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RULES

OF THE

Supreme Court of the United States

ADOPTED APRIL 14, 1980
EFFECTIVE JUNE 30, 1980

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SUPREME COURT OF THE UNITED STATES

ADOPTED APRIL 14, 1980—EFFECTIVE JUNE 30, 1980

PART I. THE COURT

Rule 1

CLERK

.1. The Clerk shall have custody of all the records and papers of the Court and shall not permit any of them to be taken from his custody except as authorized by the Court. After the conclusion of the proceedings in this Court, any original records and papers transmitted as the record on appeal or certiorari will be returned to the court from which they were received. Pleadings, papers, and briefs filed with the Clerk may not be withdrawn by litigants.

.2. The office of the Clerk will be open, except on a federal legal holiday, from 9 a. m. to 5 p. m. Monday through Friday, and from 9 a. m. to noon Saturday.

.3. The Clerk shall not practice as an attorney or counselor while holding his office. See 28 U. S. C. § 955.

Rule 2

LIBRARY

.1. The Bar library will be open to the appropriate personnel of this Court, members of the Bar of this Court, Members of Congress, members of their legal staffs, and attorneys for the United States, its departments and agencies.

.2. The library will be open during such times as the reasonable needs of the Bar require and shall be governed by regulations made by the Librarian with the approval of the Chief Justice or the Court.

.3. Books may not be removed from the building, except by a Justice or a member of his legal staff.

Rule 3

Term

.1. The Court will hold an annual Term commencing on the first Monday in October, and may hold a special term whenever necessary. See 28 U. S. C. § 2.

.2. The Court at every Term will announce the date after which no case will be called for argument at that Term unless otherwise ordered for special cause shown.

.3. At the end of each Term, all cases on the docket will be continued to the next Term.

Rule 4

Sessions, Quorum, and Adjournments

.1. Open sessions of the Court will be held at 10 a. m. on the first Monday in October of each year, and thereafter as announced by the Court. Unless otherwise ordered, the Court will sit to hear arguments from 10 a. m. until noon and from 1 p. m. until 3 p. m.

.2. Any six Members of the Court shall constitute a quorum. See 28 U. S. C. § 1. In the absence of a quorum on any day appointed for holding a session of the Court, the Justices attending, or if no Justice is present the Clerk or a Deputy Clerk, may announce that the Court will not meet until there is a quorum.

.3. The Court in appropriate circumstances may direct the Clerk or the Marshal to announce recesses and adjournments.

PART II. ATTORNEYS AND COUNSELORS

Rule 5

Admission to the Bar

.1. It shall be requisite to the admission to practice in this Court that the applicant shall have been admitted to practice

in the highest court of a State, Territory, District, Commonwealth, or Possession for the three years immediately preceding the date of application, and that the applicant appears to the Court to be of good moral and professional character.

.2. Each applicant shall file with the Clerk (1) a certificate from the presiding judge, clerk, or other duly authorized official of the proper court evidencing the applicant's admission to practice there and present good standing, and (2) an executed copy of the form approved by the Court and furnished by the Clerk containing (i) the applicant's personal statement and (ii) the statement of two sponsors (who must be members of the Bar of this Court and must personally know, but not be related to, the applicant) endorsing the correctness of the applicant's statement, stating that the applicant possesses all the qualifications required for admission, and affirming that the applicant is of good moral and professional character.

.3. If the documents submitted by the applicant demonstrate that the applicant possesses the necessary qualifications, the Clerk shall so notify the applicant. Upon the applicant's signing the oath or affirmation and paying the fee required under Rule 45 (e), the Clerk shall issue a certificate of admission. If the applicant desires, however, the applicant may be admitted in open court on oral motion by a member of the Bar, provided that the requirements for admission have been satisfied.

.4. Each applicant shall take or subscribe the following oath or affirmation:

I, ..., do solemnly swear (or affirm) that as an attorney and as a counselor of this Court I will conduct myself uprightly and according to law, and that I will support the Constitution of the United States.

Rule 6

Argument Pro Hac Vice

.1. An attorney admitted to practice in the highest court of a State, Territory, District, Commonwealth, or Possession

who has not been such for three years, but who is otherwise eligible for admission to practice in this Court under Rule 5.1, may be permitted to present oral argument *pro hac vice* in a particular case.

.2. An attorney, barrister, or advocate who is qualified to practice in the courts of a foreign state may be permitted to present oral argument *pro hac vice* in a particular case.

.3. Oral argument *pro hac vice* shall be allowed only on motion of the attorney of record for the party on whose behalf leave is sought. Such motion must briefly and distinctly state the appropriate qualifications of the attorney for whom permission to argue orally is sought; it must be filed with the Clerk, in the form prescribed by Rule 42, no later than the date on which the appellee's or respondent's brief on the merits is due to be filed and it must be accompanied by proof of service as prescribed by Rule 28.

Rule 7

Prohibition Against Practice

No one serving as a law clerk or secretary to a Justice of this Court and no other employee of this Court shall practice as an attorney or counselor in any court or before any agency of Government while holding that position; nor shall such person after separating from that position participate, by way of any form of professional consultation or assistance, in any case before this Court until two years have elapsed after such separation; nor shall such person ever participate, by way of any form of professional consultation or assistance, in any case that was pending in this Court during the tenure of such position.

Rule 8

Disbarment

Where it is shown to the Court that any member of its Bar has been disbarred or suspended from practice in any court of record, or has engaged in conduct unbecoming a member of the Bar of this Court, such member forthwith

may be suspended from practice before this Court. Such member thereupon will be afforded the opportunity to show good cause, within 40 days, why disbarment should not be effectuated. Upon his response, or upon the expiration of the 40 days if no response is made, the Court will enter an appropriate order.

PART III. ORIGINAL JURISDICTION

Rule 9

Procedure in Original Actions

.1. This Rule applies only to actions within the Court's original jurisdiction under Article III of the Constitution of the United States. Original applications for writs in aid of the Court's appellate jurisdiction are governed by Part VII of these Rules.

.2. The form of pleadings and motions in original actions shall be governed, so far as may be, by the Federal Rules of Civil Procedure, and in other respects those Rules, where their application is appropriate, may be taken as a guide to procedure in original actions in this Court.

.3. The initial pleading in any original action shall be prefaced by a motion for leave to file such pleading, and both shall be printed in conformity with Rule 33. A brief in support of the motion for leave to file, which shall comply with Rule 33, may be filed with the motion and pleading. Sixty copies of each document, with proof of service as prescribed by Rule 28, are required, except that, when an adverse party is a State, service shall be made on the Governor and Attorney General of such State.

.4. The case will be placed upon the original docket when the motion for leave to file is filed with the Clerk. The docket fee must be paid at that time, and the appearance of counsel for the plaintiff entered.

.5. Within 60 days after receipt of the motion for leave to file and allied documents, any adverse party may file, with proof of service as prescribed by Rule 28, 60 printed copies

of a brief in opposition to such motion. The brief shall conform to Rule 33. When such brief in opposition has been filed, or when the time within which it may be filed has expired, the motion, pleading, and briefs will be distributed to the Court by the Clerk. The Court may thereafter grant or deny the motion, set it down for argument, or take other appropriate action.

.6. Additional pleadings may be filed, and subsequent proceedings had, as the Court may direct.

.7. A summons issuing out of this Court in any original action shall be served on the defendant 60 days before the return day set out therein; and if the defendant, on such service, shall not respond by the return day, the plaintiff shall be at liberty to proceed *ex parte*.

.8. Any process against a State issued from the Court in an original action shall be served on the Governor and Attorney General of such State.

PART IV. JURISDICTION ON APPEAL

Rule 10

Appeal—How Taken—Parties—Cross-Appeal

.1. An appeal to this Court permitted by law shall be taken by filing a notice of appeal in the form, within the time, and at the place prescribed by this Rule, and shall be perfected by docketing the case in this Court as provided in Rule 12.

.2. The notice of appeal shall specify the parties taking the appeal, shall designate the judgment or part thereof appealed from, giving the date of its entry, and shall specify the statute or statutes under which the appeal to this Court is taken. A copy of the notice of appeal shall be served on all parties to the proceeding in the court where the judgment appealed from was issued, in the manner prescribed by Rule 28, and proof of service shall be filed with the notice of appeal.

.3. If the appeal is taken from a federal court, the notice of appeal shall be filed with the clerk of that court. If the appeal is taken from a state court, the notice of appeal shall

be filed with the clerk of the court from whose judgment the appeal is taken, and a copy of the notice of appeal shall be filed with the court possessed of the record.

.4. All parties to the proceeding in the court from whose judgment the appeal is being taken shall be deemed parties in this Court, unless the appellant shall notify the Clerk of this Court in writing of appellant's belief that one or more of the parties below has no interest in the outcome of the appeal. A copy of such notice shall be served on all parties to the proceeding below and a party noted as no longer interested my remain a party here by notifying the Clerk, with service on the other parties, that he has an interest in the appeal. All parties other than appellants shall be appellees, but any appellee who supports the position of an appellant shall meet the time schedule for filing papers which is provided for that appellant, except that any response by such appellee to a jurisdictional statement shall be filed within 20 days after receipt of the statement.

.5. The Court may permit an appellee, without filing a cross-appeal, to defend a judgment on any ground that the law and record permit and that would not expand the relief he has been granted.

.6. Parties interested jointly, severally, or otherwise in a judgment may join in an appeal therefrom; or any one or more of them may appeal separately; or any two or more of them may join in an appeal. Where two or more cases that involve identical or closely related questions are appealed from the same court, it will suffice to file a single jurisdictional statement covering all the issues.

.7. An appellee may take a cross-appeal by perfecting an appeal in the normal manner or, without filing a notice of appeal, by docketing the cross-appeal within the time permitted by Rule 12.4.

Rule 11

Appeal, Cross-Appeal—Time for Taking

.1. An appeal to review the judgment of a state court in a criminal case shall be in time when the notice of appeal

prescribed by Rule 10 is filed with the clerk of the court from whose judgment the appeal is taken within 90 days after the entry of such judgment and the case is docketed within the time provided in Rule 12. See 28 U. S. C. § 2101 (d).

.2. An appeal in all other cases shall be in time when the notice of appeal prescribed by Rule 10 is filed with the clerk of the appropriate court within the time allowed by law for taking such appeal and the case is docketed within the time provided in Rule 12. See 28 U. S. C. §§ 2101 (a), (b), and (c).

.3. The time for filing the notice of appeal runs from the date the judgment or decree sought to be reviewed is rendered, and not from the date of the issuance of the mandate (or its equivalent under local practice). However, if a petition for rehearing is timely filed by any party in the case, the time for filing the notice of appeal for all parties (whether or not they requested rehearing or joined in the petition for rehearing, or whether or not the petition for rehearing relates to an issue the other parties would raise) runs from the date of the denial of rehearing or the entry of a subsequent judgment.

.4. The time for filing a notice of appeal may not be extended.

.5. A cross-appeal shall be in time if it complies with this Rule or if it is docketed as provided in Rule 12.4.

Rule 12

Docketing Cases

.1. Not more than 90 days after the entry of the judgment appealed from, it shall be the duty of the appellant to docket the case in the manner set forth in paragraph .3 of this Rule, except that in the case of appeals pursuant to 28 U. S. C. §§ 1252 or 1253, the time limit for docketing shall be 60 days from the filing of the notice of appeal. See 28 U. S. C. § 2101 (a). The Clerk will refuse to receive any jurisdictional statement in a case in which the notice of appeal has obviously not been timely filed.

