

SUPREME COURT OF OKLAHOMA

IN RE AMENDMENT OF RULES 1.4 AND 1.23 OF OKLA.

SUPREME COURT RULES

IN RE AMENDMENT OF RULES 1.4 AND 1.23 OF OKLA. SUPREME COURT RULES (Okla. 2021) ·

Decided May 3, 2021

SUMMARY

The Oklahoma Supreme Court amended Rules 1.4 and 1.23 of the Oklahoma Supreme Court Rules. The amendments address filing methods and timing, mailing and commercial-carrier filings, costs, copies, service, commencement of appeals, and in forma pauperis requirements, and became effective immediately.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Chief Justice Darby; Vice Chief Justice Kane; Justice Kauger; Justice Winchester; Justice Edmondson; Justice Combs; Justice Gurich; Justice Rowe
JURISDICTION	Oklahoma
DECIDED	May 3, 2021
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Oklahoma exercised its rulemaking authority to amend Rules 1.4 and 1.23 of the Oklahoma Supreme Court Rules.
PRECEDENTIAL VALUE	Published rulemaking order; binding court rules as amended

TOPICS

[appellate procedure](#) [civil procedure](#) [costs](#) [service of process](#)

PRACTICE AREAS

[Appellate procedure](#) [Civil procedure](#) [Court rulemaking](#)

QUESTIONS PRESENTED

- Whether Rules 1.4 and 1.23 of the Oklahoma Supreme Court Rules should be amended.

2. What procedures should govern the filing date of petitions delivered by mail or third-party commercial carrier.
3. What cost-deposit, in forma pauperis, notice, and filing requirements apply to the commencement of appeals.

HOLDINGS

1. Rules 1.4 and 1.23 of the Oklahoma Supreme Court Rules are amended as set forth in the attached exhibits, effective immediately.
2. For petitions covered by Rule 1.4(c), the filing date may be established by the date of mailing shown by qualifying United States Postal Service proof or by the date a third-party commercial carrier receives the petition, provided the rule's addressing, postage, documentation, and delivery requirements are satisfied.
3. An appeal from a district court is commenced by timely filing a petition in error with the required copies and by timely remitting the statutory cost deposit or filing a qualifying in forma pauperis affidavit; the cost deposit or affidavit must be received within the same thirty-day period for filing the petition in error.

KEY QUOTATIONS

“Rules 1.4, 12 O.S. Supp. 2020, ch. 15, app. 1, and 1.23, 12 O.S. Supp. 2020, ch. 15, app. 1, of the Oklahoma Supreme Court Rules, are hereby amended as shown on the attached Exhibit “A”.” (Order)

“The amended rules are effective immediately.” (Order)

FACTUAL BACKGROUND

This is a rulemaking order rather than an adversarial appeal. The Oklahoma Supreme Court revised Rule 1.4 concerning filing procedures, filing times, mailing, commercial-carrier delivery, prisoner filings, copies, and notice to parties. It also revised Rule 1.23 concerning commencement of district-court appeals, cost deposits or pauper affidavits, notice of appeal, and juvenile appeals.

PROCEDURAL HISTORY

The court entered an order amending rules governing filings, mailing, service, costs, and commencement of appeals. The amendments were attached as Exhibits A and B and made effective immediately.

DISPOSITION

other

CASES CITED

- Whitehead v. Tulsa Public Schools, 1998 OK 71, 968 P.2d 1211
- Matter of K. L. F., 1994 OK 66, 878 P.2d 1067
- Woody v. State, 1992 OK 45, 833 P.2d 257

OPINION

IN RE AMENDMENT OF RULES 1.4 AND 1.23 OF OKLA. SUPREME COURT RULES
2021 OK 23

PER CURIAM.

IN RE AMENDMENT OF RULES 1.4 AND 1.23 OF OKLA. SUPREME COURT RULES

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23Decided: 05/03/2021THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as:
2021 OK 23, __ P.3d __ IN RE: Amendment of Rules 1.4 and 1.23 of the Oklahoma Supreme
Court Rules, Okla. Stat. tit. 12, ch. 15, app. 1.

