

IN THE SUPREME COURT OF ALABAMA  
August 25, 2009

ORDER

WHEREAS, the Supreme Court of Alabama is authorized by § 150, Constitution of Alabama 1901 (Off. Recomp.) (formerly Amend. No. 328, § 6.11, Ala. Const. 1901), to make and promulgate rules governing the administration of all courts and rules governing practice and procedure in all courts;

THEREFORE, IT IS CONSIDERED AND ORDERED that the clerks of the Supreme Court, the Court of Criminal Appeals, and the Court of Civil Appeals are authorized to charge the following filing fees:

Direct appeal	\$200.00
Petition for permission to appeal pursuant to Rule 5, Alabama Rules of Appellate Procedure	\$150.00
Petition for a writ of certiorari: civil	\$150.00
Petition for a writ of certiorari: criminal	\$150.00
Petition for an extraordinary writ pursuant to Rule 21, Alabama Rules of Appellate Procedure	\$150.00

IT IS FURTHER ORDERED that Rule 35A of the Alabama Rules of Appellate Procedure shall be amended in accordance with this order and as reflected in the appendix to this order.

IT IS FURTHER ORDERED that this schedule of fees is effective October 1, 2009.

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 35A:

"Note from the reporter of decisions: The order amending Rule 35A, Alabama Rules of Appellate Procedure, effective October 1, 2009, is published in that volume of Alabama Reporter that contains Alabama cases from \_\_\_ So. 3d."

Cobb, C.J., and Lyons, Woodall, Stuart, Smith, Bolin, Parker, Murdock, and Shaw, JJ., concur.

APPENDIX

**Alabama Rules of Appellate Procedure  
Rule 35A. Docket Fees**

**(a) Docket Fees in Noncriminal Cases.** In a noncriminal case a docket fee shall be paid to the clerk of the appropriate appellate court, unless otherwise provided. Docket fees shall be as follows:

(1) For an appeal in a civil case, the docket fee shall be \$200.00, to be paid when the notice of appeal is filed. For a proceeding for review by certiorari in a worker's compensation case as provided by Rule 3 and a proceeding for review by certiorari of a decision or judgment of a trial court in a case where review by appeal is not provided for or of a decision of a board or agency where review by petition in the appropriate appellate court is provided by law, the docket fee shall be \$150.00, to be paid when the petition for review is filed. Provided, however, for an appeal taken following permission given pursuant to Rule 5, the docket fee shall be \$150.00.

(2) For a petition for a writ of mandamus or prohibition or other extraordinary writ, as provided for in Rule 21, the docket fee shall be \$150.00, to be paid when the petition is filed.

(3) For a petition for a writ of certiorari to the Court of Civil Appeals, as provided for in Rule 39, the docket fee shall be \$150.00, to be paid when the petition is filed.

(4) For a petition for permission to appeal, filed pursuant to Rule 5, the docket fee shall be \$150.00, to be paid when the petition is filed. If permission to appeal is granted, an additional \$50.00 docket fee shall be paid within fourteen (14) days of the order granting permission to appeal. See paragraph (1) above and Rule 5(c).

Appeals may be docketed without payment of the docket fee if a motion for leave to proceed in forma pauperis has been granted pursuant to the provisions of Rule 24(a).

In regard to proceedings other than appeals, if a party desires to proceed in forma pauperis but no provision has been

made for that party to so proceed, the party shall file with the appellate court a motion for leave to proceed in forma pauperis. That motion shall correspond to the motion prescribed in Form 15 and shall be accompanied by an affidavit corresponding to that prescribed in Form 15 (and that affidavit shall include answers to the questions set out in Form 15).

The docket fees herein prescribed shall be in lieu of all other court costs in the particular proceeding before the appellate court, unless the court orders otherwise, and may be taxed as costs, as provided by Rule 35.

**(b) Docket Fees in Criminal Cases.** Unless an appellant proceeded before the trial court in forma pauperis and that status has not since been revoked, or unless the appellant is granted permission to proceed on appeal in forma pauperis either by the trial court or by the Court of Criminal Appeals, the appellant shall pay a \$200.00 docket fee to prosecute his or her appeal in the Court of Criminal Appeals; provided, however, that that fee shall be waived in any appeal in which the State is the appellant. The docket fee prescribed herein shall be in lieu of all other fees and costs prescribed by law for appeals to the Court of Criminal Appeals and shall be paid to the clerk of the trial court at the time the appellant files his or her notice of appeal. The clerk of the trial court shall then remit the docket fee to the clerk of the Court of Criminal Appeals as provided in Rule 3(d)(2). After the docket fee has been paid, in whole or in part, the Court of Criminal Appeals shall not be required to refund any portion thereof because the appellant, on whose behalf it was paid, is subsequently granted in forma pauperis status or because the appellant's appeal is subsequently dismissed without a decision on the merits.

Upon receipt of the trial court clerk's transmittal of an appellant's notice of appeal, the clerk of the Court of Criminal Appeals shall docket the appeal regardless of whether the transmittal is accompanied by the docket fee prescribed herein. After docketing an appeal in a case in which it appears that the docket fee is due, in whole or in part, the clerk of the Court of Criminal Appeals shall issue a deficiency notice advising the appellant that the appeal will be dismissed with prejudice unless the appellant has, within the time prescribed in said deficiency notice, either paid the docket fee in full or sought leave to proceed on appeal in

forma pauperis as authorized in Rule 24(a). If, within fourteen (14) days of the date of issuance of the deficiency notice, the appellant has not paid the docket fee in full or sought leave to proceed on appeal in forma pauperis or otherwise shown that the docket fee is inapplicable, the appeal shall be dismissed with prejudice and may not thereafter be reinstated except on motion for good cause shown made within 14 days from the date of the certificate of dismissal.