



Comanche Nation

Rules of Appellate Procedure

Accepted and Approved by the Comanche Nation Appellate Court

On March 2, 2024

Vacant, Chief Justice of the Appellate Court

Rule 0 Definitions As used in these rules:

- A.) "Advocate" is any person admitted or allowed to practice in a tribal court who has not graduated from an American Bar Association-accredited law school.
- B.) "Attorney" means a person who has graduated from an American Bar Association-accredited law school and is admitted to practice in a tribal, state, or federal court.
- C.) "Counselor" - see "advocate".
- D.) "File" or "filing" means to formally deposit documents into the custody of the Comanche Nation Court Clerk.
- E.) "Filing by mail" means formally depositing documents into the custody of a court using an independent service or carrier such as the U.S. Postal Service or a recognized private service.
- F.) "Final judgment or decision" means a judgment or decision which leaves nothing open to dispute and which ends the action between the parties unless it is reversed or set aside by an appellate court.
- G.) "Hearing de novo" means a hearing in which a court hears a matter as a trial court or a court of original and not appellate jurisdiction.
- H.) "Motion" means any request for an order from the court other than the complaint, petition, or answer.
- I.) "Party" is any person or entity filing a legal action in a court, against whom a legal action is brought, or added by the court .
- J.) "Pleading" means the formal statements of a party to a lawsuit about the party's claims or defenses, the purpose being to provide notice of what is expected at trial. Ordinarily, pleadings consist of a complaint or petition, answer, reply to the answer if it contains new claims, third party complaint and answers to the third party complaint. In the case of appeal, pleadings ordinarily consist of the notice of appeal and the response to the notice.
- K.) "Prose" means that a person or party to an appeal is without the assistance of an attorney, counselor, or advocate.
- L.) "Proof or certification of service" is written documentation that a document has been served or given to a person who is a party or a witness and which ordinarily includes the date and time of service, name of the person served, and name and signature of the person who made service.

Rule 1. Scope of rules; tribal rules primary; no diminishment of tribal sovereignty

- A.) The following rules, known as the rules of appellate procedure for the Comanche Nation, govern the procedure for appeals to the Comanche Nation Appellate Court and proceedings before the Comanche Nation Appellate Court and may be adopted by Resolution of the Comanche Nation. The rules shall be cited as "CNAC Rule#__ (2020), (or subsequent year, if amended)".
- B.) In proceedings before the Comanche Nation Appellate Court, these rules apply in the absence of tribal rules or provisions for appellate procedure and may be used to supplement existing tribal rules or provisions for appellate procedure. Any conflict

between these rules of appellate procedure and procedural rules of the Comanche Nation shall be determined according to the tribal rules of procedure.

- C.) The following rules are not intended to diminish the authority of nor create an implied waiver of sovereign immunity by the Comanche Nation, or any other sovereign tribal government participating in litigation in the Comanche Nation Appellate Court.
- D.) The design of these rules is to facilitate the effective resolution of issues raised on appeal and to advance justice; they will be interpreted liberally in any case where it shall be manifest that strict adherence to them will work surprise or injustice.
- E.) The trial level of the Comanche Nation Tribal Court shall be called the Comanche Nation Tribal Court. For purposes of these rules, the Comanche Nation Tribal Court shall include all tribal courts of the Comanche Nation, to include, but not be limited to, the Comanche Nation District Court, Tribal Courts, Peacemaker Courts, Administrative Boards, or any other point of origination for litigation within the Comanche Nation judicial system.

Rule 2. Jurisdiction; composition of the court; chief justice; panels; justices' duties

- A.) The Comanche Nation Appellate Court is a court of limited jurisdiction.
- B.) The Comanche Nation Appellate Court shall consist of a Chief Appellate Justice and at least two (2) additional Appellate Justices.
- C.) The Chief Appellate Justice shall be appointed by the Chief District Judge. Appellate Justices shall be appointed by the Chief Appellate Judge. Each Appellate Justice of the Comanche Nation Appellate Court shall enter into a contract with the Comanche Nation, through its regular contracting process. Such contract shall govern the term, pay, and general scope of judicial services, not inconsistent with these rules, to be provided by the Appellate Justice.
- D.) All justices of the Comanche Nation Appellate Court shall have a law degree, and shall, upon appointment and confirmation, automatically be considered a member of the Comanche Nation Bar Association.
- E.) All justices of the Comanche Nation Appellate Court shall also be licensed members, in good standing, of a state bar association in the United States.
- F.) All justices of the Comanche Nation Appellate Court shall hear cases, En Banc. The Chief Appellate Justice shall serve as the presiding Appellate Justice, unless the Chief Appellate Justice appoints another Appellate Justice to preside over a case or group of cases.
- G.) Comanche Nation Appellate Court decisions which are decided by the Court, En Banc, may be used as binding judicial precedent for future cases in both the Comanche Nation District Court, and the Comanche Nation Appellate Court.
- H.) Justices shall avoid conflicts of interest and provide an impartial and independent review of the complete record and file in each case.
- I.) In the event that an appellate justice must recuse himself or herself from a pending appeal, the Chief Justice may order the appeal to be heard by only two (2) justices, or appoint a licensed attorney to sit on a *pro tem* basis.

