



IN THE SUPREME COURT OF ALABAMA

July 2, 2025

ORDER

IT IS ORDERED that Rule 4(b)(1), Rule 21(a)(1), Rule 34(e), and Rule 39(g), Alabama Rules of Appellate Procedure, be amended to read in accordance with Appendices A, C, D, and F, respectively, to this order;

IT IS FURTHER ORDERED that the Committee Comments to the amendments of Rule 4(b)(1), Rule 34(e), and Rule 39(g) be adopted to read in accordance with Appendices B, E, and G, respectively, to this order;

IT IS FURTHER ORDERED that the amendments of Rule 4(b)(1), Rule 21(a)(1), Rule 34(e), and Rule 39(g) and the adoption of the Committee Comments to the amendments of Rule 4(b)(1), Rule 34(e), and Rule 39(g) are effective October 1, 2025; and

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 4, Rule 21, Rule 34, and Rule 39:

"Note from the reporter of decisions: The order amending Rule 4(b)(1), Rule 21(a)(1), Rule 34(e), and Rule 39(g), Alabama Rules of Appellate Procedure, and adopting the Committee Comments to the amendments of Rule 4(b)(1), Rule 34(e), and Rule 39(g), effective October 1, 2025, is published in that volume of *Alabama Reporter* that contains Alabama cases from __ So. 3d."

Stewart, C.J., and Shaw, Wise, Bryan, Sellers, Mendheim, Cook, McCool, and Lewis, JJ., concur.

Witness my hand and seal this 2nd day of July, 2025.

Megan B. Rhodelseck

Clerk of Court,
Supreme Court of Alabama

FILED
July 2, 2025

Clerk of Court
Supreme Court of Alabama



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APPENDIX A

Rule 4(b)(1), Ala. R. App. P.

(1) *Circuit Court.* In a criminal case a notice of appeal by the defendant shall be filed with the clerk of the trial court within 42 days (six weeks) after pronouncement of the sentence, provided that the notice of appeal may be oral, as provided in Rule 3(a)(2). A notice of appeal filed after the announcement of a decision or order, but before pronouncement of the sentence, shall be treated as having been filed after pronouncement of the sentence and on the day thereof. If a motion in arrest of judgment, motion for a new trial, or motion for judgment of acquittal has been filed within 30 days from pronouncement of the sentence, an appeal may be taken within 42 days (six weeks) after the denial or overruling of the motion. If such a postjudgment motion is deemed denied by operation of law under the provisions of Rule 20.3(f) or Rule 24.4 of the Alabama Rules of Criminal Procedure, then the time for filing a notice of appeal shall be computed from the date the motion is deemed denied. A motion in arrest of judgment, motion for new trial, or motion for judgment of acquittal filed before pronouncement of the sentence shall be treated as having been filed immediately after pronouncement of the sentence and on the day thereof. When notice of appeal is made or filed before the timely filing of a motion in arrest of judgment, motion for new trial, or motion for judgment of acquittal, or during the pendency of such a timely filed motion, the time for filing of the court reporter's transcript and the clerk's record shall be governed by Rule 11(b) and (c) as if the notice of appeal had been filed on the date of the overruling of such motion. When an appeal by the state as of right is authorized by statute or rule, the notice of appeal shall be filed in the trial court within 42 days (six weeks) after the decision, order, or judgment appealed from; except that any pretrial appeal by the state shall be taken within the time allowed by the rule of criminal procedure providing for such appeals.

See Form 12.



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APPENDIX B

Committee Comment to Amendment to Rule 4(b)(1) Effective October 1, 2025

A sentence was added to clarify that if a postjudgment motion is denied by operation of law under Rule 20.3(f) or Rule 24.4, Ala. R. Crim. P., the 42-day appeal time starts to run from the date on which the motion was deemed denied. Rules 20.3(f) and 24.4 provide that a timely postjudgment motion is deemed denied 60 days after the pronouncement of sentence unless, with the express consent of both parties on the record, that time is extended to a date certain.



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APPENDIX C

Rule 21(a)(1), Ala. R. App. P.

(1) *General.* Application for a writ of mandamus or of prohibition directed to a judge or judges shall be made by filing a petition therefor with the clerk of the appellate court having jurisdiction thereof with certificate of service on the respondent judge or judges and on all parties to the action in the trial court. The petition shall contain, under appropriate headings and in the order here indicated:

(A) Statement of Jurisdiction. A short and plain statement showing that the appellate court's exclusive jurisdiction is properly invoked and that the petition has been timely filed;

(B) Table of Authorities. A table of authorities, including cases (arranged alphabetically), statutes, and other authorities with references to the pages in the petition where those cases, statutes, and other authorities are cited;

(C) Statement of the Case. A statement of the case, indicating briefly the nature of the case, the course of proceedings, and the disposition in the court below, with appropriate references to the appendix (see subparagraph (G)). A statement of the case should also identify the adverse ruling or rulings as to which review is sought, with a reference to the pages of the appendix at which the adverse ruling or rulings can be found;

(D) Statement of Facts. A statement of the facts necessary to an understanding of the issues presented by the petition;

(E) Statement of Issues. A statement of the issues presented and of the relief sought;



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(F) Statement Why Writ Should Issue. A statement of the reasons why the writ should issue, with citations to the authorities and the statutes relied on; and

(G) Appendix. An appendix including copies of all parts of the record that are essential to understanding the matters set forth in the petition, such as the order or orders of which the petitioner seeks review, all court filings (by any party) directly connected to the order or orders, and any transcripts of proceedings that resulted in the order or orders. The appellate court may, in its discretion, direct any deficiency in documents included in the appendix to be corrected or the petition dismissed. The appendix shall contain an index listing separately each document in the appendix. The appendix shall be separated from the petition by a divider or tab, and each document within the appendix shall be separated by a divider and appropriate tab to identify and assist in locating the documents.



