

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 10th *day of* April, 2015.

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective July 1, 2015.

Add Rule 5:6A to read as follows:

Rule 5:6A. Citation of Supplemental Authorities.

If pertinent and significant authorities come to a party's attention after the party's petition for appeal, brief in opposition, or brief has been filed, or after oral argument but before decision, a party may promptly advise the clerk by letter, with a copy to all other parties, setting forth the citations. The letter must state the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. The body of the letter must not exceed 350 words. Any response must be made promptly and shall not exceed 350 words. The Court, in its discretion, may refuse to consider the supplemental authorities if they unfairly expand the scope of the arguments on brief, raise matters that should have been previously briefed, appear to be untimely, or are otherwise inappropriate to consider.

Amend Rule 5:9 to read as follows:

Rule 5:9. Notice of Appeal.

* * *

(b) *Content.* -- The notice of appeal shall contain a statement whether any transcript or statement of facts, testimony and other incidents of the case will be filed. In the event a transcript is to be filed, the notice of appeal shall certify that a copy of the

transcript has been ordered from the court reporter who reported the case or is otherwise already in the possession of appellant, or was previously filed in the proceedings.

* * *

Amend Rule 5:17 to read as follows:

Rule 5:17. Petition for Appeal.

* * *

(c) *What the Petition Must Contain.* -- A petition for appeal must contain the following:

(1) Assignments of Error: Under a heading entitled "Assignments of Error," the petition shall list, clearly and concisely and without extraneous argument, the specific errors in the rulings below upon which the party intends to rely, or the specific existing case law that should be overturned, extended, modified, or reversed. An exact reference to the page(s) of the transcript, written statement of facts, or record where the alleged error has been preserved in the trial court or other tribunal from which the appeal is taken shall be included with each assignment of error.

* * *

(j) *Oral Argument.* --

* * *

(4) Notice of Oral Argument. If the appellant has requested oral argument, notice of the date and time of such argument shall be provided to counsel for the appellant or to any pro se appellant and to counsel for the appellee or any pro se appellee who has

filed a Brief in Opposition or otherwise appeared in the appeal.

Amend Rule 5:18 to read as follows:

Rule 5:18. Brief in Opposition.

* * *

(b) *Form and Content.* -- The brief in opposition shall conform in all respects to the content requirements for the brief of appellee in Rule 5:28. However, the brief in opposition need not be bound or have a blue cover. Except by leave of a Justice of this Court, the brief shall not exceed the longer of 25 pages or 4,375 words. If the brief exceeds 10 pages or 1,750 words, it shall contain a table of contents and table of authorities with cases alphabetically arranged. The brief in opposition must be signed by at least one counsel of record.

* * *

Amend Rule 5:19 to read as follows:

Rule 5:19. Reply Brief.

* * *

(b) When cross-error is assigned in a brief in opposition, the appellant may, without waiving oral argument, file with the clerk of this Court within 14 days after filing of the brief in opposition a reply brief not in excess of 10 pages or 1,750 words which addresses only the cross-error. Seven copies shall be filed.

Amend Rule 5:20 to read as follows:

Rule 5:20. Petition for Rehearing After Refusal of Petition for Appeal, Refusal of Assignments of Cross-Error, or Disposition of an Original Jurisdiction Petition.

(a) *Scope.* -- This Rule governs requests for rehearing of the refusal or dismissal of a petition for appeal filed pursuant to Rule 5:17, the refusal of one or more assignments of cross-error, or the disposition of an original jurisdiction petition filed pursuant to Rule 5:7, Rule 5:7A, or Rule 5:7B.

(b) *Time to File.* --

(1) *Petition for Rehearing After Refusal or Dismissal of Petition for Appeal.* -- When a petition for appeal is either refused or dismissed, in whole or in part, the clerk of this Court shall mail a copy of the order denying the appeal, in whole or in part, to counsel for the appellant and counsel for the appellee. Counsel for the appellant may, within 14 days after the date of such order, file in the office of the clerk of this Court a petition for rehearing. If the petition for appeal is granted but one or more assignments of cross-error are refused, counsel for the appellee may, within 14 days after the date of that order, file in the office of the clerk of this Court a petition for rehearing.

(2) *Petition for Rehearing after Disposition of Original Jurisdiction Petition.* -- When a petition filed pursuant to this Court's original jurisdiction (habeas corpus, mandamus, prohibition, or actual innocence) is decided, the clerk of this Court shall mail a copy of the order to counsel for the petitioner and counsel for the respondent. Counsel for either party may,

within 30 days after the date of this order, file in the office of the clerk of this Court a petition for rehearing.

(c) *Filing Requirements.* -- Except for petitions for rehearing filed by pro se prisoners or with leave of this Court, a petition for rehearing shall be filed electronically.

1) Requirements for Electronic Filing.

(i) The petition for rehearing shall be filed as an Adobe Acrobat Portable Document Format (PDF) document attached to an e-mail addressed to scvpfr@courts.state.va.us and will be timely filed if received by the clerk's office on or before 11:59 p.m. on the date due.