.2. For good cause shown, a Justice of this Court may extend the time for docketing a case for a period not exceeding

60 days. An application for extension of time within which to docket a case must set out the grounds on which the jurisdiction of this Court is invoked, must identify the judgment sought to be reviewed, must have appended a copy of the opinion, must specify the date and place of filing of the notice of appeal and append a copy thereof, and must set forth with specificity the reasons why the granting of an extension of time is thought justified. For the time and manner of presenting such an application, see Rules 29, 42.2, and 43. Such applications are not favored.

.3. Counsel for the appellant shall enter an appearance, pay the docket fee, and file, with proof of service as prescribed by Rule 28, 40 copies of a printed statement as to jurisdiction, which shall comply in all respects with Rule 15. The case then will be placed on the docket. It shall be the duty of counsel for appellant to notify all appellees, on a form supplied by the Clerk, of the date of docketing and of the docket number of the case. Such notice shall be served as required by Rule 28.

.4. Not more than 30 days after receipt of the statement of jurisdiction, counsel for an appellee wishing to cross-appeal shall enter an apperance, pay the docket fee, and file, with proof of service as prescribed by Rule 28, 40 copies of a printed statement as to jurisdiction on cross-appeal, which shall comply in all respects with Rule 15. The cross-appeal will then be placed on the docket. The issues tendered by a timely cross-appeal docketed under this paragraph may be considered by the Court only in connection with a separate and duly perfected appeal over which this Court has jurisdiction without regard to this paragraph. It shall be the duty of counsel for the cross-appellant to notify the cross-appellee on a form supplied by the Clerk of the date of docketing and of the docket number of the cross-appeal. Such notice shall be served as required by Rule 28. A statement of jurisdiction on cross-appeal may not be joined with any other pleading. The Clerk shall not accept any pleadings so joined. The time for filing a cross-appeal may not be extended.

Rule 13

Certification of the Record

.1. An appellant at any time prior to action by this Court on the jurisdictional statement, may request the clerk of the court possessed of the record to certify it, or any part of it, and to provide for its transmission to this Court, but the filing of the record in this Court is not required for the docketing of an appeal. If the appellant has not done so, the appellee may request such clerk to certify and transmit the record or any part of it. Thereafter, the Clerk of this Court or any party to the appeal may request that additional parts of the record be certified and transmitted to this Court. Copies of all requests for certification and transmission shall be sent to all parties. Such requests to certify the record prior to action by the Court on the jurisdictional statement, however, shall not be made as a matter of course but only when the record is deemed essential to a proper understanding of the case by this Court.

.2. When requested to certify and transmit the record, or any part of it, the clerk of the court possessed of the record shall number the documents to be certified and shall transmit with the record a numbered list of the documents, identifying each with reasonable definiteness.

.3. The record may consist of certified copies. But whenever it shall appear necessary or proper, in the opinion of the presiding judge of the court from which the appeal is taken, that original papers of any kind should be inspected in this Court in lieu of copies, the presiding judge may make any rule or order for safekeeping, transporting, and return of the original papers as may seem proper to him. If the record or stipulated portions thereof have been printed for the use of the court below, this printed record plus the proceedings in the court below may be certified as the record unless one of the parties or the Clerk of this Court otherwise requests.

.4. When more than one appeal is taken to this Court from the same judgment, it shall be sufficient to prepare a single

record containing all the matter designated by the parties or the Clerk of this Court, without duplication.

Rule 14

Dismissing Appeals

.1. After a notice of appeal has been filed, but before the case has been docketed in this Court, the parties may dismiss the appeal by stipulation filed in the court whose judgment is the subject of the appeal, or that court may dismiss the appeal upon motion and notice by the appellant. For dismissal after the case has been docketed, see Rule 53.

.2. If a notice of appeal has been filed but the case has not been docketed in this Court within the time for docketing, plus any enlargement thereof duly granted, the court whose judgment is the subject of the appeal may dismiss the appeal upon motion of the appellee and notice to the appellant, and may make such order thereon with respect to costs as may be just.

.3. If a notice of appeal has been filed but the case has not been docketed in this Court within the time for docketing, plus any enlargement thereof duly granted, and the court whose judgment is the subject of the appeal has denied for any reason an appellee's motion to dismiss the appeal, made as provided in the foregoing paragraph, the appellee may have the cause docketed and may seek to have the appeal dismissed in this Court, by producing a certificate, whether in term or vacation, from the clerk of the court whose judgment is the subject of the appeal, establishing the foregoing facts, and by filing a motion to dismiss, which shall conform to Rule 42 and be accompanied by proof of service as prescribed by Rule 28. The clerk's certificate shall be attached to the motion, but it shall not be necessary for the appellee to file the record. In the event that the appeal is thereafter dismissed, the Court may give judgment for costs against the appellant and in favor of appellee. The appellant shall not be entitled to docket the cause after the appeal shall have been

dismissed under this paragraph, except by special leave of Court.

Rule 15

Jurisdictional Statement

.1. The jurisdictional statement required by Rule 12 shall contain, in the order here indicated:

(a) The questions presented by the appeal, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of the questions should be short and concise and should not be argumentative or repetitious. The statement of a question presented will be deemed to comprise every subsidiary question fairly included therein. Only the questions set forth in the jurisdictional statement or fairly included therein will be considered by the Court.

(b) A list of all parties to the proceeding in the court whose judgment is sought to be reviewed, except where the caption of the case in this Court contains the names of all such parties. This listing may be done in a footnote.

(c) A table of contents and table of authorities, if required by Rule 33.5.

(d) A reference to the official and unofficial reports of any opinions delivered in the courts or administrative agency below.

(e) A concise statement of the grounds on which the jurisdiction of this Court is invoked, showing:

(i) The nature of the proceeding and, if the appeal is from a federal court, the statutory basis for federal jurisdiction.

(ii) The date of the entry of the judgment or decree sought to be reviewed, the date of any order respecting a rehearing, the date the notice of appeal was filed, and the court in which it was filed. In the case of a cross-appeal docketed under Rule 12.4, reliance upon that Rule shall be expressly noted, and the date of receipt of the appellant's jurisdictional

statement by the appellee-cross-appellant shall be stated.

(iii) The statutory provision believed to confer jurisdiction of the appeal on this Court, and, if deemed necessary, the cases believed to sustain jurisdiction.

(f) The constitutional provisions, treaties, statutes, ordinances, and regulations that the case involves, setting them out verbatim, and giving the appropriate citation therefor. If the provisions involved are lengthy, their citation alone will suffice at this point, and their pertinent text then shall be set forth in the appendix referred to in subparagraph 1 (j) of this Rule.

(g) A *concise* statement of the case containing the facts material to consideration of the questions presented. The statement of the case shall also specify the stage in the proceedings (both in the court of first instance and in the appellate court) at which the questions sought to be reviewed were raised; the method or manner of raising them; and the way in which they were passed upon by the court.

(h) A statement of the reasons why the questions presented are so substantial as to require plenary consideration, with briefs on the merits and oral argument, for their resolution.

(i) If the appeal is from a decree of a distict court granting or denying a preliminary injunction, a showing of the matters in which it is contended that the court has abused its discretion by such action. See *United States* v. *Corrick,* 298 U. S. 435 (1936); *Mayo* v. *Lakeland Highlands Canning Co.,* 309 U. S. 310 (1940).

(j) An appendix containing, in the following order:

(i) Copies of any opinions, orders, findings of fact, and conclusions of law, whether written or oral (if recorded and transcribed), delivered upon the rendering of the judgment or decree by the court whose decision is sought to be reviewed.

(ii) Copies of any other such opinions, orders, findings of fact, and conclusions of law rendered by courts or administrative agencies in the case, and, if reference thereto is necessary to ascertain the grounds of the judgment or decree, of those in companion cases. Each of these documents shall include the caption showing the name of the issuing court or agency, the title and number of the case, and the date of its entry.

(iii) A copy of the judgment or decree appealed from and any order on rehearing, including in each the caption showing the name of the issuing court or agency, the title and number of the case, and the date of entry of the judgment, decree, or order on rehearing.

(iv) A copy of the notice of appeal showing the date it was filed and the name of the court where it was filed.

(v) Any other appended materials.

If what is required by this paragraph to be appended to the statement is voluminous, it may, if more convenient, be separately presented.

.2. The jurisdictional statement shall be produced in conformity with Rule 33. The Clerk shall not accept any jurisdictional statement that does not comply with this Rule and with Rule 33, except that a party proceeding *in forma pauperis* may proceed in the manner provided in Rule 46.

.3. The jurisdictional statement shall be as short as possible, but may not exceed 30 pages, excluding the subject index, table of authorities, any verbatim quotations required by subparagraph 1 (f) of this Rule, and the appendices.

Rule 16

Motion to Dismiss or Affirm—Reply—Supplemental Briefs

.1. Within 30 days after receipt of the jurisdictional statement, unless the time is enlarged by the Court or a Justice thereof, or by the Clerk under the provisions of Rule 29.4,

the appellee may file a motion to dismiss, or a motion to affirm. Where appropriate, a motion to affirm may be united in the alternative with a motion to dismiss, provided that a motion to affirm or dismiss shall not be joined with any other pleading. The Clerk shall not accept any motion so joined.

(a) The Court will receive a motion to dismiss an appeal on the ground that the appeal is not within this Court's jurisdiction, or because not taken in conformity with statute or with these Rules.

(b) The Court will receive a motion to dismiss an appeal from a state court on the ground that it does not present a substantial federal question; or that the federal question sought to be reviewed was not timely or properly raised and was not expressly passed on; or that the judgment rests on an adequate non-federal basis.

(c) The Court will receive a motion to affirm the judgment sought to be reviewed on appeal from a federal court on the ground that it is manifest that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

(d) The Court will receive a motion to dismiss or affirm on any other ground the appellee wishes to present as a reason why the Court should not set the case for argument.

.2. A motion to dismiss or affirm shall comply in all respects with Rules 33 and 42. Forty copies, with proof of service as prescribed by Rule 28, shall be filed with the Clerk. The Clerk shall not accept a motion or brief that does not comply with this Rule and with Rules 33 and 42, except that a party proceeding *in forma pauperis* may proceed in the manner provided in Rule 46.

.3. A motion to dismiss or affirm shall be as short as possible and may not, either separately or cumulatively, exceed 30 pages, excluding the subject index, table of authorities, any verbatim quotations included in accordance with Rule 34.1 (f), and any appendix.

.4. Upon the filing of such motion, or the expiration of the

time allowed therefor, or express waiver of the right to file, the jurisdictional statement and the motion, if any, will be distributed by the Clerk to the Court for its consideration. However, if a jurisdictional statement on cross-appeal has been docketed under Rule 12.4, distribution of both it and the jurisdictional statement on appeal will be delayed until the filing of a motion to dismiss or affirm by the cross-appellee, or the expiration of the time allowed therefor, or express waiver of the right to file.

.5. A brief opposing a motion to dismiss or affirm may be filed by any appellant, but distribution of the jurisdictional statement and consideration thereof by this Court will not be delayed pending the filing of any such brief. Such brief shall be as short as possible but may not exceed 10 pages. Forty copies of any such brief, prepared in accordance with Rule 33 and served as prescribed by Rule 28, shall be filed.

