

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**IN RE: AMENDMENTS TO TENNESSEE RULES
 OF APPELLATE PROCEDURE**

Filed: December 29, 2005

ORDER

The Court adopts the attached amendments effective July 1, 2006, subject to approval by resolutions of the General Assembly. The rules amended are as follows:

RULE 7(a) STAY OR INJUNCTION PENDING APPEAL;
RULE 18 APPEALS BY POOR PERSONS.

FOR THE COURT:

WILLIAM M. BARKER
CHIEF JUSTICE

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 7

STAY OR INJUNCTION PENDING APPEAL

[Add the following as the new third paragraph to Rule 7(a).]

A party may appeal the Court of Appeals' decision on a motion for review by filing a motion for review in the Supreme Court within 15 days of filing of the Court of Appeals' order. The motion shall be accompanied by a copy of the trial court's order, the motion filed in the Court of Appeals, the order of the Court of Appeals, and all other documents (including transcripts) filed in the Court of Appeals on the issue of stay or injunction pending appeal. Review shall be had without briefs after reasonable notice to the other parties, who shall be served with a copy of the motion. The other parties may file an answer within 10 days of the filing of the motion in the Supreme Court. No oral argument shall be permitted except when ordered on the court's own motion. Review shall be completed promptly.

2006 Advisory Commission Comment

A third paragraph is added to Rule 7(a) to provide a procedure for the Supreme Court's review of the Court of Appeals' decision on a Rule 7 motion.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 18

APPEALS BY POOR PERSONS

(d) Motion in an Appellate Court for Leave to Proceed as a Poor Person on Appeal. If a party to an action on appeal is unable to bear the expenses of the appeal due to poverty, but that party has not sought leave from the trial court to proceed on appeal as a poor person, or that party becomes indigent during the appeal, the party may seek leave from the appellate court to proceed on appeal as a poor person. A motion for leave to proceed on appeal as a poor person filed in the appellate court shall be accompanied by a Uniform Affidavit of Indigency as set forth in Supreme Court Rule 13 (criminal cases) or by a Uniform Civil Affidavit of Indigency as set forth in Supreme Court Rule 29 (civil cases). If leave to proceed as a poor person is denied by an intermediate appellate court, the appellate court shall state in writing the reasons for the denial.

(e) Subsequent Proceedings on Denial by an Intermediate Appellate Court of Leave to Proceed as a Poor Person on Appeal. If leave to proceed as a poor person is denied by an intermediate appellate court, or an intermediate appellate court finds that the party is not entitled so to proceed, the clerk of the appellate courts shall forthwith serve notice of such action. A motion for leave to proceed as a poor person may thereafter be filed in the Supreme Court within 15 days after service of notice of the action of the intermediate appellate court. The motion shall be accompanied by copies of any papers filed in the trial and appellate courts seeking leave to proceed as a poor person and by a copy of the statement of reasons given by the trial and intermediate appellate courts for their actions.

2006 Advisory Commission Comment

Prior to this amendment, the rule authorized trial courts to determine whether a party should be permitted to proceed on appeal as a poor person, but the Rule did not expressly

authorize an appellate court to do so. In some cases, however, the issue of a party's financial condition does not arise until after the notice of appeal is filed. New paragraphs (d) and (e) give the appellate courts the authority to determine whether an appealing party should be permitted to proceed on appeal as a poor person; it should be noted, however, that the new paragraphs do not preclude the appellate court from remanding the matter to the trial court for a hearing on the issue, if necessary. The term "poor person" as used in the Rule is intended to refer to persons who are indigent for purposes of Rule 13 (appointment, qualifications and compensation of counsel for indigent defendants), or Rule 29 (uniform civil affidavit of indigency), Tenn. S. Ct. R., or any other provision of law.