

Supreme Court of Kentucky

2026-01

ORDER

In Re: **Order Amending Rules of Appellate Procedure**

The following amendments to the Rules of Appellate Procedure shall be effective April 1, 2026.

I. Rules of Appellate Procedure

RAP 2 Appeal as of right—how taken

(A) Filing the Notice of Appeal.

(1) All appeals shall be taken by filing a notice of appeal in the court from which the appeal is taken within the time allowed by RAP 3. Appeals in civil proceedings shall be taken to the next higher court. Appeals in criminal proceedings shall be taken to the next higher court, except that an appeal from a judgment imposing a sentence of death, life imprisonment, or imprisonment for 20 years or more shall be taken directly to the Supreme Court. Appeals from family courts that are established pursuant to Ky. Const. § 110(5)(b) or Ky. Const. § 112(6) shall be taken to the Court of Appeals. After the filing of the notice of appeal, an appellee or cross-appellee may file a notice of cross-appeal as allowed by RAP 4. If the appeal is from a circuit court, any party may file a motion for transfer of the case to the Supreme Court as provided in RAP 17. A motion for discretionary review by the Supreme Court of a decision of the Court of Appeals, or by the Court of Appeals of an appellate decision of the circuit court, shall be made as provided in RAP 44.

(2) Upon timely filing of the notice of appeal from a final and appealable order on all claims in an action, all parties to the proceedings from which the appeal is taken, except those who have been dismissed in an earlier final and appealable order, shall be parties before the appellate court. Upon timely filing of the notice of appeal from a final judgment or order on less than all claims or parties as permitted by CR 54.02(1), all parties against whom that judgment or order has been made final and appealable shall be parties before the appellate court. The timely filing of a notice of appeal is jurisdictional. The failure to comply with any other rules of appellate procedure, or any order of court, does not affect the validity of the appeal, but is ground for such action as the appellate court deems appropriate as set forth in RAP 10.

(3) The failure of a party to file timely a notice of appeal, cross-appeal, or

motion for discretionary review shall result in a dismissal or denial.

(4) Where a statute or another court rule grants a right of appeal to the Court of Appeals, the Kentucky Rules of Appellate Procedure shall govern the taking of the appeal, unless in conflict with the statute or other court rule.

(B) Contents of the Notice of Appeal.

(1) The notice of appeal shall: (a) specify the party or parties taking the appeal; (b) identify, including specifying the date of, the judgment, order, or part thereof appealed from; and (c) contain a certificate that a copy of the notice has been served upon counsel for all parties to the proceedings from which the appeal is taken, or, if a party is unrepresented, upon the party at the party's last known address.

(2) The notice of appeal should also: (a) attach a copy of the judgment or order appealed from to the notice of appeal; (b) identify the court to which the appeal is taken; (c) specify all parties to the proceedings from which the appeal is taken, other than the appellant, and counsel representing them; and (d) specify the date of entry of and attach a copy of any orders on post-trial motions under CR 50.02, CR 52.02, or CR 59 that tolled the running of time for filing the appeal.

(C) Clerk's Service of the Notice of Appeal.

(1) When the notice of appeal is filed, the clerk shall serve notice of its filing by delivering a copy showing the date filed, a copy of the official docket sheet, and a copy of the check receipt for the filing fee or order granting in forma pauperis status to the clerk of the appellate court and to the counsel of record of each party to the proceedings from which the appeal is taken or to the party, if unrepresented.

(2) The clerk shall note in the docket the names of the parties served, the date of service, and the means of service. The clerk's failure to serve notice does not affect the validity of the appeal.

(D) Criminal Appeals. An appeal from a judgment imposing a sentence of death, life imprisonment, or imprisonment for 20 years or more shall be taken directly to the Supreme Court.

(E) Certain Appeals Shall Not Constitute an Entry of Appearance. The taking of an appeal from a final order or judgment in any action in which the trial court has denied a defense asserted under Civil Rule 12.02 based upon (1) lack of jurisdiction over the person, (2) improper venue, (3) insufficiency of process, or (4) insufficiency of service of process, shall not constitute an entry of appearance by the appellant in any court.

(F) Joinder. Two or more persons entitled to appeal may file a joint notice

of appeal and they shall thereafter proceed on appeal as a single appellant. Upon motion of parties that have filed separate timely notices of appeal, the appellate court may join the appeals, and the joined parties shall thereafter proceed on appeal as a single appellant. All parties to the joint notice of appeal, or the party's attorney, must sign the notice of appeal pursuant to RAP 11.

(G) Appeals to Be Heard Together.

