Alabama Rules of Appellate Procedure

Rule 53.

Opinions and "no opinion" cases of the Supreme Court and the Court of Civil Appeals.

(a) *Affirmance without opinion.* The Supreme Court or the Court of Civil Appeals may affirm a judgment or order of a trial court without an opinion if the court determines:

(1) That an opinion in the case would serve no significant precedential purpose; and

(2) That one of the following circumstances exists:

(A) The judgment or order appealed from is based on findings of fact that are not clearly, plainly, or palpably erroneous;

(B) The evidence adequately supports the jury verdict on which the judgment or order is based;

(C) In a nonjury case in which the judge has made no specific findings of fact, the evidence would support those findings that would have been necessary to support the judgment or order;

(D) The order of an administrative agency is sufficiently supported by the evidence in the record;

(E) The appeal is from a summary judgment, a judgment on the pleadings, or a judgment based on a directed verdict, and that judgment is supported by the record; or

(F) The court, after a review of the record and the contentions of the parties, concludes that the judgment or order was entered without an error of law.

(b) *Designation of category.* When the Supreme Court or the Court of Civil Appeals affirms a judgment without an opinion, it shall in its order of affirmance designate the case as a "No Opinion" case and in its order of affirmance it shall also cite section (a)(1) of this rule and that subpart of section (a)(2) relied upon by the court in its decision to write no opinion.

(c) *Publication of decisions.* The reporter of decisions shall publish all opinions of the Supreme Court and the Court of Civil Appeals in the official reports of Alabama decisions, but the text of an order of affirmance in a "No

Opinion" case shall not be published in the official reports. The "No Opinion" cases of each court shall be collected in a periodic "Table of Decisions Without Published Opinions," which shall be published in the official reports and which shall indicate the action taken in all "No Opinion" cases. However, if in a "No Opinion" case a Justice or Judge writes a special opinion, either concurring with or dissenting from the action of the court, the reporter of decisions shall publish that special opinion, along with a statement indicating the action to which the special opinion is addressed.

(d) *"No-opinion" affirmance not precedent.* An order of affirmance issued by the Supreme Court or the Court of Civil Appeals by which a judgment or order is affirmed without an opinion, pursuant to section (a), shall have no precedential value and shall not be cited in arguments or briefs and shall not be used by any court within this state, except for the purpose of establishing the application of the doctrine of law of the case, res judicata, collateral estoppel, double jeopardy, or procedural bar.

(e) *Time of publication.* An opinion of the Supreme Court shall not be published while an application for rehearing is pending, and an opinion of the Court of Civil Appeals shall not be published while an application for rehearing is pending or while a petition for certiorari review is pending in the Supreme Court. However, the delay in publication caused by this provision shall not affect the precedential value of an opinion.

[Adopted 11-24-92, eff. 1-1-93; Amended eff. 5-23-2001.]

Committee Comments

This rule is intended to reduce the number of opinions being written by the Supreme Court and the Court of Civil Appeals. It is not intended to affect the current practice of the Court of Criminal Appeals of affirming judgments by unpublished "memorandums" or "memorandum opinions." Therefore, this rule has no application to the Court of Criminal Appeals. See Rule 54.

It is the intent of this rule to eliminate opinions except in those cases wherein an opinion would serve some real purpose. In a case in which none of the specific circumstances set out in section (a)(2)(A) through (E) applies, the court may nevertheless affirm under the more general language of (a)(2)(F). The language of (a)(2)(A) through (F) is intended to allow the courts to omit opinions in most cases wherein the affirmance does not call for the court to establish a new principle of law; to construe a provision of a constitution, statute, ordinance, or court rule; to alter or modify an existing principle of law or to extend it to a new factual context; to reaffirm a principle not applied in a recently reported opinion; to decide an issue of general or continuing public interest; or to resolve a conflict or apparent conflict of authority.

Court Comment to Amendment to Rule 53(d)
Effective May 23, 2001

This amendment is intended to make it clear that the provisions of section (d) do not affect the precedential value of an opinion issued by the Supreme Court or the Court of Civil Appeals that has not yet been published in the official reports.

Note from the reporter of decisions: The order amending Rule 53(d) effective May 23, 2001, is published in that volume of *Alabama Reporter* that contains Alabama cases from 785 So.2d.