



IN RE AMENDMENT OF OKLAHOMA SUPREME COURT RULE 1.23

2023 OK 77

Decided: 06/19/2023

THE SUPREME COURT OF THE STATE OF OKLAHOMA

Cite as: 2023 OK 77, __ P.3d __

IN RE: AMENDMENT OF OKLAHOMA SUPREME COURT, RULE 1.23

ORDER

¶1 The Court hereby amends Oklahoma Supreme Court Rule 1.23, 12 O.S.2021, ch. 15, app 1., as shown on the attached Exhibits A and B, effective immediately.

¶2 DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 19th DAY OF JUNE, 2023.

/S/CHIEF JUSTICE

ALL JUSTICES CONCUR.

EXHIBIT A

Oklahoma Supreme Court Rules Rule 1.23 Commencement of Appeal

(a) **Commencement.** An appeal from a district court is commenced by:

(1) filing a petition in error with fourteen (14) copies with the Clerk of this Court within the time prescribed in Rule 1.21; and

(2) Remitting to the Clerk of the Supreme Court the cost deposit provided by statute, or if the appellant is an indigent, an affidavit in forma pauperis shall be filed with the petition in error. 20 O.S. § 15. The affidavit shall be furnished by the Clerk of the Supreme Court, upon request, and shall be in substantial compliance with the form prescribed by Rule 1.301 Form No. 4.

The cost deposit is satisfied by tendering a personal or business check, U.S. currency or a nationally recognized credit or debit card or other electronic payment method pursuant to Rule 1.19.

(3) A party who was permitted to proceed in forma pauperis before the lower court or other tribunal may proceed on appeal in forma pauperis, so long as a file-stamped copy of the order approving in forma pauperis status granted by the lower court or other tribunal is attached to the petition in error. If the party first seeks to proceed in forma pauperis in the appellate court, the affidavit in forma pauperis shall be filed with the petition in error, and shall be in substantial compliance with the form prescribed by Rule 1.301, Form No. 4.

Commencement of an appeal from certain trial court orders must comply with Rule 1.36.

(b) Timely Costs Mandatory. All petitions in error shall be filed upon receipt. When a petition in error is received by the Clerk of the Supreme Court, the entire cost deposit, or a properly executed pauper's affidavit is due at the time of filing with the Clerk of the Supreme Court. The cost deposit or pauper's affidavit must be received by the Clerk of the Supreme Court within the same thirty-day period for filing the petition in error (12 O.S. § 990A(A)) for the tendered petition in error to be considered as timely filed to commence an appeal. The determination of whether or not a petition in error is timely will be made by the Supreme Court. In an appeal brought by the State of Oklahoma, or by direction of any department of the State, cost deposit shall not be paid with the filing of the petition in error. 12 O.S. § 66.

(c) Notice and Entry of Appearance. A copy of the petition in error shall be filed in the trial court and mailed to each party to the appeal, or to the party's counsel of record within the time prescribed for filing the petition in error. The mailing of the copy of the petition in error shall constitute notice of appeal, and no further notice of the appeal is required. Parties served with process or entering a general appearance in the trial court constitute parties to the appeal. Appellant must file an entry of appearance. See Rule 1.5. See Rules 1.23 and 1.25 for filing the petition in error and response thereto.

(d) Juvenile Appeals. An appeal from a District Court to the Oklahoma Supreme Court and involving a judgment or order issued pursuant to Title 10 of the Oklahoma Statutes in paternity proceedings, or Title 10A Oklahoma Children and Juvenile Code proceedings, or Oklahoma Adoption Code proceedings, (sometimes referred to as a "juvenile appeal"), shall be commenced by filing with the Supreme Court a petition in error with fourteen (14) copies with the Clerk of this Court within the time prescribed in Rule 1.21 and remitting to the Clerk of the Supreme Court the cost deposit provided by 20 O.S. § 15, or if the appellant is indigent, an affidavit in forma pauperis shall be filed concurrently with the petition in error. 12 O.S. § 990A; 20 O.S. § 15. Compliance with Okla.Sup.Ct.R. 1.23 (b), and (c) is required for juvenile appeals. See 10 O.S. § 80 (paternity appeal); 10A O.S. § 1-5-103 (Oklahoma Children's Code appeal); and 10 O.S. §§ 7505-2.1, 7505-4.1, & 7505-7.1 (Oklahoma Adoption Code appeal).

