

RULE CHANGE 2022(05)

THE COLORADO APPELLATE RULES

Form 1905 and Rules 1, 2, 3, 3.4, 4, 4.1, 5, 7, 10, 21, 26, 28, 28.1, 29, 30, 32, 39.1, 41, 42, 51, 52, 53, and 55

<input type="checkbox"/> Supreme Court <input type="checkbox"/> Court of Appeals <u>Court Address:</u> 		<div style="text-align: center;">▲ ▲</div>
<u>Appellant/Petitioner:</u> <u>v.</u> <u>Appellee/Respondent:</u>		
<u>Attorney (Name and Address):</u> 		
<u>Phone Number:</u> <u>E-mail:</u> <u>FAX Number:</u> <u>Atty. Reg. #:</u>		<u>CASE NUMBER</u>
<u>MOTION TO WITHDRAW AS ATTORNEY OF RECORD IN THE APPELLATE COURT</u>		

Undersigned attorney for the ☐ Appellant/Petitioner or ☐ Appellee/Respondent moves to withdraw as attorney of record and affirms to the Court, the client and all other attorneys and parties of record:

1. that the attorney wishes to withdraw;
2. that the court retains jurisdiction;
3. that the client has the burden of keeping the court and other parties informed where notices, pleadings, or other documents may be served;
4. that the client has the obligation to prepare for all appellate proceedings, or secure other counsel to so prepare;
5. that, if the client fails or refuses to meet these burdens, the court may impose appropriate sanctions, including dismissal of the case;
6. that the attorney has informed the client of the dates of any proceedings and that the holding of such proceedings will not be affected by withdrawal of counsel;
7. that, if the client is not a natural person, it must be represented by counsel in any appellate proceeding unless it is a closely held entity and first complies with section 13-1-127, C.R.S.;

8. that the attorney has informed the client that the client may file an objection to this Motion to Withdraw within 14 days. If an objection is filed, the matter will be referred to the court.

Last known address, telephone number, and email of client:

Client's Name

Address

City, State, Zip Code

(Area Code) Telephone Numbers (home, work, and mobile)

Email

Dates of any future court proceedings or due dates of outstanding pleadings:

Attorney Signature:

Date:

☐ By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.

☐ By checking this box, I am acknowledging that I have made a change to the original content of this form.

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of the *Motion to Withdraw as Attorney of Record in the Appellate Court* was served on the client and all other counsel or parties of record by ☐ Hand Delivery, ☐ E-filed, ☐ Faxed to this number _____ or ☐ by placing it in the United States mail, postage pre-paid, and addressed to the following:

To: _____

Your signature

Rule 1. Scope of Rules

(a) Matters Reviewable on Appeal. An appeal to the appellate court may be taken from:

- (1) A final judgment of any district, probate, or juvenile court in all actions or special proceedings whether governed by these rules or by the statutes;
- (2) A judgment and decree, or any portion thereof, in a proceeding concerning water rights, ~~and~~ an order refusing, granting, modifying, cancelling, affirming or continuing in whole or in part a conditional water right, or a determination that reasonable diligence or progress has or has not been shown in an enterprise granted a conditional water right;
- (3) a ~~An~~ order granting or denying a temporary injunction; or
- (4) a ~~An~~ order appointing or denying the appointment of, or sustaining or overruling a motion to discharge, a receiver.

(b) Limitation on Taking Appeals. ~~The taking of~~ An appeals ~~must~~ shall be taken in accordance with these rules except for special proceedings in which a different time period for taking an appeal is set by statute ~~for the taking of an appeal~~.

(c) Appeal Substitute for Writ of Error. Matters designated by statute to be reviewable by writ of error wi ~~shall~~ be reviewed on appeal as ~~herein~~ provided in these rules.

(d) Ground for Reversal, etc. ~~Briefs filed pursuant to C.A.R. 28(a) shall state clearly and briefly the grounds upon which the party relies in seeking a reversal or modification of the judgment or the correction of adverse findings, orders, or rulings of the trial court. The~~ Any party seeking reversal or modification of a judgment or the correction of adverse findings, orders, or rulings of the lower court or tribunal will be limited to the grounds ~~so~~ stated in the party's principal brief or petition, but ~~although~~ the court may, in its discretion, notice any error appearing of record.

~~When an appeal has been taken, it shall not be dismissed upon motion of an appellant without notice to all interested parties whose appearances have been entered in the appellate court, and order of the court permitting such dismissal; if dismissal is objected to by any such interested party, the party may, in the court's discretion, seek reversal, modification, or correction of the judgment.~~

(e) Review of Water Matters. The notice of appeal (see C.A.R. 4) for review of the whole or any part of a judgment and decree or order as defined in subsection (a)(2) of this Rule ~~shall~~ must designate as "appellant" the party or parties filing the notice of appeal and as "appellee" all other parties whose rights may be affected by the appeal and who ~~in the trial court~~ entered an appearance in the lower court, by application, protest, or in any other authorized manner. If not an appellant, the division engineer wi ~~shall~~ be an appellee; provided that upon application, the court may enter an order ~~a dismissing al may be entered as to~~ the division engineer in the absence of objection made by any party to the appeal within 14 days from the mailing to such party of such application. The notice of appeal ~~shall~~ must describe the water rights with sufficient particularity to apprise each appellee of the issues sought to be reviewed. The notice of appeal ~~shall~~ must otherwise comply with the requirements of C.A.R. 3(d).

(f) Original Jurisdiction Matters. Matters invoking the supreme court's original jurisdiction are governed by C.A.R. 21 and C.A.R. 21.1.

COMMENT

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The portion of subsection (d) concerning motions to dismiss an appeal was relocated to C.A.R. 42(b).
The portion of subsection (d) specifying briefing requirements was relocated to C.A.R. 28(a)(7)(B).

Rule 2. Suspension of Rules

In the interest of expediting [a](#) decision, or for other good cause shown, the appellate court may, except as otherwise provided in C.A.R. 26(b), suspend the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its direction.

Rule 3. Appeal as of Right—How Taken

(a) **Filing the Notice of Appeal in Appeals from Trial-Lower Courts.** An appeal permitted by law as of right from a trial-lower court to ~~the~~ an appellate court must be taken by filing a notice of appeal with the clerk of the appellate court within the time allowed by C.A.R. 4. Upon the filing of the notice of appeal, the appellate court ~~shall~~ will have exclusive jurisdiction over the appeal and all procedures concerning the appeal unless otherwise specified by these rules. The appellant must serve a ~~An~~ advisory copy of the notice of appeal ~~must be served on the trial-lower~~ court within the time ~~for its~~ allowed for filing the notice of appeal in the appellate court. An appellant's f ~~Failure of an appellant~~ to take any step other than the timely filing of a notice of appeal ~~in the appellate court~~ does not affect the validity of the appeal, but ~~is a ground only for such action as the appellate court~~ may take any action it deems appropriate, ~~which may~~ including ~~dismissal of the appeal,~~ to address the deficiency. Content of the notice of appeal is not jurisdictional.

(b) **Filing the Notice of Appeal or Petition for Review in Appeals from State Agencies.** An appeal permitted by statute from a state agency directly to the court of appeals or appellate review from a district court must be in the manner and within the time prescribed by the ~~particular~~ applicable statute.

(c) **Joint or Consolidated Appeals.**

(1) ~~If~~ When two or more parties ~~persons~~ are entitled to appeal from a judgment or order of a trial-lower court and their interests ~~are such as to~~ make joinder practicable, they may file a joint notice of appeal and proceed as a single appellant.

(2) The appellate court may join or consolidate the appeals when the parties have, ~~or may join in appeal after filing~~ separate timely notices of appeal, ~~and they may thereafter proceed on appeal~~

(3) ~~as a single appellant.~~ An appellate court ~~Appeals may be consolidated~~ appeals by order of the appellate court upon its own or a party's motion ~~or upon motion of a party,~~ or by stipulation of the parties to the several appeals.

(d) **Contents of the Notice of Appeal in Civil Cases (Other Than District Court Review of Agency Actions and Appeals from State Agencies).**

The notice of appeal must ~~set forth~~ contain:

(1) ~~A~~ a caption that complies ~~in form~~ with C.A.R. 32(d);

(2) ~~A~~ a brief description of the nature of the case including:

(A) ~~A~~ a general statement of the nature of the controversy (not to exceed one page);

(B) ~~T~~ the judgment, order or parts being appealed and a statement indicating the basis for the appellate court's jurisdiction;

(C) ~~Whether~~ the judgment or order resolved all issues pending before the ~~lower trial~~ court, including attorneys' fees and costs;

(D) ~~Whether~~ the judgment was made final for purposes of appeal pursuant to C.R.C.P. 54(b);

(E) ~~The~~ the date the judgment or order was entered (if there is a question of the date, ~~set forth~~ the details necessary for the appellate court to determine whether the notice of appeal was timely filed) and the date ~~the order was~~ of mailed ~~ed~~ to ~~the parties or their~~ counsel;

(F) ~~Whether~~ the lower court there were granted any extensions ~~granted~~ to file any motion(s) for post-trial relief, and, if so, the date of the request, ~~whether the request was granted~~, and the date to which filing was extended;

(G) ~~The~~ the date any motion for post-trial relief was filed;

(H) ~~The~~ the date any motion for post-trial relief was denied or deemed denied under C.R.C.P. 59(j); and

(I) ~~Whether~~ an appellate court granted an ~~there were any~~ extensions ~~granted~~ to file any notice(s) of appeal, and, if so, the date of the request, ~~whether the request was granted~~, and the date to which filing was extended;

(3) ~~An~~ an advisory listing of the issues to be raised on appeal;

(4) ~~Whether the a~~ transcript of any evidence proceeding taken before the ~~lower trial~~ court ~~or any administrative agency~~ is necessary to resolve the issues raised on appeal;

(5) ~~Whether a magistrate issued~~ the order on review ~~was issued by a magistrate, and if so, whether where~~ consent was necessary. If a magistrate issued the order on review ~~was issued by a magistrate where~~ and consent was not necessary, whether a petition for review of the order was filed in the ~~trial district~~ court and ruled upon by a district court judge ~~ruled on by a trial court judge~~ pursuant to the Colorado Rules for Magistrates;

(6) ~~The~~ The names of counsel for the parties, their addresses, telephone numbers, e-mail addresses, and registration numbers;

(7) ~~An~~ an appendix containing:

(A) ~~a copy of~~ the judgment or order being appealed;

(B) the findings of the court, if any;

(C) the motion for ~~new post-trial~~ relief, if any; and

(D) ~~a copy of~~ the ~~lower trial~~ court's order granting or denying leave to proceed in forma pauperis if appellant is filing without paying the docket fee pursuant to C.A.R. 12(b); and

(8) ~~a~~A certificate of service, in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the ~~trial~~lower court and all other parties to the action ~~below in the trial court~~.

(e) Contents of Notice of Appeal from State Agencies (Other Than the Industrial Claim Appeals Office) Directly to the Court of Appeals.

The notice of appeal must ~~contain~~set forth:

- (1) ~~a~~A caption that complies ~~in form~~ with C.A.R. 32(d);
- (2) ~~a~~A brief description of the nature of the case including:
 - (A) ~~A~~a general statement of the nature of the controversy (not to exceed one page);
 - (B) ~~t~~The order being appealed and a statement indicating the basis for the appellate court's jurisdiction;
 - (C) ~~w~~Whether the order resolved all issues pending before the agency;
 - (D) ~~w~~Whether the order is final for purposes of appeal; and
 - (E) ~~t~~The date of service of the agency's final order ~~entered in the action by the agency~~. The date of service of an order is the date on which a copy of the order is delivered in person, or, if service is by mail, the date of mailing;
- (3) ~~a~~An advisory listing of the issues to be raised on appeal;
- (4) ~~W~~Whether ~~the~~a transcript of any evidence proceeding taken before the administrative agency is necessary to resolve the issues raised on appeal;
- (5) ~~T~~he names of counsel for the parties, their addresses, telephone numbers, e-mail addresses, and registration numbers;
- (6) ~~A~~a appendix containing a copy of the order being appealed and the agency's findings ~~of the agency~~, if any; and
- (7) ~~A~~a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the state agency and all other persons who have appeared as parties to the action before the agency, or as required by section 24-4-106(4), C.R.S. concerning rule-making appeals.

