

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered December 7, 2023.

(Deleted material is struck through, and new material is underscored.)

Effective immediately, Illinois Supreme Court Rules 46, 315, 604, 605, and 606 are amended, as follows.

Amended Rule 46

Rule 46. Official Record of Court Proceedings

(a) Taking of the Record. The record of court proceedings may be taken by stenographic means or by an electronic recording system, including video conferencing services, approved by the Supreme Court. All transcripts prepared as the official record of court proceedings shall be prepared pursuant to applicable supreme court rules.

(b) Security of the Record. The confidentiality of court proceedings and the retention and safekeeping of notes and electronic recordings shall be maintained consistent with standards established by the Supreme Court through its Administrative Office.

(c) Court Reporting Personnel. For purposes of this rule and other supreme court rules regarding the official record, “court reporting personnel” shall include:

- (1) court reporters as defined by the Court Reporters Act (705 ILCS 70/1);
- (2) court personnel who have fulfilled the training and certification standards promulgated by the Supreme Court and consistent with paragraph (d) of this rule; and
- (3) certified shorthand reporters hired through an agency or as an independent contractor by a private party or parties to take a stenographic record in court proceedings.

(d) Electronic Recording of Court Proceedings.

(1) The Supreme Court shall provide for and prescribe the types of electronic recording equipment and video conferencing services that may be used in the circuit courts. Those jurisdictions with electronic recording systems installed are required to properly utilize and staff such equipment in order to produce a reliable verbatim record of the proceedings.

(2) Court reporting personnel, including court reporters as defined by the Court Reporters Act (705 ILCS 70/1), must successfully complete training and certification designed to qualify them to operate electronic recording equipment, prepare transcripts from such proceedings, and certify the record on appeal. Such training and certification shall be consistent with standards established by the Supreme Court, through its Administrative Office.

(3) Electronic recordings of proceedings shall remain under the control of the court having custody of them. The chief judges shall provide for the storage and safekeeping of such

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recordings consistent with the standards referenced in paragraph (b) of this rule.

(4) The Administrative Office shall monitor the operation of electronic recording equipment, the security of the electronic recordings, and the training of court reporting personnel to assure that each county is in compliance with this rule.

(e) Pretrial Release. ~~Pretrial Fairness Act.~~ If a hearing under article 110 of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-1 et seq.) ~~the Pretrial Fairness Act~~ is conducted by means of two-way audiovisual communications or other electronic recording system pursuant to this rule, the audio or audiovisual recording shall be used as the report of proceedings for the purpose of appeals where specifically authorized by Illinois Supreme Court Rule or order.

Adopted December 13, 2005, effective immediately; amended May 22, 2020, eff. immediately; amended Dec. 23, 2022, eff. Sept. 18, 2023; amended Dec. 7, 2023, eff. immediately.

Amended Rule 315

Rule 315. Leave to Appeal From the Appellate Court to the Supreme Court

(a) Petition for Leave to Appeal; Grounds. Except as provided below for appeals from the Illinois Workers' Compensation Commission division of the Appellate Court, a petition for leave to appeal to the Supreme Court from the Appellate Court may be filed by any party, including the State, in any case not appealable from the Appellate Court as a matter of right. Whether such a petition will be granted is a matter of sound judicial discretion. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of reasons which will be considered: the general importance of the question presented; the existence of a conflict between the decision sought to be reviewed and a decision of the Supreme Court, or of another division of the Appellate Court; the need for the exercise of the Supreme Court's supervisory authority; and the final or interlocutory character of the judgment sought to be reviewed.

No petition for leave to appeal from a judgment of the five-judge panel of the Appellate Court designated to hear and decide cases involving review of Illinois Workers' Compensation Commission orders shall be filed, unless two or more judges of that panel join in a statement that the case in question involves a substantial question which warrants consideration by the Supreme Court. A motion asking that such a statement be filed may be filed as a prayer for alternative relief in a petition for rehearing, but must, in any event, be filed within the time allowed for filing a petition for rehearing.

(b) Time.

(1) Published Decisions. Unless a timely petition for rehearing is filed in the Appellate Court, a party seeking leave to appeal must file the petition for leave in the Supreme Court within 35 days after the entry of such judgment. If a timely petition for rehearing is filed, the party seeking review must file the petition for leave to appeal within 35 days after the entry of the order denying the petition for rehearing or, if a modified decision is issued upon denial of rehearing, from the entry of the modified decision. If a petition is granted, the petition for leave to appeal must be filed within 35 days of the entry of the judgment on rehearing. The Supreme Court, or a judge thereof, on motion, may extend the time for petitioning for leave to appeal,

but such motions are not favored and will be allowed only in the most extreme and compelling circumstances. The filing of a corrected opinion by the Appellate Court where no petition for rehearing was filed does not extend the time for a party to file a petition for leave to appeal.

(2) **Rule 23 Orders.** The time for filing a petition for leave to appeal a Rule 23 order shall be the same as for published opinions unless a timely motion to publish has been filed in the Appellate Court pursuant to Rule 23(f). If the Appellate Court grants the motion to publish, the party seeking review must file the petition for leave to appeal within 35 days after the filing of the opinion. If the Appellate Court denies the motion to publish, the party seeking review must file the petition for leave to appeal within 35 days after entry of the order denying the motion to publish. The filing of a Rule 23(f) publication motion shall not invalidate a previously filed petition for leave to appeal. The clerk of the Appellate Court shall promptly transmit notice of the filing of a Rule 23(f) publication motion and its disposition to the clerk of the Supreme Court in any case in which a petition for leave to appeal is filed, irrespective of whether the motion to publish precedes or follows the filing of a petition for leave to appeal.

