

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENT TO THE
MAINE RULES OF APPELLATE PROCEDURE

2017 Me. Rules 08

Effective: September 1, 2017

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

1. Rule 19(d)-(k) of the restyled Maine Rules of Appellate Procedure, as adopted by Rule Amendment Order 2017 Me. Rules 07, is amended to correct an error in subdivision lettering and numbering, resulting in Rule 19(d)-(i) of the restyled Maine Rules of Appellate Procedure as follows:

(d) (1) Duty of Reporter to Prepare and File Transcript of Proceeding Subject to Appeal. Unless the Law Court otherwise directs, within 56 days after the date of the filing of the notice of appeal and transcript order form, the reporter shall prepare and file a transcript of the hearing that is the subject of the appeal, if a hearing on the matter was held and recorded. The transcript shall be filed in accordance with Rule 6(c). Unless the Law Court orders otherwise, or a certificate of probable cause issues, no other transcript of any related proceeding shall be prepared pending ruling on the request for a certificate of probable cause. The hearings for which a transcript shall be prepared pursuant to this subdivision are:

(A) For an appeal from a ruling on a motion for correction or reduction of sentence, the hearing, if any, on the motion for correction or reduction of sentence.

(B) For an appeal from a ruling on a motion for revocation or modification of probation, the hearing on the motion for revocation or modification of probation.

(C) For an appeal from a ruling on a motion for revocation of supervised release, the hearing on the motion for revocation of supervised release.

(D) For an appeal from a ruling of inexcusable failure to comply with a court-imposed deferred disposition requirement, the hearing on the motion for termination of the period of deferment or the hearing at the conclusion of the period of deferment.

(E) For an appeal from a ruling on a motion for revocation of administrative release, the hearing on the motion for revocation of administrative release.

(F) For an appeal from a final judgment in a post-conviction review proceeding, the hearing on the motion for post-conviction relief, if any.

(G) For an appeal from a final judgment in an extradition proceeding, no transcript as specified by Rule 19(d)(2).

(H) For an appeal from a ruling on a motion to order DNA analysis, the hearing on the motion to order DNA analysis.

(I) (i) For an appeal from an order on a post-judgment motion seeking a court determination of factual innocence and correction of the court records and related criminal justice agency records, the hearing on the post-judgment motion.

(ii) For an appeal from an order vacating the earlier order certifying a determination of factual innocence and modifying any record correction earlier made, the hearing relating to the alleged fraud or misrepresentation.

(J) For an appeal from a final judgment on a motion for special restrictions on dissemination and use of criminal history record information, the hearing on the motion.

(2) Generally No Duty to Prepare and File Transcript of Extradition Hearings.

(A) No transcript shall be prepared of any hearing on a petition contesting extradition. In lieu of a transcript of hearing, the justice or judge who heard the petition for extradition shall, within 14 days after the filing of the notice of appeal, prepare and forward to the Clerk of the Law Court written findings of fact upon which the determination of the petition contesting extradition was based.

(B) Upon a finding that special circumstances exist, which findings shall be in writing and shall detail the substance of such special circumstances and the necessity for the ordering of a transcript, the trial court, in lieu of preparing findings of fact, may order that a transcript of all or part of the proceedings be prepared and transmitted to the Law Court. The preparation and transmission of such a transcript shall be expedited.

(f3) Compensation for Hearing Transcript. Compensation for the hearing transcript shall be as provided in Rule 5(b)(1)(B).

(g e) Denial of a Certificate of Probable Cause. If the Law Court denies a certificate of probable cause, the Clerk of the Law Court shall forthwith send to each party a written notice of that denial.

(h f) Granting of a Certificate of Probable Cause. If the Law Court issues a certificate of probable cause authorizing consideration of the appeal on the merits, the Clerk of the Law Court shall forthwith notify the parties and the trial court from which the appeal was taken. For purposes of timing and the applicability of the Maine Rules of Appellate Procedure, the docketing in the Law Court of an order granting a certificate of probable cause shall be treated in the same manner as the filing of a notice of appeal pursuant to Rule 2A(b)(1). If an appeal is pending pursuant to Rule 2A involving the same criminal judgment, the Rule 19 appeal shall be treated as part of the Rule 2A appeal.

(i g) Additional Transcript Orders.

(A) Within 7 days after the docketing by the Clerk of the Law Court of the order granting the certificate of probable cause, the appellant shall file

with the reporter and the Clerk of the Law Court and shall serve on the appellee a transcript order for any other transcripts or portions thereof, not already prepared, that the appellant deems necessary for prosecution of the appeal. Within 7 days after receipt of the appellant's transcript order, the appellee may order additional transcripts or portions thereof in accordance with Rule 5(b)(1)(A).

(B) Costs of the transcript shall be paid in accordance with Rule 5(b)(1)(B).

(C) If a non-indigent appellant fails to make appropriate arrangements with the reporter for payment of the transcript within 7 days as provided by Rule 5(b)(1)(B), the Clerk of the Law Court shall be notified in accordance with Rule 5(b)(1)(B), and the appeal shall proceed without any additional transcript.

(j h) Clerk's Record. After docketing of the order granting the certificate of probable cause and notification to the clerk, any further clerk's record shall be filed with the Law Court in the same manner as provided by Rule 6.

(k i) Notice of Schedule for Filing Briefs and the Appendix. Upon filing of the record, including any additional transcripts, the Clerk of the Law Court shall notify the parties of the schedule for filing briefs in accordance with Rule 7. The appeal shall then proceed as other appeals under the Maine Rules of Appellate Procedure.

Advisory Note – July 2017

The amendment corrects an error in subdivision lettering and numbering from Rule 19(d) onward in the restyled Maine Rules of Appellate Procedure, as adopted by Rule Amendment Order 2017 Me. Rules 07.

Dated: July 6, 2017

FOR THE COURT,*

_____/s/_____
LEIGH I. SAUFLEY
Chief Justice

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

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