ORDER

Rules 1.4, 12 O.S. Supp. 2020, ch. 15, app. 1, and 1.23, 12 O.S. Supp. 2020, ch. 15, app. 1, of the Oklahoma Supreme Court Rules, are hereby amended as shown on the attached Exhibit "A". A clean copy of the rule amendments is attached as exhibit "B." The amended rules are effective immediately. DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this 3rd day of May, 2021. /S/Chief Justice Darby, C.J., Kane, V.C.J., Kauger, Winchester, Edmondson, Combs, Gurich, and Rowe, JJ., concur. Exhibit "A" Rule 1.4 of the Oklahoma Supreme Court Rules, 12 O.S. Supp. 2020, ch. 15, app. 1, is hereby amended as follows: (a) Supreme Court Clerk. All briefs, motions, and other papers are to be filed with the Clerk of the Supreme Court. The Clerk of the Supreme Court shall serve ex officio as Clerk of the Court of Civil Appeals. See Rule 1.172. The Clerk shall not allow an original opinion to be removed from the Office of the Clerk. The Clerk shall not allow an original motion, pleading, or record to be taken from the Office of the Clerk without an order of the Court or one of the Justices thereof. (b) Filings.

(1) Form. The pages of all filings shall be numbered unless excused by a specific rule herein. The forms provided by Rule 1.301 shall be used when applicable.

(2) Time for Filing. Except for petitions in error, petitions for review, and petitions for certiorari mailed in conformance with Rule 1.4(c), all briefs, motions, petitions, and other papers shall be deemed filed on the date of receipt by the Clerk of the Supreme Court during regular office hours, Monday through Friday between 8:00 A.M. and 5:00 P.M., state holidays excluded. Any documents which are electronically filed after 5:00 P.M. will be deemed filed the next business day.

(c) Petition in Error, Petition for Review of an Order of the Workers' Compensation Court, Petition for Certiorari to the Court of Civil Appeals, Costs, and Mailing. A petition in error, petition for review, or petition for certiorari may be filed either by delivery to the Clerk of the Supreme Court, or by deposit with the United States Postal Service, or by delivery with a third party commercial

carrier, and addressed to the Clerk of the Supreme Court, Oklahoma Judicial Center, 2100 N. Lincoln Boulevard, Suite 4, Oklahoma City, OK, 73105, or Clerk of the Supreme Court, P.O. Box 53126, Oklahoma City, OK 73152. See Rule 1.4(e). When a petition is delivered to the Clerk for filing it must be delivered at the Office of the Clerk of the Supreme Court during regular office hours, Monday through Friday between 8:00 A.M. and 5:00 P.M., state holidays excluded, or as provided in the Rules for Electronic Filing in the Oklahoma Courts. When a petition is delivered to the Clerk by the United States Postal Service, the date of mailing as shown by the postmark or other proof from the post office, such as the date stamped by the post office upon a certified mail receipt or post office tracking history, will be deemed to be the date of filing the petition. *Whitehead v. Tulsa Public Schools*, 1998 OK 71, 968 P.2d 1211. When a petition is mailed through the United States Postal Service, a postmark date from a privately owned postage meter or commercial postage meter label will not suffice as proof of the date of mailing and, in the absence of other proof of date of mailing from the United States Postal Service, a document bearing only such a postmark will be deemed filed upon date of delivery to the Clerk. The Court may require the party or person who mailed a petition to the court to provide proof from the United States Postal Service showing date of mailing. Online-printed postage from a United States Postal Service-Authorized PC Postage Provider will also not suffice in the absence of other proof of the date of mailing from the United States Postal Service. When a petition is delivered to the Clerk by a third-party commercial carrier, the petition must be received by the carrier from the party on or before the last day the petition may be timely filed with the Clerk. The party must require the third-party commercial carrier to deliver the petition to the Supreme Court Clerk within three calendar days. The date the third-party commercial carrier receives the petition for delivery to the Supreme Court Clerk shall be deemed the date of filing with the Clerk when the third-party commercial carrier provides documentation with delivery to the Clerk showing the date the petition was received by the carrier. If the third-party commercial carrier does not provide the date the document was received by the carrier, the Court will require the person who sent the petition to submit a notarized statement or declaration in compliance with 12 O.S. § 426 setting out the details of the filing and stating that the filing took place on a particular date within the permitted time. Documentation of the date a petition is received by a third-party commercial carrier shall be by a document showing the actual date of receipt, and the date of receipt must be affixed or printed on the document by the third-party commercial carrier. A date of receipt on a document that may be affixed or printed thereon by anyone other than a third-party commercial carrier shall not be used as documentation of date of delivery to the carrier for the purposes of Rule 1.4. The date a petition is mailed or date of receipt by a third-party commercial carrier shall be deemed the date of its filing only when it is mailed or received by the third-party commercial carrier in accordance with this rule, and when it is properly addressed to the Clerk of the Supreme Court and contains sufficient postage. Where a petition is mailed or delivered by third-party commercial carrier following the requirements of this rule, the petition shall not be deemed filed on the date of

