

NORTH CAROLINA REPORTS

VOLUME 295

SUPREME COURT OF NORTH CAROLINA



SPRING TERM 1978

FALL TERM 1978

RALEIGH

1979

AMENDMENTS TO
NORTH CAROLINA RULES
OF APPELLATE PROCEDURE

1. Rule 7, entitled *Security For Costs on Appeal in Criminal Actions*, is repealed in its entirety.

2. Rule 17, entitled *Appeal Bond in Appeals Under G.S. Sections 7A-30, 7A-31*, is amended by:

- (a) inserting the words "in civil cases" after the word "Court" in line 2 of subsection (a);
- (b) inserting the word "civil" before the word "case" in line 2 of subsection (b);
- (c) inserting the word "civil" before the word "case" in line 2 of subsection (c).

These amendments to the Rules of Appellate Procedure were adopted by the Supreme Court in Conference on 19 June 1978 to become effective on 1 July 1978. The amendments shall be promulgated by publication in the next succeeding Advance Sheets of the Supreme Court and the Court of Appeals.*

Exum, J.
For the Court

*Repeal of Rule 7 and limiting Rule 17's application to civil cases are to conform the Rules of Appellate Procedure to Chap. 711, 1977 Session Laws, particularly that portion of Chap. 711 codified as G.S. 15A-1449 which provides, "In criminal cases no security for costs is required upon appeal to the appellate division." Section 33 of Chap. 711 repealed, among other statutes, G.S. 15-180 and 15-181 upon which Rule 7 was based. Chap. 711 becomes effective 1 July 1978. While G.S. 15A-1449, strictly construed, does not apply to cost bonds in appeals from or petitions for further review of decisions of the Court of Appeals, the Supreme Court believes the legislature intended to eliminate the giving of security for costs in criminal cases on appeal or on petition to the Supreme Court from the Court of Appeals. The Court has, therefore, amended Rule 17 to comply with what it believes to be the legislative intent in this area.

The appellate courts, pursuant to Rules 12, 13, and 15, will continue to collect advance deposits fixed by the clerks to cover the costs of reproducing the record on appeal and briefs.

Rather than renumber the Rules, the Court has determined to reserve Rule 7 for future use.

Rule 4(a)(2) is amended by striking "after the last day of the session at which rendered" and inserting in lieu thereof: "after entry of the judgment or order or within ten days after a ruling on a motion for appropriate relief made during the ten-day period following entry of the judgment or order."

The last paragraph of Rule 27(c) is amended by changing the period after the word "state" to a semicolon and adding immediately thereafter the following: "provided that motions to extend the time for serving the proposed record on appeal made after the expiration of any time previously allowed for such service must be in writing and with notice to all other parties and may be allowed only after all other parties have had opportunity to be heard."

The foregoing amendments were approved by the Court in conference on 4 October 1978 to be promulgated in the next succeeding Advance Sheets of the Court of Appeals and the Supreme Court. The amendments shall become effective on 1 January 1979.

Done by the Court in conference this the 4th day of October, 1978.

EXUM, J.
For the Court