

PURSUANT TO RULE 27(f) OF THE MISSISSIPPI RULES OF APPELLATE PROCEDURE, THE SUPREME COURT SEEKS COMMENTS FROM THE BENCH, THE BAR AND THE PUBLIC ON THE PROPOSED AMENDMENT TO RULE 12.03 OF THE UNIFORM RULES OF CIRCUIT AND COUNTY COURT PRACTICE

Comments should be filed with the Clerk of the Supreme Court, Gartin Justice Building, P.O.Box 117, Jackson, MS 39205, no later than **October 26, 2007.**

Rule 12.03
APPEALS FROM COUNTY COURT

A. **Notice and Filing.** Any person adjudged guilty of a criminal offense by a county court, where the case was not a felony action transferred to that court from circuit court, may appeal to the circuit court having jurisdiction by filing written notice with the clerk of the county court within 30 days of the entry of the final judgment. Extensions may be granted as proscribed provided in Miss.Sup.Ct.R Rule 4(g) of the Mississippi Rules of Appellate Procedure.

Appeals may be heard in any county within the jurisdiction of the circuit court and shall be considered solely on the record made in county court. If no prejudicial error be found, the circuit court shall affirm and enter judgment in like manner as affirmances in the Supreme Court. If prejudicial error be found, the circuit court shall reverse as is provided for reversals in the Supreme Court. If a new trial is granted, the cause shall be remanded to the docket of the circuit court and a new trial held therein de novo.

The notice of appeal shall specify the party or parties taking the appeal; shall designate the judgment or order from which the appeal is taken; state that the appeal is to circuit court; and state that the appeal is taken on the record. The clerk, upon receiving written notice of appeal, shall immediately send notice to the prosecuting attorney.

B. **Bond.** Unless otherwise excused by law, a sufficient bond shall be given within the time prescribed for taking of the appeal. The amount of the bond shall be set by the judge or clerk of the county court in which the judgment was rendered. The bond shall be conditioned on appearance before the circuit court during the term to which appeal is taken, and if the defendant fails to so appear, the circuit court shall dismiss the appeal, remand the case for execution of judgment, and order forfeiture of the bond.

The giving of bond or a sufficient affidavit that appellant is unable to give an appeal bond shall act as supersedeas. All time that the appellant is in custody pending an appeal shall be automatically deducted from the sentence imposed by the court.

C. Record on Appeal. The practices and procedures with respect to the trial transcript and the record on appeal shall be the same as if the appeal had been taken from the circuit court to the Supreme Court.

D. Briefs on Appeal. The briefs filed in the cause shall be in conformity with the practice in the Supreme Court, and the time of filing and service of the briefs shall be in conformity with the practice in the Supreme Court, except the parties should file only an original and one copy of each brief. The consequences of failure to timely file a brief shall be the same as in the Supreme Court.

E. Felony Transfers. Final judgments in felony cases transferred from circuit court to county court shall be appealed to the Supreme Court in the same manner as if the judgment were rendered in the circuit court.

F. Oral Argument. The court may, in its discretion, decide the case on the briefs or may hear oral arguments on the issues. A party desiring oral argument must request the same in writing by motion within 10 days of the time the last brief is due. The court may designate the issues on which it will hear oral argument. The court may direct oral argument in cases where no party has requested oral argument.

G. Interlocutory Appeal. An appeal from an interlocutory order may be sought in the circuit court. Interlocutory appeal may be sought in conformity with the practice in the Supreme Court as provided in Rule 5 of the Mississippi Rules of Appellate Procedure.

[Amended October _____, 2007.]