mailing or receipt by the commercial carrier. However, unless the full amount of the required cost deposit for filing the petition, or properly executed pauper's affidavit, has also been mailed or received by the commercial carrier, conforming to the same requirements for mailing or receipt by the commercial carrier or such cost deposit or affidavit is actually delivered to the Court Clerk within the time period for perfecting the appellate procedure, the petition in error will not be considered timely filed. The determination of whether or not a petition in error is timely will be made by the Supreme Court. Matter of K. L. F., 1994 OK 66, 878 P.2d 1067; Okla.Sup.Ct.R. 1.23.

(d) Mailing by Prisoner. A prisoner's appeal is commenced on the date that he or she places the petition in error in the prison mailbox for mailing or otherwise delivers it to a prison official for mailing. Proof of the date of the placement of the petition in error in the prison mailbox shall be supplied by affidavit attached to the petition in error. Woody v. State, 1992 OK 45, 833 P.2d 257.

(e) Scope of Rule 1.4(c). Rule 1.4(c) applies to petitions in error in appeals from the District Courts; petitions in error in appeals from the Corporation Commission, and other tribunals, including but not limited to, the Tax Commission, Banking Board, State Banking Commissioner, and the Court of Tax Review; to petitions to review orders of the Workers' Compensation Court in the Supreme Court; to petitions for certiorari to review opinions of the Court of Civil Appeals; to petitions for certiorari to review certified interlocutory orders of the District Courts; and to rehearing petitions to the Court of Civil Appeals as well as to the Supreme Court. (f) Copies. The original shall be filed with the following number of copies, unless the Rules for Electronic Filing in the Oklahoma Courts provide otherwise when a document is electronically filed.

1. Petition in Error - Fourteen copies (Rule 1.23).
2. Response to Petition in Error, - Fourteen copies (Rule 1.25).
3. Amended and Supplemental Petitions in Error - Fourteen copies, (Rule 1.26).
4. Entry of Appearance - Two copies (Rule 1.5).
5. Motions in an appeal - Ten copies (Rule 1.6).
6. Briefs in an appeal - Fourteen copies (Rule 1.10).
7. Waiver of brief - Fourteen copies (Rule 1.10).
8. Record on appeal from summary judgment, etc. - Four copies (Rule 1.36).
9. Rehearing before Supreme Court - Ten copies (Rule 1.13).
10. Rehearing before Court of Civil Appeals - Ten copies (Rule 1.177).
11. Petition for Certiorari to Court of Civil Appeals - Ten copies (Rule 1.179).
12. Answer to Petition for Certiorari to Court of Civil Appeals - Ten copies (Rule 1.179).
13. Reply to Answer to Petition for Certiorari to Court of Civil Appeals - Ten copies (Rule 1.179).
14. Petition to Review Certified Interlocutory Order - Fourteen copies, (Rule 1.52).
15. Response to Petition to Review Certified Interlocutory Order -Fourteen copies, (Rule 1.53).
16. Application to assume original jurisdiction - Fourteen copies (Rule 1.191).
17. Responses and Briefs in an original action - Fourteen copies (Rule 1.191).
18. Appendix in original action - One copy (Rule 1.191).

19. Corrections to filed instruments - Same number of copies as document corrected, (Rule 1.7).

(g) Notice to Parties.

(1) By Parties. Service of all documents filed with the Supreme Court or Court of Civil Appeals shall be made in the manner provided in 12 O.S. § 2005(B), or as provided in the Rules for Electronic Filing in the Oklahoma Courts. Proof of service may be by a certificate of service endorsed on the filing. The Court, a Justice thereof, or a Referee of the Supreme Court may require other methods of service and proof of service.

No brief, motion, petition, application or suggestion will be considered by the Supreme Court or the Court of Civil Appeals without proof of service as required herein, except where the Court determines that notice is not required.

(2) By Clerk.

