



Court of Appeals

Memorandum

To: Chief Judge J.D. Smith
From: *WLM*
William L. Martin, III
Subject: Media Request Form
Date: December 21, 2004

Attached please find the Media Request form which we have submitted pursuant to your suggestion. If this is satisfactory with you, we will substitute it for Appendix 5 in the IOM and send it to the local news media.

Thank you.

/ld

Attachment

cc: Presiding Judge John H. Ruffin, Jr.

12/27/04
Bill,
This looks fine
to me.
Thanks
[Signature]

IN THE COURT OF APPEALS, STATE OF GEORGIA

**Request to Install Audio and Visual Recording and Transmittal Equipment
For Electronic and Photographic News Coverage of Oral Argument**

Pursuant to the Order of the Court of Appeals of Georgia dated September 19, 2000 regarding news coverage and regulation of movement and placement of persons and audio and visual recording and transmitting equipment in the Courtroom, the undersigned hereby request permission to install equipment in the Court of Appeals Courtroom in order to record, photograph, broadcast, and/or televise all or portions of the proceedings in the following case.

Case Number: _____

_____ v. _____

Consistent with the provisions of the rules and guidelines aforementioned, the undersigned desires to install the following described equipment:

The proceedings the undersigned desires to record, photograph, broadcast and/or televise will commence on _____ (date). Subject to direction from the Court or the News Media Coordinator, the undersigned wishes to install this equipment in the courtroom on _____ (date).

The personnel who will be responsible for the installation and operation of this equipment during its use are:

All media personnel must have and produce upon request of court officials credentials identifying them and the company for which they work.

It is understood by the undersigned that the parties will be notified of the request for media coverage even though the consent of the parties is not determinative of whether the request for media coverage will be approved.

The undersigned hereby certifies that the equipment to be installed and the location and operation of such equipment will be in conformity with the guidelines of the aforementioned order.

This the _____ day of _____, 20_____.

Name and Title

Name of Company or Firm

Address

City, State, Zip

Phone Number

Approved: _____

William L. Martin, III
Clerk/Court Administrator (News Media Coordinator)
Court of Appeals of Georgia
Form Rev. December 7, 2004



Court of Appeals

Memorandum

To: Chief Judge J.D. Smith
From: *W. Martin*
William L. Martin, III
Subject: IOM Changes
Date: December 9, 2004

Attached please find the proposed IOM changes which were the product of the November Banc Meeting. One is the recommended language for Adherence to the Law which is new paragraph "E" under Chapter IX. Personnel and the other is new paragraph "O" under Chapter XV. Case Management dealing with remanding cases.

If you approve of these I shall circulate them to the IOM Committee, Presiding Judge Andrews, Judge Phipps and Judge Adams, and send copies of the Remand Section to Judges Barnes and Miller. I shall send the Adherence to the Law division to the IOM Committee as well.

Also attached please find the revised Request to Install Audio and Visual Recording Equipment and the added language about media personnel wearing identifying credentials and our disclosure about notifying the parties of the Request for Media Coverage.

Should these documents meet with your approval, please initial them and send them back to me and I shall get the ball rolling from this end. Please make any changes you deem appropriate or contact me if you have any questions or would like to discuss the matter with me.

Thank you.

/ld
Attachments

12/27/04
Approved with marked
changes and with media
request form that
recomponed memos of 12/21
[Signature]

IN THE COURT OF APPEALS, STATE OF GEORGIA

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This the _____ day of _____, 20_____.

Name and Title

Name of Company or Firm

Address

City, State, Zip

Phone Number

Approved: _____

William L. Martin, III
Clerk/Court Administrator (News Media Coordinator)
Court of Appeals of Georgia
Form Rev. December 7, 2004

Excerpt of Chapter XV. Case Management

3. The full text of opinions may be published by a commercial publishing house before reconsideration, so long as publication includes notice that the opinion is subject to reconsideration and so long as changes on reconsideration are also published promptly.
4. Criteria for Publication. The court's policy on publication is set out in Appendix 7.

N. ORDERS

1. Judges shall draw their own orders except for routine orders. The clerk/court administrator, when obtaining orders or directions from a judge or judges, shall reduce the same to writing and shall obtain thereon the initials of the judge or judges who gave the order or direction. Such orders or directions shall be maintained in the file.
2. Orders shall be released whenever ready. See OCGA Section 15-2-4 (c). (Source: January 1994 Banc meeting).

