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Rule 6-9. Rule For Appeals In Dependency-Neglect Cases.

(a) Appealable Orders.

(1) The following orders may be appealed from dependency-neglect proceedings:

(A) adjudication order;

(B) disposition, review, no reunification, and permanency planning order if the court directs entry of a final judgment as to one or more of the issues or parties based upon the express determination by the court supported by factual findings that there is no just reason for delay of an appeal, in accordance with Ark. R. Civ. P. Rule 54(b);

(C) termination of parental rights; and

(D) denial of right to appointed counsel pursuant to Ark. Code Ann. ? 9-27-316(h).

(E) denial of a motion to intervene.

(2) The circuit court shall enter and distribute to all the parties all dependency-neglect orders no later than (thirty) 30 days after a hearing.

(b) Notice, Indigency, and Time for Appeal.

(1) The notice of appeal shall be filed within twenty-one (21) days following the entry of the circuit court order from which the appeal is being taken.

(A) If the court announces its ruling from the bench and an appellant files a notice of appeal prior to the entry of the order, it shall be deemed to be filed the day after the order is entered.

(B) The notice of appeal and designation of record shall be signed by the appellant, if an adult, and appellant's counsel. The notice shall set forth the party or parties initiating the appeal, the address of the parties or parties, and specify the order from which the appeal is taken.

(2) If the appellant alleges indigency for purpose of the appeal, the appellant shall file a motion, with notice to all parties, to request an indigency determination within fourteen (14) days following the entry of the order from which the appeal is taken.

(A) If the appellant has had a court determination of indigency prior to the hearing from the order from which the appeal is taken, the appellant shall seek a re-determination of indigency for purpose of appeal and shall submit a new affidavit for the court to determine indigency for the purpose of appeal.

(B) The circuit court shall rule on appellant?s indigency motion within five (5) days of the indigency motion being filed. If the court conducts a hearing on the indigency motion, the judge may conduct the indigency hearing outside of the county and by teleconference. The court shall use the federal poverty guidelines provided by the Administrative Office of the Courts in making its indigency determination.

(C) If the appellant is determined indigent for purpose of appeal, the notice shall indicate that the court has made a determination of indigency for payment of the record. Trial counsel for indigent parents or custodians shall not be relieved as counsel for purpose of appeal until relieved by the Public Defender Commission as provided in Rule 6-10(c). If appellant is determined not indigent, appellant shall state that arrangements for payment of the record have been made.

(3) If a timely notice of appeal is filed, any other party may file a notice of cross-appeal and designation of record within five (5) days from receipt of the notice of appeal.

(4) The time in which to file a notice of appeal or a notice of cross-appeal and the corresponding designation of record will not be extended.

(5) In computing time periods in Rule 6-9, Ark. R. Civ. P. Rule 6(a), which provides in part that when the period of time prescribed or allowed is less than fourteen (14) days, intermediate Saturdays, Sundays, or legal holidays shall be excluded in the computation, shall apply.

(c) Record on Appeal.

(1) The record for appeal shall be limited to the transcript of the hearing from which the order on appeal arose, any petitions, pleadings, and orders relevant to the hearing from which the order on appeal arose, all exhibits entered into evidence at that hearing, and all orders entered in the case prior to the order on appeal.

(2) The appellant and the cross-appellant, if any, shall (A) complete a Notice of Appeal (Cross-Appeal) and Designation of Record (Form 1); (B) file Form 1 with the Circuit Clerk; and (C) serve Form 1 on the court reporter and all parties by any form of mail which requires a signed receipt.

(3) The designation-of-record portion of Form 1 shall identify the hearing from which the order being appealed arose, and shall designate the date(s) of the hearing resulting in the order being appealed. Service of the Notice of Appeal and Designation of Record (Form 1) shall constitute a request for transcription of the hearing from which the order of the appeal arose.

(4) Within five (5) days after receipt of the Notice of Appeal and Designation of Record (Form 1), the court reporter shall file a statement by mail or fax with the Circuit Clerk indicating whether arrangements for payment have been made and that the record will be completed timely. The court reporter shall make arrangements for the record to be completed and certified within sixty (60) days.