(c) Contents. The petition for leave to appeal shall contain, in the following order:

(1) a prayer for leave to appeal;

(2) a statement of the date upon which the judgment was entered; whether a petition for rehearing was filed and, if so, the date of the denial of the petition or the date of the judgment on rehearing;

(3) a statement of the points relied upon in asking the Supreme Court to review the judgment of the Appellate Court;

(4) a fair and accurate statement of the facts, which shall contain the facts necessary to an understanding of the case, without argument or comment, with appropriate references to the pages of the record on appeal, in the format as set forth in the Standards and Requirements for Electronic Filing the Record on Appeal.

(5) a short argument (including appropriate authorities) stating why review by the Supreme Court is warranted and why the decision of the Appellate Court should be reversed or modified; and

(6) an appendix which shall include the opinion or order of the Appellate Court and any documents from the record which are deemed necessary to the consideration of the petition.

(d) Format; Service; Filing. The petition shall otherwise be prepared, served, and filed in accordance with the requirements for briefs as set forth in Rules 341 through 343, except that it shall be limited to 20 pages or, alternatively, 6,000 words, excluding any items identified as excluded from the length limitation in Rule 341(b)(1).

(e) Records. The clerk of the Supreme Court shall transmit notice of the filing of the petition to the clerk of the Appellate Court, who, upon request of the clerk of the Supreme Court made either before or after the petition is acted upon, shall transmit to the clerk of the Supreme Court the record on appeal that was filed in the Appellate Court and the certified Appellate Court record.

(f) Answer. The respondent need not but may file an answer, with proof of service, within 21 days after the expiration of the time for the filing of the petition, or within such further time as the Supreme Court or a judge thereof may grant. An answer shall set forth reasons why the

petition should not be granted, and shall conform, to the extent appropriate, to the form specified in this rule for the petition, omitting the items (1), (2), (3), (4) and (6) set forth in paragraph (c) except to the extent that correction of the petition is considered necessary. The answer shall be prepared, served, and filed in accordance with the requirements for briefs except that it shall be limited to 20 pages or, alternatively, 6,000 words, excluding any items identified as excluded from the length limitation in Rule 341(b)(1). No reply to the answer shall be filed. If the respondent does not file an answer or otherwise appear but wants notice of the disposition of the petition for leave to appeal, a request for such notice should be submitted to the clerk in Springfield.

(g) Transmittal of Trial Court Record if Petition Is Granted. If the petition is granted, upon notice from the clerk of the Supreme Court the clerk of the Appellate Court shall transmit to the Supreme Court the record on appeal that was filed in the Appellate Court and the Appellate Court record, unless already filed in the Supreme Court.

(h) Briefs Other Than in Child Custody, and Delinquent Minor, and Pretrial Release Cases. If leave to appeal is allowed, the appellant may allow his or her petition for leave to appeal to stand as the brief of appellant, or may file a brief. Within 14 days after the date on which leave to appeal was allowed, appellant shall serve on all counsel of record a notice of election to allow the petition for leave to appeal to stand as the brief of appellant, or to file an additional brief, and within the same time shall file the notice with the clerk of the Supreme Court. If appellant elects to allow the petition for leave to appeal to stand as his or her brief, appellant shall file with the notice a complete table of contents, with page references, of the record on appeal and a statement of the applicable standard of review for each issue, with citation to authority, in accordance with Rule 341(h)(3). If appellant elects to file an additional brief, it shall be filed within 35 days from the date on which leave to appeal was allowed. Motions to extend the time for filing an additional brief are not favored and will be allowed only in the most extreme and compelling circumstances.

The appellee may allow his or her answer to the petition for leave to appeal to stand as the brief of appellee, or may file a brief. If the appellant has elected to allow the petition for leave to appeal to stand as the brief of appellant, within 14 days after the due date of appellant's notice the appellee shall serve on all counsel of record a notice of election to let the answer stand as the brief of appellee, or to file a brief, and within the same time shall file the notice with the clerk of the Supreme Court. If the appellee elects to file a brief, such brief shall be filed within 35 days of the due date of appellant's notice of election to let the petition for leave to appeal stand as the brief of appellant.

If the appellant has elected to file an additional brief, within 14 days after the due date of appellant's brief the appellee shall serve on all counsel of record a notice of election to let his or her answer stand as the brief of appellee, or to file an additional brief, and within the same time shall file a copy of the notice with the clerk of the Supreme Court. If appellee elects to file an additional brief it shall be filed within 35 days of the due date of appellant's brief.

If an appellee files a brief and that brief does not contain arguments in support of cross-relief, the appellant may file a reply brief within 14 days of the due date of appellee's brief. If the brief of appellee contains arguments in support of cross-relief, the appellant may file a combined reply brief and response to the appellee's request for cross-relief within 35 days of the due date of appellee's brief, and the appellee may file a reply brief confined strictly to the appellant's

arguments in opposition to the appellee's request for cross-relief within 14 days of the due date of appellant's combined brief. If the brief of the appellee contains arguments in support of cross-relief, the cover of the appellee's brief shall be captioned: "Brief of Appellee. Cross-Relief Requested," the cover of the appellant's combined reply brief and response to the appellee's request for cross-relief shall be captioned "Appellant's Reply Brief and Response to Request for Cross-Relief," and the cover of the appellee's reply in support of its request for cross-relief shall be captioned "Appellee's Reply in Support of Request for Cross-Relief."

Briefs, pleadings and other documents filed with the Supreme Court in cases covered by this rule shall, to the extent appropriate, conform to Rules 341 through 343. If the brief of appellee contains arguments in support of cross-relief, then the length limitations for cross-appeals in Rule 341(b)(1) shall apply to the briefing in the case.

In cases involving more than one appellant or appellee, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any appellant or appellee may adopt by reference any part of the brief of another. Parties may similarly join in reply briefs.

(i) Child custody cases.