(f) Contents of Notice of Appeal from District Court Review of Agency Actions. The notice of appeal must ~~set forth~~contain:

- (1) ~~A~~a caption that complies ~~in form~~ with C.A.R. 32(d);
- (2) ~~A~~a brief description of the nature of the case including:

- (A) ~~A~~a general statement of the nature of the controversy (not to exceed one page);
 - (B) ~~t~~The decision or order being appealed and a statement indicating the basis for the appellate court's jurisdiction;
 - (C) ~~w~~Whether the decision or order resolved all issues pending before the agency;
 - (D) ~~w~~Whether the decision or order is final for purposes of appeal;
 - (E) ~~t~~The date the decision or order was entered (if there is a question of the date, ~~set forth~~ the details necessary for the appellate court to determine whether the notice of appeal was timely filed) and the date the order was ~~of-mailed~~ing to the parties or their counsel;
 - (F) ~~w~~Whether the district court ~~there were~~ granted any extensions ~~granted~~ to file any motion(s) for post-trial relief, and, if so, the date of the request, ~~whether the request was granted~~, and the date to which filing was extended;
 - (G) ~~t~~The date any motion for post-trial relief was filed;
 - (H) ~~t~~The date any motion for post-trial relief was denied or deemed denied under C.R.C.P. 59(j);
 - (I) ~~t~~The date the notice of intent to seek appellate review was filed with the district court pursuant to ~~C.R.S.~~section 24-4-106(9), C.R.S.; and
 - (J) ~~w~~Whether ~~there were~~ any court granted an extensions ~~granted~~ to file any notice(s) of appeal, and, if so, the date of the request, ~~whether the request was granted~~, and the date to which filing was extended;
- (3) ~~A~~a advisory listing of the issues to be raised on appeal;
- (4) ~~W~~Whether ~~the~~ a transcript of any evidence proceeding taken before the lower court or administrative agency is necessary to resolve the issues raised on appeal;
- (5) ~~T~~he names of counsel for the parties, their addresses, telephone numbers, e-mail addresses, and registration numbers;
- (6) ~~A~~a appendix containing a copy of the decision or order being appealed, the agency order and the agency's findings ~~of the agency~~, if any; and
- (7) ~~A~~a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the district ~~reviewing~~ court, the agency and all other persons who have appeared as parties to the district court proceedings.

(g) Contents of the Notice of Appeal in Criminal Cases. The notice of appeal must ~~set forth~~contain:

- (1) ~~A~~a caption that complies ~~in form~~ with C.A.R. 32;

- (2) ~~A~~a brief description of the nature of the case including:
- (A) ~~A~~a general statement of the nature of the case;
 - (B) ~~T~~the charges upon which the defendant was tried;
 - (C) ~~T~~the charges for which the defendant was convicted;
 - (D) ~~T~~the date judgment of conviction or the order granting or denying a motion for postconviction relief was entered;
 - (E) ~~T~~the date the sentence was imposed;
 - (F) ~~T~~the sentence; and
 - (G) ~~A~~a statement indicating the basis for the appellate court's jurisdiction;
- (3) ~~W~~hether an appeal bond was granted and, if so, the amount of the bond;
- (4) ~~A~~a advisory listing of the issues to be raised on appeal;
- (5) ~~W~~hether ~~any~~ transcript of ~~evidence~~proceedings taken before the lower court~~at trial~~ is necessary to resolve the issues on appeal;
- (6) ~~T~~the names of counsel for the parties, their addresses, telephone numbers, e-mail addresses, and registration numbers;
- (7) ~~A~~an appendix containing:
- (A) a copy of the judgment or order being appealed, including the mittimus;
 - (B); the findings of the court, if any;
 - (C) the motion for new trial, if any; and
 - (D) a copy of the lower~~trial~~ court's order granting or denying leave to proceed in forma pauperis if appellant is filing without paying the docket fee pursuant to C.A.R. 12(b); and
- (8) ~~A~~a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the ~~trial~~lower court and all other parties to the action in the ~~trial~~lower court.

~~**Comment:** In most criminal cases, the State of Colorado is represented by the Office of the Attorney General. See § 24-31-101(1)(a), C.R.S.~~

(h) Contents of any Notice of Cross-Appeal. A notice of cross-appeal must contain~~set forth~~ the same information required for a notice of appeal and must identify~~set forth~~ the party initiating the cross-appeal and designate all cross-appellees.

COMMENTS

In most criminal cases, the State of Colorado is represented by the Office of the Attorney General. See § 24-31-101(1)(a), C.R.S.

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C.A.R. rule 3 requires certain jurisdictional information and combines the notice of appeal, designation of parties, and preliminary statement into one document, ~~and requests certain jurisdictional information.~~ The rule also requires appellants to ~~the attachment of~~ a copy of the order being appealed to the notice of appeal. It ~~also~~ requires a notice of appeal in criminal cases and, consistent with the requirements for all other case types, ~~should include~~ requires information about counsel ~~for~~ and the parties ~~as is now required in the notices for all other types of appeal.~~

Rule 3.4. Appeals from Proceedings in Dependency or Neglect

(a) - (k) [NO CHANGE]

(l) Petition for Writ of Certiorari. Review of the judgment of the court of appeals may be sought by filing a petition for writ of certiorari in the supreme court in accordance with C.A.R. 51. The petition must be filed within 14 days after the expiration of the time for filing a petition for rehearing or the date of denial of a petition for rehearing by the court of appeals. The filing of the petition results in an automatic stay of proceedings in the court of appeals. Any cross-petition or opposition brief to a petition for writ of certiorari must be filed within 14 days after the filing of the petition. No reply briefs are allowed. The petition for writ of certiorari, any cross-petition, and any opposition brief must be in the form prescribed by C.A.R. 53(a)-(c) and filed and served in accordance with C.A.R. 53(h).

(m) - (o) [NO CHANGE]

Rule 4. Appeal as of Right--When Taken

- (a) **Appeals in Civil Cases** ~~(Other than Appeals or Appellate Review Within C.A.R. 3.1, 3.2, 3.3 and 3.4).~~ This subsection applies to appeals in civil cases other than appeals filed pursuant to C.A.R. 3.1, 3.2, 3.3, 3.4, and 4.2.

(1) Time for Filing a Notice of Appeal. Except as provided in C.A.R. rule 4(ed), ~~in a civil case in which an appeal is permitted by law as of right from a trial court to the appellate court,~~ the notice of appeal required by C.A.R. 3 ~~must~~shall be filed with the appellate court with an advisory copy served on the ~~clerk of the trial~~lower court within 49 days ~~of the date of the~~after entry of the judgment, decree, or order ~~being appealed,~~ from which the party appeals. ~~In appeals from district court review of agency actions, such notice of appeal shall be in addition to the statutory 45-day notice of intent to seek appellate review filed with the district court required by section C.R.S. 24-4-106(9).~~

(2) Multiple Appeals. If one party ~~a~~ timely files a notice of appeal, ~~is filed by a party,~~ any other party may file a notice of appeal within 14 days after ~~days of the date~~ when ~~on which~~ the first notice ~~of appeal is was~~ filed, or within the time otherwise prescribed by this section (a), whichever period ~~last expires~~ends later.

(3) Effect of a C.R.C.P. 59 Motion on the Deadline for Filing a Notice of Appeal. The running of the time for filing a notice of appeal is terminated as to all parties when any party ~~by a~~ timely motion files a motion in the lower~~trial~~ court ~~by any party~~ pursuant to C.R.C.P. the Colorado Rules of Civil Procedure 59 ~~hereafter enumerated in this sentence,~~ and the full time for an appeal ~~fixed by this~~under section (a) (1) of this Rule commences to runs for all parties and is to be computed from the entry of any of the following orders made upon a ~~timely motion under such rules:~~ from the timely entry of any order disposing of the last such timely filed motion under C.R.C.P. 59 or the expiration of the time for ruling on such a motion pursuant to C.R.C.P. 59(j).

- ~~(1) Granting or denying a motion under C.R.C.P. 59 for judgment notwithstanding verdict;~~
- ~~(2) granting or denying a motion under C.R.C.P. 59, to amend findings of fact, whether or not an alteration of the judgment would be required if the motion is granted;~~
- ~~(3) granting or denying a motion under C.R.C.P. 59, to alter or amend the judgment;~~
- ~~(4) denying a motion for a new trial under C.R.C.P. 59;~~
- ~~(5) expiration of a court granted extension of time to file motion(s) for post-trial relief under C.R.C.P. 59, where no motion is filed.~~

The ~~trial~~lower court ~~shall~~continues to have jurisdiction to hear and decide a motion under C.R.C.P. 59 regardless of the filing of a notice of appeal, provided the C.R.C.P. 59 motion is timely filed under C.R.C.P. 59(a) and is timely ruled on or is deemed denied under operation of C.R.C.P. 59(j). ~~determined within the time specified in C.R.C.P. 59(j).~~ During such time,

~~a~~All proceedings in the appellate court ~~shall be~~are stayed while the motion is pending in the lower court.

~~A judgment or order is entered within the meaning of this section (a) when it is entered pursuant to C.R.C.P. 58. If notice of the entry of judgment, decree, or order is transmitted to the parties by mail or E-Service, the time for the filing of the notice of appeal shall commence from the date of the mailing or E-Service of the notice.~~

(4) Extension of Time to File a Notice of Appeal. Upon a showing of excusable neglect, the appellate court may extend the time ~~for to filing file~~ the notice of appeal ~~by a party~~ for a period not to exceed 35 days ~~from the expiration of~~after the time ~~otherwise~~ prescribed by this section (a). Such an extension may be granted before or after the time ~~otherwise~~ prescribed by this section (a) ~~has expired; but if a request for an extension is made after such time has expired, it shall be made by motion with such notice as the court shall deem appropriate.~~

(5) Entry Defined. A judgment or order is entered within the meaning of section (a)(1) and (a)(4) when it is entered pursuant to C.R.C.P. 58. If notice of the entry of the judgment or order is transmitted to the parties by mail or E-Service, the time for the filing of the notice of appeal runs from the date of the mailing or E-Service of the notice.

(6) Additional Requirement in Agency Appeals. In appeals from district court review of agency actions, the notice of appeal is required in addition to the ~~45~~49-day notice of intent to seek appellate review filed with the district court as required by section 24-4-106(9), C.R.S.

~~Comment: C.A.R. 4(a)(1) provides for the notice of appeal to be filed with the appellate court and a copy to be served upon the trial court. Time for filing the notice of appeal is increased to 49 days.~~

(b) Appeals in Criminal Cases.

(1) Time for Filing a Notice of Appeal. Except as provided in C.A.R. Rule 4(c) and (d), ~~in a criminal case the~~ defendant's notice of appeal ~~by a defendant shall must~~ be filed in the appellate court and an advisory copy served on the ~~clerk of the trial~~lower court within 49 days after ~~the~~ entry of the judgment or order appealed from.

~~A notice of appeal filed after the announcement of a decision, sentence, or order but before entry of the judgment or order shall be treated as filed on the date of such entry.~~

(2) Effect of a Post-Trial Motion on the Deadline for Filing a Notice of Appeal. If the defendant files a timely motion in arrest of judgment, for judgment of acquittal, or for a new trial on any ground other than newly discovered evidence ~~has been made~~, an appeal from a judgment of conviction ~~may~~must be taken within 49 days after ~~the~~ entry of an order denying the motion. A motion for a new trial based on ~~the ground of~~ newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made within 14 days after entry of the judgment. ~~A judgment or order is entered within the meaning of this section (b) when it is entered in the criminal docket.~~

(3) Extension of Time to File a Notice of Appeal. Upon a showing of excusable neglect the appellate court may, before or ~~at any time~~ after the time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed 35 days from the expiration of the time otherwise prescribed by this section (b).

