

IN THE SUPREME COURT OF MISSISSIPPI

NO. 89-R-99027 SCT

IN RE: MISSISSIPPI RULES OF APPELLATE PROCEDURE

ORDER

This matter is today before the Court, en banc, on its own motion. The Supreme Court Advisory Committee on Rules has submitted to the Court a review of recent amendments to the Mississippi Rules of Appellate Procedure and has recommended certain editorial changes. In the interest of the fair and efficient administration of justice, the Court has, having considered such recommendations, determined to amend certain of the Mississippi Rules of Appellate Procedure.

IT IS THEREFORE ORDERED that M.R.A.P. 10(b)(5) be and the same is hereby amended as set forth in Exhibit "A" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 17(b) be and the same is hereby amended as set forth in Exhibit "B" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 27(b) be and the same is hereby amended as set forth in Exhibit "C" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 27(g) be and the same is hereby amended as set forth in Exhibit "D" hereto, and

IT IS FURTHER ORDERED that M.R.A.P. 46(b) be and the same is hereby amended as set forth in Exhibit "E" hereto.

IT IS FURTHER ORDERED that the foregoing amendments shall be effective from and after entry of this Order.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this Order on the minutes of the

Court and shall forthwith forward a true certified copy hereof to West Publishing Company for publication as soon as practical in the advance sheets of *Southern Reporter, Second Series (Mississippi Edition)* and in the next edition of *Mississippi Rules of Court*.

SO ORDERED, this, the _____ day of June, 1999

FRED L. BANKS, JR., JUSTICE,

FOR THE COURT

EXHIBIT "A" TO ORDER

AMENDMENT TO M..R.A..P. 10(b)(5)

(5) Attorney's Examination and Proposed Corrections. For fourteen (14) days after service of the clerk's notice of completion under Rule 1 l(d)(2), the appellant shall have the use of the record for examination. On or before the expiration of that period appellant's counsel shall deliver or mail the record to one firm or attorney representing the appellee, and shall append to the record (i) a written statement of any proposed corrections to the record, (ii) a certificate that the attorney has carefully examined the record and that with the proposed corrections, if any, it is correct and complete, and (iii) a certificate of service. Counsel for the appellee shall examine the record and return it to the trial court clerk within fourteen (14) days after service, and shall append to the record (i) a written statement of any proposed corrections to the record, (ii) a certificate that the attorney has carefully examined the record and that with the proposed corrections, if any, it is correct and complete, and (iii) a certificate of service. Corrections as to which counsel for all parties agree in writing shall be deemed made by stipulation. If the parties propose corrections to the record but do not agree on the corrections, the trial court clerk shall forthwith deliver the record with proposed corrections to the trial judge. The trial judge shall promptly determine which corrections, if any, are proper, enter an order under Rule 10(e), and return the record to the court reporter or the trial court clerk who shall within seven (7) days make corrections directed by the order.

EXHIBIT "B" TO ORDER

AMENDMENT TO M.R.A.P. 17(b)

(b) Time for Filing Petition for Writ of Certiorari; Content and Length of Petition. A party seeking review of a judgment of the Court of Appeals must first seek review of that court's decision by filing a motion for rehearing in the Court of Appeals. If a party seeks review in the Supreme Court, a petition for writ of certiorari for review of the decision of the Court of Appeals must be filed in the Supreme Court and served on other parties within fourteen (14) days from the date of entry of judgment by the Court of Appeals on the motion for rehearing, unless extended upon motion filed within such time. An untimely petition may be summarily dismissed by a single justice of the Supreme Court. The petition for writ of certiorari may not exceed ten (10) pages in length and must briefly and succinctly state the precise basis on which the party seeks review by the Supreme Court, and may include citation of authority in support of that contention. No citation to authority or argument may be incorporated into the petition by reference to another document. The petitioner must file an original and ten (10) copies of the petition. The Petitioner must attach, as appendices to the petition, a copy of the opinion and judgment of the Court of Appeals, and a copy of the motion for rehearing filed in the Court of Appeals.

EXHIBIT "C" TO ORDER

AMENDMENT TO M.R.A.P. 27(b)

(b) Determination of Motions for Procedural Relief. Notwithstanding the provisions of Rule 27(a) as to motions generally, motions for procedural relief may be acted upon at any time without awaiting a response. When unopposed, motions for specified types of procedural orders may be disposed of by the clerk of the Supreme Court. The clerk may rule on motions:

- (1) for enlargement of time permitted by these rules for periods not to exceed a total of 60 days,
- (2) to make corrections in briefs or pleadings filed at the request of counsel filing the brief or pleading,
- (3) to withdraw as counsel and/or substitute appearance of counsel, except in appeals from the imposition of a sentence of death,
- (4) to stay issuance of mandates pursuant to Rule 41,
- (5) to voluntarily dismiss appeals where sought by the appellant or the cross-appellant, unless the case has been submitted to the Court for decision,
- (6) to increase the page limit up to 75, or up to 125 in appeals from the imposition of a sentence of death,
- (7) to supplement the record where documents which were included in the designation of, yet omitted from, the record are certified according to Rule 11 and attached to the motion,
- (8) to appear pro hac vice, and

(9) to suspend record preparation or briefing.

Any party adversely affected by such action may by motion to the appropriate appellate court request reconsideration, vacation or modification of such action by the clerk.

EXHIBIT "D" TO ORDER

AMENDMENT TO RULE 27(g)

(g) Rehearing on Motions Prohibited. Except as provided in Rule 2(c) and Rule 27(b), decisions of the Supreme Court and the Court of Appeals on motions or petitions shall be subject to rehearing, reconsideration, vacation or modification only on the Court's own motion.

EXHIBIT "E" TO ORDER

AMENDMENT TO M.R.A.P. 46(b)(5)

(5) Filing of order authorizing appearance. A foreign attorney shall not appear as counsel pro hac vice before any court or administrative agency until the foreign attorney files with the clerk of the Supreme Court a certified copy of the order authorizing such appearance.

[The following new final sentence is added to the existing Comment.]

The filing required by Rule 46(b)(5) is to provide all courts and agencies with a central source from which to obtain an accurate record of appearances made by foreign attorneys.