O. REMANDING A CASE

Remanding a case to the trial court necessitates additional work for the Court particularly if a remand can be avoided or the remand order is not clear and specific. It imposes work not only for the judge's office to which the case is assigned, but to the other judges on the panel, counsel, the clerk's office of the Court of Appeals, and the clerk's office of the trial court. Therefore, prior to ordering a case to be remanded, the following steps shall be taken.

1. A judge's office shall determine whether a missing record is already with the Court or with a previous appeal before remanding the case for completion of the record.
2. If the record is not with the Court, a judge's office shall check with the clerk's office to ascertain if the missing portion of the record can be brought to the Court or sent to the clerk's office as a supplemental record without incurring inordinate delay.
3. If the Court must remand a case, the order or opinion remanding the case shall express with specificity and clarity the purpose of the remand, and if appropriate, any limitation to the scope of the remand set out in the order or opinion.
4. An order or opinion of remand shall clearly state how the case shall return to the Court of Appeals, either that the clerk at the trial court shall send back the record for docketing after the event has occurred that required the remand or that either party shall have the right to file a new Notice of Appeal within 30 days of the entry of the order resulting from the event which required the remand.

Ø.P. TRANSFERS TO AND FROM THE SUPREME COURT

1. To: Supreme Court
 - a. A case shall be transferred from the Court of Appeals to the Supreme Court if



Court of Appeals

Memorandum

To: William L. Martin, III
From: H. Sparrow *HS*
Subject: IOM Drafts of Changes
Date: December 8, 2004

Per your memo of December 7th, I have drafted additions related to employees' adherence to the law and remand. Since you are already considering some amendments to the IOM, I also drafted a change to page 19 (replacing the language about audio tapes to audio recording) which you may wish to consider since we will be using a CD recorder now.

The updated media form is also attached.

On all copies the changes are indicated by strikeouts and underlining.

Excerpt of Chapter IX. PERSONNEL

- a. The Clerk/Court Administrator shall present the judge in charge of the Clerk's Office with a report stating the requested salary adjustment and the reasons therefore.
- b. The report shall contain a work history and salary history of the employee while at the Court of Appeals.
- c. The Fiscal Officer shall present the Judge in charge of the Clerk's Office with a complete fiscal history of the employee, a complete leave history of the employee and a fiscal note stating whether or not the Court has funds available for any salary increase and from which source or sources those funds are available.
- d. The judge in charge of the Clerk's Office shall indicate on the report whether that judge recommends or does not recommend the proposed salary adjustment.
- e. The Clerk/Court Administrator shall circulate a copy of the report and fiscal note along with the recommendation of the judge in charge of the Clerk's Office to all of the judges prior to the next scheduled Banc Meeting, at which time the Banc will take up the proposed salary adjustment.
(Source: November, 1996 Banc Meeting)

D. PRACTICE OF LAW

1. Staff attorneys and other personnel shall not engage in the practice of law as defined in OCGA § 15-19-50, whether for remuneration or not, except in the furtherance of the business of the court.
2. Staff attorneys and other personnel should regulate their extra judicial activities to minimize the risk of conflict with their judicial duties and they should not engage in any activities that would detract from the dignity of their office or the court.
3. Staff attorneys and other personnel should refrain from inappropriate political activity.

E. ADHERENCE TO THE LAW

All staff attorneys and other personnel shall adhere to the law. Violations thereof shall subject the employee to discipline including termination.

E. F. EMPLOYMENT APPROVAL

1. The employment of the clerk/court administrator, deputy administrator, deputy

Excerpt of Chapter XV. Case Management

3. The full text of opinions may be published by a commercial publishing house before reconsideration, so long as publication includes notice that the opinion is subject to reconsideration and so long as changes on reconsideration are also published promptly.

4. Criteria for Publication. The court's policy on publication is set out in Appendix 7.

N. ORDERS

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2. Orders shall be released whenever ready. See OCGA Section 15-2-4 (c). (Source: January 1994 Banc meeting).

O. REMANDING A CASE

Remanding a case to the trial court necessitates additional work for the Court particularly if a remand can be avoided or the remand order is not clear and specific. It imposes work not only for the judge's office to which the case is assigned, but to the other judges on the panel, counsel, the clerk's office of the Court of Appeals, and the clerk's office of the trial court. Therefore, prior to ordering a case to be remanded, the following steps shall be taken.

1. A judge's office shall determine whether a missing record is already with the Court or with a previous appeal before remanding the case for completion of the record.

