ARKANSAS JUDICIARY
Published on *Arkansas Judiciary* (https://courts.arkansas.gov)

Rule 4-3. Briefs In Criminal Cases.

(a) Briefs in chief ? When the state is the appellee. In criminal cases in which the State is the appellee and in which appellant is not indigent, the appellant shall have 40 days from the date the transcript is lodged to file 17 copies of the brief with the Clerk. Upon the filing of the brief, the appellant shall submit proof of service of two additional copies of the brief upon the Attorney General and one copy upon the circuit court, except as otherwise provided in (f).

(b) Briefs in chief ? When the state is the appellant. In criminal cases in which the State is the appellant, the procedure shall be the same as in subsection (a) except the State shall file only 17 copies of the brief with the Clerk and furnish evidence of service upon opposing counsel and the circuit court, except as otherwise provided in (f).

(c) Appellee's brief. The appellee shall have 30 days from the filing of the appellant's brief to file 17 copies of the brief with the Clerk and such further abstract and Addendum as may be necessary to a fair determination of the case. Proof of service upon opposing counsel and the circuit court is required, except as otherwise provided in (f).

(d) Reply brief. The appellant shall have 15 days from the date that the appellee's brief is filed to file 17 copies of the reply brief and furnish evidence of service upon the opposing counsel and the circuit court.

(e) Page limits on briefs. The argument portion of the appellant's and the appellee's briefs shall not exceed 30 double-spaced typewritten pages including the conclusion, if any, with a 15 typewritten page limit upon the reply brief, except that if either limitation is shown to be too stringent in a particular case, and there has been a good faith effort to comply with the page limits, it may be waived on motion.

(f) Sealing of child pornography. If a brief contains photographs, DVDs, or any other visual medium alleged by either party to the appeal to constitute child pornography, a motion to seal the brief, stating the reason therefor, must accompany the brief when it is filed with the Clerk of the Court. Only the court, its personnel, and the attorneys of record shall be provided with copies of briefs containing the materials to be sealed. All other persons to be served with the brief shall receive copies which do not contain the materials to be sealed.

(g) Misdemeanor cases subject to dismissal. In misdemeanor cases, failure of the appellant to file a brief within the time limit renders the case subject to dismissal as in civil cases pursuant to Rule 4-5.

(h) Appellant's duty to abstract record. In all felony cases it is the duty of the appellant, whether represented by retained counsel, appointed counsel or a public defender, or acting

pro se, to abstract such parts of the transcript and to include in the Addendum such parts of the record, but only such parts, as are material to the points to be argued in the appellant's brief.

(i) Court's review of errors in death or life imprisonment cases. When the sentence is death or life imprisonment, the Court must review all errors prejudicial
to the appellant in accordance with Ark. Code Ann. Sec. 16-91-113(a). To make that review possible, the appellant must abstract, or include in the Addendum, as appropriate, all rulings adverse to him or her made by the circuit court on all objections, motions and requests made by either party, together with such parts of the record as are needed for an understanding of each adverse ruling. The Attorney General will make certain and certify that all of those objections have been abstracted, or included in the Addendum, and will brief all points argued by the appellant and any other points that appear to involve prejudicial error.

(j) Preparation of briefs for indigent appellants. When an indigent appellant is represented by appointed counsel or a public defender, the attorney may have the briefs reproduced by submitting one unbound double-spaced typewritten manuscript to the Attorney General and one to the Clerk not later than the due date of the brief. In such instances, the time for the filing of the Attorney General's brief is extended by five days.

(k) Withdrawal of counsel.

(1) Any motion by counsel for a defendant in a criminal or a juvenile delinquency case for permission to withdraw made after notice of appeal has been given shall be addressed to the Court, shall contain a statement of the reason for the request and shall be served upon the defendant personally by first-class mail. A request to withdraw on the ground that the appeal is wholly without merit shall be accompanied by a brief including an abstract and Addendum. The brief shall contain an argument section that consists of a list of all rulings adverse to the defendant made by the circuit court on all objections, motions and requests made by either party with an explanation as to why each adverse ruling is not a meritorious ground for reversal. The abstract and Addendum of the brief shall contain, in addition to the other material parts of the record, all rulings adverse to the defendant made by the circuit court.

(2) The Clerk shall furnish the appellant with a copy of the appellant's counsel's brief, and advise the appellant that he or she has 30 days within which to raise any points that he or she chooses, and that this may be done in typewritten or hand printed form and accompanied by an affidavit that no paid assistance from any inmate of the Department of Correction or of any other place of incarceration has been received in the preparation of the response.

(3) The Clerk shall serve all such responses by an appellant on the Attorney General, who shall file a brief for the State, pursuant to sections (e) and (j) of this Rule, within 30 days after such service and serve a copy on the appellant, as well as on the appellant's counsel.

(4) After a reply brief has been filed, or after the time for filing such a brief has expired, the motion for withdrawal shall be submitted to the Court as other motions are submitted. If, upon consideration of the motion, it shall appear to the Court that the judgment of the circuit court should be affirmed or reversed, the Court may take such action on its own motion, without any supporting opinion.
(l) Continuances and extensions of time.

(1) The Clerk or a deputy clerk may extend the due date of any brief by seven (7) calendar

days upon oral request. If such an extension is granted, no further extension shall be granted except by the Clerk for compliance with these Rules as provided in Rule 4-2(c) or by the Court upon a written motion showing good cause.

(2) Stipulations of counsel for continuances will not be recognized. Any request for an extension of time (except in (l)(1)) for the filing of any brief must be made by a written motion, addressed to the Court, setting forth the facts supporting the request. Eight copies of the motion are required. Counsel who delay the filing of such a motion until it is too late for the brief to be filed if the motion is denied, do so at their own risk.
Reporter?s Notes to Rule 4-3(2008)

A 2008 amendment added subsection (f) and relettered the subsequent paragraphs.

Associated Court Rules:
Rules of the Supreme Court and Court of Appeals of the State of Arkansas
Group Title:
Article IV. Briefs

Source URL: https://courts.arkansas.gov/rules-and-administrative-orders/court-rules/rule-4-3-briefs-criminal-cases