

**IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE**

1. IN RE: AMENDMENTS TO TENNESSEE RULES OF APPELLATE PROCEDURE

FILED DECEMBER 10, 2003

ORDER

The Court adopts the attached amendments effective July 1, 2004, subject to approval by resolutions of the General Assembly. The rules amended are as follows:

RULE 3 APPEAL AS OF RIGHT: AVAILABILITY; METHOD OF INITIATION

RULE 4 APPEAL AS OF RIGHT: TIME FOR FILING NOTICE OF APPEAL

RULE 9 INTERLOCUTORY APPEAL BY PERMISSION FROM THE TRIAL COURT

RULE 21 COMPUTATION AND EXTENSION OF TIME.

FOR THE COURT:

FRANK F. DROWOTA, III,

CHIEF JUSTICE

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 3

APPEAL AS OF RIGHT: AVAILABILITY;
METHOD OF INITIATION

[replace the current subparagraph (f) with the following new subparagraph (f):]

(f) Content of the Notice of Appeal.—The notice of appeal shall specify the party or parties taking the appeal by naming each one in the caption or body of the notice (but an attorney representing more than one party may describe those parties with such terms as “all plaintiffs,” “the defendants,” “the plaintiffs A, B, et al.,” or “all defendants except X”), shall designate the judgment from which relief is sought, and shall name the court to which the appeal is taken. An appeal shall not be dismissed for informality of form or title of notice of appeal.

Advisory Commission Comment

The language of paragraph (f) in parentheses, taken from Federal Rule of Appellate Procedure 3(c), provides a lawyer representing appellants with options other than listing each appellant by name. The lawyer should consult with clients to make sure each wants to appeal, thereby avoiding problems with court costs.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 4
APPEAL AS OF RIGHT: TIME FOR
FILING NOTICE OF APPEAL

[replace the current subparagraph (c) with the following new subparagraph (c):]

(c) Termination by Specified Timely Motions in Criminal Actions. In a criminal action, if a timely motion or petition under the Tennessee Rules of Criminal Procedure is filed in the trial court by the defendant: (1) under Rule 29(c) for a judgment of acquittal; (2) under Rule 32(a) for a suspended sentence; (3) under Rule 32(f) for withdrawal of a plea of guilty; (4) under Rule 33(a) for a new trial; or (5) under Rule 34 for arrest of judgment, the time for appeal for all parties shall run from entry of the order denying a new trial or granting or denying any other such motion or petition.

Advisory Commission Comment

The amendment adds to the list in subsection (c) a motion for withdrawal of a plea of guilty. See *State v. Peele*, 58 S.W.3d 701 (Tenn. 2001).

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 9
INTERLOCUTORY APPEAL BY PERMISSION
FROM THE TRIAL COURT

(e) Filing the Record.—

[Delete the second sentence.]

Advisory Commission Comment

The amendment deleted the second sentence in Rule 9(e) (relating to the docketing of an interlocutory appeal) because that sentence was rendered obsolete by an amendment to Rule 5(c), effective July 1, 2002.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 21
COMPUTATION AND EXTENSION OF TIME

(a) Computation of Time.—

[Change the second sentence to read:]

The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the court clerk inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days.

[Replace the current subparagraph (b) with the following new subparagraph (b):]

(b) Extension of Time. – For good cause shown the appellate court may enlarge the time prescribed by these rules or by its order for doing any act or may permit an act to be done after the expiration of such time; however, the court may not enlarge the time for filing a notice of appeal prescribed in Rule 4, an application for permission to appeal to the Supreme Court from the denial of an application for interlocutory appeal by an intermediate appellate court prescribed in Rule 9(c), an application for permission to appeal to the Supreme Court from an intermediate appellate court’s denial of an extraordinary appeal prescribed in Rule 10(b), an application for permission to appeal prescribed in Rule 11, or a petition for review prescribed in Rule 12.

Advisory Commission Comment

The second sentence of Rule 21(a) is altered to adopt federal language covering snow days and the like which make a clerk’s office “inaccessible” for filing. Earlier language required that the office be “closed.”

Rule 21(b) was amended to conform with Rule 2, which was recently amended to clarify that the filing deadlines to the Supreme Court under Rules 9(c) and 10(b) are jurisdictional, as are those in Rules 4, 11 and 12.