

IN THE SUPREME COURT OF ALABAMA
October 19, 2017

ORDER

IT IS ORDERED that Rule 5(b), Alabama Rules of Appellate Procedure, be amended to read in accordance with Appendix A to this order;

IT IS FURTHER ORDERED that Rule 21(f), Alabama Rules of Appellate Procedure, be adopted to read in accordance with Appendix C to this order;

IT IS FURTHER ORDERED that the Committee Comments to the amendment of Rule 5(b) and the adoption of Rule 21(f) are adopted to read in accordance with Appendices B and D, respectively, to this order;

IT IS FURTHER ORDERED that this amendment and the adoption of Rule 21(f) and the Committee Comments are effective January 1, 2018;

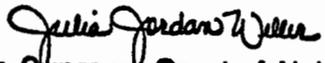
IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 5 and Rule 21:

"Note from the reporter of decisions: The order amending Rule 5(b) and adopting the Committee Comments thereto and adopting Rule 21(f) and the Committee Comments thereto effective January 1, 2018, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

Stuart, C.J., and Bolin, Parker, Murdock, Shaw, Main, Wise, Bryan, and Sellers, JJ., concur.

I, Julia Jordan Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 19th day of October, 20 17


Clerk, Supreme Court of Alabama

APPENDIX A

Rule 5(b), Alabama Rules of Appellate Procedure

(b) Content of Petition; Answer.

(1) Petition. The petition shall contain a statement of the facts necessary to an understanding of the controlling question of law determined by the order of the trial court, supported by reference to the appendix accompanying the petition; a statement of the question itself, as stated by the trial court in its certification; and a statement of the reasons why a substantial basis exists for a difference of opinion on the question, why an immediate appeal would materially advance the termination of the litigation, and why the appeal would avoid protracted and expensive litigation.

(2) Appendix. The petition shall have annexed thereto an appendix including (i) a copy of the order from which appeal is sought and of any findings of fact, conclusions of law, and opinion relating thereto, (ii) a copy of the certification required by Rule 5(a), (iii) any other order or opinion or parts of the record that would be essential to an understanding of the matters set forth in the petition, and (iv) an index listing separately each document in the appendix. The appendix shall be separated from the petition by a divider or a tab, and each document within the appendix shall be separated by a divider or an appropriate tab to identify and assist in locating the documents.

(3) Answer. Within 14 days (2 weeks) after service of the petition, an adverse party may file an answer in opposition with the clerk of the Supreme Court, with proof of service on all other parties to the action in the trial court. No reply by the petitioner to the answer is permitted. The petition and answer shall be submitted without oral argument unless otherwise ordered.

APPENDIX B

Committee Comments to Amendment to Rule 5(b) Effective January 1, 2018

Rule 5(b) was modified to require that a separate appendix be filed with all petitions for permissive appeal. The purpose of the appendix is to permit the parties to prepare and transmit copies of those portions of the record deemed necessary to an understanding of the issues presented. The Committee suggests that the documents in the appendix be separated into volumes of no more than 200 pages. The appendix should include an index to the documents contained in the appendix and should be divided to identify and assist in locating a specific document. The hard copy of any appendix and documents should be divided with tabs. In lieu of tabs, any appendix filed electronically should be demarcated by cover sheets that clearly identify the particular document that follows (e.g., "Exhibit ____" or "Tab ____").

APPENDIX C

Rule 21(f), Alabama Rules of Appellate Procedure

(f) Effect on Trial Court Proceedings. The petition for a writ under this Rule shall not stay proceedings in the trial court unless the trial judge or an appellate court shall so order.

APPENDIX D

Committee Comments to Rule 21(f)
Effective January 1, 2018

Rule 21(f) states that the pendency of a petition for a writ of mandamus or prohibition or another extraordinary writ does not automatically stay proceedings in the trial court. Instead, a party must move for a stay that may be granted by the trial court or the appellate court in which the petition is filed.