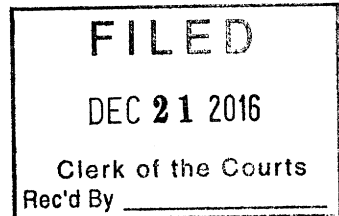


IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

IN RE AMENDMENTS TO THE TENNESSEE  
RULES OF CRIMINAL PROCEDURE

\_\_\_\_\_  
No. ADM2016-01777  
\_\_\_\_\_



**ORDER**

The Court adopts the attached amendments effective July 1, 2017, subject to approval by resolutions of the General Assembly. The rules amended are as follows:

RULE 36      CLERICAL MISTAKES; and  
RULE 49.1    FACSIMILE FILING OF PAPERS.

The text of each amendment is set out in the attached Appendix.

IT IS SO ORDERED.

FOR THE COURT:

  
\_\_\_\_\_  
JEFFREY S. BIVINS  
CHIEF JUSTICE

**APPENDIX**

***AMENDMENTS TO THE  
RULES OF CRIMINAL PROCEDURE***

**[Deleted text is indicated by overstriking,  
and new text is indicated by underlining.]**

# TENNESSEE RULES OF CRIMINAL PROCEDURE

## RULE 36

### CLERICAL MISTAKES

[Amend the rule as indicated below:]

After giving any notice it considers appropriate, the court may at any time correct clerical mistakes in judgments, orders, or other parts of the record, and errors in the record arising from oversight or omission. Upon filing of the corrected judgment or order, or upon the court's denial of a motion filed pursuant to this rule, the defendant or the state may initiate an appeal as of right pursuant to Rule 3, Tennessee Rules of Appellate Procedure.

#### *Advisory Commission Comment [2017]*

The rule is amended to provide that an appeal as of right is available following the trial court's *denial* of a motion filed pursuant to Tenn. R. Crim. P. 36, in addition to cases in which the trial court files a corrected judgment or order. Although Tenn. R. App. P. 3 was amended in 2012 to accomplish this result, the text of Tenn. R. Crim. P. 36 was not changed at that time; additionally, the 2012 Advisory Commission Comment to Tenn. R. App. P. 3(b) and (c) failed to convey the intent behind the 2012 amendment to Tenn. R. App. P. 3. As a result, amended Tenn. R. App. P. 3(b) and (c) were not consistent with the text of Tenn. R. Crim. P. 36. Construing the text of both rules, the Court of Criminal Appeals held that an appeal as of right still was not available in cases in which the trial court denied a Tenn. R. Crim. P. 36 motion, notwithstanding the 2012 amendment to Tenn. R. App. P. 3(b) and (c). *See, e.g., State v. Ross*, No. E2014-02563-CCA-R3-CD, 2015 WL 7567285, at \*6 (Tenn. Crim. App. Nov. 24, 2015), *appeal denied, not for citation* (Tenn. Apr. 6, 2016) (stating that “[t]his court has repeatedly held that Tennessee Rule of Appellate Procedure 3(b) provides no appeal as of right from the *denial* of a Rule 36 motion, and this court lacks jurisdiction to entertain such an appeal” and that “[t]his outcome is not changed by any of the recent amendments to Rules 36 and 3(b)”) (emphasis in original). This 2017 amendment resolves the inconsistency between the two rules and makes it clear that an appeal as of right is available regardless of whether the trial court grants or denies a Tenn. R. Crim. P. 36 motion.

TENNESSEE RULES OF CRIMINAL PROCEDURE

RULE 49.1

FACSIMILE FILING OF PAPERS

[Amend subdivision (c)(3) and the appended Uniform Facsimile Filing Cover Sheet as indicated below; the other subdivisions of the rule are unchanged:]

\* \* \* \*

(c) REQUIREMENTS FOR FACSIMILE FILED DOCUMENTS. —

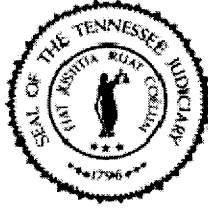
(1) \* \* \* \*

(3) LENGTH. — No facsimile filing shall exceed ~~ten (10)~~ fifty (50) pages in length, including the cover sheet, unless authorized by the court; absent such authorization, a facsimile transmission exceeding ~~ten (10)~~ fifty (50) pages, including the cover sheet, shall not be filed by the clerk. A facsimile filing may not be split into multiple facsimile transmissions to avoid this page limitation.

(4) \* \* \* \*

*Advisory Commission Comment [2017]*

Rule 49.1(c)(3) is amended to increase the page limit for facsimile filings from ten (10) to fifty (50).



TENNESSEE COURTS  
UNIFORM FACSIMILE FILING COVER SHEET

TO (COURT CLERK): \_\_\_\_\_

WITH (COURT): \_\_\_\_\_

CLERK'S FAX NUMBER: \_\_\_\_\_

CASE NAME: \_\_\_\_\_

DOCKET NUMBER: \_\_\_\_\_

TITLE OF DOCUMENT: \_\_\_\_\_

FROM (SENDER): \_\_\_\_\_

SENDER'S ADDRESS: \_\_\_\_\_

\_\_\_\_\_

SENDER'S VOICE TELEPHONE NUMBER: \_\_\_\_\_

SENDER'S FAX TELEPHONE NUMBER: \_\_\_\_\_

DATE: \_\_\_\_\_ TOTAL PAGES, INCLUDING COVER PAGE: \_\_\_\_\_

FILING INSTRUCTIONS/COMMENTS (attach additional sheet if necessary):

Unless authorized by the Court, a facsimile transmission exceeding ~~ten (10)~~ fifty (50) pages, including the cover page, shall not be filed by the clerk.