In a juvenile appeal when the appellant is a minor represented by court-appointed counsel, that counsel may file, in lieu of remitting the cost deposit provided by 20 O.S. § 15, an in forma pauperis affidavit stating that the minor is indigent to the best information and belief of counsel, and a certified copy of the order appointing counsel as the lawyer for the minor. The affidavit and copy of the order of appointment shall be filed with the minor's petition in error.

In a juvenile appeal when the appellant is a parent represented by court-appointed counsel, that counsel may file, in lieu of remitting the cost deposit provided by 20 O.S. § 15 or filing a forma pauperis affidavit, a certified copy of the order appointing counsel as the lawyer for the parent. The copy of the order of appointment shall be filed concurrently with the parent's petition in error.

EXHIBIT B

Oklahoma Supreme Court Rules

Rule 1.23 Commencement of Appeal

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(1) filing a petition in error with fourteen (14) copies with the Clerk of this Court within the time prescribed in Rule 1.21; and

(2) Remitting to the Clerk of the Supreme Court the cost deposit provided by statute, or if the appellant is an indigent, an affidavit in forma pauperis shall be filed with the petition in error. 20 O.S. § 15. The affidavit shall be furnished by the Clerk of the Supreme Court, upon request, and shall be in substantial compliance with the form prescribed by Rule 1.301 Form No. 4.

The cost deposit is satisfied by tendering a personal or business check, U.S. currency or a nationally recognized credit or debit card or other electronic payment method pursuant to Rule 1.19.

(3) A party who was permitted to proceed in forma pauperis before the lower court or other tribunal may proceed on appeal in forma pauperis, so long as a file-stamped copy of the order approving in forma pauperis status granted by the lower court or other tribunal is attached to the petition in error. If the party first seeks to proceed in forma pauperis in the appellate court, the affidavit in forma pauperis shall be filed with the petition in error, and shall be in substantial compliance with the form prescribed by Rule 1.301, Form No. 4.

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In a juvenile appeal when the appellant is a minor represented by court-appointed counsel, that counsel may file, in lieu of remitting the cost deposit provided by 20 O.S. § 15, an in forma pauperis affidavit stating that the minor is indigent to the best information and belief of counsel, and a certified copy of the order appointing counsel as the lawyer for the minor. The affidavit and copy of the order of appointment shall be filed with the minor's petition in error.

In a juvenile appeal when the appellant is a parent represented by court-appointed counsel, that counsel may file, in lieu of remitting the cost deposit provided by 20 O.S. § 15 or filing a forma pauperis affidavit, a certified copy of the order appointing counsel as the lawyer for the parent. The copy of the order of appointment shall be filed concurrently with the parent's petition in error.

Citationizer® Summary of Documents Citing This Document

Cite Name Level

None Found.

Citationizer: Table of Authority

Cite Name Level

Title 10. Children

Cite Name**Level**

Cite	Name	Level
<u>10 O.S. 80.</u>	<u>Appeals</u>	Discussed

Title 12. Civil Procedure

Cite	Name	Level
<u>12 O.S. 66.</u>	<u>Bonds - State of Oklahoma</u>	Discussed
<u>12 O.S. 990A.</u>	<u>Appeal to Supreme Court of Oklahoma - Filing of Petition - Rules - Procedure - Dismissal</u>	Discussed at Length

Title 20. Courts

Cite	Name	Level
<u>20 O.S. 15.</u>	<u>Deposit to Cover Costs - Indigents</u>	Discussed at Length