M.R. 3140

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

Order entered December 23, 2022.

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

Effective January 1, 2023, Illinois Supreme Court Rules 46, 604, 605, 606, and 607 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 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 Fairness Act. If a hearing under 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. Jan. 1, 2023.

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; ~~or~~ 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 ~~From Bail Orders~~ by Defendant Before Conviction From Bail Orders Entered Until the Effective Date of the 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 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 appellant 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 or by the affidavit of the attorney or party filing it. 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 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. Jan. 1, 2023.

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 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. Jan. 1, 2023.

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. If the defendant so requests in open court at the time he is advised of his right to appeal or subsequently 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 ~~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 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~~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~~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. Jan. 1, 2023.

Amended Rule 607

Rule 607. Appeals by Indigent Defendants.

(a) Appointment of Counsel. Upon the filing of a notice of appeal in any case in which the defendant has been found guilty of a felony or a Class A misdemeanor, or in which he has been found guilty of a lesser offense and sentenced to imprisonment or 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 modified and a sentence of imprisonment or periodic imprisonment imposed, or in cases where the court has imposed conditions of pretrial release, where the defendant has been detained pretrial, or where the defendant's pretrial release has been revoked, or where ~~and in cases in which~~ the State appeals, the circuit~~trial~~ court shall determine whether the defendant is represented by counsel on appeal.

If not so represented, and the court determines that the defendant is indigent and desires counsel on appeal, the court shall appoint counsel on appeal. Compensation and reimbursement for expenses of appointed attorneys shall be as provided by statute.

(b) Report of Proceedings. Upon finding by the court that the defendant is indigent, the court reporting personnel as defined in Rule 46 shall transcribe, certify, and file the report of proceedings with the clerk of the trial court as directed by the appellate court docketing order.

(1) On direct appeal of any case in which the defendant has been found guilty and sentenced to imprisonment, probation or conditional discharge, or periodic imprisonment, or to pay a fine, or in which a hearing has been held resulting in the revocation of or modification of the conditions of probation or conditional discharge, or in cases where the court has imposed conditions of pretrial release, or in cases where the defendant has been detained pretrial or where the defendant's pretrial release has been revoked, the defendant shall receive a copy of the report of the proceedings at his trial or hearing without charge. The clerk of the trial court shall transmit one printed copy of the filed report of proceedings to the defendant.

(2) If the conduct on which the case was based was also the basis for a juvenile proceeding that was dismissed so that the case could proceed, the defendant shall receive a copy of the report of proceedings in the juvenile proceeding without charge. The clerk of the trial court shall transmit one printed copy of the filed report of proceedings to the defendant.

(3) In subsequent collateral appeals the report of proceedings shall be provided to the defendant only upon written request from defendant's appointed counsel to the clerk of the circuit court specifying the date of the report of proceedings requested. The clerk of the trial court, upon receiving such a request from defendant's counsel, shall then transmit one printed copy of the specified report of proceedings to the defendant.

(4) The clerk of the trial court shall provide only one copy of any report of proceedings to the indigent defendant pursuant to the above procedure.

(5) The court reporting personnel who prepare reports of proceedings under this rule shall be paid pursuant to a schedule of charges approved by the public employer and employer representative for the court reporting personnel.

(c) Filing Fees Excused. 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.

(d) Paper Copies of Briefs or Petitions for Leave to Appeal. If the defendant is represented by court-appointed counsel, unless electronically filed, the clerk of the Supreme Court shall accept for filing not less than 13 legible paper copies of briefs or petitions for leave to appeal or answers thereto; and the clerks of the Appellate Court shall accept for filing not less than 6 legible paper copies of briefs if required by the electronic filing policy of the Appellate Court.

