

## **RULE 31. FILING AND SERVICE OF BRIEFS**

**(a) Time for Serving and Filing Briefs.** Unless a different briefing schedule is provided by court order or rule, parties must observe the briefing schedule set forth in this Rule.

### **(1) All Appeals Except Termination of Parental Rights and Direct-Appeal Capital Cases.**

(A) The appellant must serve and file the opening brief no later than 120 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent must serve and file the answering brief no later than 30 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed no later than 30 days after the respondent's brief is served.

**(2) Termination of Parental Rights Cases.** If an appeal is taken from any district court order in an action seeking termination of parental rights:

(A) The appellant must serve and file the opening brief no later than 90 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent must serve and file the answering brief no later than 21 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed no later than 14 days after the respondent's brief is served.

(D) The court may order oral argument at its discretion. Where oral argument is not ordered, the matter will be submitted for decision on the briefs and the appendix no later than 60 days of the date that the final brief is due.

**(3) Direct-Appeal Capital Cases.** On direct appeal from a judgment of conviction and sentence of death:

(A) The appellant must serve and file the opening brief no later than 120 days from the date that the record on appeal is filed in the Supreme Court.

(B) The respondent must serve and file the answering brief no later than 60 days after the appellant's brief is served.

(C) The appellant's reply brief must be served and filed no later than 45 days after the respondent's brief is served.

**(b) Extensions of Time for Filing Briefs.**

**(1) Telephonic Requests.** No telephonic extensions are permitted in termination of parental rights or direct-appeal capital cases. In all other cases, unless the Court orders otherwise, a party may request by telephone a single 30-day extension of time for filing a brief under Rule 26(b)(1)(B). No further extensions for filing the brief will be granted except on motion under Rule 31(b)(2).

**(2) Motions for Extensions of Time.** A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27.

**(A) Contents of Motion.** A motion for extension of time for filing a brief must include the following:

- (i) When the brief is due and was first due;
- (ii) The number of extensions previously granted (including a 30-day telephonic extension);
- (iii) Whether any previous extensions have been denied or denied in part;
- (iv) The reasons or grounds why an extension is necessary (including demonstrating extraordinary and compelling circumstances, if required); and

(v) The length of the extension requested and when the brief would become due.

**(B) Motions in All Appeals Except Termination of Parental Rights and Direct-Appeal Capital Cases.** Applications for extensions of time beyond that to which the parties are permitted under Rule 31(b)(1) are not favored. The court will grant an initial motion for extension of time for filing a brief, including after any telephonic extension, only upon a showing of good cause. The court will not grant additional extensions of time except upon a showing of extraordinary and compelling circumstances.

**(C) Motions in Termination of Parental Rights Cases.** The court will grant a motion for extension of time for filing a brief in termination of parental rights cases only in extraordinary and compelling circumstances.

**(D) Motions in Direct-Appeal Capital Cases.** The court may grant an initial motion for an extension of time of up to 60 days for filing a brief in a capital case upon a showing of good cause. The court will not grant additional extensions of time except upon a showing of extraordinary and compelling circumstances.

**(c) Service.** A copy of each brief must be served on counsel for each party separately represented. The brief must be signed in compliance with Rules 25(a)(5), 32(a)(9), and 32(d).

**(d) Consequences of Failure to File Briefs or Appendix.**

**(1) Appellant.** If an appellant fails to timely file an opening brief or appendix, a respondent may move for dismissal of the appeal or the court may dismiss the appeal on its own motion. If an appellant has not filed a reply brief, oral argument will be limited as provided by Rule 34(c). This Rule does not apply to postconviction appeals in which the appellant is not represented by counsel. In those cases, the court may decide the appeal based on the record without briefing as provided in Rule 34(g).

**(2) Respondent.** A respondent who fails to timely file an answering brief will not be heard at oral argument unless the court grants permission, and such failure may be treated as a confession of error. Unless the court has ordered the respondent to file an answering brief as provided in Rule 46A(c), this Rule does not apply to appeals in which the appellant is not represented by counsel.