I.A.R. 118. Petition For Review By The Supreme Court.

Idaho Appellate Rule 118. Petition For Review By The Supreme Court.

(a) Petition, Time for Filing, Ruling by Supreme Court. Any party to a proceeding aggrieved by opinion or order of the Court of Appeals may physically file a petition for review with the Clerk of the Supreme Court within twenty-one (21) days after the announcement of the opinion or order, or after the announcement of an order denying rehearing, or after the announcement of an opinion on rehearing or after an opinion is modified without rehearing in a manner other than to correct a clerical error. It is not necessary to file a petition for rehearing with the Court of Appeals before filing a petition for review under this rule. A brief in support of the petition for review must be filed with the petition or within fourteen (14) days thereafter; however, if the appeal was expedited pursuant to Rule 12.2, the brief in support of the petition shall be filed with the petition or the petition will be summarily dismissed. Such petition shall be processed within the time limits and in the manner prescribed for a petition for rehearing of the Supreme Court opinion as provided by Rule 42. The filing of a petition for review under this rule does not preclude the filing of a timely petition for rehearing under Rule 116; and no action will be taken by the Supreme Court on a petition for review until the Court of Appeals has made a final ruling upon and determination of all petitions for rehearing.

(b) Criteria for Granting Petitions for Review by the Supreme Court. Granting a petition for review from a final decision of the Court of Appeals is discretionary on the part of the Supreme Court, and will be granted only when there are special and important reasons and a majority of the Justices direct that the petition be granted. The following, while neither controlling nor fully measuring the Supreme Court's discretion, are factors that will be considered in the exercise of the Court's discretion:

(1) Whether the Court of Appeals has decided a question of substance not heretofore determined by the Supreme Court;

(2) Whether the Court of Appeals has decided a question of substance probably not in accord with applicable decisions of the Idaho Supreme Court or of the United States Supreme Court;

(3) Whether the Court of Appeals has rendered a decision in conflict with a previous decision of the Court of Appeals;

(4) Whether the Court of Appeals has so far departed from the accepted and usual course of judicial proceedings or so far sanctioned such procedure by a trial court as to call for the exercise of the Supreme Court's power of supervision;

(5) Whether a majority of the judges of the Court of Appeals, after decision, certifies that the public interest or the interests of justice make desirable a further appellate review.

(c) Briefing.

(1) In support of review. The brief in support of the petition for review must address the criteria for review set out in subsection (b) of this rule, and discussion and argument should be limited to the criteria for review. There is no response to a petition for review unless the Supreme Court requests a party to respond to the petition for review before granting or denying the petition. A brief in support of or in opposition to a petition for review does not need to be bound or have any colored cover.

(2) After review is granted. If a petition for review is granted, the Supreme Court will rely on the original briefs filed by the parties and considered by the Court of Appeals. There will be no additional briefing unless it is ordered by the Supreme Court.

(Adopted April 17, 1981, effective July 1, 1981; amended March 24, 1982, effective July 1, 1982; amended March 28, 1986, effective July 1, 1986; amended March 23, 1990, effective July 1, 1990; amended January 4, 2010, effective February 1, 2010; amended March 18, 2011, effective July 1, 2011; amended November 20, 2012, effective January 1, 2013; amended September 1, 2015, effective January 1, 2016.)

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