(4) Entry Defined. A judgment or order is entered within the meaning of this section (b) when it is entered in the criminal docket.

(5) Appellate Review of Felony Sentences.

(A) Availability of Review. Except in those cases provided for in C.A.R.4(c), pursuant to section 18-1-409, C.R.S., a person sentenced for a felony conviction has the right to one appellate review of the propriety of the sentence, having regard to the nature of the offense, the character of the offender, the public interest, and the sufficiency and accuracy of the information on which the sentence was based.

(B) Sentence Imposed After Trial. If the appeal is to review a sentence imposed after a trial and conviction on the merits, the appellate court will review the propriety of the sentence in the same manner as the review of the conviction, and if the defendant appeals both the sentence and conviction, the court will review them together.

(C) Sentence Imposed Following Guilty Plea. A defendant has no right to appellate review of the propriety of a sentence that is within a range agreed upon by the parties pursuant to a plea agreement.

Comment: C.A.R. 4(b) has been altered to make it conform more closely to C.A.R. 4(a).

(26) Prosecutorial Appeals.

(A) In General. Unless otherwise provided by statute or ~~Colorado appellate~~ these rules, when an appeal by the state or the people is authorized by statute, the notice of appeal ~~shall must~~ be filed in the ~~c~~Court of ~~a~~Appeals within 49 days after the entry of judgment or order appealed from. The ~~c~~Court of ~~a~~Appeals, ~~after consideration of said appeal,~~ ~~wi~~shall issue a written decision answering the issues in the case and ~~wi~~shall not dismiss the appeal on the ground that a decision will have as without no precedential value. The final decision of the ~~c~~Court of ~~a~~Appeals is subject to petition for certiorari to the ~~s~~Supreme ~~c~~Court.

(3B) Prosecutorial Appeals in Criminal Cases Appeals of Orders Dismissing Charges. A ~~prosecutorial~~ appeal ~~by the state or the people~~ from an order dismissing one or more but less than all counts of a charging document ~~prior to before~~ trial, including a finding of no probable cause at a preliminary hearing, ~~shall must~~ be filed in the court of appeals unless the order is based on a determination that a statute, municipal charter provision, or ordinance is unconstitutional, in which case the appeal ~~shall must~~ be filed in the supreme

court. Appeals of orders dismissing one or more but less than all counts of a charging document ~~will~~shall otherwise be conducted pursuant to the procedures set forth in C.A.R. rule 4.1, except that petitions for rehearing and certiorari wishall be permitted, and mandates ~~shall~~will issue, as provided by these rules.

~~(c) Appellate Review of Felony Sentences.~~

~~(1) Availability of Review.~~ Except in those cases provided for in subsection (e) of this Rule, a person upon whom sentence is imposed for conviction of a felony shall ~~have~~ the right to one appellate review of the propriety of the sentence, having regard to the nature of the offense, the character of the offender, the public interest, and the sufficiency and accuracy of the information on which the sentence was based.

~~(I) If the appeal review of conviction is sought in a case where there has been a trial and conviction on the merits, appellate review of the propriety of the sentence will be a part of and be treated in the same manner as the review of the conviction.~~

~~(II) If the appeal is to review a sentence following a plea of guilty or nolo contendere, or resentencing, where the imposition of sentence was the only issue before the court, then the following abbreviated procedure for appellate review of sentences will be utilized:~~

~~(A) The notice of appeal must be filed within 49 days from the date of the imposition of sentence. The notice shall be filed with the appellate court with an advisory copy served on the clerk of the trial court which imposed the sentence. The time for filing the notice of appeal may be extended by the appellate court.~~

~~(B) Except as provided by this Rule, the Colorado Appellate Rules governing criminal appeals shall apply to appellate review of sentences.~~

Comment: The change in the title and deletion of subsection (d) of this rule became necessary because of repeal of C.R.S. 18-1-409 (2.1) and (2.2) and repeal of C.R.S. 18-1-409.5 effective July 1, 1981. In 1984 this rule was changed to make it conform more closely to C.A.R. 4(a) and (b).

(cd) Appeals ~~of~~in Cases in Which a Sentence of Death Has Been Imposed.

(1) **Availability of Review.** Whenever a sentence of death is imposed, the sSupreme cCourt wishall review the propriety of the sentence, having regard to the nature of the offense, the character and record of the offender, the public interest, and the manner in which the sentence was imposed, including the sufficiency and accuracy of the information upon which it was based.

If the sSupreme cCourt determines that the sentence was imposed under the influence of passion, prejudice, or any other arbitrary factor, or that, as a matter of law, the sentence is not supported by the evidence, a sentence of death wishall not ~~thereafter~~ be imposed.

(2) **Procedure.** The procedure for pursuing appeals in [death penalty](#) cases in which a sentence of death has been imposed is ~~as~~ set forth in [Rule Crim. P. 32.2](#) [and in these appellate rules](#). ~~of the Colorado Rules of Criminal Procedure~~

~~(3) **Record on Appeal.** In appeals under subsection (e) of this Rule, the following items shall be included in the record on appeal:~~

~~(I) tThe indictment or information upon which the sentence is based; a verbatim transcript of the entire sentencing proceeding; the instructions given by the trial court and tendered by the parties in the sentencing proceeding; all exhibits admitted or offered during the trial and at the sentencing proceeding; all verdict forms submitted to the jury; and the judgment, sentence, and mittimus.~~

~~(II) Such other portions of the record as may be designated under C.A.R. 10(b) or as may be ordered by the sSupreme eCourt.~~

(de) Appeal by an Inmate Confined in an Institution. If an inmate confined in an institution files a notice of appeal in either a civil ~~case~~ or a criminal case, the notice of appeal is timely ~~filed~~ if it is deposited in the institution's internal mail system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule.

Rule 4.1. Interlocutory Appeals in Criminal Cases

(a) **Grounds.** The state may file an interlocutory appeal in the ~~s~~Supreme ~~c~~Court from a ~~ruling of a district court order~~ granting a defendant's pretrial motion under Crim. P. 41(e) and (g) and Crim. P. 41.1(i) ~~made in advance of trial by the defendant~~ for return of property and to suppress evidence or granting a motion to suppress an extra-judicial confession or admission; ~~provided that the state certifies to the judge who issued the order being appealed granted such motion and to the sSupreme cCourt that the appeal is not taken for purposes of delay and that the evidence is a substantial part of the proof of the charge pending against the defendant.~~

(b) ~~Limitation on Time of Issuance~~Time for Filing. An interlocutory appeal must be filed within 14 days after ~~the entry of the order being appealed~~complained of. ~~It shall not be a condition for the filing of such interlocutory appeal that Filing a motion for a new trial or rehearing in the district court is not required.~~ ~~shall have been filed and denied in the trial court.~~

(c) **How Filed.** ~~To file an interlocutory appeal T~~the state ~~, within the time fixed by this Rule, shall~~must file the notice of appeal with the ~~clerk of the supreme appellate court with and must serve~~ an advisory copy ~~served on the clerk of the district trial court within the time allowed under subsection (b) of this rule.~~

(d) **Record.** The record for an interlocutory appeal must be filed in accordance with C.A.R. 10 except it must be filed within 14 days after the notice of appeal is filed. ~~The record for an interlocutory appeal shall consist of the information or indictment, the plea of the defendant or the defendants, the motions filed by the defendant or defendants on the grounds stated in section (a) above, the reporter's transcript of all testimony taken at the hearing on said motions and such exhibits or reasonable copies, facsimiles, or photographs thereof as the parties may designate (subject to the provisions in C.A.R. 10(c)(3) pertaining to exhibits of bulk), the order of court ruling on said motions together with the date, if one has been fixed, that the case is set for trial or a certificate by the clerk that the case has not been set for trial.~~

~~After the filing of the record, such other exhibits or reasonable copies, facsimiles, or photographs thereof shall be transmitted by the clerk of the trial court to the appellate court as the appellate court may order. The record shall be filed within 14 days of the date of filing the notice of appeal.~~

(e) ~~Appearances~~Representation of the State. The district attorney's office will represent the state and will prepare all briefs ~~in these proceedings shall be represented by the district attorney, and briefs shall be prepared by the. Any district attorney's office and responsive briefs or pleadings must be served upon that office.~~

(f) **Briefs.** Within 14 days after the record ~~has been~~is filed in the ~~s~~Supreme ~~c~~Court, the state ~~shall~~ must file its opening brief, and within 14 days thereafter, the appellee ~~shall~~ must file the answer brief, ~~and t~~The state must file any reply brief within ~~shall have~~ 7 days after service of the answer brief ~~to file any reply brief.~~

(g) Oral Argument~~Disposition of Cause.~~ No ~~O~~Oral argument ~~is~~ shall be not permitted unless

~~except when~~ ordered by the court.

(h) Disposition by Court. The supreme court will issue its decision ~~of the court shall be~~ by written opinion, ~~copies of which shall be transmitted by~~ The supreme court clerk will serve the opinion on ~~of the court to the~~ district court trial judge and ~~to one attorney on each side of the case~~ the parties. No ~~p~~Petitions for rehearing are not ~~shall be~~ permitted. ~~Remittitur shall accompany said opinion.~~

(hi) Time. The court may extend the time limits established in this rule for good cause shown only before the time limit expires. ~~herein may only be enlarged by order of the appropriate court before the existing time limit has expired.~~

Rule 5. Entry of Appearance and Withdrawal

(a) Entry of Appearance. ~~An~~ No attorney ~~shall enter an~~ appearance in any matter before ~~an~~ the appellate court ~~when until~~ the attorney ~~has entered~~ files ~~d~~ an entry of appearance ~~by filing an Entry of Appearance or~~ signing a ~~pleading document filed with the appellate court~~. An entry of appearance ~~shall must state~~ (a) ~~the identify~~ of the party for whom the appearance is made and provide; (b) the attorney's office address; (c) ~~the attorney's~~ telephone number, email address; and (d) ~~the~~ attorney registration number. An entry of appearance by an attorney who is a member or an employee of a law firm, professional corporation, or clinic relieves other members or employees of the same law firm, professional corporation, or clinic from needing to file an entry of appearance in the same proceeding unless the court indicates otherwise. An attorney who enters an appearance and wishes to withdraw must comply with this rule.

(b) Withdrawal without Leave of Court. An attorney may withdraw from a case without leave of the appellate court by filing a notice of withdrawal confirming that the withdrawing attorney has complied with all ~~only upon~~ outstanding appellate court orders ~~of court~~ and one of the following applies:

(1) the party represented by the withdrawing attorney will continue to be represented by co-counsel who has already entered an appearance pursuant to subsection (a); or

(2) the notice of withdrawal includes a substitution of counsel, signed by both the withdrawing and replacement attorneys, containing the information required for an entry of appearance under subsection (a) for replacement counsel; or

(3) the withdrawing attorney is a member or employee of a law firm, professional corporation, or clinic, and another attorney from the same law firm, professional corporation, or clinic will represent the party. Withdrawal of an attorney pursuant to this subsection relieves the other attorneys of the same law firm, professional corporation, or clinic from needing to file an entry of appearance or withdrawal in the same proceeding unless the court indicates otherwise.

(c) Withdrawal with Leave of Court. If not covered by subsection (b), an attorney may withdraw from a case only with the appellate court's approval. Such approval ~~shall rest~~ in the appellate court's sound discretion of the court, and ~~and shall will~~ not be granted until ~~the a motion attorney seeking~~ to withdraw or a Form Motion to Withdraw [JDF Form 1905 SC] has been filed and served on the client and the other parties of record or their attorneys and either (i) both the client and all counsel for the other parties consent in writing at or after the time of service of the motion, or (ii) at least 14 days have expired after service of the motion.

