

**IN THE SUPREME COURT OF THE STATE OF ALASKA**  
**ORDER NO. 1973**

Rescinding Appellate Rule 512;  
Amending Appellate Rules 206,  
207, and 507 to clarify when an  
appellate decision takes effect  
and jurisdiction returns to the trial  
court;

Amending Appellate Rule 212(c)  
concerning the substantive  
requirements of a brief;

Amending Appellate Rule 215(f)  
concerning a sentencing appeal  
record; and

Amending Appellate Rule 604  
concerning return of the record in  
superior court appeals.

**IT IS ORDERED:**

1. Appellate Rule 512 is rescinded.

~~**Rule 512. Record and Other Papers after Final  
Disposition.**~~

~~(a) (1) Unless the court otherwise orders, the clerk shall return  
the original record to the clerk of the trial courts on the day  
specified in this subsection.~~

~~(2) In a case decided by the court of appeals, the record shall be  
returned:~~

~~—— [a] on the day after the time for filing a petition for hearing  
expires, if no timely petition for hearing is filed;~~

~~—— [b] on the day after the petition for hearing is denied, if a  
timely petition for hearing is denied; or~~

~~\_\_\_\_\_ [c] as provided in paragraph (3), if a petition for hearing is granted.~~

~~(3) In a case decided by the supreme court, the record shall be returned:~~

~~\_\_\_\_\_ [a] on the day after the time for filing a petition for rehearing expires, if no timely petition for rehearing is filed; or~~

~~\_\_\_\_\_ [b] on the day after the supreme court disposes of the case on rehearing, if a timely petition for rehearing is filed.~~

~~(b) All documents filed with the appellate courts shall be retained by the clerk subject to Administrative Rule 37.~~

2. Appellate Rule 206 is amended to read as follows:

**Rule 206. Stay of Execution and Release Pending Appeal in Criminal Cases.**

\* \* \* \*

(c) The decision of the court of appeals on any application under this rule is a “final decision” within the meaning of Rule 302, governing when petitions for hearing are permitted. The decision of the court of appeals concerning release pending appeal takes effect on the day it is issued, notwithstanding the filing of a petition for hearing in the supreme court.

3. Appellate Rule 207 is amended to read as follows:

**Rule 207. Appeals Relating to Release Prior to Judgment.**

An appeal authorized by AS 12.30.030(a), relating to the release of a criminal defendant prior to the entry of final judgment, shall be determined promptly. The appeal shall take the form of a motion and shall comply with Rules 206(b) and 503. The appellee may respond as provided in Rule 503(d). The court of

appeals or a judge thereof may order the release of the appellant pending such an appeal. The decision of the court of appeals on such an appeal is a “final decision” within the meaning of Rule 302, governing when petitions for hearing are permitted. The decision of the court of appeals concerning release pending final judgment takes effect on the day it is issued, notwithstanding the filing of a petition for hearing in the supreme court.

4. Appellate Rule 212(c) is amended to read as follows:

**Rule 212. Briefs.**

\* \* \* \*

(c) **Substantive Requirements.**

(1) *Brief of Appellant.* ~~The brief of the appellant's brief~~ shall contain the following items under appropriate headings. The items shall be presented and in the order here indicated, except the statement of the case may be divided so that the description of the lower court proceedings relevant to a particular issue is paired with the arguments pertaining to that issue:

(A) A table of contents, including the titles and subtitles of all arguments, with page references.

(B) A table of cases alphabetically arranged, statutes, and other authorities cited, with references to the pages of the brief where they are cited.

(C) The constitutional provisions, statutes, court rules, ordinances, and regulations principally relied upon, set out in full verbatim or in their pertinent part provisions appropriately summarized.

(D) A jurisdictional statement of the date ~~on which~~ judgment was entered, whether the judgment is final and disposes of all claims by all parties or whether it is a partial final judgment entered under Civil Rule 54(b), and of legal authority of the appellate court to consider the appeal.

(E) A list of all parties to the case, without using “et al.,” or any similar indication, unless the caption of the case on the cover of the brief contains the names of all parties. This list may be contained in a footnote.

(F) A statement of the issues presented for review. In cases ~~of involving a~~ cross-appeal, the cross-appellant may present a statement of the issues presented for review that which would require determination if the case is to be reversed and remanded for further proceedings in the trial court. In the event that the decision is affirmed on the appeal, such issues on the cross-appeal may be deemed waived by the appellate court.