- J.) *Ex Parle* Communications with Justices of the Comanche Nation Appellate Court is strictly prohibited, except if initiated by a Justice of the Court when time constraints are such that communication by other means is not practicable and then only for the limited purpose of communicating the time and place of a hearing, or decision of the Court, regarding a Motion or Application for Stay or Injunction pending appeal.

Rule 3. Authority of appellate court; matters which may be reviewed; advisory opinions

- A.) The Comanche Nation Appellate Court shall hear cases based on the authority granted by the Comanche Nation Constitution, legislative authority, or resolution.
- B.) Notices of Appeal involving custody of a child, adoption, elections, applications for extraordinary writs and other Notices of Appeal within the discretion of the Comanche Nation Appellate Court shall be given priority over ordinary civil cases.
- C.) Stipulations by parties as to subject matter jurisdiction shall be void.
- D.) In recognition of traditional tribal and customary law and dispute resolution, the Comanche Nation may request that the Comanche Nation Appellate Court appoint one Appellate Justice to review questions of law and render an advisory opinion summarizing current tribal and federal law and discussing the options available to the governing body. No decision or judgment shall be rendered.
- E.) The Comanche Nation Appellate Court may review any final judgment, order, or commitment ending litigation and requiring nothing more than execution of the judgment and giving rise to good faith claims that an error of law or procedure affected the outcome of the case.
- F.) Appeals of final judgments of acquittal by juries in criminal cases shall not be heard.
- G.) A party may seek review of tribal court action which is not final by filing a request for permission to appeal as permitted under Rule 13 of these rules.
- H.) The Comanche Nation Appellate Court is an error correction court and not a policy-making court. The Comanche Nation Appellate Court may declare an ordinance or resolution of the Comanche Nation unconstitutional if said ordinance violates the Comanche Nation Constitution or applicable parts of the Indian Civil Rights Act. The Comanche Nation Appellate Court may interpret or apply tribal ordinances and resolutions, but the writing of tribal ordinances or resolutions via judicial fiat, is not authorized.
- I.) The Comanche Nation Appellate Court is the court of last resort for any tribal, administrative, civil, or criminal decision originating in the Comanche Nation Tribal Court. Decisions of the Comanche Nation Appellate Court are final and non-appealable except by application for writ of certiorari to the United States Supreme Court if a question of U.S. federal law exists in the pending case.

Rule 4. Determining tribal law; determining questions of law other than tribal law

- A.) On its own motion or that of a party, the Comanche Nation Appellate Court may certify a question of tribal law which may control the outcome of a case to the Comanche Nation District Court. The case may be stayed until the question is decided. Once the response is

received, the Comanche Nation Appellate Court shall issue its opinion according to these rules.

- B.) The Comanche Nation District Court may certify to the Comanche Nation Appellate Court a question of law which may control the outcome of a case. The Chief Appellate Justice or his or her designate shall convene the Comanche Nation Appellate Court, En Banc. If the panel determines that the question is one of tribal customary law or there is controlling tribal precedent, the panel shall certify this in writing and advise the Comanche Nation District Court that the question cannot be decided by the Comanche Nation Appellate Court. Otherwise, the panel shall issue an advisory opinion on the question. The panel may request and the Comanche Nation District Court shall provide copies of all or any portion of the trial record to assist it in its determination.
- C.) Advisory opinions on certified questions shall not be published unless authorized by the Comanche Nation.

Rule 5. Scope of or limitations on review

The Comanche Nation Appellate Court shall limit its review to the record of the Comanche Nation District Court proceeding, issues raised in written briefs, and, where required, oral arguments presented to the Comanche Nation Appellate Court. If there is no record, the appeal shall proceed pursuant to Rule 17 of these rules. Hearings de novo shall not be allowed before the Comanche Nation Appellate Court.

Rule 6. Attorneys, counselors and advocates; admission to practice in the Comanche Nation Appellate Court; ethics code; conflict of interest; suspension or disbarment; withdrawing from representing a client

- A.) An attorney, counselor, or advocate shall file an entry of appearance in an appeal, and shall attach a signed statement that he or she is:
 - (1) A member of the Comanche Nation Bar Association, in good standing; or
 - (2) Is a member of another tribal or state bar association, in good standing, and has made application to become a member of the Comanche Nation Bar Association.
 - (3) Each attorney, counselor, or advocate shall certify to the Comanche Nation Appellate Court that he or she has not been disbarred, suspended from practice, or subject to disciplinary action of any kind by any bar or court. If the attorney cannot submit such a signed statement, and has been reinstated to practice, the attorney shall submit a written explanation of the circumstances. If the Chief Appellate Justice does not act within 30 days after the submission of the explanation, the attorney shall be permitted to practice before the Comanche Nation Courts.
- B.) An attorney or guardian ad litem appointed by a lower court in a case or proceeding appealed to the Comanche Nation Appellate Court shall continue to act in the same capacity in the Court until the Court relieves the attorney or guardian.
- C.) The Comanche Nation Court Clerk shall certify the admission and good standing of attorneys, counselors, and advocates to practice before the Comanche Nation Courts, in accordance with this Rule.