(1) Special caption. A petition for leave to appeal in a child custody or allocation of parental responsibilities or relocation of emancipated minors case, as defined in Rule 311, and any notice, motion, or pleading related thereto, shall include the following statement in bold type on the top of the front page: **THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 311(a).**

(2) Briefs. The requirements of paragraph (h) above shall apply in all respects, except:

(a) the appellant's notice of election shall be due within 7 days after the date on which the leave to appeal was allowed;

(b) if the appellant elects to file an additional brief, it shall be filed within 21 days from the date on which leave to appeal was allowed;

(c) if the appellant has elected to allow the petition for leave to appeal to stand as the brief of the appellant, the appellee's notice of election is due within 7 days of the due date of appellant's notice of election, or if the appellant has elected to file an additional brief, the appellee's notice of election is due within 7 days after the due date of appellant's brief;

(d) if the appellee elects to file an additional brief, it shall be filed within 21 days of the due date of appellant's notice of election to let the petition for leave to appeal stand as the brief of the appellant, or if the appellant elected to file an additional brief, the appellee's additional brief shall be filed within 21 days of the due date of appellant's brief;

(e) if the appellee has elected to file an additional brief, the appellant's reply brief shall be due within 7 days of the due date of the appellee's brief; and

(f) if cross-relief was requested, appellee's reply brief shall be due within 7 days of the due date of the appellant's reply brief.

(3) Extensions of Time Disfavored. Requests for extensions of time are disfavored and shall be granted only for compelling circumstances.

(j) Delinquent minor cases.

(1) Special Caption. A petition for leave to appeal in a delinquent minor case, as provided for in Rule 660A, and any notice, motion, or pleadings related thereto, shall include the following statement in bold type on the top of the front page: **THIS APPEAL INVOLVES A DELINQUENT MINOR PROCEEDING UNDER THE JUVENILE COURT ACT.**

(2) Briefs. The requirements of paragraph (h) above shall apply in all respects, except:

(a) the appellant's notice of election shall be due within 7 days after the date on which the leave to appeal was allowed;

(b) if the appellant elects to file an additional brief, it shall be filed within 28 days from the date on which leave to appeal was allowed;

(c) if the appellant has elected to allow the petition for leave to appeal to stand as the brief of the appellant, the appellee's notice of election is due within 7 days of the due date of the appellant's notice of election, or if the appellant has elected to file an additional brief, the appellee's notice of election is due within 7 days after the due date of the appellant's brief;

(d) if the appellee elects to file an additional brief, it shall be filed within 28 days of the due date of the appellant's notice of election to let the petition for leave to appeal stand as brief of appellant, or if the appellant elected to file an additional brief, the appellee's additional brief shall be filed within 28 days of the due date of the appellant's brief;

(e) if the appellee has elected to file an additional brief, the appellant's reply brief shall be due within 7 days of the due date of the appellee's brief; and

(f) if cross-relief was requested, the appellee's reply brief shall be due within 7 days of the due date of the appellant's reply brief.

(3) Extensions of Time Disfavored. Requests for extensions of time are disfavored and shall be granted only for compelling circumstances.

(k) Pretrial release cases.

(1) Special caption. A petition for leave to appeal in a pretrial release case under article 110 of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-1 et seq.), and any notice, motion, or pleading related thereto, shall include the following statement in bold type on the top of the front page: **THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 604(h).**

(2) Briefs. The requirements of paragraph (h) above shall apply in all respects, except:

(a) the appellant's notice of election shall be due within 7 days after the date on which the leave to appeal was allowed;

(b) if the appellant elects to file an additional brief, it shall be filed within 21 days from the date on which leave to appeal was allowed;

(c) if the appellant has elected to allow the petition for leave to appeal to stand as the brief of the appellant, the appellee's notice of election is due within 7 days of the due date of appellant's notice of election, or if the appellant has elected to file an additional brief, the appellee's notice of election is due within 7 days after the due date of appellant's brief;

(d) if the appellee elects to file an additional brief, it shall be filed within 21 days of the due date of appellant's notice of election to let the petition for leave to appeal stand as the

brief of the appellant, or if the appellant elected to file an additional brief, the appellee's additional brief shall be filed within 21 days of the due date of appellant's brief;

(e) if the appellee has elected to file an additional brief, the appellant's reply brief shall be due within 7 days of the due date of the appellee's brief; and

(f) if cross-relief was requested, appellee's reply brief shall be due within 7 days of the due date of the appellant's reply brief.

(3) Extensions of Time Disfavored. Requests for extensions of time are disfavored and shall be granted only for compelling circumstances.

(l) Oral Argument. Oral argument may be requested as provided in Rule 352(a).

Amended effective November 30, 1972; amended effective September 1, 1974; amended October 1, 1976, effective November 15, 1976; amended September 29, 1978, effective November 1, 1978; amended July 30, 1979, effective October 15, 1979; amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982; amended February 1, 1984, effective February 1, 1984, with Justice Moran dissenting (see *Yellow Cab Co. v. Jones* (1985), 108 Ill. 2d 330, 342); amended April 27, 1984, effective July 1, 1984; amended February 21, 1986, effective August 1, 1986; amended February 27, 1987, effective April 1, 1987; amended April 7, 1993, effective June 1, 1993; amended December 17, 1993, effective February 1, 1994; amended September 23, 1996, effective immediately; amended September 22, 1997, effective October 1, 1997; amended March 19, 2003, effective May 1, 2003; amended December 5, 2003, effective immediately; amended October 15, 2004, effective January 1, 2005; amended February 10, 2006, effective July 1, 2006; amended May 24, 2006, effective September 1, 2006; amended August 15, 2006, effective immediately; amended October 2, 2006, effective immediately; amended September 25, 2007, effective October 15, 2007; amended February 26, 2010, effective immediately; amended Mar. 15, 2013, eff. May 1, 2013; amended May 23, 2013, eff. July 1, 2013; amended Dec. 11, 2014, eff. Jan. 1, 2015; amended Mar. 15, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended June 28, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017; amended Mar. 21, 2018, eff. Apr. 1, 2018; amended Apr. 3, 2018, eff. July 1, 2018; amended Sept. 26, 2019, eff. Oct. 1, 2019; amended Sept. 30, 2020, eff. Oct. 1, 2020; amended Sept. 29, 2021, eff. Oct. 1, 2021; amended Dec. 7, 2023, eff. immediately.

