

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

08/31/2022

Clerk of the
Appellate Courts

IN RE: AMENDMENT OF TENNESSEE SUPREME COURT RULE 10B

No. ADM2022-00355

ORDER

On March 21, 2022, the Tennessee Trial Judges Association (“TTJA”) petitioned this Court to amend Tenn. Sup. Ct. R. 10B to provide judges with authority to summarily deny repetitive recusal motions filed pursuant to section 1.01 of Tenn. Sup. Ct. R. 10B, to provide appellate courts with a means of supplementing the record in Rule 10B appeals, to state that the scope of appellate review and relief in Rule 10B appeals is limited to affirming or reversing a trial court’s decision on a recusal motion, and to describe the procedures that should be followed on remand from an appellate court’s order reversing a trial court’s denial of a recusal motion.

On March 24, 2022, the Court published the petition for public comment and set the comment deadline as May 23, 2022. Upon due consideration of the petition and the four comments received, the Court hereby amends Tenn. Sup. Ct. R. 10B as set out in the attached Appendix.

It is so ORDERED.

PER CURIAM

APPENDIX

AMENDMENTS TO TENNESSEE SUPREME COURT RULE 10B No. ADM2022-00355

[New text is indicated by underlining. Deleted text is indicated by ~~striketrough~~.]

1.01. Any party seeking disqualification, recusal, or a determination of constitutional or statutory incompetence of a judge of a court of record, or a judge acting as a court of record, shall do so by a written motion filed promptly after a party learns or reasonably should have learned of the facts establishing the basis for recusal. The motion shall be filed no later than ten days before trial, absent a showing of good cause which must be supported by an affidavit. The motion shall be supported by an affidavit under oath or a declaration under penalty of perjury on personal knowledge and by other appropriate materials. The motion shall state, with specificity, all factual and legal grounds supporting disqualification of the judge and shall affirmatively state that it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. A party who is represented by counsel is not permitted to file a pro se motion under this rule. Any subsequent motion under this section filed in the same case must state, with specificity, substantially different factual and legal grounds than those relied upon in support of a prior motion filed under this section. If a party fails to satisfy this requirement, the subsequent motion may be deemed repetitive and summarily denied as provided in section 1.03.

* * * *

1.03. Upon the filing of a motion pursuant to section 1.01, the judge shall act promptly by written order and either grant or deny the motion. If the motion is denied, the judge shall state in writing the grounds upon which he or she denies the motion. Notwithstanding the foregoing, if a subsequent section 1.01 motion is filed in the same case but fails to state, with specificity,

substantially different factual and legal grounds than those relied upon in support of a previous section 1.01 motion, the judge may act summarily by filing a written order denying the motion as repetitive. The judge need not require a response to the motion, conduct a hearing on it, or provide any other written explanation for denying the motion.

* * * *

2.05. If the appellate court, based upon its review of the petition for recusal appeal and supporting documents, determines that no answer from the other parties is needed, the court may act summarily on the appeal. Otherwise, the appellate court shall order that an answer to the petition be filed by the other parties. The court, in its discretion, also may order further briefing by the parties within the time period set by the court, or may remand to the trial court for the taking of proof and making further findings on matters designated by the appellate court.

2.06. An accelerated interlocutory appeal shall be decided by the appellate court on an expedited basis. The appellate court's decision, in the court's discretion, may be made without oral argument. Tenn. R. App. P. 39 ("Rehearing") does not apply to the appellate court's decision on an accelerated interlocutory appeal, and a petition for rehearing pursuant to that rule is therefore not permitted in such appeals. If an appellate court reverses a trial court's order denying a motion pursuant to section 1.01, the appellate court shall remand the case for designation of a successor judge in accordance with section 1.04 of this rule.