Every motion to withdraw must contain the following advisements to the client: ~~made reasonable efforts to give actual notice to the client:~~

- (1) ~~t~~ That the attorney wishes to withdraw;
- (2) ~~t~~ That the appellate court retains jurisdiction;
- (3) ~~t~~ That the client has the burden of keeping the appellate court and other parties informed where notices, pleadings, or other ~~papers~~ documents may be served;
- (4) ~~t~~ That the client has the obligation to prepare for all appellate proceedings, or secure other counsel to so prepare;

(5) ~~t~~That, if the client fails or refuses to meet these burdens, the appellate court may impose appropriate sanctions, including dismissal of the case;

(6) ~~o~~Of the dates of any proceedings and that the holding of such proceedings will not be affected by the withdrawal of counsel;

(7) ~~i~~If the client is not a natural person, that it must be represented by counsel in any appellate proceeding unless it is a closely held entity and first complies with section 13-1-127, C.R.S.;

(8) of the client's last known address, telephone number, and email address and tThat process may be served ~~u~~pon the client at the client's ~~his~~ last known address; and

(9) ~~o~~Of the client's right to object within 14 days of the date of service of the ~~notice~~motion to withdraw.

~~(e) **Written Notification Certificate.** The attorney seeking to withdraw shall prepare a notification certificate stating that the above notification requirements have been met and the manner by which such notification was given to the client, and setting forth the client's last known address and telephone number. The notification certificate shall be filed with the court and a copy mailed to the client and all other parties. The client and opposing counsel shall have 14 days prior to entry of an order permitting withdrawal or such lesser time as the court may permit within which to file objections to the withdrawal. After order permitting withdrawal, the client shall be notified by the withdrawing attorney of the effective date of the withdrawal and all pleadings, notices or other papers may be served on the party directly by mail at the last known address of the party until new counsel enters an appearance.~~

~~(d) **Objections to Motion to Withdraw.** The client and opposing parties have 14 days after the service of a motion to withdraw within which to file an objection to the withdrawal.~~

~~**Entries of Appearance and Withdrawals by Members or Employees of Law Firms, Professional Corporations or Clinics.** The entry of an appearance or withdrawal by an attorney who is a member or an employee of a law firm, professional corporation or clinic shall relieve other members or employees of the same law firm, professional corporation or clinic from the necessity of filing additional entries of appearance or withdrawal in the same litigation unless otherwise indicated.~~

(e) - (f) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 7. ~~Bond for Costs on Appeal in Civil Cases~~ [\[REPEALED\]](#)

~~(a) — Unless an appellant is exempted by law, or has filed a supersedeas bond or other undertaking which includes security for the payment of costs on appeal, in civil cases a bond for costs on appeal or equivalent security shall be filed by the appellant in the trial court with the notice of appeal; but security shall not be required of an appellant who is not subject to costs. The bond or equivalent security shall be in the sum or value of \$250 unless the trial court fixes a different amount. A bond for costs on appeal shall have sufficient surety, and it or any equivalent security shall be conditioned to secure the payment of costs if the appeal is finally dismissed or the judgment affirmed, or of such costs as the appellate court may direct if the judgment is modified. If a bond or equivalent security in the sum or value of \$250 is given, no approval thereof is necessary. After a bond for costs on appeal is filed, an appellee may raise for determination by the clerk of the trial court objections to the form of the bond or to the sufficiency of the surety. The provisions of C.A.R. 8(b) apply to a surety upon a bond given pursuant to this Rule.~~

Rule 10. Record on Appeal

(a) - (e) [NO CHANGE]

(f) Supplementing the Record on Appeal.

(1) *Before Record is Transmitted.* If any material part of the trial court record is omitted or missing from the trial court's record or is misstated therein by error or accident before the record is transmitted to the appellate court, the parties, by stipulation, or the trial court may direct that the omission or misstatement be corrected.

(2) *After Record is Transmitted.* If any material part of the trial court record is omitted or missing from the record by error or accident or is misstated therein after the record is transmitted to the appellate court, the appellate court, on motion or of its own initiative, may order that the supplemental record be certified and transmitted. ~~Form 9 must be used by any party requesting to supplement the record after the record has been filed in the appellate court.~~ A party seeking to supplement the record on appeal must file a motion specifying the name or title of the document, the date (if any) the document was submitted to the lower court, and the reason the item is necessary to decide the appeal.

(g) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 21. Procedure in Original Proceedings

(a) - (c) [NO CHANGE]

(d) Content of Petition and Service.

(1) If there exists an underlying proceeding, the petition must be titled with the full, exact, and unmodified caption given by the lower court in the underlying proceeding, “In Re [Caption of Underlying Proceeding].” If there is no underlying proceeding, the petition must be titled, “In Re [Petitioner v. Proposed Respondent].”

(2) The petitioner has the burden of showing that the court should issue a rule to show cause. To enable the court to determine whether a rule to show cause should be issued, the petition must disclose in sufficient detail the following:

(A) - (I) [NO CHANGE]

(3) The petition must include the names, addresses, telephone numbers, e-mail addresses (if any), and fax numbers (if any) of all parties to the underlying proceeding; or, if a party is represented by counsel, the attorney’s name, address, telephone number, email address (if any), and fax number (if any).

(4) The petition must be served upon each party and proposed respondent and, if applicable, upon the lower court or tribunal.

(5) The petition must comply with the requirements of C.A.R. 28(g) for opening briefs and with C.A.R. 32.

(e) Supporting Documents.

(1) Proceedings initiated under this rule are not subject to C.A.R. 10.

(2) A petition must be accompanied by a separate, indexed set of available supporting documents adequate to permit review.

(3) Any document submitted as sealed or suppressed pursuant to C.J.D. 05-01 sections 3.07 and 3.08 must be filed as a separate supporting document and must be accompanied by a motion for leave to file the document as sealed or suppressed. The motion must:

(A) identify with particularity the specific document containing sensitive information;

(B) explain why the sensitive information cannot reasonably be redacted in lieu of filing the entire document as sealed or suppressed;

(C) articulate the substantial interest that justifies depriving the public of access to the document; and

(D) cite any applicable rule, statute, case law, or prior court order sealing or suppressing the document.

(4) In cases involving an underlying proceeding, the following documents must be included:

(A+) the order or judgment from which relief is sought if applicable;

(B2) documents and exhibits submitted in the underlying proceeding that are necessary for a complete understanding of the issues presented;

(C3) a transcript of the proceeding leading to the underlying order or judgment if available.

(f) - (g) [NO CHANGE]

(h) Denial; Rule to Show Cause.

(1) The court in its discretion may issue a rule to show cause or deny the petition without explanation and without an answer by any respondent.

(2) The clerk, ~~by first class mail,~~ will serve the rule to show cause on all persons ordered or invited by the court to respond and, if applicable, on the judge or other officer in the underlying proceeding.

(i) Response to Rule to Show Cause.

(1) The court in its discretion may invite or order any person in the underlying proceeding to respond to the rule to show cause within a fixed time ~~and may invite amicus curiae participation.~~ Any person in the underlying proceeding may request permission to respond to the rule to show cause but may not respond unless invited or ordered to do so by the court. Those ordered by the court to respond are the respondents.

(2) The response to a rule to show cause ~~any order of the court~~ must ~~comply~~ conform with the requirements of C.A.R. 28(g) for answer briefs and with C.A.R. 32. ~~Any responses submitted by amicus curiae must comply with C.A.R. 29.~~

(3) Two or more respondents may respond jointly.

(j) Reply to Response to Rule to Show Cause. The petitioner may submit a single reply brief within the time fixed by the court. ~~Any~~ reply must ~~comply~~ conform with the requirements of C.A.R. 28(g) for reply briefs and with C.A.R. 32.

(k) Amicus Briefs. Any amicus curiae may file a brief only by leave of the court after a case number has been assigned. Before the court issues a rule to show cause, an amicus curiae may tender a brief supporting a petitioner, but the court may act on a petition at any time after the petition is filed, including before the submission of an amicus brief. If the court issues a rule to show cause, an amicus brief supporting a petitioner must be filed within seven days after the issuance of the show cause order, or such lesser time as the court may permit for the submission of amicus briefs. An amicus brief supporting a respondent must be tendered by the deadline for the respondent's response, or such lesser time as the court may permit for the submission of amicus briefs. An amicus curiae that does not support either party must file its brief no later than seven days after the issuance of a rule to show cause, or such lesser time as the court may permit for the submission of amicus briefs. The filing of an amicus brief within the deadlines established by this rule but after the court has acted on a petition is not a ground for reconsideration of the issuance of a rule to show cause or denial of a petition. A brief submitted by an amicus curiae must comply with C.A.R. 29(a), (b), (c), (d), (f), and (g).

(l) No Oral Argument. There will be no oral argument unless ordered by the court.

| **(m) Opinion Discretionary.** The court, upon review, in its discretion may discharge the rule or make it absolute, in whole or in part, with or without opinion.

| **(n) Petition for Rehearing.** In all proceedings under this rule, where the supreme court has issued an opinion discharging a rule or making a rule absolute, a petition for rehearing may be filed in accordance with the provisions of C.A.R. 40(c)(2).

Rule 26. Computationg and Extendsiong of Time

(a) **Computationg of Time.** In computing any period of time prescribed or allowed by these rules the day of the act, event, or default from which the designated period of time begins to run ~~sh~~a~~will~~ not be included. Thereafter, every day ~~sh~~a~~will~~ be counted including holidays, Saturdays, and Sundays. The last day of the period so computed ~~sh~~a~~will~~ be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

(b) **“Legal Holiday” Defined.** As used in these ~~r~~Rules, “legal holiday” includes the first day of January, observed as New Year’s Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Washington-Lincoln Day; the last Monday in May, observed as Memorial Day; the nineteenth day of June, observed as Juneteenth Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the ~~second~~first Monday in October, observed as ~~Columbus Day~~Frances Cabrini Day; the 11th day of November, observed as Veteran’s Day; the fourth Thursday in November, observed as Thanksgiving Day; the twenty-fifth day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.

(~~c~~b) **Enlargement~~xtending~~ of Time.** For good cause shown, ~~t~~The appellate court ~~for good cause shown~~ may upon motion ~~enlarge~~extend the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after ~~th~~at ~~time~~ ~~expir~~es~~ation of such time~~; but the court may not ~~extend~~enlarge ~~the time~~ ~~for to~~ file:

(1) ~~ing~~ a notice of appeal beyond that prescribed in C.A.R. 4(a); or

(2) ~~Nor may the court enlarge the time prescribed by law for filing~~ a petition to enjoin, set aside, suspend, modify, enforce, or otherwise review, or a notice of appeal from, an order of an administrative agency, board, commission, or officer of the State of Colorado, except as specifically authorized by law.

(~~d~~e) **Additional Time After Service by Mail [Repealed].**

COMMITTEE COMMENT [NO CHANGE]

COMMENT [NO CHANGE]

Rule 28. Briefs

(a) Appellant's Brief. The appellant's brief must be entitled "opening brief" and must contain the following under appropriate headings and in the order indicated:

(1) - (6) [NO CHANGE]

(7) the arguments, which must contain:

(A) under a separate heading placed before the discussion of each issue, statements of the applicable standard of review with citation to authority, whether the issue was preserved, and if preserved, the precise location in the record where the issue was raised and where the court ruled; and

(B) a clear and concise discussion of the grounds upon which the party relies in seeking a reversal or modification of the judgment or the correction of adverse findings, orders, or rulings of the lower court or tribunal, with citations to the authorities and parts of the record on which the appellant relies~~appellant's contentions and reasoning, with citations to the authorities and parts of the record on which the appellant relies;~~

(8) - (9) [NO CHANGE]

(b) - (h) [NO CHANGE]

(i) Citation of Supplemental Authorities. If pertinent and significant new authority, including legislation, comes to a party's attention after the party's brief has been filed, a party may promptly advise the court by giving notice, with a copy to all parties. The notice must set forth the citation and state, without argument, the reason for the supplemental citation, referring either to the page of the brief or to a point argued orally. The body of the notice must not exceed 350 words. Any response must be made promptly and must be similarly limited.