Committee Comments
(February 10, 2006)

Paragraph (b) is amended to dispense with the requirement of filing an affidavit of intent to file a petition for leave to appeal or a certificate of intent to file a petition for leave to appeal. This amendment is consistent with the public policy of this state as evinced by the Code of Civil Procedure, which favors resolution on the merits: "This Act shall be liberally construed, to the end that controversies may be speedily and finally determined according to the substantive rights of the parties." 735 ILCS 5/1-106.

The amendment also addresses the concerns addressed in *A.J. Maggio Co. v. Willis*, 197 Ill. 2d 397 (2001), *Roth v. Illinois Farmers Insurance Co.*, 202 Ill. 2d 490 (2002), and *Wauconda Fire Prevention District v. Stonewall Orchards, LLP*, 214 Ill. 2d 417 (2005), all of which dealt with the rather unclear requirements of Rule 315, which had been amended in 1993 to require the filing of an affidavit of intent within 21 days in order to have 35 days in which to file a petition for leave to appeal.

Paragraph (b) is further amended to separate the provision on the time for filing a petition for leave to appeal, which remains in paragraph (b), from the provision on the content of the petition, which becomes a new paragraph (c). The subsequent paragraphs are relettered accordingly.

Paragraph (b) is also amended to allow a party that may not have sought Supreme Court review of an adverse disposition under Rule 23(b) or (c) the opportunity to seek review of that disposition after the Appellate Court grants a motion to publish it.

Amended Rule 604

Rule 604. Appeals from Certain Judgments and Orders

(a) Appeals by the State.

(1) *When State May Appeal.* In criminal cases the State may appeal only from an order or judgment the substantive effect of which results in dismissing a charge for any of the grounds enumerated in section 114-1 of the Code of Criminal Procedure of 1963; arresting judgment because of a defective indictment, information or complaint; quashing an arrest or search warrant; suppressing evidence; from an order imposing conditions of pretrial release; from an order denying a petition to deny pretrial release; or from an order denying a petition to revoke pretrial release.

(2) *Leave to Appeal by State.* The State may petition for leave to appeal under Rule 315(a).

(3) *Release of Defendant Pending Appeal.* A defendant shall not be held in jail or to bail during the pendency of an appeal by the State, or of a petition or appeal by the State under Rule 315(a), unless there are compelling reasons for his or her continued detention or being held to bail.

(4) *Time Appeal Pending Not Counted.* The time during which an appeal by the State is pending is not counted for the purpose of determining whether an accused is entitled to discharge under section 103-5 of the Code of Criminal Procedure of 1963.

(b) Appeals When Defendant Placed Under Supervision or Sentenced to Probation, Conditional Discharge or Periodic Imprisonment. A defendant who has been placed under supervision or found guilty and sentenced to probation or conditional discharge (see 730 ILCS 5/5-6-1 through 5-6-4), or to periodic imprisonment (see 730 ILCS 5/5-7-1 through 5-7-8), may appeal from the judgment and may seek review of the conditions of supervision, or of the finding of guilt or the conditions of the sentence, or both. He or she may also appeal from an order modifying the conditions of or revoking such an order or sentence.

(c) Appeals by Defendant Before Conviction From Bail Orders Entered Until the Effective Date of Public Act 101-652the Pretrial Fairness Act.

(1) *Appealability of Order With Respect to Bail.* Before conviction a defendant may appeal to the Appellate Court from an order setting, modifying, revoking, denying, or refusing to modify bail or the conditions thereof. As a prerequisite to appeal the defendant shall first present to the trial court a written motion for the relief to be sought on appeal. The motion shall be verified by the defendant and shall state the following:

(i) the defendant's financial condition;

- (ii) his or her residence addresses and employment history for the past 10 years;
- (iii) his or her occupation and the name and address of his or her employer, if he or she is employed, or his or her school, if he or she is in school;
- (iv) his or her family situation; and
- (v) any prior criminal record and any other relevant facts.

If the order is entered upon motion of the prosecution, the defendant's verified answer to the motion shall contain the foregoing information.

(2) *Procedure.* The appeal may be taken at any time before conviction by filing a verified motion for review in the Appellate Court. The motion for review shall be accompanied by a verified copy of the motion or answer filed in the trial court and shall state the following:

- (i) the court that entered the order;
- (ii) the date of the order;
- (iii) the crime or crimes charged;
- (iv) the amount and condition of bail;
- (v) the arguments supporting the motion; and
- (vi) the relief sought.

No brief shall be filed. The motion shall be served upon the opposing party. The State may promptly file an answer.

(3) *Disposition.* Upon receipt of the motion, the clerk shall immediately notify the opposing party by telephone of the filing of the motion, entering the date and time of the notification on the docket, and promptly thereafter present the motion to the court.

(4) *Report of Proceedings.* The court, on its own motion or on the motion of any party, may order court reporting personnel as defined in Rule 46 to file in the Appellate Court a report of all proceedings had in the trial court on the question of bail.

(5) *No Oral Argument.* No oral argument shall be permitted except when ordered on the court's own motion.

(d) Appeal by Defendant From a Judgment Entered Upon a Plea of Guilty. No appeal from a judgment entered upon a plea of guilty shall be taken unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to reconsider the sentence, if only the sentence is being challenged, or, if the plea is being challenged, a motion to withdraw the plea of guilty and vacate the judgment.

No appeal shall be taken upon a negotiated plea of guilty challenging the sentence as excessive unless the defendant, within 30 days of the imposition of sentence, files a motion to withdraw the plea of guilty and vacate the judgment. For purposes of this rule, a negotiated plea of guilty is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending.

