

## **Alabama Rules of Appellate Procedure**

### **Rule 1.**

#### **Scope of rules.**

These rules govern appeals to the Supreme Court, the Court of Civil Appeals, and the Court of Criminal Appeals, and proceedings on petitions for writs or other relief which these courts or judges thereof are empowered to grant. All cases appealable to the Court of Criminal Appeals shall be governed by those rules contained herein which are applicable to appeals to that court; and, pre-trial appeals by the state in criminal cases shall be governed also by the rule of criminal procedure providing for such appeals. These rules shall not be construed to extend or limit the jurisdiction of these appellate courts as established by constitution or law. They shall be construed so as to assure the just, speedy, and inexpensive determination of every appellate proceeding on its merits.

[Amended 2-6-84, eff. 4-1-84.]

#### **Committee Comments**

These rules govern appeals in all civil and criminal cases and all other proceedings taken to or before an appellate court, including extraordinary writs and the like. In accordance with the mandate of § 6.11 of the Judicial Article (Art. 6, § 150, Constitution, Code of Ala., as amended) granting constitutional power to the Supreme Court to make rules, these rules are not intended to limit or extend substantive or jurisdictional rights set by the Constitution or by statute. Unlike the Alabama Rules of Civil Procedure (ARCP), these rules do apply in criminal cases. Where possible, application has been made of the existing Federal Rules of Appellate Procedure (FRAP), and where a rule is noted to be based upon such FRAP Rule, the construction given to that rule in the Federal Courts has been used and would be expected to constitute authority for the construction of these rules. The rules of a number of other states have also been consulted as noted, as well as existing Alabama Rules and Statutes.

As is the case with the ARCP, it is the policy of these rules to disregard technicality and form in order that a just, speedy and inexpensive determination of every appellate proceeding on its merits may be obtained. The second sentence of the rule is intended to eliminate the distinction between criminal and quasi-criminal cases, e.g., conviction of violation of a city ordinance, *Tharpe v. City of Birmingham*, 23 Ala.App. 23, 119 So. 594, cert. denied 219 Ala. 704, 121 So. 918 (1929); revocation of probation, *Sparks v. State*, 270 Ala. 488, 119 So.2d 600 (1960); and, contempt proceedings in civil cases, *Musgrove v. United States Pipe and Foundry Co.*, 290 Ala. 156, 274 So.2d 640 (1972).

**Court Comment to Amendment  
Effective April 1, 1984**

The amendment of April 1, 1984, added the reference in the second sentence to pre-trial appeals by the state in criminal cases. This amendment was necessary because some of the appellate procedure applicable to such appeals is set out more completely in Temporary Rule 17, A.R.Crim.P. (effective April 1, 1984), than in these appellate rules.