

THE APPELLATE RULES COMMITTEE RECOMMENDS THE FOLLOWING PROPOSAL:

- 1. Appellate Rules 206, 207, 507, and 512**—When judgment takes effect; return of jurisdiction.

The proposed rule amendments clarify when an appellate court decision takes effect, and when jurisdiction returns to the trial court.

The current rules, Rules 507 and 512, specify that an appellate judgment takes effect and jurisdiction returns to the trial court, along with the record, after the time for filing a petition for hearing or rehearing expires, or if a timely petition is filed, after it is resolved. The rule proposal simply clarifies certain areas, such as appellate cases that are dismissed. The committee did not intend to change case law under *State v. Seigle*, 394 P.3d 627 (Alaska App. 2017). The rule proposal accomplishes two goals: (1) addresses orders not currently covered by the rules such as a dismissal granted by a clerk or judge, and adds post-judgment appeals under Rule 207; and (2) eliminates the fiction in the rules that jurisdiction follows the physical file, especially considering the appellate clerk’s office now scans the trial court file. The amendments are intended to assist the trial court so it knows when jurisdiction is returned to it, and clarify the “final” date for other actions such as post-conviction relief.

The proposal also clarifies the effective date for appellate decisions under Rule 206 and 207 cases, releases pending appeal and releases prior to judgment in criminal cases. Rule 512’s jurisdiction return provisions are moved to Rule 507 so that rule will now address both the effective date of the appellate court’s decision and return of jurisdiction to the trial court. The return of the record provisions in Rule 512 are deleted; those provisions are no longer necessary under the court system’s current internal electronic procedures.

The Appellate Rules Committee recommends the following proposal:

Rule 206. Stay of Execution and Release Pending Appeal in Criminal Cases.

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(c) The decision of the court of appeals on any application under this rule is a “final decision” within the meaning of Rule 302, [governing when petitions for hearing are permitted. The decision of the court of appeals concerning release pending appeal takes effect on the day it is issued, notwithstanding whether a petition for hearing is filed in the supreme court.](#)

Rule 207. Appeals Relating to Release Prior to Judgment.

An appeal authorized by AS 12.30.030(a), relating to the release of a criminal defendant prior to the entry of final judgment, shall be determined promptly. The appeal shall take the form of a motion and shall comply with Rules 206(b) and 503. The appellee may respond as provided in Rule 503(d). The court of appeals or a judge thereof may order the release of the appellant pending such an appeal. The decision of the court of appeals on such an appeal is a “final decision” within the meaning of Rule 302, [governing when petitions for hearing are permitted. The decision of the court of appeals concerning release pending appeal takes effect on the day it is issued, notwithstanding whether a petition for hearing is filed in the supreme court.](#)

Rule 507. Judgment and Return of Jurisdiction

(a) The opinion of the appellate court, or its order [summarily disposing of the appeal](#) under [Appellate Rule 214](#), [or an order from the appellate court or the clerk of the appellate courts dismissing the appeal](#), shall constitute its judgment;

~~and shall contain its directions to the trial court, if any.~~ No mandate shall be issued.

(b) Unless the opinion or order ~~expressly~~ states otherwise, the appellate court's judgment ~~of the appellate court~~ takes effect and full jurisdiction over the case returns to the trial court on the day specified in (c) and (d) below. ~~Rule 512(a) for return of the record.~~

(c) In a case decided by the supreme court,

(1) if a timely petition for rehearing or motion for reconsideration is filed, then jurisdiction returns on the day after the supreme court disposes of the case on rehearing or reconsideration;

(2) if no timely petition for rehearing or motion for reconsideration is filed, then jurisdiction returns on the day after the deadline for filing a petition for rehearing or reconsideration expires; or

(3) if the supreme court denies a petition for hearing, then jurisdiction returns on the day after the court denies the petition for hearing.

(d) In a case decided by the court of appeals, if no petition for hearing is filed, then jurisdiction returns on the day after the deadline for filing a petition for hearing expires. This subsection does not apply to an appeal filed under Rule 206 or 207.

(e) An untimely filing in the appellate court after jurisdiction has returned to the lower court has no effect on the jurisdiction that has been returned under this rule, unless the appellate court orders otherwise.

~~(e) (f) A~~ Any motion to stay the effect of the judgment of the appellate court, or otherwise alter the timelines in this rule, ~~beyond the day specified in Rule 512(a)~~ shall be made to that court.

~~Rule 512. Record and Other Papers after Final Disposition.~~

~~(a) (1) Unless the court otherwise orders, the clerk shall return the original record to the clerk of the trial courts on the day specified in this subsection.~~

~~(2) In a case decided by the court of appeals, the record shall be returned:~~

~~(a) (1) Unless the court otherwise orders, the clerk shall return the original record to the clerk of the trial courts on the day specified in this subsection.~~

~~(2) In a case decided by the court of appeals, the record shall be returned:~~

~~[a] on the day after the time for filing a petition for hearing expires, if no timely petition for hearing is filed;~~

~~[b] on the day after the petition for hearing is denied, if a timely petition for hearing is denied; or~~

~~[c] as provided in paragraph (3), if a petition for hearing is granted.~~

~~(3) In a case decided by the supreme court, the record shall be returned:~~

~~[a] on the day after the time for filing a petition for rehearing expires, if no timely petition for rehearing is filed; or~~

~~[b] on the day after the supreme court disposes of the case on rehearing, if a timely petition for rehearing is filed.~~

~~(b) — All documents filed with the appellate courts shall be retained by the clerk subject to Administrative Rule 37.~~