(d) Transmission of Record. Absent extraordinary circumstances, the record on appeal shall be filed with the Clerk of the Supreme Court within seventy (70) days of the filing of the Notice of Appeal. Within sixty (60) days after the filing of the Notice of Appeal and Designation of Record (Form 1), the court reporter shall provide the record to the Circuit Clerk who shall have no longer than five (5) days to prepare the record, including any transcripts and exhibits, to be transmitted for submission to Clerk of the Supreme Court. After the record has been duly certified by the Circuit Clerk, it shall be the responsibility of the appellant to transmit the record to the Clerk of the Supreme Court for filing.

(e) Petition on Appeal.

(1) Within thirty 30 days after transmission of the record to the Clerk of the Supreme Court, the appellant shall file an original and 16 copies of a Petition on Appeal (Form 2).

(2) The petition shall not exceed twenty (25) pages, excluding the abstract and addendum, and shall include:

(A) A statement of the nature of the case and the relief sought;

(B) A concise statement of the material facts as they relate to the issues presented in the petition on appeal that is sufficient to enable the appellate court to understand the nature of the case, the general fact situation, and the action taken by the circuit court. This statement must also summarize the circuit court order appealed from and recite the date the order was entered. (References to pages in the abstract and addendum are required.);

(C) An abstract or abridgment of the transcript that consists of an impartial condensation of only such material parts of the testimony of the witnesses and colloquies between the court and counsel and other parties as are necessary to an understanding of all questions presented to the court for decision. In the abstracting of testimony, the first person (i.e., ?I?) rather than the third person (i.e., ?He, She?) shall be used. Not more than one page of the transcript shall in any instance be abstracted without a page reference to the record.

(D) A concise statement of the legal issues presented for appeal, including a statement of how the issues arose; and a discussion of the legal authority on which the party is relying with citation to supporting statutes, case law, or other legal authority for the issues raised. Citations of decisions of the court which are officially reported must be from the official reports. All citations of decisions of any court must state the style of the case and the book and page in which the case is found. If the case is also reported by one or more unofficial publishers, these should also be cited, if possible.

(E) Following the signature and certificate of service, the appellant's petition shall contain an addendum which shall include true and legible photocopies of the order, judgment, decree, ruling, or letter opinion from which the appeal is taken, a copy of the notice of appeal, and any other relevant pleadings, documents, or exhibits essential to an understanding of the case, which may include, but are not limited to, affidavits, petitions, case plan, court reports, court orders, or other exhibits entered into the record during the hearing from which the appeal arose, and all orders entered in the case prior to the order on appeal. The addendum shall include an index of its contents and shall also designate where any item appearing in the addendum can be found in the record.

(f) Response to Petition on Appeal or Cross Appeal.

(1) Within twenty (20) days after filing of the appellant's petition on a petition on appeal, any appellee may file an original and sixteen (16) copies of a response to the petition on appeal or cross-appeal (Form 3).

(2) The response shall not exceed twenty (25) pages, excluding the abstract and addendum and shall include:

(A) A concise statement of the material facts as they relate to the issues presented by the appellant, as well as the issues, if any, being raised by the appellee on cross-appeal, that is sufficient to enable the appellate court to understand the nature of the case, the general fact situation, and the action taken by the circuit court. (References to pages in the abstract and addendum are required.)

(B) A concise response to the legal issues presented on appeal and cross-appeal, if any, including a statement of how the issue arose; a discussion of the legal authority on which the party is relying with citation to supporting statutes, case law, or other legal authority for the issues raised. Citations of decisions of the court which are officially reported must be from the official reports. All citations of decisions of any court must state the style of the case and the book and page in which the case is found. If the case is also reported by one or more unofficial publishers, these should also be cited, if possible.

(C) If the appellee considers the appellant's abstract or addendum to be defective or incomplete, the appellee may provide a supplemental abstract or addendum. The appellee's addendum shall only include an item which the appellant's addendum fails to include.

