

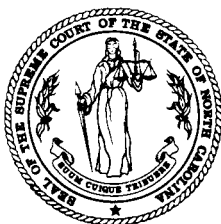
# NORTH CAROLINA REPORTS

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VOLUME 304

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SUPREME COURT OF NORTH CAROLINA



FALL TERM 1981

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RALEIGH

1982

## AMENDMENTS TO NORTH CAROLINA RULES OF APPELLATE PROCEDURE

Rule 9 of the North Carolina Rules of Appellate Procedure entitled "THE RECORD ON APPEAL—FUNCTION, COMPOSITION, AND FORM" is amended as follows:

The third paragraph of Rule 9(c)(1) is amended to read as follows:

As an alternative to narrating the testimonial evidence as a part of the record on appeal, the appellant may cause the complete stenographic transcript of the evidence in the trial tribunal, as agreed to by the opposing party or parties or as settled by the trial tribunal as the case may be, to be filed with the clerk of the court in which the appeal is docketed. This alternative also may be used to present voir dire, jury instructions or other trial proceedings where those proceedings are the basis for one or more assignments of error and a stenographic transcript of those proceedings has been made. If this alternative is selected, the briefs of the parties must comport with Rule 28(b)(4) and 28(c); and, in criminal appeals, the District Attorney upon certification of the record shall forward one copy of the settled, certified transcript to the Attorney General of North Carolina.

Rule 28 of the North Carolina Rules of Appellate Procedure entitled "BRIEFS: FUNCTION AND CONTENT" is amended as follows:

Rule 28(b)(4) is amended to read as follows:

- (4) If pursuant to Rule 9(c)(1) appellant utilizes the stenographic transcript of the evidence in lieu of narrating the evidence as part of the record on appeal, and if there are portions of the transcript which must be reproduced verbatim in order to understand a question presented in the brief and if, because of length, a verbatim reproduction is not contained in the body of the brief itself, such verbatim portions of the transcript shall be attached as appendixes to the brief. Reference may then be made in the argument of the question presented to the relevant appendix. It is not intended that an appendix be compiled to show the general nature of evidence or the absence of evidence relating to a particular question presented in the brief.

Adopted by the Court in Conference this 12th day of January, 1982, *to be effective for all appeals docketed after 15 March 1982.*

MEYER, J.  
For the Court

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Rule 15 of the North Carolina Rules of Appellate Procedure entitled "DISCRETIONARY REVIEW ON CERTIFICATION BY SUPREME COURT UNDER G.S. § 7A-31" is hereby amended as follows:

First, by inserting after the words "Utilities Commission," in the first sentence of subsection (a) entitled "Petition of Party" the following:

"the North Carolina State Bar, the Property Tax Commission,"

Second, by amending the citation to "G.S. Chap. 15, Art. 22" in the same subsection (a) to read:

"G.S. Chap. 15A, Art. 89."

By Order of the Court in Conference, this 18th day of November, 1981.

MEYER, J.  
For the Court

Rule 21 of the North Carolina Rules of Appellate Procedure entitled "CERTIORARI" is hereby amended as follows:

By rewriting subsection (a) to read as follows:

"(a) *Scope of the Writ.*

(1) *Review of the Judgments and Orders of Trial Tribunals.* The writ of certiorari may be issued in appropriate circumstances by either appellate court to permit review of the judgments and orders of trial tribunals when the right to prosecute an appeal has been lost by failure to take timely action, or when no right of appeal from an interlocutory order exists, or for review pursuant to G.S. 15A-1422(c)(3) of an order of the trial court denying a motion for appropriate relief.

(2) *Review of the Judgments and Orders of the Court of Appeals.* The writ of certiorari may be issued by the Supreme Court in appropriate circumstances to permit review of the decisions and orders of the Court of Appeals when the right to prosecute an appeal of right or to petition for discretionary review has been lost by failure to take timely action; or for review of decisions of the Court of Appeals in cases appealed from the North Carolina Utilities Commission, the North Carolina Industrial Commission, the North Carolina State Bar, the Property Tax Commission, or the Commissioner of Insurance."

Rule 21 of the North Carolina Rules of Appellate Procedure entitled "CERTIORARI" is hereby amended as follows:

By adding a new subsection (e) as follows:

"(e) *Petition for Writ in Post Conviction Matters; to Which Appellate Court Addressed.* Petitions for writ of certiorari to review orders of the trial court denying motions for appropriate relief upon grounds listed in G.S. 15A-1415(b) by persons who have been sentenced to life imprisonment or death shall be filed in and determined by the Supreme Court. In all other cases such petitions shall be filed in and determined by the Court of Appeals and the Supreme Court will not entertain petitions for certiorari or petitions for further discretionary review in these cases."

Rule 26 of the Rules of Appellate Procedure entitled "Filing and Service" is amended by adding a new subsection (g) to read as follows:

(g) Size of Paper. All papers presented to the court for filing shall be letter size (8½" x 11"), with the exception of wills and exhibits.

This rule shall become effective July 1, 1982 for all appeals arising from cases filed in the court of original jurisdiction after that date.

By order of the Supreme Court in conference, this the 5th day of May 1981.

MEYER, J.  
For the Court

Rule 26(c) of the North Carolina Rules of Appellate Procedure, 287 N.C. 671, 738 is hereby amended to read as follows (new material appears in italics):

#### Manner of Service

Service may be made in the manner provided for service and return of process in Rule 4 of the N.C. Rules of Civil Procedure, and may be so made upon a party or upon his attorney of record. Service may also be made upon a party or his attorney of record by delivering a copy to either or by mailing it to either at his last known address, or if no address is known, by filing it in the office of the clerk with whom the original paper is filed. Delivery of a copy within this Rule means handing it to the attorney or to the party, or leaving it at the attorney's office with a partner or employee. Service by mail is complete upon deposit of the paper enclosed in a postpaid, properly addressed wrapper in a Post Office or official depository under the exclusive care and custody of the United States Post Office Department, *or, for those having access to such services, upon deposit with the State Courier Service or Inter-Office Mail.*

Adopted by the Court in Conference this 11th day of February 1982, to become effective upon adoption. This amendment shall be promulgated by the publication in the Advance Sheets of the Supreme Court and the Court of Appeals.

MITCHELL, J.  
For the Court

Rule 29(a)(1) of the North Carolina Rules of Appellate Procedure, 287 N.C. 671, 746 is hereby amended to read as follows:

**RULE 29**

**SESSIONS OF COURTS; CALENDAR FOR HEARINGS**

**(a) Sessions of Court**

(1) Supreme Court. The Supreme Court shall be in continuous session for the transaction of business. Hearings in appeals will be held generally during the week beginning the Monday following the first Tuesday in the months of February through May and September through December. Additional settings may be authorized by the Chief Justice.

Adopted by the Court in Conference this 3rd day of March, 1982, to become effective upon adoption. This amendment shall be promulgated by publication in the Advance Sheets of the Supreme Court and the Court of Appeals.

MITCHELL, J.  
For the Court