

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO
IDAHO APPELLATE RULES 5, 12.4,
24, 26.1, 27, 29, 30, 30.2, 32, 34, 34.1, 35
36, 40, 41, and 42

ORDER

The Court, having reviewed a recommendation to amend the Idaho Appellate Rules, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Appellate Rules as they appear in the volume published by the Idaho Code Commission be, and are hereby, amended as follows:

1. That Rule 5 be amended as follows:

Rule 5. Special Writs and Proceedings.

(c) Filing Fee--Briefs--Number. Special writs shall issue only upon petitions verified by the party beneficially interested therein and upon briefs in support thereof filed with the Clerk of the Supreme Court with payment of the appropriate filing fee. No filing fee shall be required with a petition for writ of habeas corpus which is filed in connection with a criminal case or post-conviction relief proceeding. Petitioner shall file the an original ~~and six copies of the~~ petition and brief with the Clerk of the Supreme Court. No copies are required.

~~(i) Number of Copies. An original and six copies of the memorandum of costs, objections to costs, and briefs in support of or in opposition thereof shall be filed with the Clerk of the Supreme Court.~~

~~(i j) Petitions for Writ of Habeas Corpus. Petitions for writs of habeas corpus shall be processed as provided by law~~

2. That Rule 12.4 be amended as follows:

Expedited Appeals in Industrial Commission Appeals pursuant to Rule 11(d)(2).

(d) Preparation and filing of clerk's record. The record shall be prepared in accord with Rule 27. ~~except the clerk of the Industrial Commission shall have it ready for service on the parties within twenty eight (28) days of the date of the filing of the notice of appeal.~~

(e) Preparation and filing of transcript. The transcript shall be prepared in accord with Rule 24 (a) and (b) as to number, use and format, and in accord with Rules 25 and 26. The transcript shall be prepared and ready for service on the parties within twenty eight (28) days of the date of the filing of the notice of appeal.

3. That Rule 24 be amended as follows:

Reporter's Transcript - Number - Estimate of Fees - Time for Preparation - Waiver of Reporter's Fee.

(a) Number and Use of Transcripts. The reporter shall prepare ~~an original hard copy, one additional hard copy, and one electronic~~ copy of the reporter's transcript in electronic format for the Supreme Court, which shall be lodged with the district court and filed with the Supreme Court following settlement. If requested, the reporter shall also prepare a hard copy of the transcript for service on the appellant and respondent, as each party may elect whether to receive it in electronic format or in hard copy or both. If there are multiple appellants or respondents, they shall determine by stipulation which appellant or respondent shall be served with the transcript by the clerk and the manner and time and use of the transcript by each appellant or respondent. In the absence of such stipulation the determination shall be made by the trial court or agency upon the application of any party or the clerk. If a reporter's transcript has already been prepared for the appellant and/or respondent in an ~~Idaho Public Utilities Commission~~ appeal from an administrative agency, when requested by the Supreme Court the reporter shall furnish ~~two-one~~ computer-searchable transcripts in electronic format to the Court, but additional copies need not be made for the parties.

(b) Additional Electronic Copy. Once an original transcript in either hard copy or electronic format has been paid for, any party may request an additional electronic copy of the transcript upon payment of \$20.00 to the court reporter.

4. That Rule 26.1, Computer-Searchable Disks of Transcripts, be REPEALED in its entirety.
5. That Rule 27 be amended as follows:

Clerk's or Agency's Record - Number - Clerk's Fees - Payment of Estimated Fees - Time for Preparation - Waiver of Clerk's Fee.

(a) Number and Use of Record. The clerk of the district court or agency shall prepare one electronic copy ~~five copies~~ of the clerk's or agency's record for the Supreme Court. ~~Three copies shall be filed with the Supreme Court as provided by Rule 29. If requested, the clerk shall also prepare a hard copy of the record for service on the appellant and respondent, as each party may elect whether to receive it in electronic format or in hard copy or both. One copy shall be provided to the appellant and one copy shall be provided to the respondent.~~ If there are multiple parties, they shall determine by stipulation which party shall be served with the record by the clerk and the

manner and time of use of the record by each party. In the absence of such a stipulation, the determination shall be made by the district court or agency upon the application of any party or the clerk. Any party may also request and pay for an additional separate copy of the record from the clerk.

~~(b) Option for scanning the record. In counties listed on a roster maintained by the Office of the Supreme Court Clerk as authorized to scan the record, the appellant may request that the clerk of the district court scan the entire district court file as the record or may designate certain documents to be included in the scanned record. All filed documents will be scanned in pdf format and five copies of the clerk's record in CD format will be prepared and distributed in accord with subsection (a) of this rule. Exhibits, including a presentence investigation report, shall be sent in accord with Rule 31. The district court clerk shall notify the Clerk of the Supreme Court by e-mail that the record will be provided in this manner.~~

~~(b)~~ (e) Clerk's Fee.

