

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENTS TO
MAINE RULES OF APPELLATE PROCEDURE

2019 Me. Rules 03

Effective: June 1, 2019

All of the Justices concurring therein, the following amendments to the Maine Rules of Appellate Procedure are adopted to be effective on the date indicated above. The specific amendments are stated below. To aid in the understanding of each amendment, an Advisory Note appears after the text of each amendment. The Advisory Note states the reason for recommending the amendment, but the Advisory Note is not part of the amendment adopted by the Court.

1. Rule 5(b) of the Maine Rules of Appellate Procedure is amended to add an initial paragraph to read as follows:

RULE 5. RECORD ON APPEAL

(a) Contents of Record. The record on appeal shall consist of the trial court clerk's record and exhibits filed in the trial court, the reporter's transcript of the proceedings, if any, and a copy of the docket entries.

(b) Transcripts. Unless excused for good cause by a Justice of the Supreme Judicial Court, the record on appeal shall include both a print and an electronic copy of any transcript that is or becomes part of the record on appeal. The electronic copy of each transcript shall be in a native .pdf format. The appellant shall ensure that an electronic copy of any transcript that is or becomes part of the record on appeal is emailed to the Clerk of the Law Court at the email address that the Clerk of the Law Court designates.

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Advisory Note - June 2019

The Court uses both print and electronic versions of transcripts in its consideration of appeals. The electronic versions of transcripts that are ordered with a notice of appeal are provided to the Court pursuant to Rule 6(c)(1). The Court has not, however, had access to electronic versions of transcripts that are filed in the trial court before the notice of appeal and then transmitted to the Law Court with the clerk's record.

This amendment to Rule 5(b) requires the appellant to ensure that the Court receives electronic versions of all transcripts that are part of the record on appeal, whether the transcripts were filed in the trial court and transmitted to the Law Court or were filed directly with the Law Court. For transcripts by an official court reporter or by a transcriber of electronic recordings, the appellant should contact the reporter or transcriber and ask that the electronic versions of the transcripts be emailed to the Clerk of the Law Court. For other transcripts, the appellant should contact the court reporter or transcriber who created the transcript to ask that the electronic version be transmitted directly to the Clerk of the Law Court. If that fails, however, the appellant may, with the agreement of all parties or with leave of the Court, email an electronic copy that is available to the appellant.

Electronic versions of transcripts must be text-based .pdf files that are searchable and may not be scans of the transcripts even if those scans are made searchable through character recognition software.

2. Rule 6(c)(1) of the Maine is amended to read as follows:

RULE 6. FILING THE RECORD WITH THE LAW COURT

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(c) (1) Filing of Reporter's Transcript. Unless the Law Court otherwise directs, within 56 days after the filing of the notice of appeal, the reporter shall file the reporter's transcript, reproduced in accordance with M.R. Civ. P. 5(i)(2), with the Clerk of the Law Court, ~~and~~ furnish copies to the parties, and email. ~~With the reporter's transcript filed with the Clerk of the Law Court, the reporter shall include a CD, DVD, or flash drive containing an electronic copy of the transcript in native .pdf format, unless, by prior arrangement with~~

~~the Clerk of the Law Court, the reporter is authorized to email an electronic copy of the transcript to the Clerk of the Law Court at the email address that the Clerk of the Law Court designates.~~

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Advisory Note - June 2019

This amendment to Rule 6(c)(1) changes the procedure for the filing of electronic transcripts by official court reporters. The same procedure is being adopted for the filing of transcripts created by electronic recordings. See Rule 5(b).

3. Rule 7(b)(1) of the Maine Rules of Appellate Procedure is amended to add sub-paragraph (M) to read as follows:

RULE 7. SCHEDULE FOR BRIEFING AND CONSIDERATION

...

(b) Time for Filing Briefs.

(1) Track A Appeals. In a Track A appeal, the appellant shall file the appellant's brief within 28 days (4 weeks) after the date that the record on appeal is complete. The appellee shall file the appellee's brief within 56 days (8 weeks) after the date that the record on appeal is complete, and the appellant may file a reply brief within 14 days after the date that the appellee's brief is filed.

An appeal is a Track A appeal if it results from a trial court judgment that:

- (A)** determines jeopardy pursuant to 22 M.R.S. § 4035;
- (B)** terminates parental rights pursuant to 22 M.R.S. § 4055 or 18-A M.R.S. § 9-204;
- (C)** grants a decree of adoption pursuant to 18-A M.R.S. § 9-308;
- (D)** appoints a guardian for a minor pursuant to 18-A M.R.S. § 5-207;

(E) denies the termination of a guardianship for a minor pursuant to 18-A M.R.S. § 5-210;

(F) grants or denies the termination of a guardianship for an adult pursuant to Title 18-A, Article 5, part 3;

(G) establishes or changes contact between a parent and child pursuant to 19-A M.R.S. § 1653(2) or (10);

(H) grants or denies a determination of de facto parenthood or parentage in any parentage proceeding defined in 19-A M.R.S. § 1834;

(I) grants contact pursuant to the Grandparents Visitation Act 19-A M.R.S. § 1801 et seq.;

(J) involuntarily commits an individual to an institution or a progressive treatment program, or orders the involuntary medication of a person;

(K) determines that a criminal defendant is not criminally responsible by reason of insanity; ~~or~~

(L) resolves an appeal from an agency's denial of a request pursuant to the Freedom of Access Act, 1 M.R.S. § 400 et seq.; or

(M) results in a juvenile adjudication or disposition pursuant to 15 M.R.S. § 3402.

Advisory Note - June 2019

This amendment, recommended by the Advisory Committee on the Maine Rules of Appellate Procedure, adds appeals of a juvenile adjudication or disposition to the list of appeals subject to expedited briefing.

4. Rule 19(a)(1)(2)(B) of the Maine Rules of Appellate Procedure is amended to read as follows:

RULE 19. DISCRETIONARY CRIMINAL APPEALS

(a) (1) Appeals Covered. This Rule covers those criminal appeals that are subject to preliminary review and full consideration as a matter of discretion by the Law Court, other than the appeals from sentences of a year or more that are addressed by M.R. App. P. 20.

(2) Specifically Included Appeals. The appeals covered by this Rule include:

(A) An appeal from a ruling on a motion to correct or reduce a sentence, pursuant to M.R.U. Crim. P. 35(a) or (c), when the appeal is taken by the defendant;

(B) An appeal by a person whose probation is revoked, or whose conditions of probation are modified pursuant to 17-A M.R.S. § 1202(2), or whose request for modification is denied pursuant to 17-A M.R.S. § 1202(2)~~when the appeal is authorized pursuant to 17-A M.R.S. § 1207(1);~~

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Advisory Note - June 2019

Rule 19(a)(2)(B) is amended to clarify that appeals from orders denying probation modification orders—like orders modifying probation conditions—are subject to Rule 19. The reference to 17-A M.R.S. § 1207(1) is deleted as unnecessary.

Dated: April 25, 2019

FOR THE COURT,*

/s/

LEIGH I. SAUFLEY
Chief Justice

DONALD G. ALEXANDER
ANDREW M. MEAD
ELLEN A. GORMAN
JOSEPH M. JABAR
JEFFREY L. HJELM
THOMAS E. HUMPHREY
Associate Justices

* This Rule Amendment Order was approved after conference of the Court, all Justices concurring therein.