(ii) The petition for rehearing must be formatted in compliance with the requirements of Rule 5:6(a) and must not exceed the greater of 10 pages or a word count of 1,750 words. The petition must include a certificate of service to opposing counsel and the certificate shall specify the manner of service and the date of service. The petition must also include a certificate of compliance with the word count limit. The petition will be considered filed on the date and time that it is received by scvpfr@courts.state.va.us. If the petition does not meet the requirements of this rule as to format, the clerk shall so notify counsel and provide a specific amount of time for a corrected copy of the petition to be filed.

(iii) A person who files a document electronically shall have the same responsibility as a person filing a document in paper form for ensuring that the document is properly filed, complete, and readable. However, if technical problems at the Supreme Court result in a failure to timely receive the electronically filed petition for rehearing, counsel shall provide to the clerk of this Court on the next business day all documentation which exists demonstrating the attempt to file the petition by e-mail, any delivery failure notice received in response to the attempt, and a copy of the petition for rehearing.

(iv) The e-mail message to which the petition for rehearing is attached shall recite in the subject line the style of the case and the Supreme Court record number. The e-mail message shall contain a paragraph stating that a petition for rehearing is being filed, the style of the case, the Supreme Court record number, the name and Virginia State Bar number of counsel filing the petition, as well as the law firm name, mailing address, telephone number, facsimile number (if any), and e-mail address of counsel. The message shall also state whether a copy of the petition for rehearing has been served by e-mail or another means on opposing counsel and the date of such service. If opposing counsel has an e-mail address, that address shall

also be included. Upon receipt of the petition for rehearing in the e-mail box of the clerk's office, an acknowledgment will automatically be forwarded to counsel seeking the rehearing.

(2) Requirements When Paper Filing is Allowed.

(i) The petition for rehearing shall not exceed the greater of 10 pages or 1,750 words in length and must be formatted in compliance with the requirements of Rule 5:6(a). The petition for rehearing shall state that a copy has been mailed or delivered to opposing counsel.

(ii) Two copies shall be filed.

(d) *Oral Argument and Responsive Brief.* -- Oral argument on the petition for rehearing will not be allowed. No responsive brief shall be filed unless requested by this Court.

(e) *Notification of Action on the Petition.* -- The clerk of this Court shall notify counsel for all parties of the action taken by this Court on the petition for rehearing via e-mail, if e-mail addresses have been provided, or via U.S. Mail to any counsel or party who has not provided an email address.

(f) *Attorney's Fees.* -- Upon denial of a petition for appeal and any petition for rehearing, any appellee who has received attorney's fees and costs in the circuit court may make application in the circuit court for additional fees and costs incurred on appeal pursuant to Rule 1:1A.

Rule 5:20A. [Deleted]

Amend Rule 5:30 to read as follows:

Rule 5:30. Briefs Amicus Curiae.

(a) *Stage of proceedings.* -- Subject to the requirements outlined in this Rule, a brief amicus curiae may be filed during the petition, perfected appeal or rehearing stages of the appellate proceedings in this Court, and in proceedings invoking this Court's original jurisdiction.

* * *

Add Rule 5A:4A to read as follows:

Rule 5A:4A. Citation of Supplemental Authorities.

If pertinent and significant authorities come to a party's attention after the party's petition for appeal, brief in opposition, or brief has been filed, or after oral argument but before decision, a party may promptly advise the clerk by letter, with a copy to all other parties, setting forth the citations. The letter must state the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. The body of the letter must not exceed 350 words. Any response must be made within 14 days and shall not exceed 350 words. The Court, in its discretion, may refuse to consider the supplemental authorities if they unfairly expand the scope of the arguments on brief, raise matters that should have been previously briefed, appear to be untimely, or are otherwise inappropriate to consider.

Amend Rule 5A:6 to read as follows:

Rule 5A:6. Notice of Appeal.

* * *

(d) *Certificate.* -- The appellant shall include with the notice of appeal a certificate stating:

* * *

(4) that in the event a transcript is to be filed a copy of the transcript has been ordered from the court reporter who reported the case or is otherwise already in the possession of appellant, or was previously filed in the proceedings.

* * *

Amend Rule 5A:12 to read as follows:

Rule 5A:12. Petition for Appeal.

* * *

(c) *What the Petition Must Contain.* -- A petition for appeal must contain the following:

(1) *Assignments of Error.* Under a heading entitled "Assignments of Error," the petition shall list, clearly and concisely and without extraneous argument, the specific errors in the rulings below upon which the party intends to rely, or the specific existing case law that should be overturned, extended, modified or reversed. An exact reference to the page(s) of the transcript, written statement of facts, or record where the alleged error has been preserved in the trial court or other tribunal from which the appeal is taken shall be included with each assignment of error.

* * *

Amend Rule 5A:23 to read as follows:

Rule 5A:23. Briefs Amicus Curiae.

(a) A brief amicus curiae may be filed at the petition, perfected appeal and rehearing stages of the appellate proceedings, and in proceedings invoking this Court's original jurisdiction:

(1) on behalf of the United States or the Commonwealth of Virginia without the prior consent of this Court or counsel; and

(2) by any other person if it is accompanied by the written consent of all counsel; and

(3) otherwise only on motion (which may be accompanied by the proposed brief) and the consent of this Court.

* * *

A Copy,

Teste:

Pat L Hamington

Clerk