
RULES OF APPELLATE PROCEDURE
CHAPTER 1209
RULES OF APPELLATE PROCEDURE

IN THE MATTER OF THE
 RULES OF APPELLATE
 PROCEDURE

}

REPORT OF THE
 SUPREME COURT

TO THE 1980 REGULAR SESSION OF THE SIXTY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF IOWA:

Pursuant to sections 684.18(2) and 684.19, The Code, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly changes in the Rules of Appellate Procedure as follows:

Rule 1.

That rule 1 be amended by adding the following new subdivision "c":

"(c) If an appeal to the supreme court is improvidently taken because the order from which appeal is taken is interlocutory, this alone shall not be ground for dismissal. The papers upon which the appeal was taken shall be regarded and acted upon as an application for interlocutory appeal under rule 2, rules of appellate procedure, as if duly presented to the supreme court at the time the appeal was taken."

Rule 5.

That rule 5 be amended as follows:

"Rule 5. TIME FOR APPEALS.

(a) Appeals to the supreme court must be taken within, and not after, thirty days from the entry of the order, judgment or decree, unless a motion for new trial or judgment notwithstanding the verdict as provided in rule 247, rules of civil procedure, or a motion as provided in rule 179(b), rules of civil procedure, is filed, and then within thirty days after the entry of the ruling on such motion; provided however that where an application to the supreme court or any justice thereof to grant an appeal under rule 2, rules of appellate procedure, is made within thirty days from the date of such ruling or decision, any appeal allowed upon such application shall be deemed timely taken.

Provided further that if the supreme court or any justice determines that the order or decision from which application to appeal under rule 2, rules of appellate procedure, is timely made is a final judgment or decision from which appeal would lie under rule 1, rules of appellate procedure, an appeal therefrom shall also be deemed timely taken and perfected when the order making such determination is filed with the clerk of the supreme court, and rule 6(b), rules of appellate procedure, shall apply.

A cross-appeal may be taken within the thirty days for taking an appeal or in any event within five days after the appeal is taken.

(b) Notwithstanding these rules, an order disposing of an action as to fewer than all of the parties to the suit, even if their interests are severable, may be appealed within the time for appeal from the order, judgment or decree finally disposing of the action as to remaining parties.

(c) No appeal from a judgment, ruling or order taken after it has actually been made by the trial court shall be held insufficient because the clerk of the trial court has not recorded such judgment, ruling or order upon the court records at the time the appeal is taken, if it shall appear that such record has been made prior to ten days after the date on which the appeal is docketed."

Respectfully submitted,
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa
January 28, 1980

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the twenty-eighth day of January, 1980, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Appellate Procedure.

/s/ Frank Stork
Secretary of the Senate, 1980
Regular Session of the Sixty-
Eighth General Assembly of the
State of Iowa

ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the twenty-eighth day of January, 1980, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Appellate Procedure.

/s/ David L. Wray
Chief Clerk of the House of
Representatives, 1980 Regular
Session of the Sixty-Eighth
General Assembly of the State
of Iowa

CERTIFICATE

I, Terry E. Branstad, do hereby certify that I am the President of the Senate of the 1980 Regular Session of the Sixty-eighth General Assembly of the State of Iowa; and I, Frank J. Stork, do hereby certify that I am the Secretary of the Senate of the 1980 Regular Session of the Sixty-eighth General Assembly of the State of Iowa, and we do hereby jointly certify that as such President and Secretary that on the twenty-eighth day of January, 1980, the Supreme Court of the State of Iowa reported to said Senate, and filed with it, the attached and foregoing Rules of Appellate Procedure;

THAT the date of making said report to the 1980 Regular Session of the Sixty-eighth General Assembly was within the twenty days subsequent to the convening of the 1980 Regular Session of the Sixty-eighth General Assembly;

THAT no other report pertaining to the Rules of Appellate Procedure was made or filed by said Supreme Court with said Senate;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Appellate Procedure were made or enacted at such 1980 Regular Session of said Sixty-eighth General Assembly.

Signed this 26th day of April, 1980, being the sine die adjournment of the 1980 Regular Session of the Sixty-eighth General Assembly.

/s/ Terry E. Branstad

TERRY E. BRANSTAD

President of the Senate

/s/ Frank J. Stork

FRANK J. STORK

Secretary of the Senate, 1980
Regular Session of the Sixty-
eighth General Assembly of the
State of Iowa.

CERTIFICATE

I, William H. Harbor, do hereby certify that I am the Speaker of the House of Representatives of the 1980 Regular Session of the Sixty-eighth General Assembly of the State of Iowa; and I, Bruce Graham, do hereby certify that I am the Assistant Chief Clerk of the House of Representatives of the 1980 Regular Session of the Sixty-eighth General Assembly of the State of Iowa, and we do hereby jointly certify that as such Speaker and Assistant Chief Clerk that on the twenty-eighth day of January, 1980, the Supreme Court of the State of Iowa reported to said House of Representatives, and filed with it, the attached and foregoing Rules of Appellate Procedure;

THAT the date of making said report to the 1980 Regular Session of the Sixty-eighth General Assembly was within the twenty days subsequent to the convening of the 1980 Regular Session of the Sixty-eighth General Assembly;

THAT no other report pertaining to the Rules of Appellate Procedure was made or filed by said Supreme Court with said House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Appellate Procedure were made or enacted at such 1980 Regular Session of said Sixty-eighth General Assembly.

Signed this 26th day of April, 1980, being the sine die adjournment of the 1980 Regular Session of the Sixty-eighth General Assembly.

/s/ William H. Harbor

WILLIAM H. HARBOR
Speaker of the House

/s/ Bruce Graham

BRUCE GRAHAM
Assistant Chief Clerk of the House
of Representatives, 1980 Regular
Session of the Sixty-eighth
General Assembly of the State of
Iowa.