(1) Paper copy. The clerk of the district court shall charge and collect a fee for the preparation of the record in the sum of \$1.25 for each page of the record. Provided, in addition to this fee the clerk shall charge and collect an additional fee for the actual cost of the record covers. ~~Such~~ This fee shall be full payment for two five-complete paper copies of the record, one for the appellant and one for the respondent, and one electronic copy for the Supreme Court. . Any party may obtain an additional copy of the record for the charge of \$.50 per page. The clerk of an administrative agency shall charge such sum, in any, as ordered by the administrative agency.

(2) Electronic Scanned Copy. If only an electronic copy of the record is requested, the clerk of the district court shall charge and collect a fee for preparation of the electronic scanned record in the sum of \$0.65 for each page. ~~of the district court file if the entire file is scanned. If, at the appellant's request, less than the full record is scanned, then the clerk of the court shall collect a fee of \$100.00 plus \$.65 per page for the scanned pages. In both instances, such fee shall be full payment for five complete copies of the record.~~ Any party may request an additional copy of the record on CD upon payment of \$20.00 to the clerk of the district court.

~~(c)~~ (d) Payment of Estimated Fees

~~(d)~~ (e) Time for Preparation. The clerk of the district court or administrative agency shall prepare the clerk's or agency's record and have it ready for service on the parties within 28 ~~30~~ days of the date of the filing of the notice of appeal. The clerk shall retain the copies of the clerk's or agency's record until the reporter's transcript, if any, is finished and thereafter cause the same to be settled and forwarded to the Supreme Court as provided by Rule 29. An extension of time for preparation of the record may be obtained by filing a motion for extension of time with the Idaho Supreme Court at least five days before the record is due unless good cause is shown for the failure to timely

file a motion. The motion for extension of time shall be on a form approved by the Supreme Court.

6. That Rule 29 be amended as follows:

Settlement and Filing of Reporter's Transcript and Clerk's or Agency's Record.

(b) Filing Transcript and Record with Supreme Court. Upon settlement of the reporter's transcript and clerk's or agency's record, the clerk of the district court or administrative agency shall, within seven (7) days, file the ~~original hard copy, one additional hard copy and one~~ electronic copy of the transcript and ~~three copies of the~~ clerk's or agency's record with the Clerk of the Supreme Court. The Clerk of the Supreme Court shall notify all attorneys of record, or parties appearing in person, of the date of such filing. Such notification shall also state when the briefs of the parties are required to be filed.

7. That Rule 30 be amended as follows:

Augmentation or Deletions From Transcript or Record.

(a) Any party may move the Supreme Court to augment or delete from the settled reporter's transcript or clerk's or agency's record. Such a motion shall be accompanied by a statement setting forth the specific grounds for the request and attaching a copy of any document sought to be augmented to the original motion ~~and to two copies of the motion~~ which document must have a legible filing stamp of the clerk indicating the date of its filing, or the moving party must establish by citation to the record or transcript that the document was presented to the district court.

8. That Rule 30.2 be amended as follows:

Augmentation of Record on Appeal With Copy of An Ordinance.

(a) By motion. Any party may move the Supreme Court to augment the record on appeal with a copy of an ordinance. A certified copy of the ordinance shall be attached to the motion, and the motion shall be accompanied by a statement setting forth the specific grounds for the request, including that the ordinance was in effect at the time of the action or occurrence at issue in the appeal. The party shall file ~~the an original and two copies~~ of the motion and statement and shall serve a copy of the motion and statement upon all parties. Any party may, within fourteen (14) days after service of the motion, file a brief or memorandum in opposition thereto. Unless otherwise expressly ordered by the Supreme Court, such motion shall be determined without oral argument. The filing of a motion to augment shall not suspend or stay the appellate process or the briefing schedule.

9. That Rule 32 be amended as follows:

Motions - Time for Filing - Briefs.

(e) Size and Number of Copies. All motions, notices, affidavits, statements, motion briefs, or any other documents filed with the court should be typed on 8 1/2 x 11 inch paper. The body of all such documents may be typed with double line spacing or one-and-one-half (1 1/2) line spacing. Only the An original and six copies of each motion, brief, statement, affidavit or memorandum shall be filed with the clerk of the Supreme Court. No copies are required. Prisoners incarcerated or detained in a state prison or county jail may file documents that are legibly hand-printed in black ink, in whole or in part, that otherwise conform to the requirements of these rules.

10. That Rule 34 be amended as follows:

Briefs on Appeal - Number - Length - Time for Filing - Service of Briefs.

