested by the Appellate Court, a document filed with an Appellate Court need not be accompanied by any additional copies. However, the appellate courts may request additional copies from the lawyer or party submitting the document. Any additional requirements with respect to formatting and additional copies may be specified in an order of the Supreme Court.

SUBMITTED TO GENERAL ASSEMBLY