(1) *Court of Appeals.* Upon motion of a party or upon the court's own motion, separate appeals may be joined by the Court of Appeals to be heard together by the same three-judge panel. Whether appeals shall be heard together is within the discretion of the Court of Appeals and will generally be granted only if the separate appeals are taken from the same circuit court action, involve similar parties, or involve substantially identical issues. Parties to appeals to be heard together shall be treated as separate parties and shall file separate briefs but may, upon motion, be permitted to file a combined brief or to adopt a brief filed by another party. The appellate court may in its discretion issue a single opinion or order, or multiple opinions or orders in appeals designated to be heard together.

(2) *Supreme Court.* Upon motion of a party or upon the court's own motion, separate appeals may be designated by the Supreme Court to be heard together, meaning the separate appeals may be heard together by combination into a single oral argument, or orally argued separately but on the same day. Whether appeals shall be heard together is within the discretion of the Supreme Court and will generally be granted only if the separate appeals are taken from the same circuit court or same Court of Appeals action, involve similar parties, or involve substantially identical or related issues. Parties to appeals to be heard together shall be treated as separate parties and shall file separate briefs but may, upon motion, be permitted to file a combined brief or to adopt a brief filed by another party. The appellate court may in its discretion issue a single opinion or order, or multiple opinions or orders in appeals designated to be heard together.

(H) Consolidated Appeals. Upon motion of a party or upon the court's own motion, separate appeals may be consolidated. When appeals are consolidated, they are consolidated for all purposes, including briefing, oral argument, and rendering an opinion. Briefing in consolidated cases is treated like briefing in joint appeals, meaning that all appellants file one joint brief and one joint reply brief addressing all the consolidated cases, and each appellee files one response brief addressing all the consolidated cases. Consolidation is within the discretion of the appellate court and will generally only be granted if the separate appeals are taken from the same circuit court action and involve identical parties. The appellate clerk shall relate the consolidated appeals, and all documents filed in the appellate court shall be noted on the docket as if filed in each of the consolidated appeals.

(I) Payment of Fees. At the time the notice of appeal is tendered, the

appellant shall pay all required fees to the clerk of the court from which appeal is taken, and the notice shall not be docketed or noted as filed until such payment is made. If the appellant is a pauper and unable to pay the filing fee, a motion to proceed in forma pauperis shall be tendered with the notice of appeal as provided in RAP 54, which governs motions to proceed in forma pauperis. No filing fee is required from the Commonwealth or from a public defender representing a person as set forth in RAP 54(B).

RAP 5 Service, form, and filing

RAP 5(B)(2) will read as follows:

(2) *Redactions.* CR 7.03 applies to all actions prosecuted under these rules. Initials or a descriptive term must be used instead of a name in cases involving juveniles, allegations of abuse and neglect, termination of parental rights, mental health, and appeals arising from judgments granting expungements.

RAP 7 Motions

(A) In General. An application to the court for an order or other relief shall be by motion which shall be made in writing, comply with RAP 5, state with particularity the grounds therefor, and set forth the relief or order sought.

(B) Redactions. CR 7.03 applies to all actions prosecuted under these rules. Initials or a descriptive term must be used instead of a name in cases involving juveniles, allegations of abuse and neglect, termination of parental rights, mental health, and appeals arising from judgments granting expungement.

(C) Response. An opposing party may file a response no later than 10 days from the date a motion was filed or within the time otherwise designated by the court.

(D) Number of Copies. Five copies (1 unbound and 4 bound) of motions and responses shall be filed in the Court of Appeals. Except as otherwise directed by RAP 43 through 46, 5 copies (1 unbound and 4 bound) of motions and responses shall be filed in the Supreme Court, unless the Court directs otherwise.

(E) Hearing and Disposition. Except for motions that call for final disposition of an appeal or original action in the appellate court, any member of the court designated by the Chief Justice or Chief Judge may hear and dispose of any motion.

(F) Oral Arguments. No motion will be heard on oral argument except by order of the court.

(G) Motion to Dismiss Appeal or Cross-Appeal.

(1) In addition to any other relief provided by these rules, an adversary party may move to dismiss an appeal or cross-appeal because it is not within the jurisdiction of the appellate court or because it has not been prosecuted in conformity with these rules.

(2) An appellant may move to voluntarily dismiss its own appeal or cross-appeal subject to the following requirements.

(a) **Criminal Cases.** A sworn affidavit from the appellant authorizing the filing of the motion to dismiss must be attached to a motion to dismiss a criminal appeal filed by an attorney for an appellant in a criminal case.

(b) **Termination of Parental Rights Cases.** A motion to dismiss a termination of parental rights appeal or cross-appeal filed by an attorney for the movant must be served on the movant at the movant's last known address, and such service must be certified to the appellate court.