The motion shall be in writing and shall state the grounds therefor. When the motion is based on facts that do not appear of record it shall be supported by affidavit unless the defendant is filing the motion *pro se* from a correctional institution, in which case the defendant may submit, in lieu

of an affidavit, a certification as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109). The motion shall be presented promptly to the trial judge by whom the defendant was sentenced, and if that judge is then not sitting in the court in which the judgment was entered, then to the chief judge of the circuit, or to such other judge as the chief judge shall designate. The trial court shall then determine whether the defendant is represented by counsel, and if the defendant is indigent and desires counsel, the trial court shall appoint counsel.

If the defendant is indigent, the trial court shall order a copy of the transcript as provided in Rule 402(e) be furnished the defendant without cost. The defendant's attorney shall file with the trial court a certificate stating that the attorney has consulted with the defendant either by phone, mail, electronic means or in person to ascertain defendant's contentions of error in the sentence and the entry of the plea of guilty, has examined the trial court file and both the report of proceedings of the plea of guilty and the report of proceedings in the sentencing hearing, and has made any amendments to the motion necessary for adequate presentation of any defects in those proceedings.

The motion shall be heard promptly, and if allowed, the trial court shall modify the sentence or vacate the judgment and permit the defendant to withdraw the plea of guilty and plead anew. If the motion is denied, a notice of appeal from the judgment and sentence shall be filed within the time allowed in Rule 606, measured from the date of entry of the order denying the motion. Upon appeal any issue not raised by the defendant in the motion to reconsider the sentence or withdraw the plea of guilty and vacate the judgment shall be deemed waived.

The certificate of counsel shall be prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article VI Forms Appendix.

(e) Appeal From an Order Finding Defendant Unfit to Stand Trial or Be Sentenced. The defendant or the State may appeal to the Appellate Court from an order holding the defendant unfit to stand trial or be sentenced.

(f) Appeal by Defendant on Grounds of Former Jeopardy. The defendant may appeal to the Appellate Court the denial of a motion to dismiss a criminal proceeding on grounds of former jeopardy.

(g) Appeal From an Order Granting a Motion to Disqualify Defense Counsel. The defendant may petition for leave to appeal to the Appellate Court from an order of the circuit court granting a motion to disqualify the attorney for the defendant based on a conflict of interest. The procedure for bringing interlocutory appeals pursuant to this subpart shall be the same as set forth in Supreme Court Rule 306(c).

(h) Appeals From Orders ~~Under the Pretrial Fairness Act~~ Imposing Conditions of Pretrial Release, Granting or Denying a Petition to Deny Pretrial Release, or Revoking or Refusing to Revoke Pretrial Release.

(1) *Orders Appealable.* An appeal may be taken to the Appellate Court from an interlocutory order of court entered under sections 110-5, 110-6, and 110-6.1 of the Code of Criminal Procedure of 1963~~Pretrial Fairness Act~~ as follows:

(i) by the State and by the defendant from an order imposing conditions of pretrial release;

(ii) by the defendant from an order revoking pretrial release or by the State from an order denying a petition to revoke pretrial release;

(iii) by the defendant from an order denying pretrial release; or

(iv) by the State from an order denying a petition to deny pretrial release.

(2) *Notice of Appeal; Time; Docketing Statement; Legal Memoranda; Service; Record; Fee.* Review shall be by Notice of Appeal filed in the circuit court within 14 days of the entry or denial of the order from which review is being sought. The Notice of Appeal shall describe the relief requested and the grounds for the relief requested. A docketing statement is not required to be filed by the appellant. The appellant may file, but is not required to file, a memorandum not exceeding 4500 words, within 21 days of filing of the Rule 328 supporting record. The response to the Notice of Appeal or appellant's memorandum may include a memorandum not to exceed 4500 words. The response shall be filed within 21 days of the time for filing the appellant's memorandum. The Notice of Appeal and any accompanying memoranda and response shall be filed in the Appellate Court, with proof of personal or e-mail service as provided in Rule 11. Replies and extensions of time will be allowed only by order of court for good cause shown. Within 30 days of the filing of the Notice of Appeal, the clerk of the circuit court shall also file:

(i) A Rule 328 supporting record, which shall include the Notice of Appeal, the order appealed from, and supporting documents or matters of record necessary to the appeal. The supporting record must be authenticated by the certificate of the clerk of the circuit court. If the defendant is represented by court-appointed counsel, the clerk of the reviewing court shall docket the appeal and accept documents for filing without the payment of fees. Any supplemental supporting record filed by the appellee must accompany the response and be authenticated according to Rule 328. Motions for extension of time are disfavored and will only be granted by order of court for good cause shown.

(3) *Report of Proceedings.* The court reporting personnel, as defined in Rule 46, shall certify and file a report of all proceedings on the questions of the conditions of pretrial release, pretrial release or pretrial detention, or revocation of pretrial release had in the circuit court with the clerk of circuit court within 21 days of the filing of the Notice of Appeal. When the proceedings were recorded by means of audiovisual communication or other electronic recording system that includes audio only, the court reporting personnel shall certify and file the recording as the report of proceedings for purposes of the appeal. If a court reporter transcribes the proceedings, nothing prohibits the transcriptions from also being filed with the clerk of the circuit court and a copy transmitted to a defendant whom the circuit court finds indigent. The clerk of the circuit court shall file the report of proceedings with the clerk of the reviewing court within 30 days of the filing of the Notice of Appeal.

(4) The clerk of the circuit court shall provide only one free copy of the report of proceedings to the indigent defendant.

(5) *Time for Decision; Oral Argument.* After the appellant has filed the Notice of Appeal, supporting record, and any memorandum and the time for filing any response and memorandum has expired, the Appellate Court shall consider and decide the appeal within 14 days, except the court may extend the deadline for good cause. Oral argument will not be heard,

except on the court's motion.