(j) Notice of Settlement or Resolution. When the parties have agreed to settle or otherwise resolve a pending case, they must notify the court immediately.

COMMENTS

2006 [NO CHANGE]

2015 [NO CHANGE]

2022

The revisions to C.A.R. 28(a)(7)(B) do not establish additional requirements. Rather, the substance of the beginning portion of prior C.A.R. 1(d), entitled "Ground for Reversal, etc.," and which referenced C.A.R. 28(a), was relocated to C.A.R. 28(a)(7)(B).

Rule 28.1. Briefs in Cases Involving Cross-Appeals

(a) - (g) [NO CHANGE]

(h) Citation of Supplemental Authorities. If pertinent and significant new authority, [including legislation](#), comes to a party's attention after the party's brief has been filed, a party may promptly advise the court by giving notice, with a copy to all parties. The notice must set forth the citation and state, without argument, the reason for the supplemental citation, referring either to the page of the brief or to a point argued orally. The body of the notice must not exceed 350 words. Any response must be made promptly and must be similarly limited.

(j) Notice of Settlement or Resolution. [When the parties have agreed to settle or otherwise resolve a pending case, they must notify the court immediately.](#)

COMMENT [NO CHANGE]

Rule 29. Brief of an Amicus Curiae

(a) - (d) [NO CHANGE]

(e) **Time for Filing.** An amicus curiae must file its brief within the deadline for filing the principal brief of the party being supported. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's opening brief is filed. A court may grant leave for later filing, specifying the time within which an opposing party may answer. [The time for filing an amicus brief in an original proceeding shall be as provided under C.A.R. 21\(k\).](#)

(f) - (g) [NO CHANGE]

Rule 30. E-Filing

(a) - (g) [NO CHANGE]

(h) **Sealed or Suppressed Documents** ~~Under Seal~~. A motion for leave to file documents ~~under seal~~ as sealed or suppressed pursuant to C.J.D. 05-01 sections 3.07 and 3.08 may be E-Filed. Documents to be filed ~~as under sealed~~ as sealed or suppressed pursuant to an order of the court may be E-Filed at the direction of the court; however, the filing party may object to this procedure.

(i) - (m) [NO CHANGE]

Rule 32. Form of Briefs and Appellate Documents

(a) - (c) [No Change]

(d) Caption. The first page of each brief or other appellate document must contain a caption that includes the following basic document information:

- (1) the name and address of the court in which the proceeding is filed;
- (2) the nature of proceeding (e.g., Appeal, Petition for Writ of Certiorari, Petition for Rule to Show Cause); name of the court(s), agency, or board below; and the lower court judge(s), and case number(s);
- (3) the names of parties with appellate court party designations as follows:

(A) In the Supreme Court:

(i) Appellant(s) or Appellee(s) in cases in which the sSupreme cCourt has original appellate jurisdiction;

(ii) ~~Petitioner(s) or Respondent(s)~~ “In Re [Caption of Underlying Proceeding],” or if there is no underlying proceeding, “In Re [Petitioner v. Proposed Respondent]” in original proceedings filed pursuant to C.A.R. 21; and

(iii) Petitioner(s) or Respondent(s) in certiorari proceedings.

(B) In the Court of Appeals: Petitioner(s) or Respondent(s) in appeals filed pursuant to C.A.R. 3.1 and 3.4 (see Appendix to Chapter 32); Appellant(s) or Appellee(s) in all other appeals.

(4) - (7) [NO CHANGE]

(e) - (h) [NO CHANGE]

COMMENTS

[NO CHANGE]

Rule 39.1. Attorney Fees on Appeal

If attorney fees are recoverable for the appeal, the principal brief of the party claiming attorney fees must include a specific request, and explain the legal and factual basis, for an award of attorney fees. [Mere citation to this rule or to a statute, without more, does not satisfy the legal basis requirement.](#) Any opposition to a request for attorney fees, and the legal and factual basis for the opposition, must be set forth in either the answer or reply brief, as appropriate. In its discretion, the appellate court may determine entitlement to and the amount of an award of attorney fees for the appeal, or may remand those determinations to the lower court or tribunal.

Rule 41. Mandate

(a) [NO CHANGE]

(b) **When Issued.** Unless the court grants or removes a stay, or otherwise changes the time by order, the mandate will issue as follows:

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) *Bill of Costs.* Consistent with C.A.R. 39(c)(2), any itemized and verified bill of costs and proof of service must be filed within 14 days after entry of the appellate mandate.

(c) - (e) [NO CHANGE]

COMMENTS

[NO CHANGE]

Rule 42. Voluntary Dismissal

(a) Stipulated Dismissal. The appellate court must dismiss an appeal or other appellate proceeding if the parties file a signed dismissal agreement specifying how costs will be paid and pay any fees that are due.

(b) Dismissal by Motion. The appellate court may dismiss an appeal or other appellate proceeding on the appellant's or petitioner's motion on terms agreed upon by the parties or fixed by the court. The appellant or petitioner must file and serve the motion to dismiss consistent with C.A.R. 25. Any party may file a response within 7 days after service of the motion to dismiss; if any party objects to dismissal, the party may, in the court's discretion, seek reversal, modification, or correction of the judgment. The proceeding will not be dismissed until the time to respond has expired and the court enters an order granting dismissal. No mandate or other process may issue without a court order.

COMMENT

2022

The substance of the last sentence of prior C.A.R. 1(d), entitled "Ground for Reversal, etc.," pertaining to motions to dismiss a proceeding by the appellant or petitioner, has been relocated to subsection (b) of this Rule.

Rule 51. Review on Certiorari — How Sought

(a) [NO CHANGE]

(b) **Petitioner's Docket Fee.** Upon the filing of the petition or a motion for extension of time in which to file the petition pursuant to C.A.R. ~~526(b)~~, petitioner must pay the docket fee of \$225.00, of which \$1.00 will be transferred to the state general fund as a tax levy pursuant to section 2-5-119, C.R.S. The case will then be placed on the certiorari docket.

(c) [NO CHANGE]

Rule 52. Review on Certiorari — Time for Petitioning

(a) [NO CHANGE]

(b) Time to File.

(1) *In General.* Except as provided in subsections (2) and (3) of this rule, a petition for writ of certiorari must be filed within 42 days after entry of the judgment on appeal if no petition for rehearing is filed. If a petition for rehearing is filed, the petition for writ of certiorari must be filed within 28 days after the intermediate appellate court's denial of the petition for rehearing. No ~~petition for issuance of a writ of~~ certiorari proceeding may be ~~submitted to~~ initiated in the ~~s~~Supreme ~~c~~Court until the time for filing a petition for rehearing in the intermediate appellate court has expired.

(2) - (3) [NO CHANGE]

COMMENTS [NO CHANGE]

Rule 53. Petition for Writ of Certiorari and Cross-Petition for Writ of Certiorari

(a) – (c) [NO CHANGE]

(d) **Reply Brief.** A reply brief is not required unless otherwise ordered by the court. A petitioner or cross-petitioner must file and serve any reply brief within 7 days after service of an opposition brief. The reply brief must comply with C.A.R. 32. [In dependency or neglect appeals, pursuant to C.A.R. 3.4\(1\), no reply briefs are allowed.](#)

(e) - (h) [NO CHANGE]

Rule 55. Stay Pending Review on Certiorari

Application to the supreme court for stay of execution of a decision of the [intermediate appellate court](#) ~~court of appeals or the judgment of a district court on appeal from a county court~~ will normally not be entertained until application for a stay has first been made to the court rendering the decision sought to be reviewed and that court has denied or failed to rule on a motion to stay the judgment on appeal. A motion for stay filed pursuant to this rule must comply with C.A.R. 8(a)(2).

<input type="checkbox"/> Supreme Court <input type="checkbox"/> Court of Appeals Court Address:	<div style="text-align: center;">▲ ▲</div> COURT USE ONLY
Appellant/Petitioner: v. Appellee/Respondent:	
Attorney (Name and Address): Phone Number: E-mail: FAX Number: Atty. Reg. #:	Case Number:
MOTION TO WITHDRAW AS ATTORNEY OF RECORD IN THE APPELLATE COURT	

Undersigned attorney for the ☐ Appellant/Petitioner **or** ☐ Appellee/Respondent moves to withdraw as attorney of record and affirms to the Court, the client and all other attorneys and parties of record:

1. that the attorney wishes to withdraw;
2. that the court retains jurisdiction;
3. that the client has the burden of keeping the court and other parties informed where notices, pleadings, or other documents may be served;
4. that the client has the obligation to prepare for all appellate proceedings, or secure other counsel to so prepare;
5. that, if the client fails or refuses to meet these burdens, the court may impose appropriate sanctions, including dismissal of the case;
6. that the attorney has informed the client of the dates of any proceedings and that the holding of such proceedings will not be affected by withdrawal of counsel;
7. that, if the client is not a natural person, it must be represented by counsel in any appellate proceeding unless it is a closely held entity and first complies with section 13-1-127, C.R.S.;

8. that the attorney has informed the client that the client may file an objection to this Motion to Withdraw within 14 days. If an objection is filed, the matter will be referred to the court.

Last known address, telephone number, and email of client:

Client's Name

Address

City, State, Zip Code

(Area Code) Telephone Numbers (home, work, and mobile)

Email

Dates of any future court proceedings or due dates of outstanding pleadings: _____

Attorney Signature: _____

Date: _____

☐ By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.

☐ By checking this box, I am acknowledging that I have made a change to the original content of this form.

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of the *Motion to Withdraw as Attorney of Record in the Appellate Court* was served on the client and all other counsel or parties of record by ☐ Hand Delivery, ☐ E-filed, ☐ Faxed to this number _____ or ☐ by placing it in the United States mail, postage pre-paid, and addressed to the following:

To: _____

Your signature

Rule 1. Scope of Rules

(a) Matters Reviewable on Appeal. An appeal to the appellate court may be taken from:

- (1) a final judgment of any district, probate, or juvenile court in all actions or special proceedings whether governed by these rules or by the statutes;
- (2) a judgment and decree, or any portion thereof, in a proceeding concerning water rights, an order refusing, granting, modifying, cancelling, affirming or continuing in whole or in part a conditional water right, or a determination that reasonable diligence or progress has or has not been shown in an enterprise granted a conditional water right;
- (3) an order granting or denying a temporary injunction; or
- (4) an order appointing or denying the appointment of, or sustaining or overruling a motion to discharge, a receiver.

(b) Limitation on Taking Appeals. An appeal must be taken in accordance with these rules except for special proceedings in which a different time period for taking an appeal is set by statute.

(c) Appeal Substitute for Writ of Error. Matters designated by statute to be reviewable by writ of error will be reviewed on appeal as provided in these rules.

(d) Ground for Reversal, etc. Any party seeking reversal or modification of a judgment or the correction of adverse findings, orders, or rulings of the lower court or tribunal will be limited to the grounds stated in the party's principal brief or petition, but the court may, in its discretion, notice any error appearing of record.

(e) Review of Water Matters. The notice of appeal (see C.A.R. 4) for review of the whole or any part of a judgment and decree or order as defined in subsection (a)(2) of this Rule must designate as "appellant" the party or parties filing the notice of appeal and as "appellee" all other parties whose rights may be affected by the appeal and who entered an appearance in the lower court by application, protest, or in any other authorized manner. If not an appellant, the division engineer will be an appellee; provided that upon application, the court may enter an order dismissing the division engineer in the absence of objection made by any party to the appeal within 14 days from the mailing to such party of such application. The notice of appeal must describe the water rights with sufficient particularity to apprise each appellee of the issues sought to be reviewed. The notice of appeal must otherwise comply with the requirements of C.A.R. 3(d).