- D.) When the attorney, counselor, or advocate has complied with all admission requirements of the Comanche Nation Bar Association, in accordance with this Rule, the Comanche Nation Court Clerk shall issue a notice of the admission to practice before the appellate court and shall provide a copy of the current rules, if requested.
- E.) Attorneys, counselors, and advocates shall be bound by the code of ethics of the Comanche Nation Courts Code of Ethics. Persons admitted to practice in other jurisdictions are also bound by the ethics codes of those jurisdictions while practicing in the Comanche Nation Courts.
- F.) A person who has served as a law clerk or employee of the Comanche Nation District Court shall not appear as counsel or provide professional consultation or assistance in an appeal of any case that arose or was decided during that person's service or employment.
- G.) An attorney, counselor, or advocate disbarred or suspended from practice by any Comanche Nation Court shall not be allowed to practice before the Comanche Nation Appellate Court during the disbarment or suspension, and shall provide proof of reinstatement to practice before being allowed to practice before the Comanche Nation Appellate Court.
- H.) The Comanche Nation Court Clerk shall forward notice of any disbarment or suspension of any attorney, counselor, or advocate to the Comanche Nation Appellate Court.
- I.) An attorney, counselor, or advocate shall not withdraw from representing a party after filing a notice of appeal on behalf of the party, after filing an entry of appearance on behalf of a party to an appeal, or after filing a pleading on behalf of a party in an appeal unless:
- (1) a written motion detailing the reasons for withdrawing is filed; and,
 - (2) the Chief Justice of the Comanche Nation Appellate Court enters an order allowing the withdrawal. A withdrawal shall not be allowed if the motion is filed after a briefing schedule has been issued, or within 30 days of the date of oral argument.
- J.) Where the appeal is not real or taken solely for the purpose of delay, or where any party has been guilty of an unreasonable infraction of these rules, the Comanche Nation Appellate Court may impose upon the offending attorneys, parties, or both, such penalties or damages (including contempt, withholding or imposing costs, or imposing of attorney's fees) as the circumstances of the case and the discouragement of conduct in the future may require.
- K.) The Comanche Nation Appellate Court may, after reasonable notice and an opportunity to show cause to the contrary, and after hearing, if requested by the offending counsel, take any appropriate disciplinary action (including suspension from practice before the Comanche Nation Appellate Court, Tribal Court and/or complete disbarment) against any attorney or advocate, who practices before it for conduct unbecoming a member of the bar, or for failure to comply with rules of any order of the Comanche Nation Appellate Court.

Rule 7. Suspension or extension of required time schedules

- A.) In matters of immediate concern likely to seriously impact Comanche communities or litigants, and upon the written request of either party, the Comanche Nation Appellate Court may suspend or extend schedules to expedite the determination of a case.
- B.) This rule shall not be construed to allow the Comanche Nation Appellate Court the authority to extend the time period for filing an appeal or request for review set by tribal law.
- C.) Continuances and postponements are disfavored, and will not be granted in the absence of a showing of good cause. Requests for continuances and postponements must be made in writing, stating the factual or legal basis for the request, and must be filed no later than two weeks prior to the date at issue. The two-week filing requirement may be waived upon Motion. Requests for continuance based upon calendar conflicts are disfavored, and will not be granted in absence of a compelling explanation.

Rule 8. Computation of time

- A.) The computation of any time period of 11 days or less shall be by the working days of the Comanche Nation. The computation of any time period over 11 days shall be by calendar days, provided that, if the last day of any period falls on a weekend, holiday, or other non-working day of the Comanche Nation, the last day shall be extended to the next working day of the Comanche Nation District Court.
- B.) If service is made by standard mail service provided by the United States Postal Service, three additional days shall be added into the computation of time.

Rule 9. Pleadings; informality; handwritten; place of filing; copies; service of process; notice of service; filing; appellate court

- A.) An appeal shall not be dismissed for informality of form or title so long as it complies with Rule 11 of these rules.
- B.) Pleadings shall be typewritten or legibly handwritten in black or blue ink and filed with the Comanche Nation Court Clerk, who shall transmit the copies of documents to the Comanche Nation Appellate Court, within 24 hours of filing. The Comanche Nation Court Clerk shall retain originals of pleadings.
- C.) SERVICE Unless otherwise ordered by the Comanche Nation Appellate Court, a copy of each pleading filed in any Comanche Nation Court shall be served on every party, and certification of such service shall be filed with the Comanche Nation Court Clerk.
- D.) Filing may be done by mail addressed to the Comanche Nation Court Clerk, but shall not be timely unless date-marked by the U.S. Postal Service or an independent carrier within the time fixed for filing. A date from a postage meter shall not serve as a substitute for a date mark from the U.S. Postal Service or an independent carrier. Filing via email is allowed only with advance, written permission of the Comanche Nation Court Clerk.

Rule 10. Fees; required payment

All filing fees shall be paid to and in accordance with the fee schedule set by the Comanche Nation Court Clerk. If the person filing the appeal or writ is unable to pay the fee, a motion to waive the fee may be filed with the Comanche Nation Appellate Court for its determination.