(6) *Jurisdiction of the Circuit Court.* The circuit court shall retain jurisdiction to proceed with the case during the pendency of any appeal from an order entered pursuant to sections 110-5, 110-6, and 110-6.1 of the Code of Criminal Procedure of 1963 ~~Pretrial Fairness Act~~.

Amended effective July 1, 1969; amended October 21, 1969, effective January 1, 1970; amended effective October 1, 1970, July 1, 1971, November 30, 1972, September 1, 1974, and July 1, 1975; amended February 19, 1982, effective April 1, 1982; amended June 15, 1982, effective July 1, 1982; amended August 9, 1983, effective October 1, 1983; amended April 1, 1992, effective August 1, 1992; amended October 5, 2000, effective November 1, 2000; amended February 1, 2005, effective immediately; amended December 13, 2005, effective immediately; amended February 10, 2006, effective July 1, 2006; amended Nov. 28, 2012, eff. Jan. 1, 2013; amended Feb. 6, 2013, eff. immediately; amended Dec. 11, 2014, eff. immediately; amended Dec. 3, 2015, eff. immediately; amended March 8, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended Dec. 23, 2022, eff. Sept. 18, 2023; amended Oct. 19, 2023, eff. immediately; amended Dec. 7, 2023, eff. immediately.

Committee Comment
(February 10, 2006)

Paragraph (g)

Paragraph (g) permits interlocutory review of certain attorney disqualification orders but does not change attorney disqualification law. The circuit court still has discretion to accept or reject a defendant's conflict of interest waiver, based on consideration of the interests identified in *People v. Ortega*, 209 Ill. 2d 354 (2004).

Committee Comments
(February 1, 2005)

The language in paragraph (a) allowing interlocutory appeals from orders decertifying a prosecution as a capital case or finding the defendant to be mentally retarded provides for the kinds of appeals contemplated by section 9-1(h-5) of the Criminal Code of 1961 (720 ILCS 5/9-1(h-5)) and section 114-15(f) of the Code of Criminal Procedure of 1963 (725 ILCS 5/114-15(f)).

Committee Comments
(Revised July 1, 1975)

Rule 604 was amended in September 1969 to add paragraph (b), dealing with appeals when probation has been granted. The 1969 amendment made what was formerly the entirety of Rule 604 into paragraph (a) and made an appropriate change in the title of the rule.

Paragraph (a)

Subparagraph (1) of paragraph (a) is former Rule 27(4), as it existed until January 1, 1967, with slight changes in language. (Rule 27(4) was derived from sections 121-1 and 120-2 of the

Code.) The rule makes it clear that an order dismissing an indictment, information or complaint for any of the grounds enumerated in section 114-1 of the Code is appealable.

Subparagraph (2) was added by amendment effective November 30, 1972.

Subparagraph (3) is former section 120-3(a) of the Code without change.

Subparagraph (4) is section 120-3(b) of the Code without change.

Paragraph (b)

Paragraph (b) is based upon sections 117-1(d) and 117-3(e) of the Code and is included in the rule in conformity with the policy of covering all appeals in the supreme court rules, as contemplated by the judicial article of the Constitution. (Ill. Const., art. VI, §16.) Paragraph (b) was amended in 1974 to cover conditional discharge and periodic imprisonment, new forms of sentence created by the adoption in Illinois of the Unified Code of Corrections.

Paragraph (c)

Paragraph (c) was added in 1971 to establish a procedure for appeals from orders in criminal cases concerning bail. Prior to its adoption, the only avenue of relief was an original petition to the Supreme Court for a writ of *habeas corpus*. Subparagraph (c)(2) was amended in 1974 to provide that the State may file an answer.

Paragraph (d)

Paragraph (d), added in 1975, provides that before a defendant may file a notice of appeal from a judgment entered on his plea of guilty, he must move in the trial court to vacate the judgment and withdraw his plea. Issues not raised in such a motion are waived. The time within which an appeal may be taken runs from the date on which the order disposing of the motion is entered. Provision is made for appointment of counsel and provision of a free transcript of the proceedings, which, under Rule 402(e), are required to be transcribed, filed, and made a part of the common law record.

Amended Rule 605

Rule 605. Advice to Defendant

(a) On Judgment and Sentence After Plea of Not Guilty.

(1) In all cases in which the defendant is found guilty and sentenced to imprisonment, probation or conditional discharge, periodic imprisonment, or to pay a fine, or in which a sentence of probation or conditional discharge has been revoked or the conditions attached to such a sentence have been modified, excluding cases in which the judgment and sentence are entered on a plea of guilty, the trial court shall, at the time of imposing sentence or modifying the conditions of the sentence, advise the defendant of the right to appeal, of the right to request the clerk to prepare and file a notice of appeal, and of the right, if indigent, to be furnished,

without cost to the defendant , with a transcript of the proceedings at the trial or hearing.

(2) In addition to the foregoing rights, in cases in which the defendant has been convicted of a felony or a Class A misdemeanor or convicted of a lesser offense and sentenced to imprisonment, periodic imprisonment, or to probation or conditional discharge conditioned upon periodic imprisonment, or in which a sentence of probation or conditional discharge has been revoked or the conditions attached to such a sentence have been modified and a sentence or condition of imprisonment or periodic imprisonment imposed, the trial court shall advise the defendant of the right to have counsel appointed on appeal.

