

TITLE 7

RULES OF APPELLATE PROCEDURE IN THE CROW COURT OF APPEALS

RULE 1. SCOPE OF RULES

These rules, shall govern the procedures in appeals from Civil and criminal judgments and/or final orders of the Crow Court and the Crow Juvenile Court.

RULE 2. WHEN AN APPEAL MAY BE TAKEN

(a.) Appeals of right. Any party to an action in the Crow Tribal Court shall have the right to appeal any criminal conviction or any judgment or order in a civil case before the court, except as provided in part (b.) of this rule and Title5, Rule 22.

(b.) Discretionary appeals. It shall be within the discretion of the Crow Court of Appeals to entertain appeals in the following cases:

- (1) Conviction of any traffic offense;
- (2) Order of eviction;
- (3) Judgments rendered through the small claims procedure of the Crow Tribal Court; and,
- (4) Orders or judgments of the Crow Tribal Juvenile Court.

RULE 3. APPEAL OF RIGHT-HOW TAKEN

(a.) Filing of Notice of Appeal, Civil and Criminal.

An appeal of judgment or order of the Crow Tribal Court shall be taken by filing a notice of appeal with the Clerk of the Crow Tribal Court within ten (10) days of the date of the entry of judgment or order appealed from, provided that upon a showing of excusable neglect, the Crow Tribal Court may extend the time for filing of the notice of appeal by any party for a period not to exceed thirty (30) days from the expiration of the normal period allowed for the filing of a notice of appeal.

(b.) Notice of Appeal.

Form: The notice of appeal, whether it involves a Criminal or Civil action, shall specify the name of the Court from which the appeal is taken, the name of the party or parties taking the appeal, the judgment or order from which the appeal is taken and the court to which the appeal is taken.

(c.) Service of the Notice of Appeal: The Clerk of the Crow Tribal Court shall serve notice of the filing of notice of appeal, whether a civil or criminal action is involved, by mailing a copy of the notice of appeal to each party and each party's legal representative. The Clerk shall note on each copy when the notice of appeal was filed.

RULE 4. APPEAL OF TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

(a.) Temporary Restraining Order and Preliminary Injunction: How Taken. An appeal from the granting of a temporary restraining order or preliminary injunction may be sought by filing a petition for permission to appeal with the clerk of the court within five (5) days after the entry of such order by the Crow Tribal Court.

(b.) Form or Contents of Petition. The petition shall contain a statement of the facts necessary to understand the issues and questions of law involved, a statement of the reasons the order should be lifted, and a statement of injuries, damages, or harm being incurred by the petitioner.

RULE 5. DISCRETIONARY APPEAL-HOW TAKEN

(a.) Application to file a discretionary Appeal. In those cases where the Court of Appeals may within its discretion entertain an appeal, appellant shall file a .notice of appeal in the manner set out in Rule 3. Within twenty (20) days of filing a notice of appeal, appellant shall submit to the court an application to file a discretionary appeal and brief in support of his application . Appellee may express his opposition to the application by filing a brief within fifteen (15) days after receipt of appellant's brief in support of the application.

RULE 6. RELEASE PENDING APPEAL OF A CRIMINAL CONVICTION

Application for the release of a convicted defendant pending appeal of the judgment of conviction shall first be made in the Crow Tribal Court. If the Crow Tribal Court refuses to release pending appeal, or imposes conditions of release, the Crow Tribal Court shall state in writing the reasons for the action taken. Thereafter, if an appeal is pending, appellant may motion for release, or modification of conditions of release, to the Crow Court of Appeals or a judge thereof. Such a motion shall be determined promptly after appellant and appellee present their oral and/or written arguments on the motion.

RULE 7. RECORD

(a.) Composition of Record on Appeal. The original papers and exhibits filed in the Crow Tribal Court, the transcript of the proceedings, if any, and a certified copy of the final judgment or order appealed from shall constitute the record on appeal in all cases, civil and criminal.

