



ARKANSAS JUDICIARY

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## Rule 3. Appeal By State.

(a) An interlocutory appeal on behalf of the state may be taken only from a pretrial order in a felony prosecution which (1) grants a motion under Ark. R. Crim. P. 16.2 to suppress seized evidence, (2) suppresses a defendant's confession, or (3) grants a motion under Ark. Rule of Evidence 411(c) to allow evidence of the victim's prior sexual conduct. The prosecuting attorney shall file, within ten (10) days after the entering of the order, a notice of appeal together with a certificate that the appeal is not taken for the purposes of delay and that the order substantially prejudices the prosecution of the case. Further proceedings in the trial court shall be stayed pending determination of the appeal.

(b) Where an appeal, other than an interlocutory appeal, is desired on behalf of the state following either a misdemeanor or felony prosecution, the prosecuting attorney shall file a notice of appeal within thirty (30) days after entry of a final order by the trial judge.

(c) When a notice of appeal is filed pursuant to either subsection (a) or (b) of this rule, the clerk of the court in which the prosecution sought to be appealed took place shall immediately cause a transcript of the trial record to be made and transmitted to the attorney general, or delivered to the prosecuting attorney, to be by him delivered to the attorney general. If the attorney general, on inspecting the trial record, is satisfied that error has been committed to the prejudice of the state, and that review by the Supreme Court is desirable under this rule, he make take the appeal by filing the transcript of the trial record with the clerk of the Supreme Court within sixty (60) days after the filing of the notice of appeal. (d) The Supreme Court will not consider an appeal filed under either subsection (a)(1) or (2) or subsection (b) of this rule unless the correct and uniform administration of the criminal law requires review by the court. (e) A decision by the Arkansas Supreme Court sustaining in its entirety an order appealed under subsections (a)(1) and (a)(2) shall bar further proceedings against the defendant on the charge; however, a decision sustaining an order appealed under subsection (a)(3) shall not bar further proceedings against the defendant on the charge.

Reporter's Notes, 2011. The 2011 amendment added subsection (d) of the rule to make clear that the "correct and uniform administration of the criminal law" requirement applies only to appeals permitted under subsections (a)(1), (a)(2), and (b) of this rule. Compare *State v. Parker*, 2010 Ark. 173, where the court refused to apply the requirement to an interlocutory appeal under Ark. Code Ann. section 16-42-101(c).

### History Text:

History. Amended June 7, 1976, effective July 7, 1976; amended February 14, 1983; adopted and amended July 10, 1995, effective January 1, 1996; amended December 3, 1998; amended February 17, 2000, effective retroactively to December 3, 1998; amended February

9, 2011, effective April 1, 2011; amended November 15, 2012, effective January 1, 2013.

**Associated Court Rules:**

Rules of Appellate Procedure?Criminal

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