(f) Original Jurisdiction Matters. Matters invoking the supreme court's original jurisdiction are governed by C.A.R. 21 and C.A.R. 21.1.

COMMENT

2022

The portion of subsection (d) concerning motions to dismiss an appeal was relocated to C.A.R. 42(b). The portion of subsection (d) specifying briefing requirements was relocated to C.A.R. 28(a)(7)(B).

Rule 2. Suspension of Rules

In the interest of expediting a decision, or for other good cause shown, the appellate court may, except as otherwise provided in C.A.R. 26(b), suspend the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its direction.

Rule 3. Appeal as of Right—How Taken

(a) Filing the Notice of Appeal in Appeals from Lower Courts. An appeal permitted by law as of right from a lower court to an appellate court must be taken by filing a notice of appeal with the clerk of the appellate court within the time allowed by C.A.R. 4. Upon the filing of the notice of appeal, the appellate court will have exclusive jurisdiction over the appeal and all procedures concerning the appeal unless otherwise specified by these rules. The appellant must serve an advisory copy of the notice of appeal on the lower court within the time allowed for filing the notice of appeal in the appellate court. An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but the court may take any action it deems appropriate, including dismissal of the appeal, to address the deficiency. Content of the notice of appeal is not jurisdictional.

(b) Filing the Notice of Appeal or Petition for Review in Appeals from State Agencies. An appeal permitted by statute from a state agency directly to the court of appeals or appellate review from a district court must be in the manner and within the time prescribed by the applicable statute.

(c) Joint or Consolidated Appeals.

- (1) When two or more parties are entitled to appeal from a judgment or order of a lower court and their interests make joinder practicable, they may file a joint notice of appeal and proceed as a single appellant.
- (2) The appellate court may join or consolidate the appeals when the parties have filed separate timely notices of appeal.
- (3) An appellate court may consolidate appeals on its own or a party's motion, or stipulation of the parties to the several appeals.

(d) Contents of the Notice of Appeal in Civil Cases (Other Than District Court Review of Agency Actions and Appeals from State Agencies).

The notice of appeal must contain:

- (1) a caption that complies with C.A.R. 32(d);
- (2) a brief description of the nature of the case including:
 - (A) a general statement of the nature of the controversy (not to exceed one page);
 - (B) the judgment, order or parts being appealed and a statement indicating the basis for the appellate court's jurisdiction;
 - (C) whether the judgment or order resolved all issues pending before the lower court, including attorney fees and costs;
 - (D) whether the judgment was made final for purposes of appeal pursuant to C.R.C.P. 54(b);

(E) the date the judgment or order was entered (if there is a question of the date, the details necessary for the appellate court to determine whether the notice of appeal was timely filed) and the date the order was mailed to the parties or their counsel;

(F) whether the lower court granted any extensions to file any motion(s) for post-trial relief, and, if so, the date of the request, and the date to which filing was extended;

(G) the date any motion for post-trial relief was filed;

(H) the date any motion for post-trial relief was denied or deemed denied under C.R.C.P. 59(j); and

(I) whether an appellate court granted an extension to file any notice(s) of appeal, and, if so, the date of the request, and the date to which filing was extended;

(3) an advisory listing of the issues to be raised on appeal;

(4) whether a transcript of any proceeding taken before the lower court is necessary to resolve the issues raised on appeal;

(5) whether a magistrate issued the order on review, and if so, whether consent was necessary. If a magistrate issued the order on review and consent was not necessary, whether a petition for review of the order was filed in the district court and ruled upon by a district court judge pursuant to the Colorado Rules for Magistrates;

(6) the names of counsel for the parties, their addresses, telephone numbers, e-mail addresses, and registration numbers;

(7) an appendix containing:

(A) the judgment or order being appealed;

(B) the findings of the court, if any;

(C) the motion for post-trial relief, if any; and

(D) the lower court's order granting or denying leave to proceed in forma pauperis if appellant is filing without paying the docket fee pursuant to C.A.R. 12(b); and

(8) a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the lower court and all other parties to the action below.

(e) Contents of Notice of Appeal from State Agencies (Other Than the Industrial Claim Appeals Office) Directly to the Court of Appeals.

The notice of appeal must contain:

(1) a caption that complies with C.A.R. 32(d);

(2) a brief description of the nature of the case including:

- (A) a general statement of the nature of the controversy (not to exceed one page);
- (B) the order being appealed and a statement indicating the basis for the appellate court's jurisdiction;
- (C) whether the order resolved all issues pending before the agency;
- (D) whether the order is final for purposes of appeal; and
- (E) the date of service of the agency's final order. The date of service of an order is the date on which a copy of the order is delivered in person, or, if service is by mail, the date of mailing.

(3) an advisory listing of the issues to be raised on appeal;

(4) whether a transcript of any proceeding taken before the administrative agency is necessary to resolve the issues raised on appeal;

(5) the names of counsel for the parties, their addresses, telephone numbers, e-mail addresses, and registration numbers;

(6) an appendix containing a copy of the order being appealed and the agency's findings, if any; and

(7) a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the state agency and all other persons who have appeared as parties to the action before the agency, or as required by section 24-4-106(4), C.R.S. concerning rule-making appeals.

(f) Contents of Notice of Appeal from District Court Review of Agency Actions. The notice of appeal must contain:

(1) a caption that complies with C.A.R. 32(d);

(2) a brief description of the nature of the case including:

- (A) a general statement of the nature of the controversy (not to exceed one page);
- (B) the decision or order being appealed and a statement indicating the basis for the appellate court's jurisdiction;
- (C) whether the decision or order resolved all issues pending before the agency;
- (D) whether the decision or order is final for purposes of appeal;
- (E) the date the decision or order was entered (if there is a question of the date, the details necessary for the appellate court to determine whether the notice of appeal was timely filed) and the date the order was mailed to the parties or their counsel;

(F) whether the district court granted any extensions to file any motion(s) for post-trial relief, and, if so, the date of the request, and the date to which filing was extended;

(G) the date any motion for post-trial relief was filed;

(H) the date any motion for post-trial relief was denied or deemed denied under C.R.C.P. 59(j);

(I) the date the notice of intent to seek appellate review was filed with the district court pursuant to section 24-4-106(9), C.R.S.; and

(J) whether any court granted an extension to file any notice(s) of appeal, and, if so, the date of the request, and the date to which filing was extended;

(3) an advisory listing of the issues to be raised on appeal;

(4) whether a transcript of any proceeding taken before the lower court or administrative agency is necessary to resolve the issues raised on appeal;

(5) the names of counsel for the parties, their addresses, telephone numbers, e-mail addresses, and registration numbers;

(6) an appendix containing a copy of the decision or order being appealed, the agency order and the agency's findings, if any; and

(7) a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the district court, the agency and all other persons who have appeared as parties to the district court proceedings.

(g) Contents of the Notice of Appeal in Criminal Cases. The notice of appeal must contain:

(1) a caption that complies with C.A.R. 32;

(2) a brief description of the nature of the case including:

(A) a general statement of the nature of the case;

(B) the charges upon which the defendant was tried;

(C) the charges for which the defendant was convicted;

(D) the date judgment of conviction or the order granting or denying a motion for postconviction relief was entered;

(E) the date the sentence was imposed;

(F) the sentence; and

(G) a statement indicating the basis for the appellate court's jurisdiction;

(3) whether an appeal bond was granted and, if so, the amount of the bond;

- (4) an advisory listing of the issues to be raised on appeal;
- (5) whether a transcript of proceedings taken before the lower court is necessary to resolve the issues on appeal;
- (6) the names of counsel for the parties, their addresses, telephone numbers, e-mail addresses, and registration numbers;
- (7) an appendix containing:
 - (A) a copy of the judgment or order being appealed, including the mittimus;
 - (B) the findings of the court, if any;
 - (C) the motion for new trial, if any; and
 - (D) a copy of the lower court's order granting or denying leave to proceed in forma pauperis if appellant is filing without paying the docket fee pursuant to C.A.R. 12(b); and
- (8) a certificate of service in compliance with C.A.R. 25 showing service of a copy of the notice of appeal (with attachments) on the lower court and all other parties to the action in the lower court.

(h) Contents of any Notice of Cross-Appeal. A notice of cross-appeal must contain the same information required for a notice of appeal and must identify the party initiating the cross-appeal and designate all cross-appellees.

COMMENTS

2014

In most criminal cases, the State of Colorado is represented by the Office of the Attorney General. See § 24-31-101(1)(a), C.R.S.

2022

C.A.R.3 requires certain jurisdictional information and combines the notice of appeal, designation of parties, and preliminary statement into one document. The rule also requires appellants to attach a copy of the order being appealed to the notice of appeal. It requires a notice of appeal in criminal cases and, consistent with the requirements for all other case types, requires information about counsel and the parties.

Rule 3.4. Appeals from Proceedings in Dependency or Neglect

(a) - (k) [NO CHANGE]

(l) Petition for Writ of Certiorari. Review of the judgment of the court of appeals may be sought by filing a petition for writ of certiorari in the supreme court in accordance with C.A.R. 51. The petition must be filed within 14 days after the expiration of the time for filing a petition for rehearing or the date of denial of a petition for rehearing by the court of appeals. The filing of the petition results in an automatic stay of proceedings in the court of appeals. Any cross-petition or opposition brief to a petition for writ of certiorari must be filed within 14 days after the filing of the petition. No reply briefs are allowed. The petition for writ of certiorari, any cross-petition, and any opposition brief must be in the form prescribed by C.A.R. 53(a)-(c) and filed and served in accordance with C.A.R. 53(h).

(m) - (o) [NO CHANGE]

Rule 4. Appeal as of Right--When Taken

(a) Appeals in Civil Cases. This subsection applies to appeals in civil cases other than appeals filed pursuant to C.A.R. 3.1, 3.2, 3.3, 3.4, and 4.2.

(1) Time for Filing a Notice of Appeal. Except as provided in C.A.R. 4(d), the notice of appeal required by C.A.R. 3 must be filed with the appellate court with an advisory copy served on the lower court within 49 days after entry of the judgment, decree, or order being appealed.

(2) Multiple Appeals. If one party timely files a notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise prescribed by this section (a), whichever period ends later.

(3) Effect of a C.R.C.P. 59 Motion on the Deadline for Filing a Notice of Appeal. The running of the time for filing a notice of appeal is terminated as to all parties when any party timely files a motion in the lower court pursuant to C.R.C.P. 59, and the time for an appeal under section (a)(1) of this Rule runs for all parties from the timely entry of any order disposing of the last such timely filed motion under C.R.C.P. 59 or the expiration of the time for ruling on such a motion pursuant to C.R.C.P. 59(j).

The lower court continues to have jurisdiction to hear and decide a motion under C.R.C.P. 59 regardless of the filing of a notice of appeal, provided the C.R.C.P. 59 motion is timely filed under C.R.C.P. 59(a) and is timely ruled on or is deemed denied under operation of C.R.C.P. 59(j). All proceedings in the appellate court are stayed while the motion is pending in the lower court.

(4) Extension of Time to File a Notice of Appeal. Upon a showing of excusable neglect, the appellate court may extend the time to file the notice of appeal for a period not to exceed 35 days after the time prescribed by section (a). Such an extension may be granted before or after the time prescribed by section (a) expired.

(5) Entry Defined. A judgment or order is entered within the meaning of section (a)(1) and (a)(4) when it is entered pursuant to C.R.C.P. 58. If notice of the entry of the judgment or order is transmitted to the parties by mail or E-Service, the time for the filing of the notice of appeal runs from the date of the mailing or E-Service of the notice.

