



ARKANSAS JUDICIARY

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## **Rule 1-2. Appellate Jurisdiction Of The Supreme Court And Court Of Appeals.**

(a) Supreme Court jurisdiction. All cases appealed shall be filed in the Court of Appeals except that the following cases shall be filed in the Supreme Court:

1. All appeals involving the interpretation or construction of the Constitution of Arkansas;
2. Criminal appeals in which the death penalty or life imprisonment has been imposed;
3. Petitions for quo warranto, prohibition, injunction, or mandamus directed to the state, county, or municipal officials or to circuit courts;
4. Appeals pertaining to elections and election procedures;
5. Appeals involving the discipline of attorneys-at-law and or arising under the power of the Supreme Court to regulate the practice of law;
6. Appeals involving the discipline and disability of judges;
7. Second or subsequent appeals following an appeal which has been decided in the Supreme Court; and
8. Appeals required by law to be heard by the Supreme Court.

(b) Reassignment of cases. Any case is subject to reassignment by the Supreme Court, and in doing so, the Supreme Court will consider but not be limited to the following:

- (1) issues of first impression,
- (2) issues upon which there is a perceived inconsistency in the decisions of the Court of Appeals or Supreme Court,
- (3) issues involving federal constitutional interpretation,
- (4) issues of substantial public interest,
- (5) significant issues needing clarification or development of the law, or overruling of precedent, and

(6) appeals involving substantial questions of law concerning the validity, construction, or interpretation of an act of the General Assembly, ordinance of a municipality or county, or a rule or regulation of any court, administrative agency, or regulatory body.

(c) Informational statement and jurisdictional statement.

(1) The Informational Statement and Jurisdictional Statement in appellant's brief are for jurisdictional purposes only, and the discussion of the issues on appeal should be limited to their jurisdictional relevance, and not to argue their substantive merit.

(A) The Informational Statement which is to be contained within the brief, as provided in Rule 4-2(a)(2), shall be on a form which may be copied from that provided below and which shall be available from the Clerk.

(B) The Jurisdictional Statement, in narrative form, shall be completed on separate page(s), not to exceed three 8 1/2" x 11" double-spaced, typewritten pages and shall comply with the provisions of Rule 4-1(a). All requested information shall be contained in the body of the Statement. No separate supporting materials shall be affixed. The attorney's signature may appear on a separate page at the end and shall not count against the three-page limit. The style of the case should not be stated, and, beginning with the first page, the Jurisdictional Statement shall contain in the order indicated:

(i) The first numbered paragraph which shall concisely state all issues of law raised on appeal. The issues should be expressed in the terms and circumstances of the case but without unnecessary detail.

(ii) The second numbered paragraph which shall state the following: "I express a belief, based on a reasoned and studied professional judgment, that this appeal raises (no) (the following) question(s) of legal significance for jurisdictional purposes:" Then, the appellant shall discuss as many of the issues listed in Rule 1-2(b) which are relevant to the appeal. Each issue should be stated with accuracy, brevity, and clarity, and should include the citations of any cases sought to be overruled or perceived to be in conflict.

(2) If a cross-appeal is filed, the cross-appellant shall include in his or her brief an Informational Statement and Jurisdictional Statement in the same format as that for the appellant limited to the issues raised by the cross-appeal.

(3) If there is substantial disagreement on the part of an appellee or cross-appellee with the information in the appellant's Jurisdictional Statement, the appellee or cross-appellee may include in the appellee's or cross-appellee's brief a statement entitled "Appellee's Response to Jurisdictional Statement", in which the appellee or cross-appellee may dispute or clarify any of the appellant's statements, concluding with the following certification. "I express a belief, based on a reasoned and studied professional judgment, that the statements made by the appellant in the appellant's Jurisdictional Statement to which I have taken exception are material to understanding correctly the nature of this appeal and its disposition in the appropriate appellate court." The page requirements for the appellee's response shall comply with the provisions of subsection (c) except that it shall not exceed two pages. The appellee's response shall not include an Informational Statement.

(d) Transfer and certification. The Supreme Court may transfer to the Court of Appeals any case appealed to the Supreme Court and may transfer to the Supreme Court any case

appealed to the Court of Appeals. If the Court of Appeals seeks to transfer a case, the Court of Appeals shall find and certify that the case: (1) is excepted from its jurisdiction by Rule 1-2(a), or (2) otherwise involves an issue of significant public interest or a legal principle of major importance. The Supreme Court may accept for its docket cases so certified or may remand any of them to the Court of Appeals for decision. The Clerk of the Court shall notify the parties or their counsel of the transfer of any case.

(e) Petition for review. No appeal as of right shall lie from the Court of Appeals to the Supreme Court. The Supreme Court will exercise its discretion to review an appeal decided by the Court of Appeals only on application by a party to the appeal, upon certification of the Court of Appeals, or if the Supreme Court decides the case is one that should have originally been assigned to the Supreme Court. In determining whether to grant a petition to review, the following, while neither controlling nor fully measuring the Supreme Court's discretion, indicate the character of reasons that will be considered: (i) the case was decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals rendered a decision which is arguably in conflict with a prior holding of a published opinion of either the Supreme Court or the Court of Appeals, or (iii) the Court of Appeals arguably erred in some way related to one of the grounds listed in Rule 1-2(b).

(f) Improper filing. No case filed in either the Supreme Court or the Court of Appeals shall be dismissed for having been filed in the wrong court but shall be transferred or certified to the proper court.

(g) Allocation of workload. Notwithstanding the foregoing provisions, cases may be assigned and transferred between the courts by Supreme Court order to achieve a fair allocation of the appellate workload between the Supreme Court and the Court of Appeals.

(h) In all appeals from criminal convictions or postconviction relief matters heard in the Court of Appeals, the appellant shall not be required to petition for rehearing in the Court of Appeals or review in the Supreme Court following an adverse decision of the Court of Appeals in order to be deemed to have exhausted all available state remedies respecting a claim of error. When the claim has been presented to the Court of Appeals or the Supreme Court, and relief has been denied, the appellant shall be deemed to have exhausted all available state remedies.

Addition to Reporter's Notes, 2001 Amendment: Subdivision (h) was added in response to language in *O'Sullivan v. Boerckel*, 526 U.S. 838, 119 S. Ct. 1728 (1999)("[N]othing in our decision today requires the exhaustion of any specific state remedy when a State has provided that that remedy is unavailable. Section 2254(c), in fact, directs federal courts to consider whether a habeas petitioner has "the right under the law of the State to raise, by any available procedure, the question presented," . . . . The exhaustion doctrine, in other words, turns on an inquiry into what procedures are "available" under state law. In sum, there is nothing in the exhaustion doctrine requiring federal courts to ignore a state law or rule providing that a given procedure is not available.") *Id.*, 526 U.S. at 848. Petitions for review, which are discretionary under subdivision (e) of this rule, should not be required in order for a state prisoner to exhaust his state remedies.

**Associated Court Rules:**

Rules of the Supreme Court and Court of Appeals of the State of Arkansas

**Group Title:**

Article I. General Rules and Proceedings

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