Rule 11. Notice of appeal; where to file; timeliness; consolidated appeals; contents; parties; service; notice to appellate court; death of party; counsel appointment; jurisdictional challenges; parties joining

- A.) An appeal shall be taken by filing a Notice of Appeal with the Comanche Nation District Court within 15 days of entry of judgment by that same court.
- B.) Failure to file a timely Notice of Appeal is jurisdictional and the Comanche Nation Appellate Court shall dismiss the appeal if the notice is filed after the date set by law.
- C.) If two or more persons are entitled to appeal from a judgment and consolidating their appeals is practicable, they may file a joint appeal or join in an appeal after filing separate timely Notices of Appeal and proceed as one appeal. Appeals may be consolidated by order of the Comanche Nation Appellate Court upon its own motion, motion of either party, or stipulation of the parties to several appeals.
- D.) The notice of appeal shall, at a minimum, include:
 - (1) the names, titles, addresses, and telephone numbers of the parties taking the appeal and their counsel unless the Comanche Nation District Court determines that including the address or telephone number of any person would place that person in physical jeopardy;
 - (2) The date the adverse ruling was rendered;
 - (3) a concise statement of the adverse ruling or alleged errors made by the Comanche Nation District Court;
 - (4) the nature of the relief being sought; and,
 - (5) a concise statement of the reasons for reversal and modification.
- E.) All parties to the proceeding in the Comanche Nation District Court shall be deemed parties unless the Comanche Nation Appellate Court receives written notice from a party to the contrary.
- F.) The appellant shall serve a copy of the Notice of Appeal on all parties within 15 days of the filing of the Notice. The appellant shall file a certification of service with the Comanche Nation Court Clerk within 15 days of the filing of the Notice of Appeal. In the case of a pro se appellant, service and notice required by this subsection may be provided by the Comanche Nation Court Clerk.
- G.) The Comanche Nation Court Clerk shall transmit a copy of the Notice of Appeal and any docket entries, including the date and names of persons receiving Notice of the Appeal, to the Comanche Nation Appellate Court after noting on each copy the date and time the Notice of Appeal was filed, and shall serve it as required by tribal law within 24 hours after receiving the Notice, unless the Comanche Nation District Court extends the time by order.
 - (1) The death of a party or counsel shall not affect the validity of the appeal unless the appeal is from a criminal conviction and the defendant dies, in which case the appellate court shall dismiss the appeal.
- H.) Comanche Nation Courts shall not be required to appoint or provide counsel for criminal defendants/appellants.

- I.) Any appellee may file a written statement challenging the jurisdiction of the Comanche Nation Appellate Court with the Comanche Nation Court Clerk within 15 days after receiving a copy of the Notice of Appeal.
- J.) In multiple party litigation, if an appellee supports the position of the appellant, that appellee may join the appellant's position by filing an appropriate document within 15 days.
- K.) A person not party to an appeal may file in the Court a petition to intervene in the appeal. A party may file a response to the petition within seven (7) days of the petition. The Court may grant the petition upon a showing that the petitioner's is entitled to intervene as a matter of federal or tribal law, or that the petitioner has a claim or defense that shares with the main action a common question of law or fact.
- L.) If the Comanche Nation Appellate Court finds that a party has filed a frivolous appeal, the Court may award the appellee just damages, plus single or double costs.

Rule 12. Acceptance or denial of appeal because of jurisdiction

- A.) Upon a preliminary finding of jurisdiction and within 30 days of the filing of any statement as provided by Rule 11(I) of these rules, the Comanche Nation Appellate Court shall issue a written order accepting the appeal.
- B.) If the appellate court finds it is without jurisdiction, a written order denying the appeal shall be issued.

Rule 13. Interlocutory appeal; request for permission to file; timeliness

- A.) A request for permission to appeal an action or an order of the Comanche Nation District Court, which is not a final judgment, shall be made by filing a request with the Comanche Nation District Court within 15 days of the action giving rise to the appeal. A copy of the request shall be served within 24 hours on all adverse parties.
- B.) The requirements set forth in Rule 11 of these rules shall apply to the filing of a permissive appeal.
- C.) Within 15 days of service of the request for permission to file an interlocutory appeal, any adverse party may file with the Comanche Nation Court Clerk a written response either agreeing with the request or stating reasons why permission to appeal should not be granted.
- D.) The Comanche Nation District Court shall issue its order granting or denying the request within 30 days after the request is filed.

Rule 14. Acceptance of interlocutory appeal; procedure; timeliness

- A.) The Chief Appellate Justice or his or her designate shall review the Comanche Nation District Court order which grants an interlocutory appeal and the case record and determine that it complies with tribal law or, in lieu thereof, with these rules. Such appeals shall be granted only if the Comanche Nation District Court has committed an obvious error which would render further Comanche Nation District Court proceedings useless or substantially limit the freedom of a party to act and a substantial question of law is presented which would determine the outcome of the appeal.

- B.) An interlocutory appeal shall be heard by the Comanche Nation Appellate Court as required by these rules.
- C.) Rule 7 on suspension of time schedules may apply.