.6. Any party may file a supplemental brief at any time while a jurisdictional statement is pending, calling attention to new cases or legislation or other intervening matter not available at the time of the party's last filing. A supplemental brief, restricted to such new matter, may not exceed 10 pages. Forty copies of any such brief, prepared in accordance with Rule 33 and served as prescribed by Rule 28, shall be filed.

.7. After consideration of the papers distributed pursuant to this Rule, the Court will enter an appropriate order. The order may be a summary disposition on the merits. If the order notes probable jurisdiction or postpones consideration of jurisdiction to the hearing on the merits, the Clerk forthwith shall notify the court below and counsel of record of the noting or postponement. The case then will stand for briefing and oral argument. If the record has not previously been filed, the Clerk of this Court shall request the clerk of the court possessed of the record to certify it and transmit it to this Court.

.8. If consideration of jurisdiction is postponed, counsel, at the outset of their briefs and oral argument, shall address the question of jurisdiction.

PART V. JURISDICTION ON WRIT OF CERTIORARI

Rule 17

CONSIDERATIONS GOVERNING REVIEW ON CERTIORARI

.1. A review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only when there are special and important reasons therefor. The following, while neither controlling nor fully measuring the Court's discretion, indicate the character of reasons that will be considered.

(a) When a federal court of appeals has rendered a decision in conflict with the decision of another federal court of appeals on the same matter; or has decided a federal question in a way in conflict with a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision.

(b) When a state court of last resort has decided a federal question in a way in conflict with the decision of another state court of last resort or of a federal court of appeals.

(c) When a state court or a federal court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way in conflict with applicable decisions of this Court.

.2. The same general considerations outlined above will control in respect of petitions for writs of certiorari to review judgments of the Court of Claims, of the Court of Customs and Patent Appeals, and of any other court whose judgments are reviewable by law on writ of certiorari.

Rule 18

CERTIORARI TO A FEDERAL COURT OF APPEALS BEFORE JUDGMENT

A petition for writ of certiorari to review a case pending in a federal court of appeals, before judgment is given in such

court, will be granted only upon a showing that the case is of such imperative public importance as to justify the deviation from normal appellate practice and to require immediate settlement in this Court. See 28 U. S. C. § 2101 (e); see also, *United States* v. *Bankers Trust Co.*, 294 U. S. 240 (1935); *Railroad Retirement Board* v. *Alton R. Co.*, 295 U. S. 330 (1935); *Rickert Rice Mills* v. *Fontenot*, 297 U. S. 110 (1936); *Carter* v. *Carter Coal Co.*, 298 U. S. 238 (1936); *Ex parte Quirin*, 317 U. S. 1 (1942); *United States* v. *Mine Workers*, 330 U. S. 258 (1947); *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U. S. 579 (1952); *Wilson* v. *Girard*, 354 U. S. 524 (1957); *United States* v. *Nixon*, 418 U. S. 683 (1974).

Rule 19

Review on Certiorari—How Sought—Parties

.1. A party intending to file a petition for certiorari, prior to filing the case in this Court or at any time prior to action by this Court on the petition, may request the clerk of the court possessed of the record to certify it, or any part of it, and to provide for its transmission to this Court, but the filing of the record in this Court is not a requisite for docketing the petition. If the petitioner has not done so, the respondent may request such clerk to certify and transmit the record or any part of it. Thereafter, the Clerk of this Court or any party to the case may request that additional parts of the record be certified and transmitted to this Court. Copies of all requests for certification and transmission shall be sent to all parties to the proceeding. Such requests to certify the record prior to action by the Court on the petition for certiorari, however, should not be made as a matter of course but only when the record is deemed essential to a proper understanding of the case by this Court.

.2. When requested to certify and transmit the record, or any part of it, the clerk of the court possessed of the record shall number the documents to be certified and shall transmit with the record a numbered list of the documents, identifying each with reasonable definiteness. If the record, or stipulated

portions thereof, has been printed for the use of the court below, such printed record plus the proceedings in the court below may be certified as the record unless one of the parties or the Clerk of this Court otherwise requests. The provisions of Rule 13.3 with respect to original papers shall apply to all cases sought to be reviewed on writ of certiorari.

.3. Counsel for the petitioner shall enter an appearance, pay the docket fee, and file, with proof of service as provided by Rule 28, 40 copies of a petition which shall comply in all respects with Rule 21. The case then will be placed on the docket. It shall be the duty of counsel for the petitioner to notify all respondents, on a form supplied by the Clerk, of the date of filing and of the docket number of the case. Such notice shall be served as required by Rule 28.

.4. Parties interested jointly, severally, or otherwise in a judgment may join in a petition for a writ of certiorari therefrom; or any one or more of them may petition separately; or any two or more of them may join in a petition. When two or more cases are sought to be reviewed on certiorari to the same court and involve identical or closely related questions, it will suffice to file a single petition for writ of certiorari covering all the cases.

.5. Not more than 30 days after receipt of the petition for certiorari, counsel for a respondent wishing to file a cross-petition that would otherwise be untimely shall enter an appearance, pay the docket fee, and file, with proof of service as prescribed by Rule 28, 40 copies of a cross-petition for certiorari, which shall comply in all respects with Rule 21. The cross-petition will then be placed on the docket subject, however, to the provisions of Rule 20.5. It shall be the duty of counsel for the cross-petitioner to notify the cross-respondent on a form supplied by the Clerk of the date of docketing and of the docket number of the cross-petition. Such notice shall be served as required by Rule 28. A cross-petition for certiorari may not be joined with any other pleading. The Clerk shall not accept any pleadings so joined. The time for filing a cross-petition may not be extended.

.6. All parties to the proceeding in the court whose judgment is sought to be reviewed shall be deemed parties in this Court, unless the petitioner shall notify the Clerk of this Court in writing of petitioner's belief that one or more of the parties below has no interest in the outcome of the petition. A copy of such notice shall be served on all parties to the proceeding below and a party noted as no longer interested may remain a party here by notifying the Clerk, with service on the other parties, that he has an interest in the petition. All parties other than petitioners shall be respondents, but any respondent who supports the position of a petitioner shall meet the time schedule for filing papers which is provided for that petitioner, except that any response by such respondent to the petition shall be filed within 20 days after receipt of the petition. The time for filing such response may not be extended.

Rule 20

Review on Certiorari—Time for Petitioning

.1. A petition for writ of certiorari to review the judgment in a criminal case of a state court of last resort or of a federal court of appeals shall be deemed in time when it is filed with the Clerk within 60 days after the entry of such judgment. A Justice of this Court, for good cause shown, may extend the time for applying for a writ of certiorari in such cases for a period not exceeding 30 days.

.2. A petition for writ of certiorari in all other cases shall be deemed in time when it is filed with the Clerk within the time prescribed by law. See 28 U. S. C. § 2101 (c).

.3. The Clerk will refuse to receive any petition for a writ of certiorari which is jurisdictionally out of time.

.4. The time for filing a petition for writ of certiorari runs from the date the judgment or decree sought to be reviewed is rendered, and not from the date of the issuance of the mandate (or its equivalent under local practice). However, if a petition for rehearing is timely filed by any party in the case, the time for filing the petition for writ of certiorari for all parties (whether or not they requested rehearing or joined in

the petition for rehearing) runs from the date of the denial of rehearing or of the entry of a subsequent judgment entered on the rehearing.

.5. A cross-petition for writ of certiorari shall be deemed in time when it is filed as provided in paragraphs .1, .2, and .4 of this Rule or in Rule 19.5. However, no cross-petition filed untimely except for the provision of Rule 19.5 shall be granted unless a timely petition for writ of certiorari of another party to the case is granted.

.6. An application for extension of time within which to file a petition for writ of certiorari must set out, as in a petition for certiorari (see Rule 21.1, subparagraphs (e) and (h)), the grounds on which the jurisdiction of this Court is invoked, must identify the judgment sought to be reviewed and have appended thereto a copy of the opinion, and must set forth with specificity the reasons why the granting of an extension of time is thought justified. For the time and manner of presenting such an application, see Rules 29, 42, and 43. Such applications are not favored.

Rule 21

The Petition for Certiorari

.1. The petition for writ of certiorari shall contain, in the order here indicated:

(a) The questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of the questions should be short and concise and should not be argumentative or repetitious. The statement of a question presented will be deemed to comprise every subsidiary question fairly included therein. Only the questions set forth in the petition or fairly included therein will be considered by the Court.

(b) A list of all parties to the proceeding in the court whose judgment is sought to be reviewed, except where the caption of the case in this Court contains the names of all parties. This listing may be done in a footnote.

(c) A table of contents and table of authorities, if required by Rule 33.5.

(d) A reference to the official and unofficial reports of any opinions delivered in the courts or administrative agency below.

(e) A concise statement of the grounds on which the jurisdiction of this Court is invoked showing:

(i) The date of the judgment or decree sought to be reviewed, and the time of its entry;

(ii) The date of any order respecting a rehearing, and the date and terms of any order granting an extension of time within which to petition for certiorari; and

(iii) Where a cross-petition for writ of certiorari is filed under Rule 19.5, reliance upon that Rule shall be expressly noted and the cross-petition shall state the date of receipt of the petition for certiorari in connection with which the cross-petition is filed.

(iv) The statutory provision believed to confer on this Court jurisdiction to review the judgment or decree in question by writ of certiorari.

(f) The constitutional provisions, treaties, statutes, ordinances, and regulations which the case involves, setting them out verbatim, and giving the appropriate citation therefor. If the provisions involved are lengthy, their citation alone will suffice at this point, and their pertinent text then shall be set forth in the appendix referred to in subparagraph 1 (k) of this Rule.

(g) A *concise* statement of the case containing the facts material to the consideration of the questions presented.

(h) If review of the judgment of a state court is sought, the statement of the case shall also specify the stage in the proceedings, both in the court of first instance and in the appellate court, at which the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed upon by the court; such pertinent quotation of specific por-

tions of the record, or summary thereof, with specific reference to the places in the record where the matter appears (*e. g.*, ruling on exception, portion of court's charge and exception thereto, assignment of errors) as will show that the federal question was timely and properly raised so as to give this Court jurisdiction to review the judgment on writ of certiorari.

Where the portions of the record relied upon under this subparagraph are voluminous, they shall be included in the appendix referred to in subparagraph 1 (k) of this Rule.

(i) If review of the judgment of a federal court is sought, the statement of the case shall also show the basis for federal jurisdiction in the court of first instance.

(j) A direct and concise argument amplifying the reasons relied on for the allowance of the writ. See Rule 17.

(k) An appendix containing, in the following order:

(i) Copies of any opinions, orders, findings of fact, and conclusions of law, whether written or oral (if recorded and transcribed), delivered upon the rendering of the judgment or decree by the court whose decision is sought to be reviewed.

(ii) Copies of any other such opinions, orders, findings of fact, and conclusions of law rendered by courts or administrative agencies in the case, and, if reference thereto is necessary to ascertain the grounds of the judgment or decree, of those in companion cases. Each of these documents shall include the caption showing the name of the issuing court or agency and the title and number of the case, and the date of its entry.

(iii) A copy of the judgment or decree sought to be reviewed and any order on rehearing, including in each the caption showing the name of the issuing court or agency, the title and number of the case, and the date of entry of the judgment, decree, or order on rehearing.

(iv) Any other appended materials.

