



IN THE SUPREME COURT OF ALABAMA

July 9, 2021

ORDER

IT IS ORDERED that Rule 21(g) and Rule 27(e), Alabama Rules of Appellate Procedure, be adopted to read in accordance with Appendices A and C, respectively, to this order;

IT IS FURTHER ORDERED that the Committee Comments to the adoption of Rule 21(g) and the Committee Comments to the adoption of Rule 27(e) be adopted to read in accordance with Appendices B and D, respectively, to this order;

IT IS FURTHER ORDERED that the adoption of Rule 21(g) and Rule 27(e) and the adoption of the Committee Comments thereto are effective August 1, 2021; and

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 21 and Rule 27:

"Note from the reporter of decisions: The order adopting Rule 21(g) and Rule 27(e), Alabama Rules of Appellate Procedure, and adopting the Committee Comments thereto, effective August 1, 2021, is published in that volume of Alabama Reporter that contains Alabama cases from __ So. 3d."

Parker, C.J., and Bolin, Shaw, Wise, Bryan, Sellers, Mendheim, Stewart, and Mitchell, JJ., concur.

Witness my hand this 9th day of July, 2021.

FILED
July 9, 2021
2:54 PM

Clerk
Supreme Court of Alabama

A handwritten signature in cursive script, reading "Julia Jordan Weller".

Clerk of Court,
Supreme Court of Alabama



IN THE SUPREME COURT OF ALABAMA

July 9, 2021

APPENDIX A

Rule 21(g), Ala. R. App. P.

(g) Petition for Writ of Mandamus, Writ of Prohibition, or Other Extraordinary Writ Requesting Emergency or Expedited Relief. In addition to the other requirements of this rule, in non-death-penalty matters, if the petitioner requests emergency or expedited relief from an appellate court, the petitioner shall include the information required by Rule 27(e).



IN THE SUPREME COURT OF ALABAMA

July 9, 2021

APPENDIX B

Committee Comments to Adoption of Rule 21(g)
Effective August 1, 2021

Rule 21(g) has been added to aid petitioners in obtaining expedited relief from an appellate court in an emergency (i.e., extraordinary circumstances in which waiting for the normal timing of the appellate process could render relief inadequate). The additional information to be provided by a petitioner requesting expedited relief is listed in Rule 27(e).



IN THE SUPREME COURT OF ALABAMA

July 9, 2021

APPENDIX C

Rule 27(e), Ala. R. App. P.

(e) Motion Requesting Emergency or Expedited Relief. In addition to the other requirements of this rule, in non-death-penalty matters, if the movant requests emergency or expedited relief from an appellate court, the motion shall in the following order:

(1) include on the title page in all capital letters "EMERGENCY FOR WHICH EXPEDITED RELIEF IS REQUESTED";

(2) include on the first page of text the date by which an appellate ruling is desired and explain what the emergency is (i.e., the extraordinary reasons why a ruling is needed by that date);

(3) explain how, procedurally, the emergency arose;

(4) state that the movant has discussed with the appellate court's clerk's office the timing and nature of the motion at least one day before the filing of the motion or explain why such communication was not possible;

(5) state that the movant has consulted with opposing counsel, or the opposing pro se party, or explain why such consultation was not practicable;

(6) state that opposing counsel, or the opposing pro se party, will be served with the motion as expeditiously as possible after the filing and by what means (e.g., electronically, hand delivery); and

(7) attach an appendix including copies of all parts of the record that are essential to understanding the matters set forth in the motion, such as the order or orders of which the movant seeks review, all court filings (by any party) directly connected to the order or orders, and any



IN THE SUPREME COURT OF ALABAMA

July 9, 2021

transcripts of proceedings that resulted in the order or orders. The appendix shall contain an index listing separately each document in the appendix, and each document listed shall be separated by a numbered cover sheet and an appropriate tab to identify and assist in locating the document.

Upon receipt of a properly filed emergency motion, the clerk of the appellate court may attempt to contact counsel for the nonmovant, or the nonmoving pro se party, to ascertain whether a response will be filed before the date by which the movant desires a ruling, which may be less than the 7 days (1 week) provided in this rule for filing a response in nonemergency matters. The appellate court will decide in its discretion whether the motion warrants expedited treatment, as well as whether a response from the nonmovant is necessary before the court rules on the motion.



IN THE SUPREME COURT OF ALABAMA

July 9, 2021

APPENDIX D

Committee Comments to Adoption of Rule 27(e)
Effective August 1, 2021

Rule 27(e) has been added to aid a party in obtaining expedited relief from an appellate court for an emergency (i.e., extraordinary circumstances in which waiting for the normal timing of the appellate process will be inadequate for some reason). Section (e) does not apply to death-penalty matters. Extraordinary circumstances warranting expedited relief may include, for example, that a matter will become moot, that irreparable harm will be suffered, or that adequate relief will be unavailable if a matter is not ruled on expeditiously by the appellate court. By contrast, an example of a matter not usually warranting expedited relief would be a trial court's denial of a motion to dismiss on jurisdictional or immunity grounds and the losing party's having to litigate the matter while a mandamus petition challenging the denial of the motion to dismiss is pending. Further, a request for expedited relief that originates in whole or in part out of the movant's own unwarranted delay in filing for relief until a short amount of time remains for consideration of the request will be viewed as arising from a self-created emergency and will be highly disfavored.

When the need for an expedited ruling occurs after an appellate court has acquired jurisdiction, the movant may file a motion that contains the information required by section (e). Unless an emergency motion is filed in an existing appeal or in connection with a petition for extraordinary relief under Rule 21, Ala. R. App. P., that is currently pending before the appellate court, the movant should be aware that the appellate court will lack jurisdiction over the motion unless it accompanies a new filing that would serve to confer jurisdiction on the appellate court, such as a petition for extraordinary relief. Creating an accelerated timetable for both the filing of any response in opposition to an emergency motion and the disposition of the motion falls within the authority afforded appellate courts to suspend the Rules of Appellate



IN THE SUPREME COURT OF ALABAMA

July 9, 2021

Procedure under certain circumstances, as noted in Rule 2(b), Ala. R. App. P., and, therefore, the filing of the response to, and the disposition of, the motion may occur in a period less than the seven days ordinarily permitted for responding to nonemergency motions under this rule.

Lastly, the movant should also provide the appellate court with all applicable filing fees, if any, and/or required paper copies of the emergency motion at the time of filing. The movant should check with the reviewing appellate court before filing the emergency motion to ascertain exactly what will be needed. It is the duty of the movant to provide the reviewing appellate court with everything necessary to facilitate an expeditious resolution of any motion for emergency or expedited relief.