(c) **Cross-Appeals.** An appellant's voluntary dismissal of an appeal under RAP 7(G)(2) shall not affect any related cross-appeals, which shall remain on the appellate court's active docket. A cross-appellant's voluntary dismissal of a cross-appeal under RAP 7(G)(2) shall not affect any related appeals, which shall remain on the appellate court's active docket.

(3) The filing of a motion to dismiss under RAP 7(G) shall suspend the running of time for procedural steps otherwise required with regard to the appeal and any cross-appeal in the same proceeding. The time will continue to run as otherwise provided by these rules after the date an order is entered denying the motion or passing it to the merits.

RAP 8 Death, substitution, and amendment of parties

RAP 8(A)(4) is deleted.

(4) Any statutorily required application to revive an action shall be filed in the trial court.

RAP 22 Prehearing procedure in the Court of Appeals

(A) Application.

(1) In all civil cases appealed to the Court of Appeals, except those specified in paragraph (A)(2), any party may file a motion for a prehearing conference accompanied by a prehearing statement no later than 20 days from the notice of appeal. If the moving party is a cross-appellant or cross-appellee the motion for prehearing conference shall be filed no later than 20 days from the

notice of cross-appeal. The motion and prehearing statement shall be filed with the Court of Appeals.

(2) This rule does not apply to criminal cases, to orders granting or denying class action certification under CR 23.06, or to civil cases involving prisoner applications seeking relief relating to confinement or conditions of confinement, election appeals, appeals of findings of contempt, appeals relating to extraordinary writs, and appeals from circuit court orders determining paternity, dependency, abuse, neglect, domestic violence, termination of parental rights, or juvenile status offense. This rule also does not apply to cases appealed to or transferred to the Supreme Court.

(B) Running of Time.

(1) The running of time for further steps in cases where this rule applies shall not begin until so ordered by the Court of Appeals except for:

(a) The filing of a notice of cross-appeal under RAP 4;

(b) The filing of a motion to transfer under RAP 17; or

(c) The filing of a motion for a prehearing conference and a prehearing statement under sections (A) and (C) of this rule.

(2) If no motion for a prehearing conference is filed within the time permitted by paragraph (A)(1), the Clerk of the Court of Appeals shall enter a notice stating such, and the full time for such further steps shall be computed from the date of entry of that notice.:

(3) The filing of the motion for prehearing conference shall suspend the running of time for further steps in the appeal, and unless otherwise ordered by the Court of Appeals, the full time for such further steps shall be computed:

(a) From the date of entry of the order stating that no prehearing conference will be held pursuant to paragraph (D)(23) of this rule, or

(b) From the date of the entry of the order reciting the actions taken and the agreements reached by the parties during a conference held pursuant to paragraph (D)(34)(c) of this rule.

(C) Prehearing Statement and Supplemental Prehearing Statement.

(1) A motion for a prehearing conference shall be accompanied by a prehearing statement, which shall be submitted on a form which is available from each circuit court or from the Court of Justice website. The prehearing statement shall include the following information:

(a) The style of the case and circuit court docket number;

(b) The name, mailing address, and telephone number of each attorney whose appearance is entered in the case, together with the name and address of the party represented by the attorney who is filing the prehearing statement;

(c) The name of the judge who presided over the matter being appealed;

(d) The date on which the notice of appeal and any notice of cross-appeal was filed;

(e) A statement as to whether the matter has previously been before the Court of Appeals;

(f) The type of litigation;

(g) A brief description of the claims, defenses, and issues litigated;

(h) A brief statement of the facts, issues, and jurisdictional challenges to be raised on appeal;

(i) A statement, based on counsel's present knowledge, as to whether the appeal involves a question of first impression;

(j) A statement as to whether the determination of the appeal will turn on the interpretation or application of a particular case or statute and, if so, the name of the case or the number of the statute;

(k) A statement, based on counsel's present knowledge, as to whether there is currently pending in the Court of Appeals or the Supreme Court another case arising from substantially the same case or controversy or involving an issue which is substantially the same, similar or related to an issue in the appeal.

(l) A copy of the judgment or order sought to be reviewed, and any opinion or findings of the circuit court or administrative agency.

(2) A copy of the motion for prehearing conference and accompanying prehearing statement shall be served on all parties to the appeal.

(3) No later than 10 days from the filing of a motion for prehearing conference, all other parties to the appeal may file with the Court of Appeals, with copies served on all parties, a response to the motion accompanied by a supplemental statement containing any other information needed to clarify the issues on appeal and on cross-appeal.