If what is required by this paragraph or by subparagraphs 1 (f) and (h) of this Rule, to be included in the petition is voluminous, it may, if more convenient, be separately presented.

.2. The petition for writ of certiorari shall be produced in conformity with Rule 33. The Clerk shall not accept any petition for writ of certiorari that does not comply with this Rule and with Rule 33, except that a party proceeding *in forma pauperis* may proceed in the manner provided in Rule 46.

.3. All contentions in support of a petition for writ of certiorari shall be set forth in the body of the petition, as provided in subparagraph 1 (j) of this Rule. No separate brief in support of a petition for a writ of certiorari will be received, and the Clerk will refuse to file any petition for a writ of certiorari to which is annexed or appended any supporting brief.

.4. The petition for writ of certiorari shall be as short as possible, but may not exceed 30 pages, excluding the subject index, table of authorities, any verbatim quotations required by subparagraph 1 (f) of this Rule, and the appendix.

.5. The failure of a petitioner to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying his petition.

Rule 22

Brief in Opposition—Reply—Supplemental Briefs

.1. Respondent shall have 30 days (unless enlarged by the Court or a Justice thereof or by the Clerk pursuant to Rule 29.4) after receipt of a petition, within which to file 40 printed copies of an opposing brief disclosing any matter or ground why the cause should not be reviewed by this Court. See Rule 17. Such brief in opposition shall comply with Rule 33 and with the requirements of Rule 34 governing a respondent's brief, and shall be served as prescribed by Rule 28. The Clerk shall not accept a brief which does not comply with this Rule and with Rule 33, except that a party proceed-

ing *in forma pauperis* may proceed in the manner provided in Rule 46.

.2. A brief in opposition shall be as short as possible and may not, in any single case, exceed 30 pages, excluding the subject index, table of authorities, any verbatim quotations included in accordance with Rule 34.1 (f), and any appendix.

.3. No motion by a respondent to dismiss a petition for writ of certiorari will be received. Objections to the jurisdiction of the Court to grant the writ of certiorari may be included in the brief in opposition.

.4. Upon the filing of a brief in opposition, or the expiration of the time allowed therefor, or express waiver of the right to file, the petition and brief, if any, will be distributed by the Clerk to the Court for its consideration. However, if a cross-petition for certiorari has been filed, distribution of both it and the petition for certiorari will be delayed until the filing of a brief in opposition by the cross-respondent, or the expiration of the time allowed therefor, or express waiver of the right to file.

.5. A reply brief addressed to arguments first raised in the brief in opposition may be filed by any petitioner but distribution under paragraph .4 hereof will not be delayed pending the filing of any such brief. Such brief shall be as short as possible, but may not exceed 10 pages. Forty copies of any such brief, prepared in accordance with Rule 33 and served as prescribed by Rule 28, shall be filed.

.6. Any party may file a supplemental brief at any time while a petition for writ of certiorari is pending calling attention to new cases or legislation or other intervening matter not available at the time of the party's last filing. A supplemental brief, restricted to such new matter, may not exceed 10 pages. Forty copies of any such brief, prepared in accordance with Rule 33 and served as prescribed by Rule 28, shall be filed.

Rule 23

Disposition of Petition for Certiorari

.1. After consideration of the papers distributed pursuant

to Rule 22, the Court will enter an appropriate order. The order may be a summary disposition on the merits.

.2. Whenever a petition for writ of certiorari to review a decision of any court is granted, an order to that effect shall be entered, and the Clerk forthwith shall notify the court below and counsel of record. The case then will stand for briefing and oral argument. If the record has not previously been filed, the Clerk of this Court shall request the clerk of the court possessed of the record to certify it and transmit it to this Court. A formal writ shall not issue unless specially directed.

.3. Whenever a petition for writ of certiorari to review a decision of any court is denied, an order to that effect will be entered and the Clerk forthwith will notify the court below and counsel of record. The order of denial will not be suspended pending disposition of a petition for rehearing except by order of the Court or a Justice thereof.

PART VI. JURISDICTION OF CERTIFIED QUESTIONS

Rule 24

Questions Certified by a Court of Appeals or by the Court of Claims

.1. When a federal court of appeals or the Court of Claims shall certify to this Court a question or proposition of law concerning which it desires instruction for the proper decision of a cause (see 28 U. S. C. §§ 1254 (3), 1255 (2)), the certificate shall contain a statement of the nature of the cause and the facts on which such question or proposition of law arises. Questions of fact cannot be certified. Only questions or propositions of law may be certified, and they must be distinct and definite.

.2. When a question is certified by a federal court of appeals, and if it appears that there is special reason therefor, this Court, on application or on its own motion, may consider and decide the entire matter in controversy. See 28 U. S. C. § 1254 (3).

Rule 25

Procedure in Certified Cases

.1. When a case is certified, the Clerk will notify the respective parties and shall docket the case. Counsel shall then enter their appearances.

.2. After docketing, the certificate shall be submitted to the Court for a preliminary examination to determine whether the case shall be briefed, set for argument, or the certificate dismissed. No brief may be filed prior to the preliminary examination of the certificate.

.3. If the Court orders that the case be briefed or set down for argument, the parties shall be notified and permitted to file briefs. The Clerk of this Court shall request the clerk of the court from which the case comes to certify the record and transmit it to this Court. Any portion of the record to which the parties wish to direct the Court's particular attention shall be printed in a joint appendix prepared by the appellant or plaintiff in the court below under the procedures provided in Rule 30, but the fact that any part of the record has not been printed shall not prevent the parties or the Court from relying on it.

.4. Briefs on the merits in a case on certificate shall comply with Rules 33, 34, and 35, except that the brief of the party who was appellant or plaintiff below shall be filed within 45 days of the order requiring briefs or setting the case down for argument.

PART VII. JURISDICTION TO ISSUE EXTRAORDINARY WRITS

Rule 26

Considerations Governing Issuance of Extraordinary Writs

The issuance by the Court of any extraordinary writ authorized by 28 U. S. C. § 1651 (a) is not a matter of right, but of discretion sparingly exercised. To justify the granting of any writ under that provision, it must be shown that the writ will

be in aid of the Court's appellate jurisdiction, that there are present exceptional circumstances warranting the exercise of the Court's discretionary powers, and that adequate relief cannot be had in any other form or from any other court.

Rule 27

Procedure in Seeking an Extraordinary Writ

.1. The petition in any proceeding seeking the issuance by this Court of a writ authorized by 28 U. S. C. §§ 1651 (a), 2241, or 2254 (a), shall comply in all respects with Rule 33, except that a party proceeding *in forma pauperis* may proceed in the manner provided in Rule 46. The petition shall be captioned "In re (name of petitioner)." All contentions in support of the petition shall be included in the petition. The case will be placed upon the docket when 40 copies, with proof of service as prescribed by Rule 28 (subject to paragraph .3 (b) of this Rule), are filed with the Clerk and the docket fee is paid. The appearance of counsel for the petitioner must be entered at this time. The petition shall be as short as possible, and in any event may not exceed 30 pages.

.2. (a) If the petition seeks issuance of a writ of prohibition, a writ of mandamus, or both in the alternative, it shall identify by names and office or function all persons against whom relief is sought and shall set forth with particularity why the relief sought is not available in any other court. There shall be appended to such petition a copy of the judgment or order in respect of which the writ is sought, including a copy of any opinion rendered in that connection, and such other papers as may be essential to an understanding of the petition.

(b) The petition shall follow, insofar as applicable, the form for the petition for writ of certiorari prescribed by Rule 21. The petition shall be served on the judge or judges to whom the writ is sought to be directed, and shall also be served on every other party to the proceeding in respect of which relief is desired. The judge or judges, and the other parties, within 30 days after receipt of the petition, may file 40 copies of a brief or briefs in opposition thereto, which shall comply fully

with Rules 22.1 and 22.2, including the 30-page limit. If the judge or judges concerned do not desire to respond to the petition, they shall so advise the Clerk and all parties by letter. All persons served pursuant to this paragraph shall be deemed respondents for all purposes in the proceedings in this Court.

.3. (a) If the petition seeks issuance of a writ of habeas corpus, it shall comply with the requirements of 28 U. S. C. § 2242, and in particular with the requirement in the last paragraph thereof that it state the reasons for not making application to the district court of the district in which the petitioner is held. If the relief sought is from the judgment of a state court, the petition shall set forth specifically how and wherein the petitioner has exhausted his remedies in the state courts or otherwise comes within the provisions of 28 U. S. C. § 2254 (b). To justify the granting of a writ of habeas corpus, it must be shown that there are present exceptional circumstances warranting the exercise of the Court's discretionary powers and that adequate relief cannot be had in any other form or from any other court. Such writs are rarely granted.

(b) Proceedings under this paragraph .3 will be *ex parte*, unless the Court requires the respondent to show cause why the petition for a writ of habeas corpus should not be granted. If a response is ordered, it shall comply fully with Rules 22.1 and 22.2, including the 30-page limit. Neither denial of the petition, without more, nor an order of transfer under authority of 28 U. S. C. § 2241 (b), is an adjudication on the merits, and the former action is to be taken as without prejudice to a further application to any other court for the relief sought.

.4. If the petition seeks issuance of a common-law writ of certiorari under 28 U. S. C. § 1651 (a), there may also be filed, at the time of docketing, a certified copy of the record, including all proceedings in the court to which the writ is sought to be directed. However, the filing of such record is not required. The petition shall follow, insofar as applicable, the form for a petition for certiorari prescribed by Rule 21, and

shall set forth with particularity why the relief sought is not available in any other court, or cannot be had through other appellate process. The respondent, within 30 days after receipt of the petition, may file 40 copies of a brief in opposition, which shall comply fully with Rules 22.1 and 22.2, including the 30-page limit.

.5. When a brief in opposition under paragraphs .2 and .4 has been filed, or when a response under paragraph .3 has been ordered and filed, or when the time within which it may be filed has expired, or upon an express waiver of the right to file, the papers will be distributed to the Court by the Clerk.

.6. If the Court orders the cause set down for argument, the Clerk will notify the parties whether additional briefs are required, when they must be filed, and, if the case involves a petition for common-law certiorari, that the parties shall proceed to print a joint appendix pursuant to Rule 30.

PART VIII. PRACTICE

Rule 28

Filing and Service—Special Rule for Service Where Constitutionality of Act of Congress or State Statute is in Issue

.1. Pleadings, motions, notices, briefs, or other documents or papers required or permitted to be presented to this Court or to a Justice shall be filed with the Clerk. Any document filed by or on behalf of counsel of record whose appearance has not previously been entered must be accompanied by an entry of appearance.

.2. To be timely filed, a document must be received by the Clerk within the time specified for filing, except that any document shall be deemed timely filed if it has been deposited in a United States post office or mailbox, with first-class postage prepaid, and properly addressed to the Clerk of this Court, within the time allowed for filing, and if there is filed with the Clerk a notarized statement by a member of the Bar of this Court, setting forth the details of the mailing, and

stating that to his knowledge the mailing took place on a particular date within the permitted time.

.3. Whenever any pleading, motion, notice, brief, or other document is required by these Rules to be served, such service may be made personally or by mail on each party to the proceeding at or before the time of filing. If the document has been produced under Rule 33, three copies shall be served on each other party separately represented in the proceeding. If the document is typewritten, service of a single copy on each other party separately represented shall suffice. If personal service is made, it may consist of delivery, at the office of counsel of record, to counsel or an employee therein. If service is by mail, it shall consist of depositing the document in a United States post office or mailbox, with first-class postage prepaid, addressed to counsel of record at his post office address. Where a party is not represented by counsel, service shall be upon the party, personally or by mail.

