

## **Alabama Rules of Appellate Procedure**

### **Rule 24.**

#### **Proceedings in forma pauperis.**

*(a) Leave to proceed in forma pauperis from trial court to appellate court.*

A party to an action in a court who desires to proceed on appeal in forma pauperis shall file in the trial court a motion for leave so to proceed, together with an affidavit showing, in the detail prescribed by Form 15 of the Appendix of Forms, the party's inability to pay fees and costs or to give security therefor, the party's belief that he or she is entitled to redress, and a statement of the issues which the party intends to present on appeal. If the motion is granted, the party may proceed without further application to the appellate court and without prepayment of fees or costs in either court or the giving of security therefor. If the motion is denied, the trial court shall state in writing the reasons for the denial.

Notwithstanding the provisions of the preceding paragraph, a party who has been permitted to proceed in an action in the court in forma pauperis, or who has been permitted to proceed there as one who is financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization unless, before or after the notice of appeal is filed, the trial court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed, in which event the trial court shall state in writing the reasons for such certification or finding.

If a motion for leave to proceed on appeal in forma pauperis is denied by the trial court, or if the trial court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled to proceed in forma pauperis, the clerk shall forthwith serve notice of such action. A motion for leave so to proceed may be filed in the appellate court within 28 days (4 weeks) after service of notice of the action of the trial court. The motion shall be accompanied by a copy of the affidavit filed in the trial court, or by the affidavit prescribed by the first paragraph of this subdivision if no affidavit has been filed in the trial court, and by a copy of the statement of reasons given by the trial court for its action.

*(b) Leave to proceed on appeal in forma pauperis in criminal cases.*

(1) Appointed trial counsel shall continue as defendant's counsel on appeal unless relieved by order of the trial court. When notice of appeal is given in cases where it is clear that the defendant is indigent, the trial judge shall forthwith enter the necessary orders to cause the record on appeal to be prepared. To obtain a record on appeal in other cases, the defendant shall proceed according to the provisions of Code of Alabama, Sections 12-22-190 through 12-22-201.

(2) To obtain appointed counsel on appeal where appointed trial counsel has been relieved by order of the trial court and new counsel on appeal has not been provided, an indigent defendant shall proceed according to Chapter 12 of Title 15, Code of Alabama.

[Amended 11-19-96, eff. 1-1-97.]

### **Committee Comment Amended Effective May 14, 1990**

Rule 24 provides for appeals in forma pauperis in both civil and criminal appeals. This rule closely parallels FRAP Rule 24. Such a procedure in civil appeals is new to Alabama. See Form 15 for a suggested affidavit to accompany a motion for application to proceed in forma pauperis.

There is no provision within the rule for the allowance of a free record or a free transcript in civil appeals. However, a party may now proceed without paying the appellate court docket fee and giving of security for costs on appeal.

Rule 24(b)(1) and (2) provide that, due to the brevity of time within which an appeal must be taken (42 days), appointed trial counsel in a criminal case shall continue as counsel on appeal. Appointed trial counsel may be relieved of his or her responsibility to continue as counsel on appeal only by order of the trial court. It also provides that where the defendant is clearly indigent and has given notice of appeal, preparation of the record on appeal shall begin without delay and without the necessity of filing a petition under § 12-22-192, Ala.Code 1975.

### **Court Comment to Amendment to Rule 24(a) Effective January 1, 1997**

The amendment to Rule 24(a) removes gender specific pronouns.