(3) At the time of imposing sentence or modifying the conditions of the sentence, the trial court shall also advise the defendant as follows:

A. that the right to appeal the judgment of conviction, excluding the sentence imposed or modified, will be preserved only if a notice of appeal is filed in the trial court within thirty (30) days from the date on which sentence is imposed;

B. that prior to taking an appeal, if the defendant seeks to challenge the correctness of the sentence, or any aspect of the sentencing hearing, the defendant must file in the trial court within 30 days of the date on which sentence is imposed a written motion asking to have the trial court reconsider the sentence imposed, or consider any challenges to the sentencing hearing, setting forth in the motion all issues or claims of error regarding the sentence imposed or the sentencing hearing;

C. that any issue or claim of error regarding the sentence imposed or any aspect of the sentencing hearing not raised in the written motion shall be deemed waived; and

D. that in order to preserve the right to appeal following the disposition of the motion to reconsider sentence, or any challenges regarding the sentencing hearing, the defendant must file a notice of appeal in the trial court within 30 days from the entry of the order disposing of the defendant's motion to reconsider sentence or order disposing of any challenges to the sentencing hearing.

(b) On Judgment and Sentence Entered on a Plea of Guilty. In all cases in which a judgment is entered upon a plea of guilty, other than a negotiated plea of guilty, at the time of imposing sentence, the trial court shall advise the defendant substantially as follows:

(1) that the defendant has a right to appeal;

(2) that prior to taking an appeal the defendant must file in the trial court, within 30 days of the date on which sentence is imposed, a written motion asking to have the trial court reconsider the sentence or to have the judgment vacated and for leave to withdraw the plea of guilty, setting forth the grounds for the motion;

(3) that if the motion is allowed, the sentence will be modified or the plea of guilty, sentence and judgment will be vacated and a trial date will be set on the charges to which the plea of guilty was made;

(4) that upon the request of the State any charges that may have been dismissed as a part of a plea agreement will be reinstated and will also be set for trial;

(5) that if the defendant is indigent, a copy of the transcript of the proceedings at the time of the defendant's plea of guilty and sentence will be provided without cost to the defendant

and counsel will be appointed to assist the defendant with the preparation of the motions; and

(6) that in any appeal taken from the judgment on the plea of guilty any issue or claim of error not raised in the motion to reconsider the sentence or to vacate the judgment and to withdraw the plea of guilty shall be deemed waived.

For the purposes of this rule, a negotiated plea is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending.

(c) On Judgment and Sentence Entered on a Negotiated Plea of Guilty. In all cases in which a judgment is entered upon a negotiated plea of guilty, at the time of imposing sentence, the trial court shall advise the defendant substantially as follows:

(1) that the defendant has a right to appeal;

(2) that prior to taking an appeal the defendant must file in the trial court, within 30 days of the date on which sentence is imposed, a written motion asking to have the judgment vacated and for leave to withdraw the plea of guilty, setting forth the grounds for the motion;

(3) that if the motion is allowed, the plea of guilty, sentence and judgment will be vacated and a trial date will be set on the charges to which the plea of guilty was made;

(4) that upon the request of the State any charges that may have been dismissed as a part of a plea agreement will be reinstated and will also be set for trial;

(5) that if the defendant is indigent, a copy of the transcript of the proceedings at the time of the defendant's plea of guilty and sentence will be provided without cost to the defendant and counsel will be appointed to assist the defendant with the preparation of the motions; and

(6) that in any appeal taken from the judgment on the plea of guilty any issue or claim of error not raised in the motion to vacate the judgment and to withdraw the plea of guilty shall be deemed waived.

For the purposes of this rule, a negotiated plea is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending.

(d) On Entry of an Order ~~Under the Pretrial Fairness Act~~ Imposing Conditions of Pretrial Release, Granting a Petition to Deny Pretrial Release, or Revoking Pretrial Release. In all cases in which an order is issued imposing conditions of pretrial release, granting the State's petition to deny pretrial release, or revoking a defendant's pretrial release under article 110 of the Code of Criminal Procedure of 1963, the Pretrial Fairness Act, at the time of issuing the order, the circuit court shall advise the defendant substantially as follows:

(1) that the defendant has a right to appeal and, if indigent, to be furnished, without cost to the defendant, with a transcript or audiovisual communication or other electronic recording of the proceedings of the hearing;

(2) that the defendant, if indigent, has the right to have counsel appointed on appeal; and

(3) that the right to appeal the order will be preserved only if a Notice of Appeal under

Rule 604(h) is filed in the circuit court within 14 days from the date on which the order is entered.

Amended June 22, 1967, effective June 23, 1967; amended June 26, 1970, effective September 1, 1970; amended effective July 1, 1971, September 1, 1974, and July 1, 1975; amended April 1, 1992, effective August 1, 1992; amended October 5, 2000, effective November 1, 2000; amended October 1, 2001, effective immediately; amended Dec. 23, 2022, eff. Sept. 18, 2023; amended Dec. 7, 2023, eff. immediately.

Committee Comments

(Revised July 1, 1975)

This rule is derived from former Rule 27(6), as it existed before 1967, which in turn was derived from section 121-4(c) of the Code of Criminal Procedure. In 1967 the requirement that the stenographic transcript of the court's advice to the defendant and the defendant's answers be filed as a part of the common-law record was transferred to Rule 401, and the last sentence of the former rule was transferred to Rule 606(a).

This rule was amended in June, 1970, to add the last sentence, which requires the trial court to advise the defendant of the time within which his notice of appeal must be filed in order to preserve his right to appeal. See Rule 651(b) for a comparable provision.

The 1971 amendments remove the requirement that the court advise of their various rights defendants who plead guilty. They also extended the requirement that the advice be given in all cases, including misdemeanor cases, in which the defendant was convicted of an offense punishable by imprisonment for more than six months. In thus extending the requirement these amendments conformed the rule to the provisions of Rule 607, as amended the same year, dealing with the rights of indigents to appointed counsel and a report of proceedings. (See Committee Comments to that rule.) In 1974, Rule 607 was again amended to provide for a free transcript in all cases in which the defendant has been convicted and sentenced. Under the amended rule, however, the right to appointment of counsel is limited to cases in which the offense was a felony or a Class A misdemeanor, or in which the sentence involves some imprisonment, whether imposed as a sentence or as a condition to a sentence of probation or conditional discharge. This rule was again amended to conform its provisions with those of Rule 607. The language of both rules was changed to conform with the language of the Unified Code of Corrections.