.4. (a) If the United States or any department, office, agency, officer, or employee thereof is a party to be served, service must be made upon the Solicitor General, Department of Justice, Washington, D. C. 20530; and if a response is required or permitted within a prescribed period after service, the time does not begin to run until the document actually has been received by the Solicitor General's office. Where an agency of the United States is authorized by law to appear in its own behalf as a party, or where an officer or employee of the United States is a party, in addition to the United States, such agency, officer, or employee also must be served, in addition to the Solicitor General; and if a response is required or permitted within a prescribed period, the time does not begin to run until the document actually has been received by both the agency, officer, or employee and the Solicitor General's office.

(b) In any proceeding in this Court wherein the constitutionality of an Act of Congress is drawn in question, and the United States or any department, office, agency, officer, or employee thereof is not a party, the initial pleading, motion, or paper in this Court shall recite that 28 U. S. C. § 2403 (a)

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may be applicable and shall be served upon the Solicitor General, Department of Justice, Washington, D. C. 20530. In proceedings from any court of the United States, as defined by 28 U. S. C. § 451, the initial pleading, motion, or paper shall state whether or not any such court, pursuant to 28 U. S. C. § 2403 (a), has certified to the Attorney General the fact that the constitutionality of such Act of Congress was drawn in question.

(c) In any proceeding in this Court wherein the constitutionality of any statute of a State is drawn in question, and the State or any agency, officer, or employee thereof is not a party, the initial pleading, motion, or paper in this Court shall recite that 28 U. S. C. § 2403 (b) may be applicable and shall be served upon the Attorney General of the State. In proceedings from any court of the United States as defined by 28 U. S. C. § 451, the initial pleading, motion, or paper shall state whether or not any such court, pursuant to 28 U. S. C. § 2403 (b), has certified to the State Attorney General the fact that the constitutionality of such statute of the State was drawn in question.

.5. Whenever proof of service is required by these Rules, it must accompany or be endorsed upon the document in question at the time the document is presented to the Clerk for filing. Proof of service shall be shown by any one of the methods set forth below, and it must contain or be accompanied by a statement that all parties required to be served have been served, together with a list of the names and addresses of those parties; it is not necessary that service on each party required to be served be made in the same manner or evidenced by the same proof:

(a) By an acknowledgment of service of the document in question, signed by counsel of record for the party served.

(b) By a certificate of service of the document in question, reciting the facts and circumstances of service in compliance with the appropriate paragraph or paragraphs

of this Rule, and signed by a member of the Bar of this Court representing the party on whose behalf such service has been made. (If counsel certifying to such service has not yet entered an appearance in this Court in respect of the cause in which such service is made, an entry of appearance shall accompany the certificate of service.)

(c) By an affidavit of service of the document in question, reciting the facts and circumstances of service in compliance with the appropriate paragraph or paragraphs of this Rule, whenever such service is made by any person not a member of the Bar of this Court.

Rule 29

Computation and Enlargement of Time

.1. In computing any period of time prescribed or allowed by these Rules, by order of Court, or by an applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a federal legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a federal legal holiday.

.2. Whenever any Justice of this Court or the Clerk is empowered by law or under any provision of these Rules to extend the time for filing any document or paper, an application seeking such extension must be presented to the Clerk within the period sought to be extended. However, an application for extension of time to docket an appeal or to file a petition for certiorari shall be submitted at least 10 days before the specified final filing date and will not be granted, except in the most extraordinary circumstances, if filed less than 10 days before that date.

.3. An application to extend the time within which a party may docket an appeal or file a petition for a writ of certiorari shall be presented in the form prescribed by Rules 12.2 and 20.6, respectively. An application to extend the time within

which to file any other document or paper may be presented in the form of a letter to the Clerk setting forth with specificity the reasons why the granting of an extension of time is thought justified. Any application seeking an extension of time must be presented and served upon all other parties as provided in Rule 43, and any such application, if once denied, may not be renewed.

.4. Any application for extension of time to file a brief, motion, joint appendix, or other paper, to designate parts of a record for printing in the appendix, or otherwise to comply with a time limit provided by these Rules (except an application for extension of time to docket an appeal, to file a petition for certiorari, to file a petition for rehearing, or to issue a mandate) shall in the first instance be acted upon by the Clerk, whether addressed to him, to the Court, or to a Justice. Any party aggrieved by the Clerk's action on such application may request that it be submitted to a Justice or to the Court. The Clerk's action under this Rule shall be reported by him to the Court in accordance with the instructions that may be issued to him by the Court.

Rule 30

The Joint Appendix

.1. Unless the parties agree to use the deferred method allowed in paragraph .4 of this Rule, or the Court so directs, the appellant or petitioner, within 45 days after the order noting or postponing probable jurisdiction or granting the writ of certiorari, shall file 40 copies of a joint appendix, duplicated in the manner prescribed by Rule 33, which shall contain: (1) the relevant docket entries in the courts below; (2) any relevant pleading, jury instruction, finding, conclusion, or opinion; (3) the judgment, order, or decision in question; and (4) any other parts of the record to which the parties wish to direct the Court's attention. However, any of the foregoing items which have already been reproduced in a jurisdictional statement or the petition for certiorari complying

with Rule 33.1 need not be reproduced again in the joint appendix. The appellant or petitioner shall serve at least three copies of the joint appendix on each of the other parties to the proceeding.

.2. The parties are encouraged to agree to the contents of the joint appendix. In the absence of agreement, the appellant or petitioner, not later than 10 days after the order noting or postponing jurisdiction or granting the writ of certiorari, shall serve on the appellee or respondent a designation of the parts of the record which he intends to include in the joint appendix. If in the judgment of the appellee or respondent the parts of the record so designated are not sufficient, he, within 10 days after receipt of the designation, shall serve upon the appellant or petitioner a designation of additional parts to be included in the joint appendix, and the appellant or petitioner shall include the parts so designated, unless, on his motion in a case where the respondent has been permitted by this Court to proceed *in forma pauperis,* he is excused from supplementing the record.

In making these designations, counsel should include only those materials the Court should examine. Unnecessary designations should be avoided. The record is on file with the Clerk and available to the Justices, and counsel may refer in their briefs and oral argument to relevant portions of the record that have not been printed.

.3. At the time that the joint appendix is filed or promptly thereafter, the appellant or petitioner shall file with the Clerk a statement of the costs of preparing the same, and shall serve a copy thereof on each of the other parties to the proceeding. Unless the parties otherwise agree, the cost of producing the joint appendix shall initially be paid by the appellant or petitioner; but if he considers that parts of the record designated by the appellee or respondent are unnecessary for the determination of the issues presented, he may so advise the appellee or respondent who then shall advance the cost of including such parts unless the Court or a Justice otherwise

fixes the initial allocation of the costs. The cost of producing the joint appendix shall be taxed as costs in the case, but if a party shall cause matter to be included in the joint appendix unnecessarily, the Court may impose the cost of producing such matter on that party.

.4. (a) If the parties agree or if the Court shall so order, preparation of the joint appendix may be deferred until after the briefs have been filed, and in that event the appellant or petitioner shall file the joint appendix within 14 days after receipt of the brief of the appellee or respondent. The provisions of paragraphs .1, .2, and .3 of this Rule shall be followed except that the designations referred to therein shall be made by each party at the time his brief is served.

(b) If the deferred method is used, reference in the briefs to the record may be to the pages of the parts of the record involved, in which event the original paging of each part of the record shall be indicated in the joint appendix by placing in brackets the number of each page at the place in the joint appendix where that page begins. Or if a party desires to refer in his brief directly to pages of the joint appendix, he may serve and file typewritten or page-proof copies of his brief within the time required by Rule 35, with appropriate references to the pages of the parts of the record involved. In that event, within 10 days after the joint appendix is filed he shall serve and file copies of the brief in the form prescribed by Rule 33 containing references to the pages of the joint appendix in place of or in addition to the initial references to the pages of the parts of the record involved. No other change may be made in the brief as initially served and filed, except that typographical errors may be corrected.

.5. At the beginning of the joint appendix there shall be inserted a table of the parts of the record which it contains, in the order in which the parts are set out therein, with references to the pages of the joint appendix at which each part begins. The relevant docket entries shall be set out following the table of contents. Thereafter, the other parts of the

record shall be set out in chronological order. When matter contained in the reporter's transcript of proceedings is set out in the joint appendix, the page of the transcript at which such matter may be found shall be indicated in brackets immediately before the matter which is set out. Omissions in the text of papers or of the transcript must be indicated by asterisks. Immaterial formal matters (captions, subcriptions, acknowledgments, etc.) shall be omitted. A question and its answer may be contained in a single paragraph.

.6. Exhibits designated for inclusion in the joint appendix may be contained in a separate volume, or volumes, suitably indexed. The transcript of a proceeding before an administrative agency, board, commission, or officer used in an action in a district court or a court of appeals shall be regarded as an exhibit for the purpose of this paragraph.

.7. The Court by order may dispense with the requirement of a joint appendix and may permit a case to be heard on the original record (with such copies of the record, or relevant parts thereof, as the Court may require), or on the appendix used in the court below, if it conforms to the requirements of this Rule.

.8. For good cause shown, the time limits specified in this Rule may be shortened or enlarged by the Court, by a Justice thereof, or by the Clerk under the provisions of Rule 29.4.

Rule 31

Translations

Whenever any record transmitted to this Court contains any document, paper, testimony, or other proceeding in a foreign language without a translation made under the authority of the lower court or admitted to be correct, the clerk of the court transmitting the record shall report the fact immediately to the Clerk of this Court, to the end that this Court may order that a translation be supplied and, if necessary, printed as a part of the joint appendix.

Rule 32

Models, Diagrams, and Exhibits of Material

.1. Models, diagrams, and exhibits of material forming part of the evidence taken in a case, and brought up to this Court for its inspection, shall be placed in the custody of the Clerk at least two weeks before the case is heard or submitted.

.2. All such models, diagrams, and exhibits of material placed in the custody of the Clerk must be taken away by the parties within 40 days after the case is decided. When this is not done, it shall be the duty of the Clerk to notify counsel to remove the articles forthwith; and if they are not removed within a reasonable time after such notice, the Clerk shall destroy them, or make such other disposition of them as to him may seem best.

Rule 33

Form of Jurisdictional Statements, Petitions, Briefs, Appendices, Motions, and Other Documents Filed with the Court

.1. (a) Except for typewritten filings permitted by Rules 42.2 (c), 43, and 46, all jurisdictional statements, petitions, briefs, appendices, and other documents filed with the Court shall be produced by standard typographic printing, which is preferred, or by any photostatic or similar process which produces a clear, black image on white paper; but ordinary carbon copies may not be used.

(b) The text of documents produced by standard typographic printing shall appear in print as 11-point or larger type with 2-point or more leading between lines. Footnotes shall appear in print as 9-point or larger type with 2-point or more leading between lines. Such documents shall be printed on both sides of the page.