(a) Number of Copies. ~~With the exception of cases governed by Idaho Appellate Rule 35(h), the original bound brief, six (6) bound copies, and an electronic copy~~ The original of all appellate briefs shall be filed with the Supreme Court and the original shall be signed by the party ~~counsel~~ submitting the brief. ~~same.~~ No copies are required. ~~In cases governed by Idaho Appellate Rule 35(h), only the original and four (4) copies of all appellate briefs shall be filed. Electronic copies of briefs are governed by Idaho Appellate Rule 34.1.~~

~~(d) Service of Briefs. Two copies of all appellate briefs shall be served upon each party to the appeal.~~

~~(d e)~~ Extension.

~~(e f)~~ Augmentation of Briefs.

11. That Rule 34.1, Electronic Copies of Briefs, be REPEALED in its entirety.

12. That Rule 35 be amended as follows:

Content and Arrangement of Briefs.

(i) Briefs in Criminal Appeals Involving Only Challenges to the Revocation of Probation or the Severity of Sentence. In criminal appeals involving only claims regarding the revocation of probation, the severity of the sentence, or a motion brought under Idaho Criminal Rule 35, the brief of the appellant and respondent ~~need not be bound or have colored covers, and~~ need not contain a table of contents, table of cases and authorities, or citations to authorities.

13. That Rule 36 be amended as follows:

Preparation of Briefs. All briefs shall be prepared in accordance with the following requirements:

(a) Cover of Brief. The cover of all briefs shall state the title of the Supreme Court, the title of the action designated on the certificate of appeal, whether it is appellant's or respondent's brief, the name of the district court or administrative agency appealed from, the name of the trial judge or chairman presiding at the trial or hearing, and the names and addresses of all counsel of record showing for whom they appear. The information on the cover shall be substantially in the following form:

[Click here for link.](#)

~~(b) Color and Material of Cover. The cover of appellant's brief shall be light blue, the cover of respondent's brief shall be white, the cover of appellant's reply brief shall be tan or light brown, the color of cross-appellant's reply brief shall be light yellow, and the cover of any amicus curiae or intervenor's brief shall be light green. The color of respondent's/cross-appellant's brief, shall be white. The color of appellant's reply/cross-respondent's brief, shall be tan or light brown. The cover page must be sufficiently light in color to distinctly show the print. The cover of an appellate brief shall be 65 pound cover stock or heavier material, or a vinyl cover of equal weight, and shall not have a plastic or acetate cover.~~

(~~b~~ e) Printing of Briefs. All briefs shall be printed on unruled and untreated white paper 11 inches long by 8 1/2 inches wide. The original brief filed with the court shall be typed with black ribbon or produced by a computer or word processor type printer of letter quality. The type shall be no smaller than 12 point Times New Roman. All lines must be double-spaced, except for quotations which may be indented and single spaced. There shall be a margin of 1 1/2 inches at the top and at the bottom of each page, and 1 inch at each side of each page. The pages shall be numbered at the bottom and may be printed on both the front and back of each page. ~~The brief must be bound on the left with comb binding only, except as provided by Rule 35(h) or upon permission granted by the court.~~ Prisoners incarcerated or detained in a state prison or county jail may file documents under this rule that are legibly hand-printed in black ink, in whole or in part, that otherwise conform to the requirements of this rule.

14. That Rule 40 be amended as follows:

Taxation of Costs.

(e) Number of Copies. Only the ~~An original and six copies~~ of the memorandum of costs, objections to costs, and briefs in support of or in opposition thereof shall be filed with the Clerk of the Supreme Court. No copies are required.

15. That Rule 41 be amended as follows:

Attorney Fees on Appeal.

(e) Number of Copies. ~~The An original and six copies~~ of the claim or memorandum for attorney fees, objections to attorney fees, and briefs in support of or in opposition thereto shall be filed with the Clerk of the Supreme Court. No copies are required.

16. That Rule 42 be amended as follows:

Petition for Rehearing.

(b) Briefs on the Petition. A brief or memorandum in support of the petition must be filed within 14 days of the filing date of the petition and shall be typewritten on letter size paper. If the appeal was expedited pursuant to Rule 12.2, the brief in support of the petition shall be filed with the petition or the petition will be summarily dismissed. ~~The An original and six (6) copies of the~~ petition and brief shall be filed with the Clerk of the Supreme Court. No copies are required.

IT IS FURTHER ORDERED, that this order and these amendments shall be effective immediately.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Appellate Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 24 day of January, 2019.

By Order of the Supreme Court

R. Burdick

Roger S. Burdick, Chief Justice

ATTEST:

M. Lehrman
for Clerk

I, Karel A. Lehrman, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
certify that the above is a true and correct copy of
the Order

entered in the above entitled cause and now on
record in my office.

WITNESS my hand and the Seal of this Court. 2-24-19

KAREL A. LEHRMAN

M. Lehrman Clerk
By: M. Lehrman Chief Deputy