Rule 15. Certification of the record; duty of lower court; duty of appellate chief justice; parties to receive copy of certification

- A.) The accuracy of the record on appeal shall be certified by the Comanche Nation District Justices who presided over the case from which the appeal is taken.
- B.) The Comanche Nation Court Clerk shall transmit by certified mail or its equivalent the complete record and all duly numbered copies of original documents to the Comanche Nation Appellate Court within 30 days of the filing of Notice of Appeal. If the Comanche Nation Court Clerk is unable to comply with the time limit, he or she shall request an extension of time from the Comanche Nation Appellate Court stating the reasons for the request.
- C.) The Chief Appellate Justice or his or her designate shall certify that the record of each case referred for appeal or advisory opinion includes:
 - (1) documentation that the appeal was filed on a definite date and time with the Comanche Nation District Court according to the applicable rules, and
 - (2) documentation that other parties were given Notice of the Appeal; if written notice has not been given within 15 days after the Notice of Appeal is received by Comanche Nation Appellate Court, the Comanche Nation Court Clerk shall send notice to the other parties by certified mail, return receipt requested.
- D.) The Comanche Nation Court Clerk shall mail a copy of the certification of the record to the parties.
- E.) If the Comanche Nation District Court Justices who presided over the case is no longer available, another Comanche Nation District Court Judge may certify the record if all parties agree that the record and the statement of evidence and proceedings are correct.

Rule 16. Record for appeal; contents; transcription of audio recordings

- A.) The record for appeal shall include photocopies of each original pleading, motion, order, opinion and final judgment, as well as exhibits filed with the Comanche Nation District Court, a written transcript or a duplicate of the audio recordings, and docket entries. In the absence of an audio recording, a certified statement of the evidence and proceedings may be filed as provided by Rule 17 of these rules.
- B.) Within 15 days of the filing of the Notice of Appeal where applicable, the appellant shall file a written request for a full transcript or certified audio recording of the proceedings and pay by certified check or money order the estimated cost of preparation of the record with the Comanche Nation Court Clerk, unless the cost is waived by the Comanche Nation District Court, upon a showing of good cause.
- C.) A party other than the appellant may request a written transcript or certified audio recording if the appellant does not so request and shall so request within 30 days after the filing of the Notice of Appeal. The party making such a request shall pay the cost of

preparing the transcript or recording unless waived by the Comanche Nation Court Clerk, upon a showing of good cause.

Rule 17. Appeal with no record; duty of parties and lower court to develop record

- A.) If no audio recording or transcript of the proceedings is available, the appellant shall prepare a statement of the evidence and proceedings within 30 days of the filing of the Notice of Appeal. The appellant shall serve the statement upon the appellee and file the statement and certification of service with the Comanche Nation Court Clerk. The appellee has 15 days from receipt of the statement to file objections and amendments. The Comanche Nation District Court Judge who presided over the case shall review the statement, objections and amendments, order corrections, and certify the corrected statement to the Comanche Nation Appellate Court within 15 days of receipt.
- B.) If the issues on appeal are mutually agreed upon, the parties may file a statement of the evidence and proceedings with the Comanche Nation Court Clerk. The Comanche Nation District Court Judge who presided over the case on appeal shall review the statement for accuracy, order corrections, and certify to the Comanche Nation Appellate Court the corrected statement within 15 days of receipt.
- C.) If the Comanche Nation District Court Judge who presided over the case is no longer available, another Comanche Nation District Court Judge may certify the record if all parties agree that the record and the statement of evidence and proceedings are correct. If the parties cannot agree, the case shall be remanded for a *De Novo* hearing by the Comanche Nation District Court.

Rule 18. Inadequate record

If an the Comanche Nation Appellate Court determines that the record on appeal is inadequate, the case may be remanded for a hearing *De Novo* or any other procedure consistent with the Comanche Nation District Court rules, or with Rule 17 of these rules.

Rule 19. Bond; when required; limits

The Comanche Nation District may require the appellant to deposit a bond with the Comanche Nation District Court to guarantee the judgment will be enforceable. The security required shall not be greater in value than the amount of the judgment or fine imposed, plus costs.

Rule 20. Stay of judgment or injunction pending appeal; motion; appellate court motion

- A.) A motion for a stay of judgment or injunction pending appeal shall be filed with the Comanche Nation Court Clerk, and shall include:
 - (1) name, address, and telephone number of the party requesting the motion;
 - (2) the reasons for the motion;
 - (3) affidavits or sworn statements supporting the motion;
 - (4) relevant parts of the record; and
 - (5) certification of service of the motion on all parties.
- B.) The Comanche Nation District Court Judge shall issue an order granting or denying the motion within 15 days of the motion being filed.

- C.) A copy of the motion and of the order shall be transmitted to the Comanche Nation Appellate Court within 24 hours after being filed.
- D.) The Comanche Nation Appellate Court may move the Comanche Nation District Court for a stay of judgment if the Comanche Nation District Court has failed to issue a stay and the Comanche Nation Appellate Court determines it would be justified under the facts of the case.