(6) Additional Requirement in Agency Appeals. In appeals from district court review of agency actions, the notice of appeal is required in addition to the 49-day notice of intent to seek appellate review filed with the district court as required by section 24-4-106(9), C.R.S.

(b) Appeals in Criminal Cases.

(1) Time for Filing a Notice of Appeal. Except as provided in C.A.R.4(c) and (d), the defendant's notice of appeal must be filed in the appellate court and an advisory copy served on the lower court within 49 days after entry of the judgment or order appealed from.

(2) Effect of a Post-Trial Motion on the Deadline for Filing a Notice of Appeal. If the defendant files a timely motion in arrest of judgment, for judgment of acquittal, or for a new trial on any ground other than newly discovered evidence, an appeal from a judgment of conviction must be taken within 49 days after entry of an order denying the motion. A motion for a new trial based on newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made within 14 days after entry of the judgment.

(3) Extension of Time to File a Notice of Appeal. Upon a showing of excusable neglect the appellate court may, before or after the time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed 35 days from the expiration of the time otherwise prescribed by this section (b).

(4) Entry Defined. A judgment or order is entered within the meaning of this section (b) when it is entered in the criminal docket.

(5) Appellate Review of Felony Sentences.

(A) Availability of Review. Except in those cases provided for in C.A.R.4(c), pursuant to section 18-1-409, C.R.S., a person sentenced for a felony conviction has the right to one appellate review of the propriety of the sentence, having regard to the nature of the offense, the character of the offender, the public interest, and the sufficiency and accuracy of the information on which the sentence was based.

(B) Sentence Imposed After Trial. If the appeal is to review a sentence imposed after a trial and conviction on the merits, the appellate court will review the propriety of the sentence in the same manner as the review of the conviction, and if the defendant appeals both the sentence and conviction, the court will review them together.

(C) Sentence Imposed Following Guilty Plea. A defendant has no right to appellate review of the propriety of a sentence that is within a range agreed upon by the parties pursuant to a plea agreement.

(6) Prosecutorial Appeals.

(A) In General. Unless otherwise provided by statute or these rules, when an appeal by the state or the people is authorized by statute, the notice of appeal must be filed in the court of appeals within 49 days after the entry of judgment or order appealed from. The court of appeals will issue a written decision answering the issues in the case and will not dismiss the appeal on the ground that a decision will have no precedential value. The final decision of the court of appeals is subject to petition for certiorari to the supreme court.

(B) Appeals of Orders Dismissing Charges. A prosecutorial appeal from an order dismissing one or more but less than all counts of a charging document

before trial, including a finding of no probable cause at a preliminary hearing, must be filed in the court of appeals unless the order is based on a determination that a statute, municipal charter provision, or ordinance is unconstitutional, in which case the appeal must be filed in the supreme court. Appeals of orders dismissing one or more but less than all counts of a charging document will otherwise be conducted pursuant to the procedures set forth in C.A.R. 4.1, except that petitions for rehearing and certiorari will be permitted, and mandates will issue, as provided by these rules.

(c) Appeals in Cases in Which a Sentence of Death Has Been Imposed.

(1) **Availability of Review.** Whenever a sentence of death is imposed, the supreme court will review the propriety of the sentence, having regard to the nature of the offense, the character and record of the offender, the public interest, and the manner in which the sentence was imposed, including the sufficiency and accuracy of the information upon which it was based. If the court determines that the sentence was imposed under the influence of passion, prejudice, or any other arbitrary factor, or that, as a matter of law, the sentence is not supported by the evidence, a sentence of death will not be imposed.

(2) **Procedure.** The procedure for pursuing appeals in death penalty cases in which a sentence of death has been imposed is set forth in Crim. P. 32.2 and in these appellate rules.

(d) Appeal by an Inmate Confined in an Institution. If an inmate confined in an institution files a notice of appeal in either a civil or a criminal case, the notice of appeal is timely if it is deposited in the institution's internal mail system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule.

Rule 4.1. Interlocutory Appeals in Criminal Cases

(a) Grounds. The state may file an interlocutory appeal in the supreme court from a district court order granting a defendant's pretrial motion under Crim. P. 41(e) and (g) and Crim. P. 41.1(i) for return of property and to suppress evidence or granting a motion to suppress an extra-judicial confession or admission, provided that the state certifies to the judge who issued the order being appealed and to the supreme court that the appeal is not taken for purposes of delay and that the evidence is a substantial part of the proof of the charge pending against the defendant.

(b) Time for Filing. An interlocutory appeal must be filed within 14 days after entry of the order being appealed. Filing a motion for a new trial or rehearing in the district court is not required.

(c) How Filed. The state must file the notice of appeal with the supreme court and must serve an advisory copy on the district court within the time allowed under subsection (b) of this rule.

(d) Record. The record for an interlocutory appeal must be filed in accordance with C.A.R. 10 except it must be filed within 14 days after the notice of appeal is filed.

(e) Representation of the State. The district attorney's office will represent the state and will prepare all briefs. Any responsive briefs or pleadings must be served on that office.

(f) Briefs. Within 14 days after the record is filed in the supreme court, the state must file its opening brief, and within 14 days thereafter, the appellee must file the answer brief. The state must file any reply brief within 7 days after service of the answer brief.

(g) Oral Argument. Oral argument is not permitted unless ordered by the court.

(h) Disposition by Court. The supreme court will issue its decision by written opinion. The supreme court clerk will serve the opinion on the district court judge and the parties. Petitions for rehearing are not permitted.

(i) Time. The court may extend the time limits established in this rule for good cause shown only before the time limit expires.

Rule 5. Entry of Appearance and Withdrawal

(a) Entry of Appearance. An attorney enters an appearance in any matter before an appellate court when the attorney files an entry of appearance or signs a document filed with the appellate court. An entry of appearance must identify the party for whom the appearance is made and provide the attorney's office address, telephone number, email address, and attorney registration number. An entry of appearance by an attorney who is a member or an employee of a law firm, professional corporation, or clinic relieves other members or employees of the same law firm, professional corporation, or clinic from needing to file an entry of appearance in the same proceeding unless the court indicates otherwise. An attorney who enters an appearance and wishes to withdraw must comply with this rule.

(b) Withdrawal without Leave of Court. An attorney may withdraw from a case without leave of the appellate court by filing a notice of withdrawal confirming that the withdrawing attorney has complied with all outstanding appellate court orders and one of the following applies:

- (1) the party represented by the withdrawing attorney will continue to be represented by co-counsel who has already entered an appearance pursuant to subsection (a); or
- (2) the notice of withdrawal includes a substitution of counsel, signed by both the withdrawing and replacement attorneys, containing the information required for an entry of appearance under subsection (a) for replacement counsel; or
- (3) the withdrawing attorney is a member or employee of a law firm, professional corporation, or clinic, and another attorney from the same law firm, professional corporation, or clinic will represent the party. Withdrawal of an attorney pursuant to this subsection relieves the other attorneys of the same law firm, professional corporation, or clinic from needing to file an entry of appearance or withdrawal in the same proceeding unless the court indicates otherwise.

(c) Withdrawal with Leave of Court. If not covered by subsection (b), an attorney may withdraw from a case only with the appellate court's approval. Such approval rests in the appellate court's sound discretion, and will not be granted until a motion to withdraw or a Form Motion to Withdraw [JDF Form 1905 SC] has been filed and served on the client and the other parties of record or their attorneys and either (i) both the client and all counsel for the other parties consent in writing at or after the time of service of the motion, or (ii) at least 14 days have expired after service of the motion.

Every motion to withdraw must contain the following advisements to the client:

- (1) that the attorney wishes to withdraw;
- (2) that the appellate court retains jurisdiction;
- (3) that the client has the burden of keeping the appellate court and other parties informed where notices, pleadings, or other documents may be served;
- (4) that the client has the obligation to prepare for all appellate proceedings, or secure other counsel to so prepare;
- (5) that, if the client fails or refuses to meet these burdens, the appellate court may impose appropriate sanctions, including dismissal of the case;

(6) of the dates of any proceedings and that the holding of such proceedings will not be affected by the withdrawal of counsel;

(7) if the client is not a natural person, that it must be represented by counsel in any appellate proceeding unless it is a closely held entity and first complies with section 13-1-127, C.R.S.;

(8) of the client's last known address, telephone number, and email address and that process may be served on the client at the client's last known address; and

(9) of the client's right to object within 14 days of the date of service of the motion to withdraw.

(d) Objections to Motion to Withdraw. The client and opposing parties have 14 days after the service of a motion to withdraw within which to file an objection to the withdrawal.

(e) - (f) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 7. [REPEALED]

Rule 10. Record on Appeal

(a) - (e) [NO CHANGE]

(f) Supplementing the Record on Appeal.

(1) *Before Record is Transmitted.* If any material part of the trial court record is omitted or missing from the trial court's record or is misstated therein by error or accident before the record is transmitted to the appellate court, the parties, by stipulation, or the trial court may direct that the omission or misstatement be corrected.

(2) *After Record is Transmitted.* If any material part of the trial court record is omitted or missing from the record by error or accident or is misstated therein after the record is transmitted to the appellate court, the appellate court, on motion or of its own initiative, may order that the supplemental record be certified and transmitted. A party seeking to supplement the record on appeal must file a motion specifying the name or title of the document, the date (if any) the document was submitted to the lower court, and the reason the item is necessary to decide the appeal.

(g) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 21. Procedure in Original Proceedings

(a) - (c) [NO CHANGE]

(d) Content of Petition and Service.

(1) If there exists an underlying proceeding, the petition must be titled with the full, exact, and unmodified caption given by the lower court in the underlying proceeding, “In Re [Caption of Underlying Proceeding].” If there is no underlying proceeding, the petition must be titled, “In Re [Petitioner v. Proposed Respondent].”

(2) The petitioner has the burden of showing that the court should issue a rule to show cause. To enable the court to determine whether a rule to show cause should be issued, the petition must disclose in sufficient detail the following:

(A) - (I) [NO CHANGE]

(3) The petition must include the names, addresses, telephone numbers, e-mail addresses (if any), and fax numbers (if any) of all parties to the underlying proceeding; or, if a party is represented by counsel, the attorney’s name, address, telephone number, email address (if any), and fax number (if any).

(4) The petition must be served upon each party and proposed respondent and, if applicable, upon the lower court or tribunal.

(5) The petition must comply with the requirements of C.A.R. 28(g) for opening briefs and with C.A.R. 32.

(e) Supporting Documents.

(1) Proceedings initiated under this rule are not subject to C.A.R. 10.

(2) A petition must be accompanied by a separate, indexed set of available supporting documents adequate to permit review.

(3) Any document submitted as sealed or suppressed pursuant to C.J.D. 05-01 sections 3.07 and 3.08 must be filed as a separate supporting document and must be accompanied by a motion for leave to file the document as sealed or suppressed. The motion must:

(A) identify with particularity the specific document containing sensitive information;

(B) explain why the sensitive information cannot reasonably be redacted in lieu of filing the entire document as sealed or suppressed;

(C) articulate the substantial interest that justifies depriving the public of access to the document;
and

(D) cite any applicable rule, statute, case law, or prior court order sealing or suppressing the document.

(4) In cases involving an underlying proceeding, the following documents must be included:

(A) the order or judgment from which relief is sought if applicable;

(B) documents and exhibits submitted in the underlying proceeding that are necessary for a complete understanding of the issues presented;

(C) a transcript of the proceeding leading to the underlying order or judgment if available.

(f) - (g) [NO CHANGE]

(h) Denial; Rule to Show Cause.

(1) The court in its discretion may issue a rule to show cause or deny the petition without explanation and without an answer by any respondent.

(2) The clerk will serve the rule to show cause on all persons ordered or invited by the court to respond and, if applicable, on the judge or other officer in the underlying proceeding.

(i) Response to Rule to Show Cause.