In 1975, Rule 604(d) was added to provide that before appealing a judgment and sentence entered on a plea of guilty, the defendant must move in the trial court for vacation of the judgment and to withdraw the plea of guilty. Rule 605 was amended to designate the matter then contained in the rule as paragraph (a), and to add new paragraph (b), providing that on imposition of sentence the defendant shall be advised of the requirements of Rule 604(d).

Amended Rule 606

Rule 606. Perfection of Appeal.

(a) How Perfected. Appeals shall be perfected by filing a notice of appeal with the clerk of

the trial court. The notice may be signed by the appellant or his attorney. Except as provided in Rule 604(h), if the defendant requests in open court at the time he or she is advised of the right to appeal or later in writing, the clerk of the trial court shall prepare, sign, and file forthwith a notice of appeal for the defendant. No step in the perfection of the appeal other than the filing of the notice of appeal is jurisdictional.

(b) Time. Except as provided in Rule 604(d) and 604(h), the notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from or if a motion directed against the judgment is timely filed, within 30 days after the entry of the order disposing of the motion.

When a timely posttrial or postsentencing motion directed against the judgment has been filed by counsel or by defendant, if not represented by counsel, any notice of appeal filed before the entry of the order disposing of all pending postjudgment motions shall have no effect and shall be stricken by the trial court.

Upon striking the notice of appeal, the trial court shall forward to the appellate court within 5 days a copy of the order striking the notice of appeal, showing by whom it was filed and the date on which it was filed. This rule applies whether the timely postjudgment motion was filed before or after the date on which the notice of appeal was filed.

A new notice of appeal must be filed within 30 days following the entry of the order disposing of all timely postjudgment motions. Within 5 days of its being so filed a copy of the notice of appeal or an amendment of the notice of appeal shall be transmitted by the clerk of the circuit court to the clerk of the court to which the appeal is taken. Except as provided in paragraph (c) below, and in Rule 604(d), no appeal may be taken from a trial court to a reviewing court after the expiration of 30 days from the entry of the order or judgment from which the appeal is taken. The clerk of the appellate court shall notify any party whose appeal has been dismissed under this rule.

(c) Extension of Time in Certain Circumstances. Except as provided in Rule 604(h), on motion supported by a showing of reasonable excuse for failing to file a notice of appeal on time filed in the reviewing court within 30 days of the expiration of the time for filing the notice of appeal, or on motion supported by a showing by affidavit that there is merit to the appeal and that the failure to file a notice of appeal on time was not due to appellant's culpable negligence, filed in the reviewing court within six months of the expiration of the time for filing the notice of appeal, in either case accompanied by the proposed notice of appeal, the reviewing court may grant leave to appeal and order the clerk to transmit the notice of appeal to the trial court for filing. However, when the appellant is filing the motion *pro se* from a correctional institution, the appellant may submit, in lieu of the affidavit referred to herein, a certification as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109).

(d) Forms of Notice of Appeal. The notices of appeal under article 110 of the Code of Criminal Procedure of 1963 ~~the Pretrial Fairness Act~~ when the defendant is the appellant or the State is the appellant shall be prepared by using, or substantially adopting the appearance and content of, the forms provided in the Article VI Forms Appendix. In all other cases, the notice of appeal shall be prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article VI Forms Appendix. Except as provided in Rule 604(h), the notice of appeal may be amended as provided in Rule 303(b)(5).

(e) Notice of Appeal to be Sent by Clerk.

(1) *When Defendant Is Appellant and Action Is Prosecuted by the State.* When the defendant is the appellant and the action was prosecuted by the State, the clerk shall send the notice of appeal to the State's Attorney of the county in which the judgment was entered.

(2) *When Defendant Is Appellant and the Action Is Prosecuted by a Governmental Entity Other Than the State.* If the defendant is the appellant and the action was prosecuted by a governmental entity other than the State for the violation of an ordinance, the notice of appeal shall be sent to the chief legal officer of the entity (e.g., corporation counsel, city attorney), or if his name and address do not appear of record, then to the chief administrative officer of the entity at his official address.

(3) *When the Prosecuting Entity Is the Appellant.* When the State or other prosecuting entity is the appellant, the notice of appeal shall be sent to the defendant and to his counsel.

(f) Docketing. Upon receipt of the notice of appeal transmitted to the reviewing court pursuant to paragraph (a) of this rule, or the entry of an order granting a motion for leave to appeal under paragraph (c) of this rule, the clerk of the reviewing court shall enter the appeal upon the docket.

(g) Docketing Statement; Filing Fee. Within 14 days after the filing of the notice of appeal and pursuant to notice to the appellee's attorney, except as provided in Rule 604(h), the party filing the notice of appeal shall file with the clerk of the reviewing court a docketing statement, together with proof of service thereof, and the filing fee as required by Rule 313. The docketing statement shall be prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article VI Forms Appendix.

Amended October 21, 1969, effective January 1, 1970; amended effective July 1, 1971, July 1, 1975, and February 17, 1977; amended July 15, 1979, effective October 15, 1979; amended April 27, 1984, effective July 1, 1984; amended August 27, 1999, effective immediately; amended October 22, 1999, effective December 1, 1999; amended December 13, 2005, effective immediately; amended July 27, 2006, effective September 1, 2006; amended March 20, 2009, effective immediately; amended Dec. 12, 2012, eff. Jan. 1, 2013; amended Feb. 6, 2013, eff. immediately; amended Dec. 11, 2014, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended Mar. 12, 2021, eff. immediately; amended Dec. 23, 2022, eff. Sept. 18, 2023; amended Oct. 19, 2023, eff. immediately; amended Dec. 7, 2023, eff. immediately.