Rule 21. Release pending appeal of a conviction; procedure; appellate court motion

- A.) Application for release after a judgment of conviction and pending appeal shall be made to the Comanche Nation District Court. The application for release shall be heard after reasonable notice to the appellee. Notice shall include copies of the motion, affidavits, documents, and relevant portions of the record unless appellee previously has been provided such affidavits, documents, and relevant portions of the record. A petition for habeas corpus shall be filed pursuant to Rule 24 of these rules.
- B.) The Comanche Nation District Court may consider the following when reviewing the application for release:
 - (1) whether the defendant will flee the tribal territorial jurisdiction;
 - (2) whether the defendant poses a threat to the community or an individual; and,
 - (3) whether a bond shall continue or be imposed if an appeal is taken prior to sentencing.
- C.) The Comanche Nation Appellate Court may move the Comanche Nation District Court for release of the petitioner if the Comanche Nation Appellate Court determines it would be justified under the facts of the case.

Rule 22. Reconsideration of decision to dismiss appeal; procedure; finality

- A.) Within 15 days of service of the order dismissing an appeal, except when the request to dismiss is at the request of appellant, a party may file with a written request for the Comanche Nation Appellate Court to reconsider the decision to dismiss the appeal. The Comanche Nation Court Clerk shall transmit the request to the Comanche Nation Appellate Court within 24 hours after it is filed.
- B.) The decision of the Comanche Nation Appellate Court is final.

Rule 23. Writs of mandamus and prohibition; contents of petition; procedure; time limits; denial without action

- A.) A party may file with the Comanche Nation District Court a petition for a writ of mandamus or prohibition directed at the presiding judge of the Comanche Nation District Court which shall be forwarded to the Comanche Nation Appellate Court within 24 hours after filing. The petition shall include:
 - (1) the names or titles, addresses, and telephone numbers of the persons against whom relief is sought unless the Comanche Nation District Court determines that including the address or telephone number of any person would place that person in physical jeopardy;
 - (2) a statement of the facts necessary to understand the issues presented;

- (3) a statement of the issues and the relief sought;
 - (4) a statement of the reasons why the writ should issue; and,
 - (5) copies of any order, opinion, final judgment, or parts of the record essential to understanding the petition.
- B.) The Comanche Nation Court Clerk shall serve the person against whom the writ is sought within 24 hours after filing.
- C.) Within five days after the petition is filed, the Chief Appellate Justice or his or her designate shall determine whether the petition shall be granted. If the petition is granted, the appellee shall be ordered to answer the petition and appear for hearing. The Comanche Nation Court Clerk shall advise the appellee of the dates on which briefs are to be filed and, where determined appropriate by the Comanche Nation Appellate Court, to appear to show cause why the writ should not issue.
- D.) The denial of a petition for a writ is not a final decision on the merits of a case.
- E.) If the petition is not acted upon within thirty days after it is filed, it shall be considered denied.

Rule 24. Writ of habeas corpus; contents of petition; procedure; time limits; denial without action

- A.) A party may file with the Comanche Nation District Court a petition for a writ of habeas corpus directed to the Chief Judge of the Comanche Nation District Court, which shall be forwarded to the Comanche Nation Appellate Court within 24 hours after filing for the purpose of determining if the current incarceration or commitment or future custody of the petitioner is in violation of law, provided that the petitioner has exhausted tribal procedures. The petition shall state:
- (1) the name and location of the petitioner;
 - (2) the name and address of the person having or who will have custody of the petitioner;
 - (3) whether the petitioner is in custody pursuant to a judgment of the Comanche Nation District Court;
 - (4) the date of the judgment or conviction and the length of confinement;
 - (5) the nature of the case or offenses involved and the plea entered;
 - (6) all grounds on which the petitioner is being held unlawfully and a summary of the facts supporting each ground; and,
 - (7) the relief the petitioner is seeking.
- B.) The petition shall be presented to and reviewed by the Chief Appellate Justice or a designate. If a petition does not comply substantially with the requirements of this rule, it shall be returned to the petitioner with a statement of the reasons for its return.
- C.) If the petition and exhibits are in order, the Chief Appellate Justice or his or her designate shall order a copy of the petition and order be served, by certified mail, on the appellee and the appellee's representative.
- D.) The appellee's answer shall be filed within the time provided by the Comanche Nation Appellate Court's order and shall respond to each allegation in the petition.

- E.) The Chief Appellate Justice or his or her designate shall review the petition, answer, transcript, and record, and determine whether adequate relief can be ordered or whether an evidentiary hearing is required. If an evidentiary hearing is required, it shall be held within 30 days of filing of the writ and a decision issued unless the Chief Appellate Justice, or his or her designate determines otherwise. If an evidentiary hearing is not required, the Chief Appellate Justice or his or her designate shall dispose of the petition as justice requires.
- F.) If the petition is not acted upon within thirty days after it is filed, it shall be considered denied.

Rule 25. Motions; where filed; contents; certification of service; responses; emergencies

- A.) A party may file a motion not otherwise specified in these rules with the Comanche Nation Court Clerk. All motions shall include:
 - (1) a statement of the relief sought;
 - (2) a statement of the grounds for the relief sought; and,
 - (3) arguments and affidavits or other documents in support of the motion.
- B.) The party requesting relief shall file with the Comanche Nation District Court certification of service of the motion on all parties to the appeal and the Clerk shall forward copies as required by Rule 9.
- C.) Within 15 days after being served, any party may file with the Comanche Nation Court Clerk a response to the motion and also shall file certification of service of the response on all parties to the appeal and the Clerk shall forward copies as required by Rule 9.
- D.) The Chief Appellate Justice may determine that a motion requires emergency action and issue a temporary order until the response is received and the Comanche Nation Appellate Court can make a final determination.