2. If the record is not with the Court, a judge's office shall check with the clerk's office to ascertain if the missing portion of the record can be brought to the Court or sent to the clerk's office as a supplemental record without incurring inordinate delay.

3. If the Court must remand a case, the order or opinion remanding the case shall express with specificity and clarity the purpose of the remand, and if appropriate, any limitation to the scope of the remand set out in the order or opinion.

4. An order or opinion of remand shall clearly state how the case shall return to the Court of Appeals, either that the clerk at the trial court shall send back the record for docketing after the event has occurred that required the remand or that the party shall have the right to file a new Notice of Appeal within 30 days of the event which required the remand.

either?

entry of order?

O.P. TRANSFERS TO AND FROM THE SUPREME COURT

1. To: Supreme Court

a. A case shall be transferred from the Court of Appeals to the Supreme Court if

Excerpt of Chapter XV. Case Management

publish a bench docket containing the case numbers, attorneys, the lower court judge and lower court county. (Source: September 1999 Banc Meeting.)

4. The clerk/court administrator shall cause each oral argument to be audiotape audio recorded. The clerk/court administrator shall maintain a file of the audiotape recordings of oral argument to be made available to the panel which heard the oral argument, to any judge absent from the original oral argument, or for review by a staff attorney of the original panel, or for review by a 7 or 12 judge court or a staff attorney of a 7 or 12 judge court.

The clerk/court administrator shall cause the record and file folder to be appropriately marked to indicate that the Court heard oral argument on the appeal. The audio recording audiotape of the oral argument shall be maintained until the remittitur issues on the particular appeal at which time the clerk/court administrator shall destroy or record other arguments over that recording. ~~erase the oral argument audiotape and recycle the tape for use with subsequent oral arguments.~~

The oral argument audio recording tape shall be for the use and benefit of the Court only, and shall not be made available to attorneys, parties or the public. (Source: January 2001 Banc Meeting.)

F. BENCH DOCKET

The clerk/court administrator shall maintain a list of cases which will be argued. The bench docket shall include the names of the attorneys and the identification of any pro se parties. The docket shall be maintained in the clerk's office and shall be brought into the courtroom during oral arguments.

G. DOCKETING SYSTEM

1. The clerk's office shall maintain a computerized docketing system which shall be approved by the court.
2. The system shall also be backed-up daily to a hard disc and weekly to a magnetic tape stored off site. The system shall also be backed up with a hard copy maintained in the clerk's office.
3. The court shall review the docketing system periodically, making changes where appropriate and after consultation with the court data processing personnel and the clerk/court administrator.
4. The clerk's office shall provide a view only terminal in the public area of the clerk's office for public access and viewing of the court's docket. (Source: Minutes, February 1996 Banc meeting).

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Case Number: _____

_____ v. _____

Consistent with the provisions of the rules and guidelines aforementioned, the undersigned desires to install the following described equipment:

AM

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All media personnel must have and produce upon request of court officials credentials identifying them and the company for which they work.

The undersigned hereby certifies that the equipment to be installed and the location and operation of such equipment will be in conformity with the guidelines of the aforementioned order.

This the _____ day of _____, 20____.

Name and Title

Name of Company or Firm

Address

City, State, Zip

Phone Number

Approved: _____

William L. Martin, III
Clerk/Court Administrator (News Media Coordinator)
Court of Appeals of Georgia
Form Rev. December 7, 2004



Court of Appeals

Memorandum

To: Chief Judge J.D. Smith
From: *WLM*
William L. Martin, III
Subject: Tentative Banc Meeting Agenda
Date: April 13, 2004

Attached please find a tentative Banc Meeting Agenda which you, Jan Kelley and I discussed this morning. Also, I have attached the proposed IOM revisions concerning Certified Questions, Transfers to the Supreme Court and Decision by Twelve Judges, which you may wish to attach to your memo in which we are requesting Court Action.

I have styled this a Tentative Agenda in case there are other items the judges wish to put on the Agenda.