(b.) Statement of Proceedings when No Report or Transcript Made. If no report of the evidence or proceedings at a trial or hearing was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence and proceedings. Said statement shall be filed with the Clerk of the Crow Tribal Court. The appellant shall serve a copy of the statement on appellee, and the appellee shall have ten (10) days to raise objections and propose amendments to the statement and file those objections and proposed amendments with the Clerk of the Crow Tribal Court. The Crow Tribal Court shall settle the objections, make any necessary amendments, and finally approve the statement for inclusion in the record of appeal.

RULE 8. TRANSMISSION OF THE RECORD

(a.) The record on appeal, including the transcript or statements of proceedings, shall be completed and turned over to the Crow Court of Appeals within thirty (30)-days after the notice of appeal is filed by appellant or application for discretionary appeal is granted unless the Crow Tribal Court extends the time for good cause shown. Appellant shall take whatever action is necessary to enable the Clerk of the Crow Tribal Court to assemble the record, including paying for the cost of preparing transcripts.

(b.) When the record on appeal is complete, the Clerk of the Crow Tribal Court shall transmit a complete copy of the record to each judge of the Crow Court of Appeals who have been designated to hear the appeal. The time and date of the transmission shall be noted on each copy of the record.

(d.) Upon transmission of the record on appeal to the judges of the court of appeal and upon receipt of a docket of the Crow Court of Appeals.

RULE 9. FILING AND SERVICE OF DOCUMENT OF APPEAL

(a.) Filing. Parties to an appeal shall file an original and four (4) copies of any and all papers required or permitted with the Clerk for the Crow Court of Appeals.

(b.) Service of Papers. Copies of all papers filed with the Clerk of the Crow Court of Appeals by parties to an appeal shall be sent by certified mail to opposing parties and their legal representatives by the party filing such papers. All papers filed with the Clerk shall be accompanied by a written statement of the party filing such papers or his legal representatives certifying that such papers have been mailed to the opposing party/s or his legal representative(s).

RULE 10. BRIEFS, MEMORANDA, AND STATEMENTS

Within twenty (20) days after the record of an appealed action is transmitted to the Crow Court of Appeals, the appellant shall file a written brief, memorandum, or statement in support of his appeal with the Clerk of Court. The appellee shall have fifteen (15) days after receipt of appellant's brief, memorandum or statement within which to file a reply brief, memorandum, or statement. Filing and service in either case shall be accomplished in the manner provided in Rule 9. No further response shall be allowed to either party without leave of court.

RULE 11. AMICUS CURIAE

In any appellate proceeding, amicus briefs, memoranda or statements shall be permitted only in the following situations:

- (1) When all parties to the action consent to the filing of an amicus curiae brief, memorandum, or statement;
- (2) By leave of court pursuant to a properly filed motion; or
- (3) At the request of the court.

RULE 12. ORAL ARGUMENT

(a) Provision for. The Crow Court of Appeals shall decide all appeals upon the briefs, memoranda, and statements filed together with the record of the trial court, without oral arguments unless either party requests oral argument and shows the court that such is necessary and/or will aid the court in its decision. Nothing in these rules, however, shall preclude the court from ordering oral arguments on its own motion.

(b) Procedure. When oral arguments are ordered, the clerk of Court shall notify both parties of the specific time, date, and place the arguments are to be heard. At the hearing both appellant and appellee shall have a maximum of twenty (20) minutes to present their respective arguments. Appellant shall be permitted to both open and close the arguments.

RULE 13. DECISION

All decisions of the Crow Court of Appeals shall be arrived at by a simple majority of the three judge panel. All decisions shall be issued in written form, and all judgments on appeal shall be final.

RULE 14. FRIVOLOUS APPEALS

If the Crow Court of Appeals finds that a party has filed a frivolous appeal, the Court may award the appellee his just damages plus single or double costs.

RULE 15. COSTS

If an appeal is dismissed by the Crow Court of Appeals, appellant shall pay all costs of the appeal. If the judgment of the trial court is affirmed, the court, in its discretion, may order the appellant to pay all costs of the appeal or direct the parties to pay a designated portion of the costs. If the judgment of the trial court is reversed, the court, in its discretion, may order the appellee to pay all costs of the appeal, or direct the parties to pay a designated portion of the cost.

RULE 16. ISSUANCE OF MANDATE

A mandate of the Crow Court of Appeals shall issue ten (10) days after entry of judgment in the appeal.