(G) A statement of the case, which shall provide a brief description of the facts of the case and the trial court proceedings pertinent to the issues presented on appeal. a concise statement of the course of proceedings in, and the decision of, the trial court. Appellant shall state the facts relevant to each issue, with references to the record as required by paragraph (c)(8), in this section or in the appropriate argument sections. For each issue, other than those concerning the sufficiency of the evidence, the statement of the case must explain whether, and if so, when and how, that issue was raised and argued in the lower court. For each issue, the statement of the case must identify whether, and if so, when and how, the lower court ruled on that issue. All assertions in the statement of

the case must be supported by references to the record as required by paragraph (c)(8).

~~(H) A discussion of the applicable standard of review. (If the brief concerns several issues with different standards of review, the discussion of each issue should be preceded by a discussion of the standard of review applicable to that issue).~~

(H)(I) An argument section, which shall contain explain the contentions of the appellant with respect to the issues presented on appeal, and the reasons therefor legal and factual support for those contentions, with citations to the authorities, statutes, and parts of the record relied on. References to the record shall conform to the requirements of paragraph (c)(8).

For each issue presented, the party must identify the standard of review governing the appellate court's consideration of that issue. For any issue not raised or ruled on in the lower court, the appropriate argument section must address the applicability of the plain error doctrine. The section may be preceded by a summary.

Each major contention shall be preceded by a heading indicating the subject matter. ~~References to the record shall conform to the requirements of paragraph (c)(8).~~ The argument section may be preceded by a summary.

(I)(J) A short conclusion stating the precise relief sought.

(J)(K) If the appeal concerns a property division in a divorce case, an appendix consisting of a table listing all assets and liabilities of the parties as reflected in the record, including the trial court's findings as to the nature (marital or individual), value, and disposition of each asset or liability.

(2) *Brief of Appellee.* The ~~brief of the appellee's~~ brief shall conform to the requirements of subdivisions (1)(A) through ~~(1)(I)(4)(J)~~ except that a statement of jurisdiction, of the issues, or of the case need not be made unless the appellee is dissatisfied with the statement of the appellant, and a list of all parties need not be included.

(3) *Reply Brief.* The appellant may file a brief in reply to the appellee's ~~brief of the appellee~~. The reply brief shall conform to the requirements of subdivisions (1)(A), (1)(B), (1)(C), ~~(1)(H)(4)(I)~~, and ~~(1)(I)(4)(J)~~. This brief may raise no contentions not previously raised in either the appellant's or appellee's brief. If the appellee has cross-appealed and has not filed a single brief under (c)(6) of this rule, the appellee may file a brief in reply to the response of the appellant to the issues presented by the cross-appeal. No further briefs may be filed except with leave of the court.

\* \* \* \*

(8) *References in Briefs to the Record or Excerpt.* ~~—(A)~~  
~~—References in Cases in Which Excerpts are Prepared.~~  
References in the briefs to parts of the record reproduced in an excerpt shall be to the pages of the excerpt at which those parts appear. The form for references to pages of the excerpt is [Exc. \_\_\_\_\_]. Briefs may reference parts of the record not reproduced in an excerpt. The form for references to pages of the transcript is [Tr. \_\_\_\_\_] and to pages of the trial court file is [R. \_\_\_\_\_]. The form for references to untranscribed portions of the electronic record is [CD (#), at Time 00:00:00 or Tape (#), at Log 00:00:00 or Date at Time 00:00:00].

~~(B) *References to be Included.* If reference is made to evidence of which the admissibility is in controversy, reference shall be made to the pages of the transcript at which the evidence was identified, offered, and received or rejected. Appellant's brief shall indicate the pages of the record where each point on appeal was raised in the trial court. If the point on appeal was not raised in the trial court, the brief shall explain why the point is raised for the first time on appeal. Failure to comply with the requirements of this paragraph may result in return of the brief as provided in paragraph 11 of this subdivision.~~

~~\* \* \* \*~~

5. Appellate Rule 215(f) is amended to read as follows:

**Rule 215. Sentence Appeal.**

~~\* \* \* \*~~

**(f) Record on Appeal.**

~~(1) *Preparation and Contents.* Except as provided in paragraph (2), Appellate Rule 210 governs the content and preparation of the record on appeal. Within 15 days after the filing of a notice of sentence appeal, the clerk of the trial court shall prepare sufficient copies of the record on appeal, which shall consist of the following:~~

~~[a] all charging documents;~~

~~[b] the judgment being appealed;~~

~~[c] a transcript of the entire sentencing proceeding; and, if the sentence appeal is from a probation revocation, the transcript shall include the original sentencing and all probation revocation sentencing proceedings.~~

~~[d]all reports, documents, motions and memoranda pertaining to sentencing which were available to the sentencing court.~~

