

SHORT TITLE: Civil procedure; requiring designation of record to contain certain statement regarding transcript; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)  
SENATE BILL NO. 1072 By: Smith

AS INTRODUCED

An Act relating to civil procedure; amending 12 O.S. 1991, Section 990A, as amended by Section 18, Chapter 351, O.S.L. 1993 (12 O.S. Supp. 1993, Section 990A), which relates to appeal to the Supreme Court; requiring designation of record to contain certain statements; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 1991, Section 990A, as amended by Section 18, Chapter 351, O.S.L. 1993 (12 O.S. Supp. 1993, Section 990A), is amended to read as follows:

Section 990A. A. An appeal to the ~~Oklahoma~~ Supreme Court of Oklahoma, if taken, must be commenced by filing a petition in error with the Clerk of the ~~Oklahoma~~ Supreme Court of Oklahoma within thirty (30) days from the date a judgment, decree, or appealable order prepared in conformance with Section ~~10~~ 696.3 of this ~~act~~ title is filed with the clerk of the trial court. Where such judgment, decree, or appealable order states the matter was taken under advisement, the petition in error, if filed, must be filed within thirty (30) days from the date of mailing of a file-stamped copy of such judgment, decree, or appealable order to the appealing party, as indicated on the Certificate of Mailing.

B. The filing of the petition in error may be accomplished either by delivery or ~~by sending it~~ by certified mail with return receipt requested to the Clerk of the Supreme Court. The date of filing or the date of mailing, as shown by the postmark affixed by the post office or other proof from the post office of the date of mailing, shall constitute the date of filing of the petition in error. If there is no proof from the post office of the date of

mailing, the date of receipt by the Clerk of the Supreme Court shall constitute the date of filing of the petition in error.

C. The Supreme Court shall provide by ~~court rules~~ rule, which ~~will~~ shall have the force of statute, and be in furtherance of this method of appeal:

1. For the filing of cross-appeals;

2. The procedure to be followed by the trial courts or tribunals in the preparation and authentication of transcripts and records in cases appealed under this act; and

3. The procedure to be followed for the completion and submission of the appeal taken hereunder.

D. In all cases the record on appeal shall be complete and ready for filing in the Supreme Court within the time prescribed by ~~rules of that court but~~ rule and within a period of not more than six (6) months from the date of filing of the judgment, decree, or appealable order, unless the Supreme Court, for good cause shown, shall extend the time.

E. Except for the filing of a petition in error as provided herein, all steps in perfecting an appeal are not jurisdictional.

F. 1. If a petition in error is filed before the time prescribed in this section, it shall be dismissed as premature; however, if the time to commence the appeal accrues before the appeal is dismissed, the appellant may file a supplemental petition in error, without the payment of any additional costs. Such supplemental petition in error shall state when the time for commencing the appeal began and shall set out all matters which have occurred since the filing of the original petition in error and which should be included in a timely petition in error. When a proper supplemental petition in error is filed, the appeal shall not be dismissed on the ground that it was premature.

2. If an appeal is dismissed on the ground that it was premature, the appellant may file a new petition in error within the time prescribed in this section for filing petitions in error or within thirty (30) days after notice is mailed to the parties which states that the appeal was dismissed on the ground that it was premature, whichever date is later. A notice that an appeal

was dismissed on the ground that it was premature shall include the date of mailing and the ground for dismissal.

G. 1. No designation of record shall be accepted by the district court clerk for filing unless it contains one of the following:

a. where a transcript is designated: A signed acknowledgment from the court reporter who reported evidence in the case indicating receipt of the request for transcript, the date received, and the amount of deposit received, if applicable, in substantially the following form: I, \_\_\_\_\_, court reporter for the above styled case, do hereby acknowledge this request for transcript on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and have received a deposit in the sum of \$\_\_\_\_\_, or

b. where a transcript is not designated: A signed statement by the attorney preparing the designation of record stating that a transcript has not been ordered and a brief explanation why, in substantially the following form: I, \_\_\_\_\_, attorney for the appellant, hereby state that I have not ordered a transcript because:

- (1) a transcript is not necessary for this appeal,  
or  
(2) no stenographic reporting was made.

2. This section shall not apply to counter-designations of record filed by appellees.

SECTION 2. This act shall become effective September 1, 1994.

44-2-1741

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