Rule 26. Filing and serving briefs; schedule; failure to file

- A.) Unless the Comanche Nation Appellate Court orders otherwise, within 30 days after being served notice indicating that the Comanche Nation Appellate Court has accepted the appeal, the appellant shall file with the Comanche Nation Court Clerk a written brief or statement in support of the appeal.
- B.) Unless the Comanche Nation Appellate Court orders otherwise, the appellee shall file an answer brief within thirty days of service of appellant's brief and file written certification of such service with the Comanche Nation Court Clerk. No additional fee for the filing of appellee's brief shall be charged.
- C.) Unless the Comanche Nation Appellate Court orders otherwise, the appellant may file a reply brief within fifteen days after being served a copy of the answer brief and file written certification of service on the other parties with the Comanche Nation Court Clerk. No other briefs shall be filed.
- D.) The party submitting a brief shall file with the Comanche Nation Court Clerk certification of service of the brief upon counsel or, in the absence of counsel, upon the parties to the appeal. Service may be made personally or by certified mail or its

equivalent. In the case of a *prose* party, the Comanche Nation Court Clerk may serve copies on the other party according to tribal law.

- E.) The original and required number of copies of the brief shall be filed with the Comanche Nation Court Clerk.
- F.) If the appellant fails to file a brief within the time provided by this rule, or as extended, the appellee may file a motion for dismissal of the appeal with the Comanche Nation Court Clerk who shall notify the Comanche Nation Appellate Court within 24 hours. If an appellee fails to file a brief, the appellee may not be heard at oral argument except by permission of the court.
- G.) Amicus Briefs ("Friend of the Court briefs" may be allowed through motion by leave of the Court and shall be filed, at latest, within fourteen (14) days after the Appellee files a brief. Amicus briefs shall not exceed ten (10) pages in length absent specific permission from the Court.

Rule 27. Form and content of briefs; *Pro Se* parties

- A.) Briefs or statements by *Pro Se* parties may be hand-written provided that they are printed clearly in black or blue ink. A party may request relief from complying with subsections (b)2, 8, and 10 of this Rule. The request for relief may be included in the party's brief or statement.
- B.) Briefs shall include the following:
 - (1) a cover page stating the name of the court, the numbers assigned to the case by the Comanche Nation District Court and the Comanche Nation Appellate Court, the name and address of the party filing the brief, and the names and addresses of all other parties and of counsel where appropriate;
 - (2) a table of contents with page references, a table of cases alphabetically arranged, authorities relied upon including titles and page numbers, and the location in the brief by page and paragraph number where they are referenced;
 - (3) a brief statement of the case, not to exceed one page, which indicates the nature of the case, the course of the proceedings, and disposition in the Comanche Nation District Court;
 - (4) a statement of the facts relevant to the issues presented for review with appropriate references to the record;
 - (5) an argument in support of the issues presented for review, with citations to cases, authorities, and the record, addressing all issues raised in appellant's notice of appeal; those issues not covered shall be considered as abandoned;
 - (6) a short conclusion precisely stating the relief sought, not to exceed one page;
 - (7) pages measuring 8½" x 11", double spaced and consecutively numbered;
 - (8) parties referred to as appellant and appellee;
 - (9) copies of pertinent laws, rules, or regulations being reviewed attached as addenda; and
 - (10) except by permission of the Comanche Nation Appellate Court, principal briefs not to exceed twenty pages and reply briefs not to exceed twelve pages, exclusive of the table of contents, the table of citations and attachments.

Rule 28. Pre-hearing conference and order

- A.) The Comanche Nation Appellate Court may direct the parties and their counsel to appear before the court or participate in a telephone conference call for a pre-hearing conference to consider settlement, simplify issues, or consider any other matters which may expedite the proceedings.
- B.) The Comanche Nation Appellate Court shall issue an order which recites the action taken at the conference and the agreements made by the parties. When entered, the order will control all subsequent proceedings unless modified by the Comanche Nation Appellate Court to prevent injustice.

Rule 29. Oral argument; when allowed; withdrawal of request; order

- A.) Cases will be considered ready for oral argument when the briefs of all parties, including reply briefs, have been filed, or the time for filing reply briefs has expired.
- B.) Oral argument is not allowed except as set out in this rule. Any party may request oral argument in writing within 30 days after notice of appeal is filed.
- C.) Oral argument shall not be allowed unless the appellate panel finds that it will assist the panel in making its determination.
- D.) The requesting party may withdraw the request for oral argument and shall do so in writing no later than five working days before the date of the scheduled hearing.
- E.) The Comanche Nation Appellate Court shall issue its order denying oral argument, or allowing oral argument and setting the date, location, and time allowed to each party for oral argument.