/ld

Attachments

cc: Jan Kelley

COURT OF APPEALS OF GEORGIA
APRIL ADMINISTRATIVE BANC MEETING

Tuesday, April 20, 2004
10:00 a.m.
Third Floor Conference Room

TENTATIVE BANC MEETING AGENDA

- | | | |
|--------|--|---|
| ✓ I. | Call Meeting to Order | Chief Judge J.D. Smith |
| ✓ II. | Approval of November 18, 2003
Administrative Banc Meeting Minutes | Chief Judge J.D. Smith |
| ✓ III. | Renovation/Computerization of the Courtroom | Chief Judge J.D. Smith
Jan Kelley, Fiscal Officer |
| ✓ IV. | Additional Space | Jan Kelley |
| ✓ V. | 2004 Legislation | Chief Judge J.D. Smith
Bill Martin, Clerk/Court
Administrator |
| VI. | Certified Questions - <i>none</i> | Bill Martin |
| VII. | Transfers to the Supreme Court <i>none</i> | Bill Martin |
| VIII. | Request of Non-Participating Judge to have <i>tabled</i>
a case go to Twelve Judges | Bill Martin |
| IX. | IOM/Updates - <i>none</i> | Bill Martin |
| X. | Rules Update - <i>info</i> | Bill Martin |
| XI. | Emergency Procedures Manual Orientation <i>info</i> | Bill Martin |
| XII. | Old Business - <i>April 21 - Tomason - Angie Wright. Review</i> | |
| XIII. | New Business - <i>new SW/O - May 17 1pm - May 27 - Ghanaian July 6
10:30 -</i> | |
| IVX. | Adjournment
<i>Employees Day</i> | |

Bill
IOM Changes
for Banc
AD

XXI. CERTIFIED QUESTIONS

this Court wishes to certify a question to the Supreme Court of
1 shall be circulated to all twelve judges.

_____ unanimously to certify the question to the Supreme Court of
Georgia, the question shall be circulated to all judges with a statement that the Division
wishes to certify a question to the Supreme Court. The question shall be certified to the
Supreme Court unless seven of the twelve judges vote not to certify the question.

- C. If the Division is not unanimous on certifying a question to the Supreme Court, then that
fact shall be made known to the other judges of the Court, and all twelve judges shall vote
to certify or not certify the question. A majority vote shall prevail.
- D. If a majority of the seven judge Court determines the question should not be certified to
the Supreme Court, then the judge or judges may request all twelve judges to vote on the
issue of certifying the question to the Supreme Court, and a majority vote shall prevail.

O. TRANSFERS TO AND FROM THE SUPREME COURT

1. To: Supreme Court

a. A case shall be transferred from the Court of Appeals to the Supreme Court if (a) jurisdiction lies in the Supreme Court rather than this Court or (b) when there is an equal division of the all the judges of this Court when sitting as a body to decide a case.

~~e. b.~~ The assigned central staff attorney shall draw the ~~entire~~ order ~~on~~ of transfer when jurisdiction is proper in the Supreme Court.

~~b. c.~~ Each judge shall devise a system in his/her office to ~~ferret out early~~ identify as soon as possible those cases over which the Supreme Court, rather than this court, has jurisdiction, for prompt transfer. Transfers at the end of a term should be ~~prevented~~ avoided.

~~a. d.~~ ~~Only the order of transfer shall be sent to the Supreme Court along with the case, unless the transferring judge desires the opinion be published. The remittitur does not go out. The assigned judge's office shall be responsible for instructing the clerk to send the order of transfer with the case to the Supreme Court. The assigned judge to the case may also send up a copy of the file memorandum analyzing the reasons for transfer. At the assigned judge's discretion, he or she shall determine whether an opinion will be published and whether a copy of the file memorandum stating the reason for transfer shall be sent to the Supreme Court.~~

~~e.~~ A remittitur is not issued when a case is transferred to the Supreme Court.

2. From: The Supreme Court:

a. The docketing date in this Court of a case transferred from the Supreme Court is the date on which the record is received in this Court.

b. When no briefs have been filed and an appeal is transferred from the Supreme Court and docketed in this Court, the time for filing briefs runs from the date of docketing in this Court.

c. If appellant's brief and enumeration of errors and appellee's brief have been filed in the Supreme Court, no additional briefing is required in this Court.

d. However, the time for filing of the appellees' brief always runs from the date of filing of appellant's brief and enumeration of errors, whether the appellant's brief and enumeration of errors is filed in this Court or the Supreme Court.

W. OVERRULING PRIOR CASES

[SECTION W. REMOVE ITEMS 6 AND 7 AND CREATE A NEW SECTION. RE-NUMBER REMAINING SECTIONS]

X. DECISIONS BY WHOLE COURT (TWELVE JUDGES)

~~6: 1. Any judge of this Court may request a case under consideration by a division or two divisions plus a seventh judge be presented for decision to the whole Court. In all cases which involve one or more questions which, in an opinion of the majority of the judges of the division or of the two divisions plus a seventh judge to which a case is assigned, should be passed upon by all members of the Court, the questions may be presented to all members of the Court; if all the members of the Court~~ Such request shall be honored, if a majority of the judges of the division or of the two divisions plus a seventh judge decide that the question or one or more questions involved in the case should, in their judgment and discretion, be decided by all the members of the whole Court, the case shall be passed upon by all members of the Court, and provided that a majority of all the judges passing upon the case the whole Court concur in the judgment this decision.