(c) The text of documents produced by a photostatic or similar process shall be done in pica type at no more than 10 characters per inch with the lines double-spaced, except that indented quotations and footnotes may be single-spaced. In

footnotes, elite type at no more than 12 characters per inch may be used. Such documents may be duplicated on both sides of the page, if practicable. They shall not be reduced in duplication.

(d) Whether duplicated under subparagraph (b) or (c) of this paragraph, documents shall be produced on opaque, unglazed paper 6⅛ by 9¼ inches in size, with type matter approximately 4⅛ by 7⅛ inches, and margins of at least ¾ inch on all sides. The paper shall be firmly bound in at least two places along the left margin so as to make an easily opened volume, and no part of the text shall be obscured by the binding. However, appendices in patent cases may be duplicated in such size as is necessary to utilize copies of patent documents.

.2. (a) All documents filed with the Court must bear on the cover, in the following order, from the top of the page: (1) the number of the case or, if there is none, a space for one; (2) the name of this Court; (3) the Term; (4) the caption of the case as appropriate in this Court; (5) the nature of the proceeding and the name of the court from which the action is brought (*e. g.*, On Appeal from the Supreme Court of California; On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit); (6) the title of the paper (*e. g.*, Jurisdictional Statement, Brief for Respondent, Joint Appendix); (7) the name, post office address, and telephone number of the member of the Bar of this Court who is counsel of record for the party concerned, and upon whom service is to be made. The individual names of other members of the Bar of this Court or of the Bar of the highest court in their respective states and, if desired, their post office addresses, may be added, but counsel of record shall be clearly identified. The foregoing shall be displayed in an appropriate typographic manner and, except for the identification of counsel, may not be set in type smaller than 11-point or in upper case pica.

(b) The following documents shall have a suitable cover

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consisting of heavy paper in the color indicated: (1) jurisdictional statements and petitions for writs of certiorari, white; (2) motions, briefs, or memoranda filed in response to jurisdictional statements or petitions for certiorari, light orange; (3) briefs on the merits for appellants or petitioners, light blue; (4) briefs on the merits for appellees or respondents, light red; (5) reply briefs, yellow; (6) intervenor or *amicus curiae* briefs (or motions for leave to file, if bound with brief), green; (7) joint appendices, tan; (8) documents filed by the United States, by any department, office, or agency of the United States, or by any officer or employee of the United States, represented by the Solicitor General, gray. All other documents shall have a tan cover. Counsel shall be certain that there is adequate contrast between the printing and the color of the cover.

.3. All documents produced by standard typographic printing or its equivalent shall comply with the page limits prescribed by these Rules. See Rules 15.3; 16.3, 16.5, and 16.6; 21.4; 22.2, 22.5, and 22.6; 27.1, 27.2 (b), 27.3 (b), and 27.4; 34.3 and 34.4; 36.1 and 36.2. Where documents are produced by photostatic or similar process, the following page limits shall apply:

Jurisdictional Statement (Rule 15.3)	65 pages;
Motion to Dismiss or Affirm (Rule 16.3)	65 pages;
Brief Opposing Motion to Dismiss or Affirm (Rule 16.5)	20 pages;
Supplemental Brief (Rule 16.6)	20 pages;
Petition for Certiorari (Rule 21.4)	65 pages;
Brief in Opposition (Rule 22.2)	65 pages;
Reply Brief (Rule 22.5)	20 pages;
Supplemental Brief (Rule 22.6)	20 pages;
Petition Seeking Extraordinary Writ (Rule 27.1)	65 pages;
Brief in Opposition (Rule 27.2 (b))	65 pages;
Response to Petition for Habeas Corpus (Rule 27.3 (b))	65 pages;
Brief in Opposition (Rule 27.4)	65 pages;
Brief on the Merits (Rule 34.3)	110 pages;

Reply Brief (Rule 34.4)	45 pages;
Brief of *Amicus Curiae* (Rule 36.2)	65 pages.

.4. The Court or a Justice, for good cause shown, may grant leave for the filing of a document in excess of the page limits, but such an application is not favored. An application for such leave shall comply in all respects with Rule 43; and it must be submitted at least 15 days before the filing date of the document in question, except in the most extraordinary circumstances.

.5. (a) All documents filed with the Court which exceed five pages, regardless of method of duplication (other than joint appendices, which in this respect are governed by Rule 30), shall be preceded by a table of contents, unless the document contains only one item.

(b) All documents which exceed three pages, regardless of method of duplication, shall contain, following the table of contents, a table of authorities (*i. e.*, cases (alphabetically arranged), constitutional provisions, statutes, textbooks, etc.) with correct references to the pages where they are cited.

.6. The body of all documents at their close shall bear the name of counsel of record and such other counsel identified on the cover of the document in conformity with Rule 33.2 (a) as may be desired. One copy of every motion and application (other than one to dismiss or affirm under Rule 16) in addition must bear at its close the manuscript signature of counsel of record.

.7. The Clerk shall not accept for filing any document presented in a form not in compliance with this Rule, but shall return it indicating to the defaulting party wherein he has failed to comply: the filing, however, shall not thereby be deemed untimely provided that new and proper copies are promptly substituted. If the Court shall find that the provisions of this Rule have not been adhered to, it may impose, in its discretion, appropriate sanctions including but not limited to dismissal of the action, imposition of costs, or disciplinary sanction upon counsel. See also Rule 38 respecting oral argument.

Rule 34

Briefs on the Merits—In General

.1. A brief of an appellant or petitioner on the merits shall comply in all respects with Rule 33, and shall contain in the order here indicated:

(a) The questions presented for review, stated as required by Rule 15.1 (a) or Rule 21.1 (a), as the case may be. The phrasing of the questions presented need not be identical with that set forth in the jurisdictional statement or the petition for certiorari, but the brief may not raise additional questions or change the substance of the questions already presented in those documents. At its option, however, the Court may consider a plain error not among the questions presented but evident from the record and otherwise within its jurisdiction to decide.

(b) A list of all parties to the proceeding in the court whose judgment is sought to be reviewed, except where the caption of the case in this Court contains the names of all such parties. This listing may be done in a footnote.

(c) The table of contents and table of authorities, as required by Rule 33.5.

(d) Citations to the opinions and judgments delivered in the courts below.

(e) A concise statement of the grounds on which the jurisdiction of this Court is invoked, with citation to the statutory provision and to the time factors upon which such jurisdiction rests.

(f) The constitutional provisions, treaties, statutes, ordinances, and regulations which the case involves, setting them out verbatim, and giving the appropriate citation therefor. If the provisions involved are lengthy, their citation alone will suffice at this point, and their pertinent text, if not already set forth in the jurisdictional statement or petition for certiorari, shall be set forth in an appendix to the brief.

(g) A concise statement of the case containing all that is material to the consideration of the questions presented, with appropriate references to the Joint Appendix, *e. g.* (J. A. 12) or to the record, *e. g.* (R. 12).

(h) A summary of argument, suitably paragraphed, which should be a succinct, but accurate and clear, condensation of the argument actually made in the body of the brief. It should not be a mere repetition of the headings under which the argument is arranged.

(i) The argument, exhibiting clearly the points of fact and of law being presented, citing the authorities and statutes relied upon.

(j) A conclusion, specifying with particularity the relief to which the party believes himself entitled.

.2. The brief filed by an appellee or respondent shall conform to the foregoing requirements, except that no statement of the case need be made beyond what may be deemed necessary in correcting any inaccuracy or omission in the statement by the other side, and except that items (a), (b), (d), (e), and (f) need not be included unless the appellee or respondent is dissatisfied with their presentation by the other side.

.3. A brief on the merits shall be as short as possible, but, in any event, shall not exceed 50 pages in length.

.4. A reply brief shall conform to such portions of the Rule as are applicable to the brief of an appellee or respondent, but need not contain a summary of argument, if appropriately divided by topical headings. A reply brief shall not exceed 20 pages in length.

.5. Whenever, in the brief of any party, a reference is made to the Joint Appendix or the record, it must be accompanied by the appropriate page number. If the reference is to an exhibit, the page numbers at which the exhibit appears, at which it was offered in evidence, and at which it was ruled on by the judge must be indicated, *e. g.* (Pl. Ex. 14; R. 199, 2134).

.6. Briefs must be compact, logically arranged with proper

headings, concise, and free from burdensome, irrelevant, immaterial, and scandalous matter. Briefs not complying with this paragraph may be disregarded and stricken by the Court.

Rule 35

Briefs on the Merits—Time for Filing

.1. Counsel for the appellant or petitioner shall file with the Clerk 40 copies of the printed brief on the merits within 45 days of the order noting or postponing probable jurisdiction, or of the order granting the writ of certiorari.

.2. Forty printed copies of the brief of the appellee or respondent shall be filed with the Clerk within 30 days after the receipt by him of the brief filed by the appellant or petitioner.

.3. A reply brief will be received no later than one week before the date of oral argument, and only by leave of Court thereafter.

.4. The periods of time stated in paragraphs .1 and .2 of this Rule may be enlarged as provided in Rule 29, upon application duly made; or, if a case is advanced for hearing, the time for filing briefs may be abridged as circumstances require, pursuant to order of the Court on its own or a party's application.

.5. Whenever a party desires to present late authorities, newly enacted legislation, or other intervening matters that were not available in time to have been included in his brief in chief, he may file 40 printed copies of a supplemental brief, restricted to such new matter and otherwise in conformity with these Rules, up to the time the case is called for hearing, or, by leave of Court, thereafter.

.6. No brief will be received through the Clerk or otherwise after a case has been argued or submitted, except from a party and upon leave of the Court.

.7. No brief will be received by the Clerk unless the same shall be accompanied by proof of service as required by Rule 28.

Rule 36

Brief of an Amicus Curiae

.1. A brief of an *amicus curiae* prior to consideration of the jurisdictional statement or of the petition for writ of certiorari, accompanied by written consent of the parties, may be filed only if submitted within the time allowed for the filing of the motion to dismiss or affirm or the brief in opposition to the petition for certiorari. A motion for leave to file such a brief when consent has been refused is not favored. Any such motion must be filed within the time allowed for filing of the brief and must be accompanied by the proposed brief. In any event, no such brief shall exceed 20 pages in length.

.2. A brief of an *amicus curiae* in a case before the Court for oral argument may be filed when accompanied by written consent of all parties to the case and presented within the time allowed for the filing of the brief of the party supported and if in support of neither party, within the time allowed for filing appellant's or petitioner's brief. Any such brief must identify the party supported, shall be as concise as possible, and in no event shall exceed 30 pages in length. No reply brief of an *amicus curiae* will be received.

.3. When consent to the filing of a brief of an *amicus curiae* in a case before the Court for oral argument is refused by a party to the case, a motion for leave to file, accompanied by the proposed brief, complying with the 30-page limit, may be presented to the Court. No such motion shall be received unless submitted within the time allowed for the filing of an *amicus* brief on written consent. The motion shall concisely state the nature of the applicant's interest, set forth facts or questions of law that have not been, or reasons for believing that they will not adequately be, presented by the parties, and their relevancy to the disposition of the case; and it shall in no event exceed five pages in length. A party served with such motion may seasonably file an objection concisely stating the reasons for withholding consent.

.4. Consent to the filing of a brief of an *amicus curiae* need not be had when the brief is presented for the United States

sponsored by the Solicitor General; for any agency of the United States authorized by law to appear in its own behalf, sponsored by its appropriate legal representative; for a State, Territory, or Commonwealth sponsored by its attorney general; or for a political subdivision of a State, Territory, or Commonwealth sponsored by the authorized law officer thereof.

