



## **Rule 6. Bail On Appeal.**

(a) The appeal bond provided for in this rule shall be filed in the office of the clerk of the court in which the conviction is had, and a copy thereof shall be attached to the bill of exceptions and shall be made a part of the transcript to be filed in the Supreme Court.

(b)(1) When a defendant has been found guilty, pleaded guilty, or pleaded nolo contendere to an offense other than one specified in subsection (b)(2) or (b)(3) of this section, and he is sentenced to serve a term of imprisonment, and he has filed a notice of appeal, the trial court shall not release the defendant on bail or otherwise pending appeal unless it finds:

(A) By clear and convincing evidence that the defendant is not likely to flee or that there is no substantial risk that the defendant will commit a serious crime, intimidate witnesses, harass or take retaliatory action against any juror, or otherwise interfere with the administration of justice or pose a danger to the safety of any other person; and

(B) That the appeal is not for the purpose of delay and that it raises a substantial question of law or fact.

(2) When the defendant has been found guilty, pleaded guilty, or pleaded nolo contendere to capital murder, the trial court shall not release the defendant on bail or otherwise, pending appeal or for any reason.

(3) When the defendant has been found guilty, pleaded guilty, or pleaded nolo contendere to murder in the first degree, rape, aggravated robbery, or causing a catastrophe, or kidnapping or arson when classified as a Class Y felony, and he has been sentenced to death or imprisonment, the trial court shall not release him on bail or otherwise, pending appeal or for any reason.

(c)(1) If an appeal bond is granted by the trial court, it shall be conditioned on the defendant's surrendering himself to the sheriff of the county in which the trial was held upon the dismissal of the appeal or upon the rendition of final judgment upon the appeal. The trial court may also condition release by imposing restrictions specified in ARCrP 9.3 or other restrictions found reasonably necessary.

(2) Following the affirmance or reversal of a conviction, or the dismissal of an appeal, the Clerk of the Supreme Court shall immediately make and forward to the clerk of the circuit court of the county in which the defendant was convicted a certified copy of the mandate of the Supreme Court.

(3) The circuit clerk, upon receipt of a mandate affirming the conviction, shall immediately file the mandate and notify the sheriff and the bail bondsman or, in appropriate cases, other sureties on the bail bond that the defendant should be surrendered to the sheriff as required by the terms of the bail bond.

(4) If the defendant fails to surrender himself to the sheriff in compliance with the conditions of his bond, the sheriff shall notify the clerk of the circuit court, and the circuit court shall direct that fact to be entered on its records and shall adjudge the bail bond of the defendant, or the money deposited in lieu thereof, to be forfeited.

(5) The defendant having failed to surrender, the circuit clerk shall immediately issue a summons against the sureties on the bail bond requiring them to appear and show cause why judgment should not be rendered against them for the sum specified in the bail bond on account of the forfeiture thereof, which summons shall be made returnable and shall be executed as in civil actions, and the action shall be docketed and shall proceed as an ordinary civil action.

(6) The summons may be served as provided by law in any place in which the sureties may be found, and the service of the summons on the defendant or defendants shall give the court complete jurisdiction of the defendant and cause.

(7) No pleadings on the part of the state shall be required in such cases.

(d) The circuit court in which the defendant was convicted shall retain jurisdiction to hear and decide any motion to revoke the bail of a defendant set at liberty pursuant to this rule, even if the record on appeal has been lodged with the Supreme Court or the Court of Appeals.

(e) If the court in which the defendant was convicted refuses to grant an appeal bond, and an appeal bond shall thereafter be granted by any Justice or Justices of the Supreme Court, the bond shall be conditioned that, upon the dismissal of the appeal or the rendition of the final judgment therein by the Supreme Court, the defendant shall surrender himself as provided in this rule in execution of the judgment.

#### **History Text:**

History. Amended March 27, 1995; adopted and amended July 10, 1995, effective January 1, 1996; amended effective October 21, 1999

#### **Associated Court Rules:**

Rules of Appellate Procedure?Criminal

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