

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

IN RE: AMENDMENT TO RULE 14, RULES OF THE SUPREME COURT OF TENNESSEE

Filed October 23, 2002

ORDER

The current Rule 14, Tenn. Sup. Ct. R., governs the withdrawal of appellate counsel after the decision of the Court of Criminal Appeals in cases in which counsel was appointed to represent an indigent defendant. The current rule does not apply to civil cases in which counsel was appointed to represent an indigent party. Because Rule 13, Tenn. Sup. Ct. R., authorizes the appointment of counsel for indigent parties in specified civil cases, the Court finds that Rule 14 should be amended to cover all cases, criminal and civil, in which counsel is appointed for an indigent party pursuant to Rule 13.

IT IS THEREFORE ORDERED that Rule 14, Rules of the Supreme Court, is amended by deleting the current rule in its entirety and substituting in its place the new Rule 14 set out in the Appendix to this order. This amendment shall be effective on January 1, 2003.

FOR THE COURT:

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Frank F. Drowota, III, Chief Justice

APPENDIX

RULE 14. WITHDRAWAL OF COUNSEL FOR INDIGENT PARTY AFTER ADVERSE DECISION IN INTERMEDIATE APPELLATE COURT.

Permission for leave to withdraw as counsel for an indigent party after an adverse final decision in the Court of Appeals or Court of Criminal Appeals and before preparation and filing of an Application for Permission to Appeal in the Supreme Court must be obtained from the intermediate appellate court by filing a motion with the Appellate Court Clerk not later than fourteen (14) days after the intermediate court's entry of final judgment.

The motion shall state that: (1) based upon counsel's review of the opinion of the intermediate appellate court, the brief filed on behalf of the indigent party in that court presents such issues as are available for second-tier appellate review if sought by the party acting pro se, and (2) the written notification prescribed by this Rule and a copy of the intermediate court's opinion have been forwarded to the indigent party.

The motion shall be accompanied by a copy of the written notification forwarded to the indigent party. The written notification shall state: (1) that counsel does not intend to file an Application for Permission to Appeal and that counsel is asking the intermediate court for permission to withdraw; (2) that the party may file a pro se Application for Permission to Appeal with the Clerk of the Supreme Court if filed within sixty (60) days after entry of final judgment in the intermediate appellate court; (3) the date on which the intermediate court's opinion was released; and (4) the date on which an Application for Permission to Appeal is due. The written notification must also reflect the party's mailing address to which the notice was forwarded.

Upon the filing of a timely motion in accord with the foregoing requirements, the intermediate appellate court, or any judge thereof, may summarily grant the motion. Upon entry of the order granting the motion to withdraw, a copy thereof will be sent to the indigent party by the Clerk, accompanied by letter notice to the indigent party of the last day within which to file an Application for Permission to Appeal.

This Rule shall apply to any case in which counsel has been appointed for an indigent party pursuant to Rule 13, Tenn. S. Ct. R.