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discharge conditioned upon periodic imprisonment, or in which a sentence of probation or conditional discharge has been revoked or the conditions attached to such a sentence modified and a sentence of imprisonment or periodic imprisonment imposed, or in cases where the court has imposed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of pretrial release, where the defendant has been detained pretrial, or where the defendant's pretrial release has been revoked, or where the State appeals, the circuit court shall determine whether the defendant is represented by counsel on appeal.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release, or in cases where the defendant has been detained pretrial or where the defendant's pretrial release has been revoked, the defendant shall receive a copy of the report of the proceedings at his trial or hearing without charge.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.