

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 2275

 By: O'Donnell

6 AS INTRODUCED

7 An Act relating to civil procedure; amending 12 O.S.
8 2011, Section 990A, which relates to appeals to
9 Supreme Court; modifying filing procedures; and
 providing an effective date.

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

13 SECTION 1. AMENDATORY 12 O.S. 2011, Section 990A, is
14 amended to read as follows:

15 Section 990A. A. An appeal to the Supreme Court of Oklahoma,
16 if taken, must be commenced by filing a petition in error with the
17 Clerk of the Supreme Court of Oklahoma within thirty (30) days from
18 the date a judgment, decree, or appealable order prepared in
19 conformance with Section 696.3 of this title is filed with the clerk
20 of the trial court. If the appellant did not prepare the judgment,
21 decree, or appealable order, and Section 696.2 of this title
22 required a copy of the judgment, decree, or appealable order to be
23 served upon the appellant, and the court records do not reflect the
24 service of a copy of the judgment, decree, or appealable order to

1 the appellant within three (3) days, exclusive of weekends and
2 holidays, after the filing of the judgment, decree, or appealable
3 order, the petition in error may be filed within thirty (30) days
4 after the earliest date on which the court records show that a copy
5 of the judgment, decree, or appealable order was served upon the
6 appellant.

7 B. The filing of the petition in error may be accomplished
8 either by delivery or mailing by certified or first-class mail,
9 postage prepaid, to the Clerk of the Supreme Court. The date of
10 filing or the date of mailing, as shown by the postmark affixed by
11 the post office or other proof from the post office of the date of
12 mailing, shall constitute the date of filing of the petition in
13 error. If there is no proof from the post office of the date of
14 mailing, the date of receipt by the Clerk of the Supreme Court shall
15 constitute the date of filing of the petition in error.

16 C. The Supreme Court shall provide by rule, which shall have
17 the force of statute, and be in furtherance of this method of
18 appeal:

19 1. For the filing of cross-appeals;

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

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

1 D. In all cases the record on appeal shall be complete and
2 ready for filing in the Supreme Court within the time prescribed by
3 rule.

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

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

17 2. If an appeal is dismissed on the ground that it was
18 premature, the appellant may file a new petition in error within the
19 time prescribed in this section for filing petitions in error or
20 within thirty (30) days after notice is mailed to the parties which
21 states that the appeal was dismissed on the ground that it was
22 premature, whichever date is later. A notice that an appeal was
23 dismissed on the ground that it was premature shall include the date
24 of mailing and the ground for dismissal.

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

4 a. where a transcript is designated: A signed
5 acknowledgment from the court reporter who reported
6 evidence in the case indicating receipt of the request
7 for transcript, the date received, and the amount of
8 deposit received, if applicable, in substantially the
9 following form: I, _____, court reporter for the
10 above-styled case, do hereby acknowledge this request
11 for transcript on this ____ day of ____, 20__, and have
12 received a deposit in the sum of \$____., or

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

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

22 2. ~~This section shall not apply to counter-designations of~~
23 ~~record filed by appellees~~ No counter-designation of record shall be
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1 accepted by the district court clerk for filing unless it contains
2 one of the following:

3 a. where additional transcript is designated: A signed
4 acknowledgment from the court reporter who reported
5 evidence in the case indicating receipt of the request
6 for transcript and the date received, in substantially
7 the following form: I, , court reporter for
8 the above-styled case, do hereby acknowledge this
9 request for transcript on this day of , 20 ,
10 or

11 b. where no additional transcript is designated: A
12 signed statement by the attorney preparing the
13 designation of record stating that a transcript has
14 not been ordered and a brief explanation why, in
15 substantially the following form: I, ,
16 attorney for the appellant, hereby state that I have
17 not ordered a transcript because:

18 (1) no additional transcript is necessary for this
19 appeal, or

20 (2) no stenographic reporting was made.

21 SECTION 2. This act shall become effective November 1, 2017.

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23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL AND
24 ENVIRONMENTAL, dated 02/08/2017 - DO PASS.