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APPENDIX D

Rule 34(e), Ala. R. App. P.

(e) Use of Visual Aids, Documents, or Physical Exhibits at Argument.

(1) *Notice to Opposing Counsel.* If counsel intends to use at oral argument visual aids, documents, or physical exhibits, notice shall be given to opposing counsel two days before the date of the oral argument. If the visual aid, document, or exhibit is included in the record on appeal, the citation to the volume and page of the record where it can be found shall be contained in the notice. Counsel shall include with the notice a facsimile of the visual aid or document and a photograph of the physical exhibit if the exhibit was not used at the trial preceding the appeal.

(2) *Placement and Removal from Courtroom.* Counsel shall arrange with the appellate-court clerk to have the visual aids, documents, or physical exhibits placed in the courtroom before the court convenes on the date of the argument in sufficient time for opposing counsel to inspect them. After the argument, counsel shall immediately give the visual aids, documents, or exhibits to the clerk unless the court otherwise directs. If the visual aids, documents, or exhibits are not reclaimed by counsel within 14 days after the appellate opinion is sent to the parties by the clerk, they shall be destroyed or otherwise disposed of as the clerk shall think best. Visual aids, documents, or physical exhibits used at trial but not made part of the record shall be sent back to the trial court after an opinion has been rendered, along with any other exhibits or documents that are required to be returned.



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APPENDIX E

Committee Comment to Amendment to Rule 34(e) Effective October 1, 2025

The amendment to Rule 34(e) requires a party to give two days' advance notice of any visual aids, documents, and physical exhibits that the party intends to use at oral argument, along with a copy of the visual aids, documents, and physical exhibits. In addition, the party must give the opposing party an opportunity to inspect any such visual aid, document, or exhibit on the day of oral argument, before the argument commences. The intent of the amendment is to ensure that there is no dispute regarding the accuracy or veracity of the visual aid, document, or exhibit and that, if there is, the opposing party has an opportunity during oral argument to advise the court of his or her objection or rebuttal. The amendment also makes a minor revision to the existing rule regarding the custody of the visual aids, documents, or physical exhibits by the clerk, imposing a 14-day period for counsel to reclaim any visual aids, documents, or physical exhibits, unless they are returned to the trial court.



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APPENDIX F

Rule 39(g), Ala. R. App. P.

(g) Briefing Upon Issuance of Writ.

(1) *Petitioner's Brief.* If the writ issues, the petitioner may file, within 28 days (4 weeks) -- or, in the case of a pretrial appeal by the state in a criminal case, within 7 days (1 week) -- after the clerk of the Supreme Court has given notice that the writ has been issued either a brief addressing the merits of the case or a waiver of the right to file such brief. The petitioner's brief shall be in a form prescribed by Rules 28 and 32(a), and copies shall be served and filed as prescribed by Rule 31 for the service and filing of briefs. The brief must contain all arguments addressing the substantive issues that the petitioner wishes the court to consider on certiorari review.

(2) *Respondent's Brief.* The respondent may file, within 21 days (3 weeks) -- or, in the case of a pretrial appeal by the state in a criminal case, within 7 days (1 week) -- a brief in response to the petitioner's brief. The respondent's brief, if any, shall be in a form prescribed by Rules 28 and 32(a), and copies shall be served and filed as prescribed by Rule 31 for the service and filing of briefs. A responsive brief shall address the substantive issues presented for review in the petition or, if issues are limited by the Court in its order granting the petition for writ of certiorari, to those issues stated by the Court. The brief may also address whether the petition complies with the procedural requirement of grounds set forth in subparagraphs (a)(1)(A)-(E) -- or, in a death-penalty case, subparagraphs (a)(2)(A) and (B). If the respondent chooses not to file a brief, the respondent must file a waiver of the right to file such brief.



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(3) *Petitioner's Reply Brief.* The petitioner may file a brief in response to the respondent's brief within 14 days (2 weeks) of the filing of the respondent's brief. The petitioner's reply brief shall be in a form prescribed in Rules 28 and 32(a). The petitioner shall not be permitted to file a reply brief in response to the respondent's brief in a pretrial appeal by the state in a criminal case.



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APPENDIX G

Committee Comment to Amendment to Rule 39(g) Effective October 1, 2025

Rule 39(g) was amended to increase the time for filing briefs from 14 days after the petition is granted for the petitioner's brief, 14 days for the respondent's brief, and 14 days for petitioner's reply brief to match the time limits of Rule 31(a). As amended, the petitioner will have 28 days after the petition is granted to file a brief, the respondent then has 21 days to file a brief, and the petitioner then has 14 days to file a reply brief.