~~7: 2. When the Court has elected to have a case passed upon by all twelve (12) members of the whole Court under OCGA 15-3-1 (c) (2), the author of the majority opinion shall circulate the opinion along with any the dissent and any memoranda of the majority and/or dissent to all members of the whole Court immediately. The case shall then circulate to the five (5) judges who do did not initially vote on the case in the order of seniority.~~

[RE-NUMBER PRIOR X, Y, AND Z TO Y, Z, AND AA.]



Court of Appeals

Memorandum

To: William L. Martin, III
From: H. Sparrow *HS*
Subject: IOM - Minor updates or corrections
Date: December 1, 2003

At your request, I have gone back through the IOM to determine if there are any corrections or revisions that should be made as the Court is considering the language of amendments discussed at the last banc meeting. The following are some minor changes I suggest be made at the same time.

1. Media Coverage of Court Proceedings, Page 29. The form requesting permission to install audio and video equipment indicates that the current court order on this subject was issued September 19, 2000, but Appendix 5 contains a 1994 order. Therefore, Paragraph B on page 29 should be altered to indicate the September 19, 2000 date and a copy of that order should replace the one currently in Appendix 5.
2. Travel/Dues Policy, Page 30. The judges approved a form for payment of membership dues which should be added as Appendix 15 and included in the Table of Appendices. Furthermore, a new sentence should be inserted into A (2) page 30 to state, "A judge shall complete the form in Appendix 15 to authorize payment of membership dues to professional organizations."
3. Inclement Weather, Page 54. Since Lola is updating the stations which will announce weather-related court closings, I suggest she update the list in item G.
4. Protocol on Disqualification and Recusal of Judges, Page 64. Per my notes in the IOM, a sentence

should be added to item 4 which would read, "The Clerk's memorandum shall also notify the newly assigned judge whether oral argument has been scheduled or a request is pending."

If you have any questions about the above items or wish me to do anything further, just let me know.



Court of Appeals

Memorandum

To: Holly Sparrow
From: *WLM*
William L. Martin, III
Subject: IOM Update/Rule Changes
Date: April 21, 2004

Certified Q
Transfers
Miscellaneous

Attached please find a copy of the Banc Meeting Agenda packet which contains the IOM changes and the Rules update. The Court approved IOM change VI., VII, and IX. The change referenced under VIII was tabled. Also, I have marked with a blue post-it and yellow highlight a typo brought to my attention by Laura Robison in the Rules. Please make these changes to the IOM and the Rules typo correction.

Thank you.

/ld

Attachment

X. APPLICATION FOR DISCRETIONARY APPEAL

Rule 31. Leave to Appeal.

- (a) An application for leave to appeal a final judgment in cases subject to appeal under OCGA § 5-6-35 will be granted only when:
 - (i) Reversible error appears to exist; or
 - (ii) The establishment of a precedent is desirable.
- (b) Applications for discretionary appeal pursuant to OCGA § 5-6-35 should have copies of all material from the record tabbed and indexed and shall be securely bound at the top with staples or fasteners (round head or Acco). If not tabbed and indexed, indexed and securely bound at the top, the petition is subject to dismissal or return for preparation according to the Court's rules. The material must be sufficient to apprise the Court of the appellate issues, in context, and support the arguments advanced. Applications are limited to 30 pages in civil cases and 50 pages in criminal cases, exclusive of attached exhibits and parts of the record, and should follow the general format of briefs as to margins.
- (c) The clerk is prohibited from receiving the application without the \$80.00 filing fee or sufficient pauper's affidavit.
- (d) Discretionary appeals must contain a stamped "filed" copy of the trial court's order from which the appeal is sought.
- (e) No application for discretionary appeal shall be filed under seal unless counsel has moved the Court for permission to file under seal and the Court has granted such motion.
- ~~(e)~~ (f) No extensions of time will be granted in filing discretionary applications or responses to discretionary applications.
- ~~(f)~~ (g) Responses are due within 10 days of docketing. No response is required, unless ordered by the Court.