~~The clerk shall number the pages of the record consecutively. Appellate Rule 210(c) shall not apply.~~

~~(2) Distribution. The parties must designate transcripts as set forth in Rule 210(b). The designation in a sentence appeal must include at least the entire sentencing hearing at which the sentence was imposed. If the sentence appeal is from a probation revocation proceeding, the designation must also include the original sentencing hearing and all prior probation revocation sentencing hearings. Immediately upon preparation of the record on appeal, the clerk shall send the original to the clerk of the appellate courts, two copies to the defendant's counsel, and a copy to the attorney for the prosecution. Unless otherwise ordered by the appellate court, limitations that the trial court placed on disclosure of documents that are contained in the record continue to apply while the case is on appeal.~~

~~\* \* \* \*~~

6. Appellate Rule 507 is amended to read as follows:

**Rule 507. Judgment and Return of Jurisdiction.**

(a) The opinion of the appellate court, or its order summarily disposing of the appeal under Appellate Rule 214, or an order from the appellate court or the clerk of the appellate courts dismissing the appeal, shall constitute its judgment, ~~and shall contain its directions to the trial court, if any.~~ No mandate shall be issued.

(b) Unless the opinion or order ~~expressly~~ states otherwise, the appellate court's judgment of the appellate court takes effect and full jurisdiction over the case returns to the trial court on the day specified in subsections (c), (d), and (e). ~~Rule 512(a) for return of the record.~~

(c) In a case decided by the supreme court,

(1) if a timely petition for rehearing or motion for reconsideration is filed, then jurisdiction returns on the day after the supreme court disposes of the case on rehearing or reconsideration;

(2) if no timely petition for rehearing or motion for reconsideration is filed, then, subject to subsection (f), jurisdiction returns on the day after the deadline for filing a petition for rehearing or motion for reconsideration expires; or

(3) if the supreme court denies a petition for hearing, then jurisdiction returns on the day after the court denies the petition for hearing.

(d) In a case decided by the court of appeals,

(1) if no petition for hearing is filed, then jurisdiction returns on the day after the deadline for filing a petition for hearing expires; or

(2) if a timely petition for hearing is filed, then return of jurisdiction is governed by subsection (c).

Subsection (d) does not apply to an appeal filed under Rule 206 or 207.

(e) In a case decided by the superior court under its appellate authority, return of jurisdiction is as follows:

(1) Appeals from District Court. Return of jurisdiction is governed by subsection (d)(1) – (2).

(2) Appeals from Administrative Agencies.

(A) If no notice of appeal is filed, then jurisdiction returns on the day after the deadline for filing a notice of appeal expires.

(B) If a timely notice of appeal is filed, then return of jurisdiction is governed by subsection (c).

(f) An untimely filing in the appellate court after jurisdiction has returned to the lower court or administrative agency has no effect on the jurisdiction that has been returned under this rule, unless the appellate court orders otherwise.

(g)(e) A—Any motion to stay the effect of the judgment of the appellate court, or otherwise alter the timelines in this rule, beyond the day specified in Rule 512(a) shall be made first to that court.

7. Appellate Rule 604 is amended to read as follows:

**Rule 604. Record.**

**(a) Appeals from District Court.**

*(1) Record on Appeal.*

\* \* \* \*

*(2) Power of Court to Correct or Modify Record of District Court. \* \* \* \**

*(3) Return of Record and ~~Appellate File After Final Disposition.~~ Unless the court otherwise orders, the clerk shall return the original record and ~~appellate file after final disposition~~ to the district court upon return of jurisdiction as provided by Rule ~~507(e)(1), 512(a)(2).~~*

**(b) Appeals from Administrative Agencies.**

(1) *Record on Appeal.*

\* \* \* \*

~~(2) *Return of Record and Appellate File After Final Disposition.* Unless the court otherwise orders, the clerk shall return all original papers and physical exhibits to the administrative agency upon return of jurisdiction as provided by Rule 507(e)(2). If a timely appeal from the superior court decision is filed and unless the court otherwise orders, the clerk shall return all physical exhibits after final disposition to the administrative agency as provided by Rule 512(a)(3). If a timely appeal is not filed, the clerk shall return all physical exhibits to the agency on the day after the time for filing an appeal expires. The appellate file will be retained by, or returned to, the superior court.~~

DATED: August 18, 2021

EFFECTIVE DATE: April 15, 2022

/s/  
Chief Justice Winfree

/s/  
Justice Maassen

/s/  
Justice Carney

/s/  
Justice Borghesan

/s/  
Justice Henderson