Orders and notices required to be mailed to parties will be mailed on the date shown by the Clerk's file stamp unless otherwise indicated, and such date will serve as notice of the date of mailing. Notice by the Clerk shall be made to attorney or party pro se at the address shown by the entry of appearance or notice of change of address. See Rule 1.5. Whenever in any case filed in this Court it shall be made to appear to the Clerk of this Court by the affidavit of an appellant or a petitioner, appellant's agent or attorney, that the appellee or the respondent has no attorney of record, or that appellee is beyond the limits of the state, or that appellee's residence is unknown, so that it is impossible or impracticable to serve citation upon appellee (or respondent) in the ordinary method provided by law, it shall be the duty of the Clerk of this Court, upon the appellant or the petitioner making provision for the payment of the expense thereof, to cause notice of the pendency of such cause to be published once each week for four weeks successively in some newspaper published in the county in which the case was tried. Rule 1.23 of the Oklahoma Supreme Court Rules, 12 O.S. Supp. 2020, ch. 15, app. 1, is hereby amended as follows: (a) Commencement. An appeal from a district court is commenced by:

(1) filing a petition in error with fourteen (14) copies with the Clerk of this Court within the time prescribed in Rule 1.21; and

(2) Remitting to the Clerk of the Supreme Court the cost deposit provided by statute, or if the appellant is an indigent, an affidavit in forma pauperis shall be filed concurrently with the petition in error. 20 O.S. § 15. The affidavit shall be furnished by the Clerk of the Supreme Court, upon request, and shall be in substantial compliance with the form prescribed by Rule 1.301 Form No. 4.

The cost deposit is satisfied by tendering a personal or business check, U.S. currency or a nationally recognized credit or debit card or other electronic payment method pursuant to Rule 1.19.

(3) A party who was permitted to proceed in forma pauperis before the lower court or other tribunal may proceed on appeal in forma pauperis, so long as a file-stamped copy of the order approving in forma pauperis status granted by the lower court or other tribunal is attached to the

petition in error. If the party first seeks to proceed in forma pauperis in the appellate court, the affidavit in forma pauperis shall be filed with the petition in error, and shall be in substantial compliance with the form prescribed by Rule 1.301, Form No. 4.

Commencement of an appeal from certain trial court orders must comply with Rule 1.36. (b) Timely Costs Mandatory. All petitions in error shall be filed upon receipt. When a petition in error is received by the Clerk of the Supreme Court, will not be filed and until the entire cost deposit, or a properly executed pauper's affidavit shall be received by the Clerk of the Supreme Court is due at the time of filing with the Clerk of the Supreme Court. The cost deposit or pauper's affidavit must be received by the Clerk of the Supreme Court within the same thirty-day period for filing the petition in error (12 O.S. § 990A(A)) for the tendered petition in error to be considered as timely filed to commence an appeal. The determination of whether or not a petition in error is timely will be made by the Supreme Court. In an appeal brought by the State of Oklahoma, or by direction of any department of the State, cost deposit shall not be paid with the filing of the petition in error. 12 O.S. § 66. (c) Notice and Entry of Appearance. A copy of the petition in error shall be filed in the trial court and mailed to each party to the appeal, or to the party's counsel of record within the time prescribed for filing the petition in error. The mailing of the copy of the petition in error shall constitute notice of appeal, and no further notice of the appeal is required. Parties served with process or entering a general appearance in the trial court constitute parties to the appeal. Appellant must file an entry of appearance. See Rule 1.5. See Rules 1.23 and 1.25 for filing the petition in error and response thereto. (d) Juvenile Appeals. An appeal from a District Court to the Oklahoma Supreme Court and involving a judgment or order issued pursuant to Title 10 of the Oklahoma Statutes in paternity proceedings, or Title 10A Oklahoma Children and Juvenile Code proceedings, or Oklahoma Adoption Code proceedings, (sometimes referred to as a "juvenile appeal"), shall be commenced by filing with the Supreme Court a petition in error with fourteen (14) copies with the Clerk of this Court within the time prescribed in Rule 1.21 and remitting to the Clerk of the Supreme Court the cost deposit provided by 20 O.S. § 15, or if the appellant is indigent, an affidavit in forma pauperis shall be filed concurrently with the petition in error. 12 O.S. § 990A; 20 O.S. § 15. Compliance with Okla.Sup.Ct.R. 1.23 (b), and (c) is required for juvenile appeals. See 10 O.S. § 80 (paternity appeal); 10A O.S. § 1-5-103 (Oklahoma Children's Code appeal); and 10 O.S. §§ 7505-2.1, 7505-4.1, & 7505-7.1 (Oklahoma Adoption Code appeal). In a juvenile appeal when the appellant is a minor represented by court-appointed counsel, that counsel may file, in lieu of remitting the cost deposit provided by 20 O.S. § 15, an in forma pauperis affidavit stating that the minor is indigent to the best information and belief of counsel, and a certified copy of the order appointing counsel as the lawyer for the minor. The affidavit and copy of the order of appointment shall be filed with the minor's petition in error. Exhibit "B" Rule 1.4 of the Oklahoma Supreme Court Rules, 12 O.S. Supp. 2020, ch. 15, app. 1, is amended as follows: (a) Supreme Court Clerk. All briefs, motions, and other papers are to be filed with the Clerk of the Supreme Court. The Clerk of the Supreme Court shall serve ex officio as