(4) After the filing of a motion for prehearing conference, a prehearing

statement, and any supplemental statements, no further steps are required until so ordered by the Court of Appeals, except the following:

- (a) The filing of a notice of cross-appeal under RAP 4; or
- (b) The filing of a motion to transfer under RAP 17.

(D) Prehearing Conference.

(1) In all cases in which a motion for a prehearing conference is filed, the Court of Appeals will determine whether a prehearing conference would assist the Court or the parties. The determination shall be made by the designee of the Chief Judge of the Court of Appeals. Such designee shall be a judge of the Court of Appeals or a staff attorney of the Court known as a conference attorney.

(2) If it is decided that no prehearing conference will be held, the designee shall issue an order informing the parties. The entry of this order shall commence time running for further steps under these appellate rules.

(3) If a case is selected for a prehearing conference, the designee shall issue an order directing attorneys for all parties to attend a prehearing conference, in person or remotely, and setting the date and location for the conference.

(a) The purpose of the conference shall be to consider the possibility of settlement, the simplification of issues, the contents of the record, the time for filing the record and briefs, and any other matters which may aid in the handling or disposition of the proceedings.

(b) The prehearing conference discussions are confidential, except to the extent disclosed by the prehearing order and shall not be disclosed by the Court's designee or by the parties or counsel in briefs or argument.

(c) Following the conclusion of the prehearing conference procedure, the Court of Appeals' designee shall issue an order reciting the actions taken and the agreements reached, and that order shall govern the subsequent course of the proceedings.

(4) In the event of default by any party in any action required by a prehearing conference order, the Clerk of the Court of Appeals shall issue a notice to the party in default providing a 10-day period within which to file an affidavit showing good cause for the default and including when the required action will be taken.

(5) A judge who participates in a prehearing conference or becomes involved in settlement discussions pursuant to this rule shall not sit as a member of the panel assigned to hear the appeal.

New RAP 23 Created.

RAP 23 Notice to Attorney General when constitutional validity of a statute is at issue

If the constitutional validity of a statute is challenged by any party as an issue in an appeal or in an original action in the appellate courts, KRS 418.075 requires service to the Attorney General of the documents initiating the appeal along with a notice specifying the challenged statute and the alleged constitutional defect.

(A) Attorney General is a Party or Representing a Party.

In appeals where the Attorney General is a party or is representing a party, service of the notice of appeal, motion for discretionary review, or original action as required by these Rules of Appellate Procedure provides sufficient notice to the Attorney General under KRS 418.075.

(B) Attorney General is not a Party and is not Representing a Party.

(1) In appeals where the Attorney General is not a party and is not representing a party and the constitutional validity of a statute is at issue, before the appellant's brief is filed, the Attorney General must be served with a copy of the documents initiating the appeal (notice of appeal or motion for discretionary review) with notice specifying the challenged statute and the alleged constitutional defect.

(2) In original actions where the Attorney General is not a party and is not representing a party and the constitutional validity of a statute is at issue, the Attorney General must be served with a copy of the original action with notice specifying the challenged statute and the alleged constitutional defect.

(3) The Attorney General may file an entry of appearance within ten days of the date of the service of the notice in paragraph (B)(1) or (2). If the Attorney General does not file an entry of appearance within ten days, then no further filings or briefs shall be served on the Attorney General.

RAP 30 Time for filing and serving briefs

RAP 30(C)(1)(c) will read as follows:

(c) Appellant's reply brief may be filed no later than 15 days after the date on which the last appellee's response brief is filed. If the appellant's reply brief is responsive to more than one appellee's response brief, the reply brief must be filed no later than 15 days after the date on which the last appellee's response brief is filed or due to be filed.

RAP 30(D)(1) will read as follows:

(1) If counsel for the appellant is someone other than the Public Advocate or the Attorney General, the time in which the appellant and reply briefs shall be filed is the same as in section (C)(1) above. The appellee's brief must be filed no later than 60 days from the date on which the appellant's brief is filed or on which the record is made available by the clerk of the appellate court, whichever is later.

RAP 31 Format and number of briefs

RAP 31(B) will read as follows:

(B) Redactions. CR 7.03 applies to all actions prosecuted under these rules. Initials or a descriptive term must be used instead of a name in cases involving juveniles, allegations of abuse and neglect, termination of parental rights, mental health, and appeals arising from judgments granting expungements.

RAP 31(G)(2), (3) will read as follows:

(2) *Court of Appeals.*

(a) An appellant's initial brief and an appellee's response brief shall not exceed 8,750 words or 20 pages if computer generated and shall not exceed 25 pages if handwritten or typewritten.

