

## Alabama Rules of Appellate Procedure

### Rule 54.

#### Opinions and “No Opinion” Cases of the Court of Civil Appeals and the Court of Criminal Appeals.

**(a) Affirmance Without Opinion.** The Court of Civil Appeals and the Court of Criminal Appeals may affirm a judgment or order of a trial court without an opinion if the court determines that an opinion in the case would serve no significant precedential purpose.

**(b) Memorandum Required.** In each case in which the court affirms the judgment or order appealed from without writing an opinion, the court shall designate the case as a "No Opinion" case, but the court shall write a memorandum addressing the appellant's contentions and giving a reason for rejecting them.

**(c) Publication of Decisions.** The reporter of decisions shall publish all opinions of the Court of Civil Appeals and the Court of Criminal Appeals in the official reports of Alabama decisions. The text of memorandums issued in "No Opinion" cases shall not be published in the official reports, but the reporter shall publish in those reports a periodic "Table of Decisions Without Published Opinions" for each court, which shall indicate the action taken in all "No Opinion" cases. However, if in a "No Opinion" case a 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 or a memorandum issued by the Court of Civil Appeals or the Court of Criminal Appeals by which a judgment or an order is affirmed without an opinion, pursuant to section (a) in a case designated as a "No-Opinion" case, 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**(e) Time of Publication.** An opinion of the Court of Civil Appeals or the Court of Criminal Appeals shall not be published while an application for rehearing is pending or while a petition for certiorari review is pending in the Supreme Court.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; Amended 4-4-2023, eff. 10-1-2023.]

### **Court Comments**

This rule parallels Rule 53, relating to the Supreme Court and the Court of Civil Appeals. Under this rule, it is anticipated that the Court of Criminal Appeals will write opinions in those cases in which the decision calls for the court to establish a new rule of law; to construe a provision of a constitution, statute, ordinance, or court rule; to modify an existing rule of law or to extend it to a new factual context; to reaffirm a principle not applied in a recently published 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 54(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 Court of Criminal Appeals that has not yet been published in the official reports.

**Note from the reporter of decisions:** The order amending Rule 54(d) effective May 23, 2001, is published in that volume of *Alabama Reporter* that contains Alabama cases from 785 So.2d.

**Note from the reporter of decisions:** The order amending Rule 39(d)(5), Rule 40(e), Rule 53, and Rule 54, Alabama Rules of Appellate Procedure, effective October 1, 2023, is published in that volume of *Alabama Reporter* that contains Alabama cases from \_\_\_ So. 3d.