Clerk of the Court of Civil Appeals. See Rule 1.172. The Clerk shall not allow an original opinion to be removed from the Office of the Clerk. The Clerk shall not allow an original motion, pleading, or record to be taken from the Office of the Clerk without an order of the Court or one of the Justices thereof. (b) Filings.

(1) Form. The pages of all filings shall be numbered unless excused by a specific rule herein. The forms provided by Rule 1.301 shall be used when applicable.

(2) Time for Filing. Except for petitions in error, petitions for review, and petitions for certiorari mailed in conformance with Rule 1.4(c), all briefs, motions, petitions, and other papers shall be deemed filed on the date of receipt by the Clerk of the Supreme Court during regular office hours, Monday through Friday between 8:00 A.M. and 5:00 P.M., state holidays excluded. Any documents which are electronically filed after 5:00 P.M. will be deemed filed the next business day.

(c) Petition in Error, Petition for Review of an Order of the Workers' Compensation Court, Petition for Certiorari to the Court of Civil Appeals, Costs, and Mailing. A petition in error, petition for review, or petition for certiorari may be filed either by delivery to the Clerk of the Supreme Court, or by deposit with the United States Postal Service, or by delivery with a third party commercial carrier, and addressed to the Clerk of the Supreme Court, Oklahoma Judicial Center, 2100 N. Lincoln Boulevard, Suite 4, Oklahoma City, OK, 73105, or Clerk of the Supreme Court, P.O. Box 53126, Oklahoma City, OK 73152. See Rule 1.4(e). When a petition is delivered to the Clerk for filing it must be delivered at the Office of the Clerk of the Supreme Court during regular office hours, Monday through Friday between 8:00 A.M. and 5:00 P.M., state holidays excluded, or as provided in the Rules for Electronic Filing in the Oklahoma Courts. When a petition is delivered to the Clerk by the United States Postal Service, the date of mailing as shown by the postmark or other proof from the post office, such as the date stamped by the post office upon a certified mail receipt or post office tracking history, will be deemed to be the date of filing the petition. *Whitehead v. Tulsa Public Schools*, 1998 OK 71, 968 P.2d 1211. When a petition is mailed through the United States Postal Service, a postmark date from a privately owned postage meter or commercial postage meter label will not suffice as proof of the date of mailing and, in the absence of other proof of date of mailing from the United States Postal Service, a document bearing only such a postmark will be deemed filed upon date of delivery to the Clerk. The Court may require the party or person who mailed a petition to the court to provide proof from the United States Postal Service showing date of mailing. Online-printed postage from a United States Postal Service-Authorized PC Postage Provider will also not suffice in the absence of other proof of the date of mailing from the United States Postal Service. When a petition is delivered to the Clerk by a third-party commercial carrier, the petition must be received by the carrier from the party on or before the last day the petition may be timely filed with the Clerk. The party must require the third-party commercial carrier to deliver the petition to the Supreme Court Clerk within three calendar days. The date the third-party commercial carrier receives the petition for delivery to the

