

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: AMENDMENT TO RULE 28,)
RULES OF THE TENNESSEE)
SUPREME COURT)

FILED
November 2, 1999
Cecil Crowson, Jr.
Appellate Court Clerk

ORDER

Rule 28 of the Rules of the Supreme Court of Tennessee is hereby amended by deleting the text of Section 2(G) in its entirety and replacing it with the following new Section 2(G):

Filing - Papers required or permitted to be filed by the rules of post-conviction procedure, when filed by an attorney or a pro se petitioner who is not incarcerated, are filed when received by the clerk of court.

If papers required or permitted to be filed by these rules are prepared by or on behalf of a pro se petitioner incarcerated in a correctional facility and are not received by the clerk of the court until after the time fixed for filing, filing shall be timely if the papers were delivered to the appropriate individual at the correctional facility within the time fixed for filing. "Correctional facility" shall include a prison, jail, county workhouse or similar institution in which the pro se petitioner is incarcerated. This provision shall also apply to service of papers by pro se petitioners pursuant to these rules. Should timeliness of filing or service become an issue, the burden is on the pro se petitioner to establish compliance with this provision.

IT IS SO ORDERED this ___ day of _____, 1999.

FOR THE COURT:

E. Riley Anderson, Chief Justice

Frank F. Drowota, III, Justice

Adolpho A. Birch, Jr., Justice

Janice M. Holder, Justice

William M. Barker, Justice