(3) The appellant will have ten (10) days after appellee?s response or petition on cross appeal is filed to reply to the response or the petition on cross appeal. If appellee files a petition on cross appeal and the appellant has filed a response to the petition on cross appeal, the appellee will have ten (10) days to reply to appellant?s response to the petition on cross appeal.

(g) Extensions. The Clerk of the Supreme Court shall have the authority to grant one (1) seven-day extension for completion of the record and one (1) seven-day extension to any party to the appeal to file the petition or the response to the petition. The extension shall be computed from the date the petition or response was originally due. Absent extraordinary circumstances, no other extensions shall be granted.

(h) Style of Petition. The style of the Petition on Appeal, Response, and Cross-Appeal shall follow the style of briefs as described by Rule 4-1 of the Rules of the Supreme Court except where a style is specifically described by these rules. Reference to any minor in the Notice of Appeal, Notice of Cross Appeal, Petition for Appeal, Petition for Cross Appeal, and responses shall be by the minor?s initials. Other parties seeking anonymity shall comply with Rule 6-3 of the Rules of the Supreme Court and Court of Appeals.

(i) Procedure for No-Merit Petitions, Pro Se Points, and State?s Response.

(1) After studying the record and researching the law, if appellant?s counsel determines that the appellant has no meritorious basis for appeal, then counsel may file a no-merit petition and move to withdraw. In addition to the requirement set forth in subsection (e), counsel?s no-

merit petition must include the following:

(A) The argument section of the petition shall list all adverse rulings to the appellant made by the circuit court on all objections, motions, and requests made by the party at the hearing from which the appeal arose and explain why each adverse ruling is not a meritorious ground for reversal.

(B) The abstract and addendum shall contain all rulings adverse to the appellant, made by the Circuit Court at the hearing from which the order of appeal arose.

(2) Appellees are not required to, but may, respond to a no-merit petition. Appellees may file a concurrence letter supporting the no-merit petition. Any response by an appellee shall be filed within twenty (20) days of the filing of the no-merit petition.

(3) The Clerk of the Supreme Court shall mail the appellant, at the appellant?s last known address, a copy of the no-merit petition and the motion to withdraw. The Clerk shall notify the appellant in writing that the appellant may raise any points that the appellant chooses and that these points may be typewritten or hand-printed. The Clerk shall also notify the appellant that the points shall be received by the Supreme Court Clerk by mail or other method of delivery within thirty (30) days from the date the Clerk mailed the appellant the notification.

(4) The Clerk shall provide appellant?s points by electronic transmission or other method of delivery to the Department of Human Services - Office of Chief Counsel, the Attorney Ad Litem, and appellant?s counsel within three (3) business days.

(5) Appellees are not required to respond to appellant?s points; however, appellees may do so by filing such response within twenty (20) days of receipt by the Clerk of the Supreme Court of the appellant?s points.

(j) Ruling.

(1) Dependency-neglect proceedings shall be prioritized on the calendar of the appellate court. Once a case is ready for submission, the Clerk of the Supreme Court shall submit the case for decision.

(2) If a party files a petition for rehearing with the appellate court or petition for review with the Supreme Court, it shall be filed within ten (10) calendar days of the appellate court's decision and the response shall be filed within ten (10) calendar days of the filing of the petition. A petition for rehearing shall comply with Rule 2-3 and a petition for review shall comply with Rule 2-4 of the Rules of the Supreme Court and Court of Appeals in all respects, except for the number of days for filing. No supplemental briefs or extensions shall be allowed. The Clerk of the Supreme Court shall submit the petition for decision.

Explanatory Note, 2011 Amendment: The amendment [to Rule 6-9 (a)(1)] adds denial of a motion to intervene in dependency-neglect proceedings to the list of appealable orders under the expedited appeal procedure of Rule 6-9.

History Text:

History. Adopted May 18, 2006, effective July 1, 2006; amended September 25, 2008; amended June 2, 2011, effective July 1, 2011.

Associated Court Rules:

Rules of the Supreme Court and Court of Appeals of the State of Arkansas
Group Title:
Article VI. Special Proceedings

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