Supreme Court Clerk shall be deemed the date of filing with the Clerk when the third-party commercial carrier provides documentation with delivery to the Clerk showing the date the petition was received by the carrier. If the third-party commercial carrier does not provide the date the document was received by the carrier, the Court will require the person who sent the petition to submit a notarized statement or declaration in compliance with 12 O.S. § 426 setting out the details of the filing and stating that the filing took place on a particular date within the permitted time. Documentation of the date a petition is received by a third-party commercial carrier shall be by a document showing the actual date of receipt, and the date of receipt must be affixed or printed on the document by the third-party commercial carrier. A date of receipt on a document that may be affixed or printed thereon by anyone other than a third-party commercial carrier shall not be used as documentation of date of delivery to the carrier for the purposes of Rule 1.4. The date a petition is mailed or date of receipt by a third-party commercial carrier shall be deemed the date of its filing only when it is mailed or received by the third-party commercial carrier in accordance with this rule, and when it is properly addressed to the Clerk of the Supreme Court and contains sufficient postage. Where a petition is mailed or delivered by third-party commercial carrier following the requirements of this rule, the petition shall be deemed filed on the date of mailing or receipt by the commercial carrier. However, unless the full amount of the required cost deposit for filing the petition, or properly executed pauper's affidavit, has also been mailed or received by the commercial carrier, conforming to the same requirements for mailing or receipt by the commercial carrier or such cost deposit or affidavit is actually delivered to the Court Clerk within the time period for perfecting the appellate procedure, the petition in error will not be considered timely filed. The determination of whether or not a petition in error is timely will be made by the Supreme Court. Okla.Sup.Ct.R. 1.23. (d) Mailing by Prisoner. A prisoner's appeal is commenced on the date that he or she places the petition in error in the prison mailbox for mailing or otherwise delivers it to a prison official for mailing. Proof of the date of the placement of the petition in error in the prison mailbox shall be supplied by affidavit attached to the petition in error. *Woody v. State*, 1992 OK 45, 833 P.2d 257. (e) Scope of Rule 1.4(c). Rule 1.4(c) applies to petitions in error in appeals from the District Courts; petitions in error in appeals from the Corporation Commission, and other tribunals, including but not limited to, the Tax Commission, Banking Board, State Banking Commissioner, and the Court of Tax Review; to petitions to review orders of the Workers' Compensation Court in the Supreme Court; to petitions for certiorari to review opinions of the Court of Civil Appeals; to petitions for certiorari to review certified interlocutory orders of the District Courts; and to rehearing petitions to the Court of Civil Appeals as well as to the Supreme Court. (f) Copies. The original shall be filed with the following number of copies, unless the Rules for Electronic Filing in the Oklahoma Courts provide otherwise when a document is electronically filed.

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7. Waiver of brief - Fourteen copies (Rule 1.10).
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(g) Notice to Parties.

(1) By Parties. Service of all documents filed with the Supreme Court or Court of Civil Appeals shall be made in the manner provided in 12 O.S. § 2005(B), or as provided in the Rules for Electronic Filing in the Oklahoma Courts. Proof of service may be by a certificate of service endorsed on the filing. The Court, a Justice thereof, or a Referee of the Supreme Court may require other methods of service and proof of service.

No brief, motion, petition, application or suggestion will be considered by the Supreme Court or the Court of Civil Appeals without proof of service as required herein, except where the Court determines that notice is not required.

(2) By Clerk.

Orders and notices required to be mailed to parties will be mailed on the date shown by the Clerk's file stamp unless otherwise indicated, and such date will serve as notice of the date of mailing. Notice by the Clerk shall be made to attorney or party pro se at the address shown by the entry of appearance or notice of change of address. See Rule 1.5. Whenever in any case filed in this Court it shall be made to appear to the Clerk of this Court by the affidavit of an appellant or a petitioner, appellant's agent or attorney, that the appellee or the respondent has no attorney of record, or that appellee is beyond the limits of the state, or that appellee's residence is unknown, so that it is impossible or impracticable to serve citation upon appellee (or respondent) in the ordinary method provided by law, it shall be the duty of the Clerk of this Court, upon the appellant or the petitioner making provision for the payment of the expense thereof, to cause notice of the pendency of such cause to be published once each week for four weeks successively in some newspaper published in

the county in which the case was tried. _Rule 1.23 of the Oklahoma Supreme Court Rules, 12 O.S. Supp. 2020, ch. 15, app. 1, is amended as follows: (a) Commencement. An appeal from a district court is commenced by:

(1) filing a petition in error with fourteen (14) copies with the Clerk of this Court within the time prescribed in Rule 1.21; and

(2) Remitting to the Clerk of the Supreme Court the cost deposit provided by statute, or if the appellant is an indigent, an affidavit in forma pauperis shall be filed with the petition in error. 20 O.S. § 15. The affidavit shall be furnished by the Clerk of the Supreme Court, upon request, and shall be in substantial compliance with the form prescribed by Rule 1.301 Form No. 4.

