



ARKANSAS JUDICIARY

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Rule 10. Automatic Appeal And Mandatory Review In Death-Sentence Cases; Procedure On Affirmance.

(a) *Automatic appeal.* (1) Upon imposing a sentence of death, the circuit court shall order the circuit clerk to file a notice of appeal on behalf of the defendant within thirty (30) days after entry of judgment. The notice of appeal shall be in the form annexed to this rule. The court reporter shall transcribe all portions of the criminal proceedings consistent with Article III of the Rules of the Supreme Court and shall file the transcript with the circuit clerk within ninety (90) days after entry of the judgment. Within thirty (30) days after receipt of the transcript, the circuit clerk shall compile the record consistent with Article III and shall file the record with the clerk of the Arkansas Supreme Court for mandatory review consistent with this rule and for review of any additional issues the appellant may enumerate.

(2) *Extension of time.*

(A) If the court reporter needs an extension of time to file the transcript, the court reporter shall notify the circuit court and all parties explaining the reasons for the requested extension. A party has ten (10) days to file an objection, in which case the circuit court shall provide all parties the opportunity to be heard, either at a hearing or by responding in writing. Otherwise, the court may proceed to decide on the extension.

(B) The court may order an extension if it finds, in writing, (i) the time to file the record on appeal has not yet expired and (ii) an extension of time is necessary for the court reporter to file the transcript. The court must enter its extension order before the end of the 90-day period afforded the court reporter in Rule 10(a) or by a prior extension order.

(C) This subdivision, 10(a)(2), supersedes Rule 4(c)(1), but Rule 4(c)(2) and (3) otherwise remains the same.

(b) *Mandatory review.* Whenever a sentence of death is imposed, the Supreme Court shall review the following issues in addition to other issues, if any, that a defendant may enumerate on appeal. Counsel shall be responsible for abstracting the record and briefing the issues required to be reviewed by this rule and shall consolidate the abstract and brief for such issues and any other issues enumerated on appeal. The Court shall consider and determine:

(i) pursuant to Rule 4-3(h) of the Rules of the Supreme Court and Ark. Code Ann. 16-91-113(a), whether prejudicial error occurred;

(ii) whether the trial court failed in its obligation to bring to the jury's attention a matter

essential to its consideration of the death penalty;

(iii) whether the trial judge committed prejudicial error about which the defense had no knowledge and therefore no opportunity to object;

(iv) whether the trial court failed in its obligation to intervene without objection to correct a serious error by admonition or declaring a mistrial;

(v) whether the trial court erred in failing to take notice of an evidentiary error that affected a substantial right of the defendant;

(vi) whether the evidence supports the jury's finding of a statutory aggravating circumstance or circumstances; and

(vii) whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor.

(c) *Procedure on affirmance.* When a judgment of death has been affirmed, the denial of post-conviction relief has been affirmed, or a mandate has been returned from the United States Supreme Court, and the day of execution has passed, the Clerk of the Supreme Court shall transmit to the Governor a certificate of the affirmance or return of mandate and judgment, to the end that a warrant for the execution of the judgment may be issued by the Governor. Such certificate shall operate to dissolve any stay of execution previously entered by the Supreme Court or any stay of execution previously entered by a circuit court pending disposition of a petition for post-conviction relief. Form: Notice of Appeal

Comment Text:

Reporter's Notes, 2017 Amendment:

Subsection (a) was amended by designating the current language as subpart (1) and adding a new subpart (2) to address the extension of time for the court reporter to prepare the transcript. See *Johnson v. State*, Docket No. CR-15-68, Order of February 19, 2015 ("Petition for writ of certiorari is granted Refer request for clarification of counsel's responsibilities to the Supreme Court Committee on Criminal Practice.").

History Text:

History. Amended July 6, 1981; adopted and amended July 10, 1995, effective January 1, 1996; amended January 13, 2000; amended July 9, 2001, effective for all cases in which the death penalty is imposed on or after August 1, 2001; amended December 14, 2017, effective January 1, 2018.

Associated Court Rules:

Rules of Appellate Procedure?Criminal

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