.5. All briefs, motions, and responses filed under this Rule shall comply with the applicable provisions of Rules 33, 34, and 42 (except that it shall be sufficient to set forth the interest of the *amicus curiae*, the argument, the summary of argument, and the conclusion); and shall be accompanied by proof of service as required by Rule 28.

Rule 37

Call and Order of the Calendar

.1. The Clerk, at the commencement of each Term, and periodically thereafter, shall prepare a calendar consisting of cases available for argument. Cases will be calendared so that they will not normally be called for argument less than two weeks after the brief of the appellee or respondent is due. The Clerk shall keep the calendar current throughout the Term, adding cases as they are set down for argument, and making rearrangements as required.

.2. Unless otherwise ordered, the Court, on the first Monday of each Term, will commence calling cases for argument in the order in which they stand on the calendar, and proceed from day to day during the Term in the same order, except that the arrangement of cases on the calendar shall be subject to modification in the light of the availability of appendices, extensions of time to file briefs, orders advancing, postponing or specially setting arguments, and other relevant factors. The Clerk will advise counsel seasonably when they are required to be present in the Court. He shall periodically publish hearing lists in advance of each argument session, for the convenience of counsel and the information of the public.

.3. On the Court's own motion, or on motion of one or more

parties, the Court may order that two or more cases, involving what appear to be the same or related questions, be argued together as one case, or on such terms as may be prescribed.

Rule 38

Oral Argument

.1. Oral argument should undertake to emphasize and clarify the written argument appearing in the briefs theretofore filed. Counsel should assume that all Members of the Court have read the briefs in advance of argument. *The Court looks with disfavor on any oral argument that is read from a prepared text.* The Court is also reluctant to accept the submission of briefs, without oral argument, of any case in which jurisdiction has been noted or postponed to the merits or certiorari has been granted. Notwithstanding any such submission, the Court may require oral argument by the parties.

.2. The appellant or petitioner is entitled to open and conclude the argument. When there is a cross-appeal or a cross-writ of certiorari it shall be argued with the initial appeal or writ as one case and in the time of one case, and the Court will advise the parties which one is to open and close.

.3. Unless otherwise directed, one-half hour on each side is allowed for argument. Counsel is not required to use all the allotted time. Any request for additional time shall be presented by motion to the Court filed under Rule 42 not later than 15 days after service of appellant's or petitioner's brief on the merits, and shall set forth with specificity and conciseness why the case cannot be presented within the half-hour limitation.

.4. Only one counsel will be heard for each side, except by special permission granted upon a request presented not later than 15 days after service of the petitioner's or appellant's brief on the merits. Such request shall be by a motion to the Court under Rule 42, and shall set forth with specificity and conciseness why more than one counsel should be heard. Divided arguments are not favored.

.5. In any case, and regardless of the number of counsel

participating, counsel having the opening will present his case fairly and completely and not reserve points of substance for rebuttal.

.6. Oral argument will not be heard on behalf of any party for whom no brief has been filed.

.7. By leave of Court, and subject to paragraph .4 of this Rule, counsel for an *amicus curiae* whose brief has been duly filed pursuant to Rule 36 may, with the consent of a party, argue orally on the side of such party. In the absence of such consent, argument by counsel for an *amicus curiae* may be made only by leave of Court, on motion particularly setting forth why such argument is thought to provide assistance to the Court not otherwise available. Any such motion will be granted only in the most extraordinary circumstances.

Rule 39

Form of Typewritten Papers

.1. All papers specifically permitted by these Rules to be presented to the Court without being printed shall, subject to Rule 46.3, be typewritten or otherwise duplicated upon opaque, unglazed paper, 8½ by 13 inches in size (legal cap), and shall be stapled or bound at the upper left-hand corner. The typed matter, except quotations, must be double-spaced. All copies presented to the Court must be legible.

.2. The original of any such motion or application, except a motion to dismiss or affirm, must be signed in manuscript by the party or by counsel of record.

Rule 40

Death, Substitution, and Revivor—Public Officers, Substitution and Description

.1. Whenever any party shall die after filing a notice of appeal to this Court or a petition for writ of certiorari, the proper representative of the deceased may appear and, upon motion, may be substituted in an appropriate case as a party to the proceeding. If such representative shall not volun-

tarily become a party, the other party may suggest the death on the record, and on motion obtain an order that, unless such representative shall become a party within a designated time, the party moving for such an order, if appellee or respondent, shall be entitled to have the appeal or petition for writ of certiorari dismissed or the judgment vacated for mootness, as may be appropriate. The party so moving, if an appellant or petitioner, shall be entitled to proceed as in other cases of non-appearance by appellee or respondent. Such substitution, or, in default thereof, such suggestion, must be made within six months after the death of the party, or the case shall abate.

.2. Whenever, in the case of a suggestion made as provided in paragraph .1 of this Rule, the case cannot be revived in the court whose judgment is sought to be reviewed because the deceased party has no proper representative within the jurisdiction of that court, but does have a proper representative elsewhere, proceedings then shall be had as this Court may direct.

.3. When a public officer is a party to a proceeding here in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall no affect the substitution.

.4. When a public officer is a party in a proceeding here in his official capacity, he may be described as a party by his official title rather than by name; but the Court may require his name to be added.

Rule 41

Custody of Prisoners in Habeas Corpus Proceedings

.1. Pending review in this Court of a decision in a habeas corpus proceeding commenced before a court, Justice, or judge of the United States for the release of a prisoner, a person having custody of the prisoner shall not transfer custody to

another unless such transfer is directed in accordance with the provisions of this Rule. Upon application of a custodian showing a need therefor, the court, Justice, or judge rendering the decision under review may make an order authorizing transfer and providing for the substitution of the successor custodian as a party.

.2. Pending such review of a decision failing or refusing to release a prisoner, the prisoner may be detained in the custody from which release is sought, or in other appropriate custody, or may be enlarged upon his recognizance, with or without surety, as may appear fitting to the court, Justice, or judge rendering the decision, or to the court of appeals or to this Court or to a judge or Justice of either court.

.3. Pending such review of a decision ordering release, the prisoner shall be enlarged upon his recognizance, with or without surety, unless the court, Justice, or judge rendering the decision, or the court of appeals or this Court, or a judge or Justice of either court, shall otherwise order.

.4. An initial order respecting the custody or enlargement of the prisoner, and any recognizance or surety taken, shall govern review in the court of appeals and in this Court unless for reasons shown to the court of appeals or to this Court, or to a judge or Justice of either court, the order shall be modified or an independent order respecting custody, enlargement, or surety shall be made.

Rule 42

Motions to the Court

.1. Every motion to the Court shall state clearly its object, the facts on which it is based, and (except for motions under Rule 27) may present legal argument in support thereof. No separate briefs may be filed. All motions shall be as short as possible, and shall comply with any other applicable page limit. For an application or motion addressed to a single Justice, see Rule 43.

.2. (a) A motion in any action within the Court's original jurisdiction shall comply with Rule 9.3.

(b) A motion to dismiss or affirm made under Rule 16, a motion to dismiss as moot (or a suggestion of mootness), a motion for permission to file a brief *amicus curiae,* any motion the granting of which would be dispositive of the entire case or would affect the final judgment to be entered (other than a motion to docket or dismiss under Rule 14, or a motion for voluntary dismissal under Rule 53), and any motion to the Court longer than five pages, shall be duplicated as provided in Rule 33, and shall comply with all other requirements of that Rule. Forty copies of the motion shall be filed.

(c) Any other motion to the Court may be typewritten in accordance with Rule 39, but the Court may subsequently require any such motion to be duplicated by the moving party in the manner provided by Rule 33.

.3. A motion to the Court shall be filed with the Clerk, with proof of service as provided by Rule 28, unless *ex parte* in nature. No motion shall be presented in open court, other than a motion for admission to the Bar, except when the proceeding to which it refers is being argued. Oral argument will not be heard on any motion unless the Court so directs.

.4. A response to a motion shall be made as promptly as possible considering the nature of the relief asked and any asserted need for emergency action, and, in any event, shall be made within 10 days of receipt, unless otherwise ordered by the Court or a Justice, or by the Clerk under the provisions of Rule 29.4. A response to a printed motion shall be printed if time permits. However, in appropriate cases, the Court in its discretion may act on a motion without waiting for a response.

Rule 43

Motions and Applications to Individual Justices

.1. Any motion or application addressed to an individual Justice shall normally be submitted to the Clerk, who will promptly transmit it to the Justice concerned. If oral argument on the application is deemed imperative, request therefor shall be included in the application.

.2. Any motion or application addressed to an individual

Justice shall be filed in the form prescribed by Rule 39, and shall be accompanied by proof of service on all other parties.

.3. The Clerk in due course will advise all counsel concerned, by means as speedy as may be appropriate, of the time and place of the hearing, if any, and of the disposition made of the motion or application.

.4. The motion or application will be addressed to the Justice allotted to the Circuit within which the case arises. When the Circuit Justice is unavailable, for any reason, a motion or application addressed to that Justice shall be distributed to the Justice then available who is next junior to the Circuit Justice; the turn of the Chief Justice follows that of the most junior Justice.

.5. A Justice denying a motion or application made to him will note his denial thereon. Thereafter, unless action thereon is restricted by law to the Circuit Justice or is out of time under Rule 29.3, the party making the motion or application, except in the case of an application for extension of time, may renew it to any other Justice, subject to the provisions of this Rule. Except where the denial has been without prejudice, any such renewed motion or application is not favored.

.6. Any Justice to whom a motion or application for a stay or for bail is submitted may refer it to the Court for determination.

Rule 44

Stays

.1. A stay may be granted by a Justice of this Court as permitted by law; and a writ of injunction may be granted by any Justice in a case where it might be granted by the Court.

.2. Whenever a party desires a stay pending review in this Court, he may present for approval to a judge of the court whose decision is sought to be reviewed, or to such court when action by that court is required by law, or to a Justice of this Court, a motion to stay the enforcement of the judgment of which review is sought. If the stay is to act as a supersedeas, a supersedeas bond shall accompany the motion and shall have such surety or sureties as said judge, court, or Justice may

require. The bond shall be conditioned on satisfaction of the judgment in full, together with costs, interest, and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, and on full satisfaction of any modified judgment and such costs, interest, and damages as this Court may adjudge and award. When the judgment is for the recovery of money not otherwise secured, the amount of bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs, interest, and damages for delay, unless the judge, court, or Justice, after notice and hearing and for good cause shown, fixes a different amount or orders security other than the bond. When the judgment determines the disposition of the property in controversy, as in a real action, replevin, or an action to foreclose a mortgage, or when the property is in the custody of the court, or when the proceeds of such property or a bond for its value is in the custody or control of any court wherein the proceeding appealed from was had, the amount of the bond shall be fixed at such sum as will secure only the amount recovered for the use and detention of the property, costs, interest, and damages for delay.

.3. A petitioner entitled thereto may present to a Justice of this Court an application to stay the enforcement of the judgment sought to be reviewed on certiorari. 28 U. S. C. § 2101 (f).

.4. An application for a stay or injunction to a Justice of this Court shall not be entertained, except in the most extraordinary circumstances, unless application for the relief sought first has been made to the appropriate court or courts below, or to a judge or judges thereof. Any application must identify the judgment sought to be reviewed and have appended thereto a copy of the order and opinion, if any, and a copy of the order, if any, of the court or judge below denying the relief sought, and must set forth with specificity the reasons why the granting of a stay or injunction is deemed justified. Any such application is governed by Rule 43.

