

Serial: 92370

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99001-SCT

RE: THE RULES OF CIVIL PROCEDURE

ORDER

This matter has come before the Court en banc on the Court's own motion for consideration of an amendment to Rule 4(e) of the Mississippi Rules of Civil Procedure, deleting from such rule the prohibition against waiver of service of process by one convicted of a felony. Having considered the matter, the Court finds that such an amendment is in the interest of the fair and efficient administration of justice.

IT IS THEREFORE ORDERED that Rule 4(e) of the Mississippi Rules of Civil Procedure is amended as set forth in Exhibit "A" hereto.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the next edition of the *Mississippi Rules of Court* and in the *Southern Reporter, Second Series, (Mississippi Edition)*.

SO ORDERED, this the 2nd day of January, 2002.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR., JUSTICE,

FOR THE COURT

EXHIBIT "A"

RULE 4. SUMMONS. . . .

(e) **Waiver.** Any party defendant who is not an unmarried minor, or mentally incompetent, ~~or convict of felony~~ may, without filing any pleading therein, waive the service of process or enter his or her appearance, either or both, in any action, with the same effect as if he or she had been duly served with process, in the manner required by law on the day of the date thereof. Such waiver of service or entry of appearance shall be in writing dated and signed by the defendant and duly sworn to or acknowledged by him or her, or his or her signature thereto be proven by two (2) subscribing witnesses before some officer authorized to administer oaths. Any guardian or conservator may likewise waive process on himself and/or his ward, and any executor, administrator, or trustee may likewise waive process on himself in his fiduciary capacity.

However, such written waiver of service or entry of appearance must be executed after the day on which the action was commenced and be filed among the papers in the cause and noted on the general docket.

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[Amended effective May 1, 1982; March 1, 1985; February 1, 1990; July 1, 1998; January 3, 2002.]