(1) The court in its discretion may invite or order any person in the underlying proceeding to respond to the rule to show cause within a fixed time. Any person in the underlying proceeding may request permission to respond to the rule to show cause but may not respond unless invited or ordered to do so by the court. Those ordered by the court to respond are the respondents.

(2) The response to a rule to show cause must comply with the requirements of C.A.R. 28(g) for answer briefs and with C.A.R. 32.

(3) Two or more respondents may respond jointly.

(j) Reply to Response to Rule to Show Cause. The petitioner may submit a single reply brief within the time fixed by the court. A reply must comply with the requirements of C.A.R. 28(g) for reply briefs and with C.A.R. 32.

(k) Amicus Briefs. Any amicus curiae may file a brief only by leave of the court after a case number has been assigned. Before the court issues a rule to show cause, an amicus curiae may tender a brief supporting a petitioner, but the court may act on a petition at any time after the petition is filed, including before the submission of an amicus brief. If the court issues a rule to show cause, an amicus brief supporting a petitioner must be filed within seven days after the issuance of the show cause order, or such lesser time as the court may permit for the submission of amicus briefs. An amicus brief supporting a respondent must be tendered by the deadline for the respondent's response, or such lesser time as the court may permit for the submission of amicus briefs. An amicus curiae that does not support either party must file its brief no later than seven days after the issuance of a rule to show cause, or such lesser time as the court may permit for the submission of amicus briefs. The filing of an amicus brief within the deadlines established by this rule but after the court has acted on a petition is not a ground for reconsideration of the issuance of a rule to show cause or denial of a petition. A brief submitted by an amicus curiae must comply with C.A.R. 29(a), (b), (c), (d), (f), and (g).

(l) No Oral Argument. There will be no oral argument unless ordered by the court.

(m) Opinion Discretionary. The court, upon review, in its discretion may discharge the rule or make it

absolute, in whole or in part, with or without opinion.

(n) Petition for Rehearing. In all proceedings under this rule, where the supreme court has issued an opinion discharging a rule or making a rule absolute, a petition for rehearing may be filed in accordance with the provisions of C.A.R. 40(c)(2).

Rule 26. Computing and Extending Time

(a) Computing Time. In computing any period of time prescribed or allowed by these rules the day of the act, event, or default from which the designated period of time begins to run will not be included. Thereafter, every day will be counted including holidays, Saturdays, and Sundays. The last day of the period so computed will be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

(b) “Legal Holiday” Defined. As used in these rules, “legal holiday” includes the first day of January, observed as New Year’s Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Washington-Lincoln Day; the last Monday in May, observed as Memorial Day; the nineteenth day of June, observed as Juneteenth Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the first Monday in October, observed as Frances Cabrini Day; the 11th day of November, observed as Veteran’s Day; the fourth Thursday in November, observed as Thanksgiving Day; the twenty-fifth day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.

(c) Extending Time. For good cause shown, the appellate court may upon motion extend the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after that time expires; but the court may not extend the time to file:

- (1) a notice of appeal beyond that prescribed in C.A.R. 4(a); or
- (2) a petition to enjoin, set aside, suspend, modify, enforce, or otherwise review, or a notice of appeal from, an order of an administrative agency, board, commission, or officer of the State of Colorado, except as specifically authorized by law.

(d) Additional Time After Service by Mail [Repealed].

COMMITTEE COMMENT [NO CHANGE]

COMMENT [NO CHANGE]

Rule 28. Briefs

(a) Appellant’s Brief. The appellant’s brief must be entitled “opening brief” and must contain the following under appropriate headings and in the order indicated:

(1) - (6) [NO CHANGE]

(7) the arguments, which must contain:

(A) under a separate heading placed before the discussion of each issue, statements of the applicable standard of review with citation to authority, whether the issue was preserved, and if preserved, the precise location in the record where the issue was raised and where the court ruled; and

(B) a clear and concise discussion of the grounds upon which the party relies in seeking a reversal or modification of the judgment or the correction of adverse findings, orders, or rulings of the lower court or tribunal, with citations to the authorities and parts of the record on which the appellant relies;

(8) - (9) [NO CHANGE]

(b) - (h) [NO CHANGE]

(i) Citation of Supplemental Authorities. If pertinent and significant new authority, including legislation, comes to a party's attention after the party's brief has been filed, a party may promptly advise the court by giving notice, with a copy to all parties. The notice must set forth the citation and state, without argument, the reason for the supplemental citation, referring either to the page of the brief or to a point argued orally. The body of the notice must not exceed 350 words. Any response must be made promptly and must be similarly limited.

(j) Notice of Settlement or Resolution. When the parties have agreed to settle or otherwise resolve a pending case, they must notify the court immediately.

COMMENTS

2006 [NO CHANGE]

2015 [NO CHANGE]

2022

The revisions to C.A.R. 28(a)(7)(B) do not establish additional requirements. Rather, the substance of the beginning portion of prior C.A.R. 1(d), entitled “Ground for Reversal, etc.,” and which referenced C.A.R. 28(a), was relocated to C.A.R. 28(a)(7)(B).

Rule 28.1. Briefs in Cases Involving Cross-Appeals

(a) - (g) [NO CHANGE]

(h) Citation of Supplemental Authorities. If pertinent and significant new authority, including legislation, comes to a party's attention after the party's brief has been filed, a party may promptly advise the court by giving notice, with a copy to all parties. The notice must set forth the citation and state, without argument, the reason for the supplemental citation, referring either to the page of the brief or to a point argued orally. The body of the notice must not exceed 350 words. Any response must be made promptly and must be similarly limited.

(j) Notice of Settlement or Resolution. When the parties have agreed to settle or otherwise resolve a pending case, they must notify the court immediately.

COMMENT [NO CHANGE]

Rule 29. Brief of an Amicus Curiae

(a) - (d) [NO CHANGE]

(e) Time for Filing. An amicus curiae must file its brief within the deadline for filing the principal brief of the party being supported. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's opening brief is filed. A court may grant leave for later filing, specifying the time within which an opposing party may answer. The time for filing an amicus brief in an original proceeding shall be as provided under C.A.R. 21(k).

(f) - (g) [NO CHANGE]

Rule 30. E-Filing

(a) - (g) [NO CHANGE]

(h) Sealed or Suppressed Documents. A motion for leave to file documents as sealed or suppressed pursuant to C.J.D. 05-01 sections 3.07 and 3.08 may be E-Filed. Documents to be filed as sealed or suppressed pursuant to an order of the court may be E-Filed at the direction of the court; however, the filing party may object to this procedure.

(i) - (m) [NO CHANGE]

Rule 32. Form of Briefs and Appellate Documents

(a) - (c) [No Change]

(d) Caption. The first page of each brief or other appellate document must contain a caption that includes the following basic document information:

- (1) the name and address of the court in which the proceeding is filed;
- (2) the nature of proceeding (e.g., Appeal, Petition for Writ of Certiorari, Petition for Rule to Show Cause); name of the court(s), agency, or board below; and the lower court judge(s), and case number(s);
- (3) the names of parties with appellate court party designations as follows:

(A) In the Supreme Court:

- (i) Appellant(s) or Appellee(s) in cases in which the supreme court has original appellate jurisdiction;
- (ii) “In Re [Caption of Underlying Proceeding],” or if there is no underlying proceeding, “In Re [Petitioner v. Proposed Respondent]” in original proceedings filed pursuant to C.A.R. 21; and
- (iii) Petitioner(s) or Respondent(s) in certiorari proceedings.

(B) In the Court of Appeals: Petitioner(s) or Respondent(s) in appeals filed pursuant to C.A.R. 3.1 and 3.4 (see Appendix to Chapter 32); Appellant(s) or Appellee(s) in all other appeals.

(4) - (7) [NO CHANGE]

(e) - (h) [NO CHANGE]

COMMENTS

[NO CHANGE]

Rule 39.1. Attorney Fees on Appeal

If attorney fees are recoverable for the appeal, the principal brief of the party claiming attorney fees must include a specific request, and explain the legal and factual basis, for an award of attorney fees. Mere citation to this rule or to a statute, without more, does not satisfy the legal basis requirement. Any opposition to a request for attorney fees, and the legal and factual basis for the opposition, must be set forth in either the answer or reply brief, as appropriate. In its discretion, the appellate court may determine entitlement to and the amount of an award of attorney fees for the appeal, or may remand those determinations to the lower court or tribunal.

Rule 41. Mandate

(a) [NO CHANGE]

(b) When Issued. Unless the court grants or removes a stay, or otherwise changes the time by order, the mandate will issue as follows:

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) *Bill of Costs.* Consistent with C.A.R. 39(c)(2), any itemized and verified bill of costs and proof of service must be filed within 14 days after entry of the appellate mandate.

(c) - (e) [NO CHANGE]

COMMENTS

[NO CHANGE]

Rule 42. Voluntary Dismissal

(a) Stipulated Dismissal. The appellate court must dismiss an appeal or other appellate proceeding if the parties file a signed dismissal agreement specifying how costs will be paid and pay any fees that are due.

(b) Dismissal by Motion. The appellate court may dismiss an appeal or other appellate proceeding on the appellant's or petitioner's motion on terms agreed upon by the parties or fixed by the court. The appellant or petitioner must file and serve the motion to dismiss consistent with C.A.R. 25. Any party may file a response within 7 days after service of the motion to dismiss; if any party objects to dismissal, the party may, in the court's discretion, seek reversal, modification, or correction of the judgment. The proceeding will not be dismissed until the time to respond has expired and the court enters an order granting dismissal. No mandate or other process may issue without a court order.

COMMENT

2022

The substance of the last sentence of prior C.A.R. 1(d), entitled "Ground for Reversal, etc.," pertaining to motions to dismiss a proceeding by the appellant or petitioner, has been relocated to subsection (b) of this Rule.

Rule 51. Review on Certiorari — How Sought

(a) [NO CHANGE]

(b) Petitioner's Docket Fee. Upon the filing of the petition or a motion for extension of time in which to file the petition pursuant to C.A.R. 56, petitioner must pay the docket fee of \$225.00, of which \$1.00 will be transferred to the state general fund as a tax levy pursuant to section 2-5-119, C.R.S. The case will then be placed on the certiorari docket.

(c) [NO CHANGE]

Rule 52. Review on Certiorari — Time for Petitioning

(a) [NO CHANGE]

(b) Time to File.

(1) *In General.* Except as provided in subsections (2) and (3) of this rule, a petition for writ of certiorari must be filed within 42 days after entry of the judgment on appeal if no petition for rehearing is filed. If a petition for rehearing is filed, the petition for writ of certiorari must be filed within 28 days after the intermediate appellate court's denial of the petition for rehearing. No certiorari proceeding may be initiated in the supreme court until the time for filing a petition for rehearing in the intermediate appellate court has expired.

(2) - (3) [NO CHANGE]

COMMENTS [NO CHANGE]

Rule 53. Petition for Writ of Certiorari and Cross-Petition for Writ of Certiorari

(a) – (c) [NO CHANGE]

(d) Reply Brief. A reply brief is not required unless otherwise ordered by the court. A petitioner or cross-petitioner must file and serve any reply brief within 7 days after service of an opposition brief. The reply brief must comply with C.A.R. 32. In dependency or neglect appeals, pursuant to C.A.R. 3.4(l), no reply briefs are allowed.

(e) - (h) [NO CHANGE]

Rule 55. Stay Pending Review on Certiorari

Application to the supreme court for stay of execution of a decision of the intermediate appellate court will normally not be entertained until application for a stay has first been made to the court rendering the decision sought to be reviewed and that court has denied or failed to rule on a motion to stay the judgment on appeal. A motion for stay filed pursuant to this rule must comply with C.A.R. 8(a)(2).

Amended and Adopted by the Court, En Banc, February 24, 2022, effective July 1, 2022.

By the Court:

**Richard L. Gabriel
Justice, Colorado Supreme Court**