.5. If an application for a stay addressed to the Court is

received in vacation, the Clerk will refer it pursuant to Rule 43.4.

Rule 45

Fees

In pursuance of 28 U. S. C. § 1911, the fees to be charged by the Clerk are fixed as follows:

(a) For docketing a case on appeal (except a motion to docket and dismiss under Rule 14.3, wherein the fee is $50) or on petition for writ of certiorari, or docketing any other proceeding, except cases involving certified questions, $200, to be increased to $300 in a case on appeal, or writ of certiorari, or in other circumstances when oral argument is permitted.

(b) For filing a petition for rehearing, $50.

(c) For a photographic reproduction and certification of any record or paper, $1 per page; and for comparing with the original thereof any photographic reproduction of any record or paper, when furnished by the person requesting its certification, 5 cents per page.

(d) For a certificate and seal, $10.

(e) For admission to the Bar and certificate under seal, $100.

(f) For a duplicate certificate of an admission to the Bar under seal, $10.

PART IX. SPECIAL PROCEEDINGS

Rule 46

Proceedings In Forma Pauperis

.1. A party desiring to proceed in this Court *in forma pauperis* shall file a motion for leave so to proceed, together with his affidavit in the form prescribed in Fed. Rules App. Proc., Form 4 (as adapted, if the party is seeking a writ of certiorari), setting forth with particularity facts showing that he comes within the statutory requirements. See 28 U. S. C. § 1915. However, the affidavit need not state the issues to be presented, and if the district court or the court of appeals has

appointed counsel under the Criminal Justice Act of 1964, as amended, the party need not file an affidavit. See 18 U. S. C. § 3006A (d)(6). The motion shall also state whether or not leave to proceed *in forma pauperis* was sought in any court below and, if so, whether leave was granted.

.2. With the motion, and affidavit if required, there shall be filed the appropriate substantive document—jurisdictional statement, petition for writ of certiorari, or motion for leave to file, as the case may be—which shall comply in every respect with the Rules governing the same, except that it shall be sufficient to file a single copy thereof.

.3. All papers and documents presented under this Rule shall be clearly legible and should, whenever possible, comply with Rule 39. While making due allowance for any case presented under this Rule by a person appearing *pro se*, the Clerk will refuse to receive any document sought to be filed that does not comply with the substance of these Rules, or when it appears that the document is obviously and jurisdictionally out of time.

.4. When the papers required by paragraphs .1 and .2 of this Rule are presented to the Clerk, accompanied by proof of service as prescribed by Rule 28, he, without payment of any docket or other fees, will file them, and place the case on the docket.

.5. The appellee or respondent in a case *in forma pauperis* may respond in the same manner and within the same time as in any other case of the same nature, except that the filing of a single response, typewritten or otherwise duplicated, with proof of service as required by Rule 28, will suffice whenever petitioner or appellant has filed typewritten papers. The appellee or respondent, in such response or in a separate document filed earlier, may challenge the grounds for the motion to proceed *in forma pauperis*.

.6. Whenever the Court appoints a member of the Bar to serve as counsel for an indigent party in a case set for oral argument, the briefs prepared by such counsel, unless he requests otherwise, will be printed under the supervision of

the Clerk. The Clerk also will reimburse such counsel for necessary travel expenses to Washington, D. C., and return, in connection with the argument.

.7. Where this Court has granted certiorari or noted or postponed probable jurisdiction in a federal case involving the validity of a federal or state criminal judgment, and where the defendant in the original criminal proceeding is financially unable to obtain adequate representation or to meet the necessary expenses in this Court, the Court will appoint counsel who may be compensated, and whose necessary expenses may be repaid, to the extent provided by the Criminal Justice Act of 1964, as amended (18 U. S. C. § 3006A).

Rule 47

Veterans' and Seamen's Cases

.1. A veteran suing to establish reemployment rights under 38 U. S. C. § 2022, or under similar provisions of law exempting veterans from the payment of fees or court costs, may proceed upon typewritten papers as under Rule 46, except that the motion shall ask leave to proceed as a veteran, and the affidavit shall set forth the moving party's status as a veteran.

.2. A seaman suing pursuant to 28 U. S. C. § 1916 may proceed without prepayment of fees or costs or furnishing security therefor, but he is not relieved of printing costs nor entitled to proceed on typewritten papers except by separate motion, or unless, by motion and affidavit, he brings himself within Rule 46.

PART X. DISPOSITION OF CASES

Rule 48

Opinions of the Court

.1. All opinions of the Court shall be handed to the Clerk immediately upon delivery thereof. He shall deliver copies to the Reporter of Decisions and shall cause the opinions to be issued in slip form. The opinions shall be filed by the Clerk for preservation.

.2. The Reporter of Decisions shall prepare the opinions for publication in preliminary prints and bound volumes of the United States Reports.

Rule 49

Interest and Damages

.1. Unless otherwise provided by law, if a judgment for money in a civil case is affirmed, whatever interest is allowed by law shall be payable from the date the judgment below was entered. If a judgment is modified or reversed with a direction that a judgment for money be entered below, the mandate shall contain instructions with respect to allowance of interest. Interest will be allowed at the same rate that similar judgments bear interest in the courts of the State where the judgment was entered or was directed to be entered.

.2. When an appeal or petition for writ of certiorari is frivolous, the Court may award the appellee or the respondent appropriate damages.

Rule 50

Costs

.1. In a case of affirmance of any judgment or decree by this Court, costs shall be paid by appellant or petitioner, unless otherwise ordered by the Court.

.2. In a case of reversal or vacating of any judgment or decree by this Court, costs shall be allowed to appellant or petitioner, unless otherwise ordered by the Court.

.3. The fees of the Clerk and the costs of serving process and printing the joint appendix in this Court are taxable items. The costs of the transcript of record from the court below is also a taxable item, but shall be taxable in that court as costs in the case. The expenses of printing briefs, motions, petitions, or jurisdictional statements are not taxable.

.4. In a case where a question has been certified, including a case where the certificate is dismissed, costs shall be equally divided unless otherwise ordered by the Court; but where a decision is rendered on the whole matter in controversy (see Rule 24.2), costs shall be allowed as provided in paragraphs .1 and .2 of this Rule.

.5. In a civil action commenced on or after July 18, 1966, costs under this Rule shall be allowed for or against the United States, or an officer or agent thereof, unless expressly waived or otherwise ordered by the Court. See 28 U. S. C. § 2412. In any other civil action, no such costs shall be allowed, except where specifically authorized by statute and directed by the Court.

.6. When costs are allowed in this Court, it shall be the duty of the Clerk to insert the amount thereof in the body of the mandate or other proper process sent to the court below, and annex to the same the bill of items taxed in detail. The prevailing side in such a case is not to submit to the Clerk any bill of costs.

.7. In an appropriate instance, the Court may adjudge double costs.

Rule 51

Rehearings

.1. A petition for rehearing of any judgment or decision other than one on a petition for writ of certiorari, shall be filed within 25 days after the judgment or decision, unless the time is shortened or enlarged by the Court or a Justice. Forty copies, produced in conformity with Rule 33, must be filed (except where the party is proceeding *in forma pauperis* under Rule 46), accompanied by proof of service as prescribed by Rule 28. Such petition must briefly and distinctly state its grounds. Counsel must certify that the petition is presented in good faith and not for delay; one copy of the certificate shall bear the manuscript signature of counsel. A petition for rehearing is not subject to oral argument, and will not be granted except at the instance of a Justice who concurred in the judgment or decision and with the concurrence of a majority of the Court. See also Rule 52.2.

.2. A petition for rehearing of an order denying a petition for writ of certiorari shall comply with all the form and filing requirements of paragraph .1, but its grounds must be limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

Counsel must certify that the petition is restricted to the grounds specified in this paragraph and that it is presented in good faith and not for delay; one copy of the certificate shall bear the manuscript signature of counsel or of the party when not represented by counsel. A petition for rehearing without such certificate shall be rejected by the Clerk. Such petition is not subject to oral argument.

.3. No response to a petition for rehearing will be received unless requested by the Court, but no petition will be granted without an opportunity to submit a response.

.4. Consecutive petitions for rehearings, and petitions for rehearing that are out of time under this Rule, will not be received.

Rule 52

Process; Mandates

.1. All process of this Court shall be in the name of the President of the United States, and shall contain the given names, as well as the surnames, of the parties.

.2. In a case coming from a state court, mandate shall issue as of course after the expiration of 25 days from the day the judgment is entered, unless the time is shortened or enlarged by the Court or a Justice, or unless the parties stipulate that it be issued sooner. The filing of a petition for rehearing, unless otherwise ordered, will stay the mandate until disposition of such petition, and if the petition is then denied, the mandate shall issue forthwith. When, however, a petition for rehearing is not acted upon prior to adjournment, or is filed after the Court adjourns, the judgment or mandate of the Court will not be stayed unless specifically ordered by the Court or a Justice.

.3. In a case coming from a federal court, a formal mandate will not issue, unless specially directed; instead, the Clerk will send the proper court a copy of the opinion or order of the Court and a certified copy of the judgment (which shall include provisions for the recovery of costs, if any are awarded). In all other respects, the provisions of paragraph .2 apply.

Rule 53

Dismissing Causes

.1. Whenever the parties thereto, at any stage of the proceedings, file with the Clerk an agreement in writing that any cause be dismissed, specifying the terms with respect to costs, and pay to the Clerk any fees that may be due, the Clerk, without further reference to the Court, shall enter an order of dismissal.

.2. (a) Whenever an appellant or petitioner in this Court files with the Clerk a motion to dismiss a cause to which he is a party, with proof of service as prescribed by Rule 28, and tenders to the Clerk any fees and costs that may be due, the adverse party, within 15 days after service thereof, may file an objection, limited to the quantum of damages and costs in this Court alleged to be payable, or, in a proper case, to a showing that the moving party does not represent all appellants or petitioners if there are more than one. The Clerk will refuse to receive any objection not so limited.

(b) Where the objection goes to the standing of the moving party to represent the entire side, the party moving for dismissal, within 10 days thereafter, may file a reply, after which time the matter shall be laid before the Court for its determination.

(c) If no objection is filed, or if upon objection going only to the quantum of damages and costs in this Court, the party moving for dismissal, within 10 days thereafter, shall tender the whole of such additional damages and costs demanded, the Clerk, without further reference to the Court, shall enter an order of dismissal. If, after objection as to quantum of damages and costs in this Court, the moving party does not respond with such a tender within 10 days, the Clerk shall report the matter to the Court for its determination.

.3. No mandate or other process shall issue on a dismissal under this Rule without an order of the Court.

PART XI. APPLICATION OF TERMS

Rule 54

TERM "STATE COURT"

The term "state court" when used in these Rules normally includes the District of Columbia Court of Appeals and the Supreme Court of the Commonwealth of Puerto Rico (see 28 U. S. C. §§ 1257, 1258), and references in these Rules to the law and statutes of a State normally include the law and statutes of the District of Columbia and of the Commonwealth of Puerto Rico.

Rule 55

EFFECTIVE DATE OF AMENDMENTS

The amendments to these Rules adopted April 14, 1980, shall become effective June 30, 1980.

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