(b) An appellant's reply brief shall not exceed 1,750 words or 4 pages if computer-generated and shall not exceed 5 pages if handwritten or typewritten, except that when an appellant is called upon to respond to more than one appellee brief, then appellant is permitted up to 1,750 additional words or 4 additional pages per each additional appellee brief if computer-generated or up to 5 additional pages per each additional appellee brief if handwritten or typewritten.

(c) A brief combining appellee's response brief with its initial brief as a cross-appellant shall not exceed 14,000 words or 30 pages if computer generated and shall not exceed 40 pages if handwritten or typewritten. A brief combining appellant's reply brief with its response brief as cross-appellee shall not exceed 10,500 words or 25 pages if computer generated and shall not exceed 30 pages if handwritten or typewritten. When an appellant is called upon to respond to more than one appellee brief, then appellant is permitted up to 1,750 additional words or 4 additional pages per each additional appellee brief if computer-generated or up to 5 additional pages per each additional appellee brief if handwritten or typewritten.

(3) *Supreme Court.*

(a) An appellant's initial brief and an appellee's response brief shall not exceed 40 pages or 17,500 words if computer generated and shall not exceed 50 pages if handwritten or typewritten.

(b) An appellant's reply brief shall not exceed 7 pages or 3,500 words if computer generated and shall not exceed 10 pages if handwritten or typewritten, except that when an appellant is called upon to respond to more than one appellee brief, then appellant is permitted up to 4 additional pages or 1,750 additional words per each additional appellee brief if computer generated or up to 5 additional pages per each additional appellee brief if handwritten or typewritten.

(c) A brief combining appellee's response brief with its initial brief as a cross-appellant shall not exceed 22,750 words or 50 pages if computer generated and shall not exceed 65 pages if handwritten or typewritten. A brief combining appellant's reply brief with its response brief as cross-appellee shall not exceed 19,250 words or 45 pages if computer generated and shall not exceed 60 pages if handwritten or typewritten. When an appellant is called upon to respond to more than one appellee brief, then appellant is permitted up to 1,750 additional words or 4 additional pages per each additional appellee brief if computer-generated or up to 5 additional pages per each additional appellee brief if handwritten or typewritten.

RAP 32 Organization and content of briefs

RAP 32(D) will read as follows:

(D) Briefs of 1,750 Words or Less. A statement of points and authorities is not required for a brief of 1,750 words or less, but is required for briefs of more than 1,750 words.

RAP 60 Original proceedings in appellate courts

RAP 60(J)(1) will read as follows:

(1) An appeal may be taken to the Court of Appeals as a matter of right from a final order disposing of an original action prosecuted in the circuit court. The Rules of Appellate Procedure shall apply except as set forth in this paragraph, RAP 60(J).

RAP 63 Bonds in civil appeals

RAP 63(B), (C) will read as follows:

(B) Supersedeas Bond.

(1) Whenever an appellant entitled to a stay desires a stay on appeal of a judgment other than a judgment granting a permanent injunction, the appellant may present to the trial court clerk or the trial court for approval an executed supersedeas bond with good and sufficient surety. The address of the surety shall be shown on the bond. The bond shall be in a fixed amount and conditioned for the satisfaction of the judgment in full together with costs, and interest, if the appeal is dismissed or if the judgment is affirmed, and to satisfy in full such costs, including costs on the appeal and interest as the appellate court may adjudge.

(2) When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal, and interest, unless the trial court after notice and hearing and for good cause shown fixes a different amount or orders security other than the bond.

(3) When the judgment determines the disposition of the property in controversy as in real actions or replevin, or when such property is in the custody of the sheriff, or when the proceeds of such property or a bond for its value is in the custody or control of the court, the amount of the supersedeas bond shall be fixed at such sum only as will secure the amount recovered for the use and detention of the property, the costs of the action, costs on appeal, and interest. A supersedeas bond may be given to stay proceedings on a part of a judgment, and in such case the bond need only secure the part superseded.

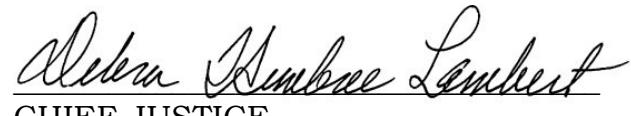
(C) Sufficiency of Supersedeas Bond.

(1) The sufficiency of the bond or the surety may be determined by the trial court upon motion and hearing.

(2) During an appeal, the trial court shall retain original jurisdiction to determine all matters relating to the right to file a supersedeas bond, the amount and sufficiency thereof and the surety thereon.

All sitting. All concur.

Entered this 5th day of January, 2026.


CHIEF JUSTICE