The cost deposit is satisfied by tendering a personal or business check, U.S. currency or a nationally recognized credit or debit card or other electronic payment method pursuant to Rule 1.19.

(3) A party who was permitted to proceed in forma pauperis before the lower court or other tribunal may proceed on appeal in forma pauperis, so long as a file-stamped copy of the order approving in forma pauperis status granted by the lower court or other tribunal is attached to the petition in error. If the party first seeks to proceed in forma pauperis in the appellate court, the affidavit in forma pauperis shall be filed with the petition in error, and shall be in substantial compliance with the form prescribed by Rule 1.301, Form No. 4.

Commencement of an appeal from certain trial court orders must comply with Rule 1.36. (b) Timely Costs Mandatory. All petitions in error shall be filed upon receipt. When a petition in error is received by the Clerk of the Supreme Court, the entire cost deposit, or a properly executed pauper's affidavit is due at the time of filing with the Clerk of the Supreme Court. The cost deposit or pauper's affidavit must be received by the Clerk of the Supreme Court within the same thirty-day period for filing the petition in error (12 O.S. § 990A(A)) for the tendered petition in error to be considered as timely filed to commence an appeal. The determination of whether or not a petition in error is timely will be made by the Supreme Court. In an appeal brought by the State of Oklahoma, or by direction of any department of the State, cost deposit shall not be paid with the filing of the petition in error. 12 O.S. § 66. (c) Notice and Entry of Appearance. A copy of the petition in error shall be filed in the trial court and mailed to each party to the appeal, or to the party's counsel of record within the time prescribed for filing the petition in error. The mailing of the copy of the petition in error shall constitute notice of appeal, and no further notice of the appeal is required. Parties served with process or entering a general appearance in the trial court constitute parties to the appeal. Appellant must file an entry of appearance. See Rule 1.5. See Rules 1.23 and 1.25 for filing the petition in error and response thereto. (d) Juvenile Appeals. An appeal from a District Court to the Oklahoma Supreme Court and involving a judgment or order issued pursuant to Title 10 of the Oklahoma Statutes in paternity proceedings, or Title 10A Oklahoma Children and Juvenile Code proceedings, or Oklahoma Adoption Code proceedings, (sometimes referred to as a "juvenile appeal"), shall be commenced by filing with the Supreme

Court a petition in error with fourteen (14) copies with the Clerk of this Court within the time prescribed in Rule 1.21 and remitting to the Clerk of the Supreme Court the cost deposit provided by 20 O.S. § 15, or if the appellant is indigent, an affidavit in forma pauperis shall be filed concurrently with the petition in error. 12 O.S. § 990A; 20 O.S. § 15. Compliance with Okla.Sup.Ct.R. 1.23 (b), and (c) is required for juvenile appeals. See 10 O.S. § 80 (paternity appeal); 10A O.S. § 1-5-103 (Oklahoma Children's Code appeal); and 10 O.S. §§ 7505-2.1, 7505-4.1, & 7505-7.1 (Oklahoma Adoption Code appeal). In a juvenile appeal when the appellant is a minor represented by court-appointed counsel, that counsel may file, in lieu of remitting the cost deposit provided by 20 O.S. § 15, an in forma pauperis affidavit stating that the minor is indigent to the best information and belief of counsel, and a certified copy of the order appointing counsel as the lawyer for the minor. The affidavit and copy of the order of appointment shall be filed with the minor's petition in error.

Citationizer© Summary of Documents Citing This Document

Cite	Name	Level	Title
12 O.S. RULE 1.4,	SUPREME COURT CLERK, FILINGS, MAILING, COPIES, AND NOTICE TO PARTIES	Cited	
12 O.S. RULE 1.23,	COMMENCEMENT OF APPEAL	Cited	

Citationizer: Table of Authority

Cite	Name	Level	None	Found.
oscn EMAIL: webmaster@oscn.net	Oklahoma Judicial Center	2100 N Lincoln Blvd.	Oklahoma City, OK 73105	
courts	Supreme Court of Oklahoma	Court of Criminal Appeals	Court of Civil Appeals	District Courts
decisions	New Decisions	Supreme Court of Oklahoma	Court of Criminal Appeals	Court of Civil Appeals
programs	The Sovereignty Symposium	Alternative Dispute Resolution	Early Settlement	Mediation
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