Amended effective June 23, 1967; amended October 21, 1969, effective January 1, 1970; amended effective July 1, 1971; amended June 28, 1974, effective September 1, 1974; amended September 29, 1978, effective November 1, 1978; amended July 30, 1979 and September 20, 1979, effective October 15, 1979; amended April 7, 1993, effective June 1, 1993; amended September 22, 1997, effective January 1, 1998; amended September 30, 2002, effective immediately; amended December 13, 2005, effective immediately; amended Feb. 6, 2013, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended Dec. 23, 2022, eff. Jan. 1, 2023.

Committee Comments
(Revised 1979)

Paragraph (a)

As adopted effective January 1, 1967, this paragraph was former Rule 27(18) with no substantial change except to provide that counsel other than the public defender may be appointed only in the discretion of the court. Rule 27(18) was derived from section 121-13(b) of the Code of Criminal Procedure. This provision harmonized the rule with the provisions of section 113-3 of the Code, as amended by the 1965 General Assembly.

As adopted in 1967, paragraph (a) provided for the appointment of counsel on appeal only in cases in which the defendant had been convicted of a crime punishable by imprisonment in the penitentiary. In 1971, the rule was amended to extend the right to appointed counsel to cases in which the defendant had been convicted of an offense punishable by imprisonment for more than six months. The term "criminal" was dropped to make it plain that the rule applied to ordinance violation cases in which the penalty could exceed six months' imprisonment. in 1974, after the decision in *Argersinger v. Hamlin* (1972), 407 U.S. 25, extending the right to counsel to all cases in which any imprisonment is actually imposed, paragraph (a) was amended to bring it in accord with the decision. At the same time the limitation on appointment of counsel other than the public defender was deleted.

Paragraph (b)

As adopted effective January 1, 1967, this paragraph was former Rule 27(9)(b) without substantial change. Rule 27(9)(b) was derived from earlier Rule 65-1(1), repealed effective January 1, 1964.

Like paragraph (a), this paragraph originally applied only to cases in which the defendant had been convicted of a crime punishable by imprisonment in the penitentiary. In 1971, it was amended to apply to cases in which the defendant had been convicted of an offense (including ordinance violations) punishable by more than six months' imprisonment. In 1974, it was amended to conform to the requirements set out in *Mayer v. City of Chicago* (1971), 404 U.S. 189, where it was held that a defendant convicted of an ordinance violation punishable by fine only is entitled, if indigent, to receive a free transcript of the proceedings at the trial. As presently worded, paragraph (b) provides that a defendant found guilty of any offense and sentenced to any of the sentences provided for in the Unified Code of Corrections (see Ill. Rev. Stat. 1973, ch. 38, par.

1005-5-3) may proceed under the rule.

Paragraph (b) was amended in October 1969 to provide explicitly that an indigent juvenile convicted of a felony after dismissal of a juvenile proceeding involving the facts on which the felony case is based is entitled to a report of proceedings of the juvenile proceeding. The need for insuring the availability of such a transcript was underscored by *People v. Jiles*, 43 Ill. 2d 145, 251 N.E.2d 529 (1969). The reference to "a felony case" in this provision was changed in 1971 to "that case," referring to any case that falls within the general coverage of the rule, meaning, since 1974, any case in which the defendant has been found guilty of an offense and sentenced. In 1978 paragraph (b) was amended to provide that upon written request the copy of the report of proceedings made for the defendant shall be delivered to the defendant's attorney of record, if he has one, and otherwise, on written request, released to the defendant or his guardian or custodian. This change was designed to avoid confusion over the delivery of the copy and leave a record of its delivery.

Paragraphs (c) and (d)

These provisions, new in 1967, codified existing Supreme Court practice.

In 1979, Rule 342 was amended to provide that with the exception of stated documents (see Rule 342(a)), no portions of the record shall be reproduced. Rule 317 was amended to reflect this change in the practice. See the committee comments to Rule 342.

Commentary
(September 22, 1997)

This amendment of Rule 607(b) directing the preparation of an additional copy of the report of proceedings in a case in which a death sentence is imposed is a necessary complement to Rule 608, amended September 22, 1997, effective January 1, 1998, which requires the preparation and filing of a duplicate record on appeal, in addition to the original, in death sentence cases.