Rule 30. Oral argument hearing; notice; request for postponement or additional time; telephone conference; procedure; failure to appear

- A.) Within 24 hours of receipt, the Comanche Nation Court Clerk shall serve copies of the Comanche Nation Appellate Court order denying or allowing oral argument on all parties as required by Rule 9 of these rules.
- B.) A request for postponement of the oral argument or for additional time shall be made by motion filed with the Comanche Nation Court Clerk at least 15 days in advance of the date set for hearing. Such requests shall not be granted unless the reasons supporting the request are compelling.
- C.) Oral argument may be ordered by telephone conference or other technological means, including but not limited to Zoom, if the Comanche Nation Appellate Court determines it is appropriate.
- D.) The Chief Appellate Justice shall determine the time allowed for oral argument.
- E.) At the hearing, the parties to the appeal may present any arguments raised in the briefs. The appellant shall begin the argument and may request a portion of the allocated time be reserved for rebuttal.
- F.) If appellant fails to appear or if neither party appears, the appeal may be dismissed.

Rule 31. Decision; content and form of judgment

- A.) The Comanche Nation Appellate Court may dismiss the appeal, affirm or modify the decision being reviewed, reverse the decision in whole or in part, order a new trial, or take any other action as the merits of the case and the interest of justice may require.
- B.) The decision of the Comanche Nation Appellate Court shall be issued in writing and normally within ninety (90) days after an appeal presents oral arguments or the appeal that is not seeking oral arguments has been submitted to the justices of the Comanche Nation Appellate Court for decision. The Comanche Nation Court Clerk shall serve all parties with a copy of the opinion and judgment and file an affidavit of service in the case file.
- C.) The Comanche Nation Appellate Court may issue such ancillary orders in aid of the proceedings as it deems necessary.

Rule 32. Entry of judgment

The Comanche Nation Court Clerk shall prepare and file the judgment following receipt of the opinion of the Comanche Nation Appellate Court. Filing the judgment constitutes entry of the judgment.

Rule 33. Interest on money judgments

- A.) If a judgment for money in a civil case is affirmed by the Comanche Nation Appellate Court, or the case is dismissed, interest allowed by applicable law shall be computed from the date the judgment was entered by the Comanche Nation District Court.
- B.) If a judgment is modified or reversed by the Comanche Nation Appellate Court with directions that a judgment for money be entered, the Comanche Nation Appellate Court may determine and award interest at its discretion.

Rule 34. Costs of appeal; request for costs and attorney's fees

- A.) The costs for appeal include preparing the transcript, copying the record, serving notice, the premium paid for an appeal bond, and the fee paid for filing the appeal.
- B.) No later than 15 days after appeal judgment is filed, the prevailing party may file with the Comanche Nation Court Clerk a request for costs which shall be served upon all parties.
- C.) The Comanche Nation Appellate Court may determine and award costs.
 - a. If an appeal is dismissed by the Comanche Nation Appellate Court, appellant shall pay all costs of the appeal.
 - b. If the judgement of the trial level 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.
 - c. If the judgement of the tribal 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.
- D.) When attorney's fees are claimed pursuant to statute, law, or contract, a request for allowance of attorney's fees in connection with the prosecution or defense of the appeal shall be by written motion filed and served prior to oral argument of submission of the appeal. If recovery of attorney's fees is allowed by the Comanche Nation Appellate

Court in its decision, a statement of the amount claimed for such fees may be included in the statement of costs.

- E.) The statement of the amount claimed for attorney's fees shall set forth any relevant statutory or contractual provision and any other factors relevant to the determination of a reasonable fee. Counsel shall also attach and submit an affidavit containing an itemized statement of hours indicating the following:
- a. The date on which the service was performed
 - b. The time and costs expended on such date
 - c. The nature of the service
 - d. The name and title of the persons performing the service.
- F.) The Comanche Nation Court Clerk shall include an itemized statement of any attorney's fees and costs allowed on appeal in the filed decision.

Rule 35. Petition for rehearing; contents of petition; procedure

- A.) Within 15 days of receipt of the entry of the appellate judgment, a petition for rehearing, except as provided by these rules, may be filed with the Comanche Nation Court Clerk who shall transmit the petition to the Comanche Nation Appellate Court within 24 hours. The petition for rehearing shall state:
- (1) points of law or fact the petitioner believes the Comanche Nation Appellate Court overlooked or misunderstood; and,
 - (2) the arguments in support of each point.
- B.) No oral argument on the petition for rehearing shall be allowed unless the Chief Appellate Justice determines that oral argument could assist in the determination of the Comanche Nation Appellate Court.
- C.) If a petition for rehearing is granted, the Comanche Nation Appellate Court shall make a final disposition of the case as it considers appropriate.

Rule 36. Voluntary dismissal; stipulation; motion

- A.) The Comanche Nation Appellate Court may issue an order dismissing the appeal on the motion of the appellant and upon such terms as may be agreed upon by the parties or fixed by the court.
- B.) The Comanche Nation Appellate Court may issue an order dismissing the appeal upon the filing of a stipulation for dismissal which specifies the terms as to payment of costs and fees due and is signed by all parties.

Rule 37. Substitution of personal representative for a party

The personal representative of a party who dies during the proceedings may be substituted for the party upon motion.

Rule 38. Severability

If any part of these rules or their application to any person or circumstance is held invalid, the remainder of the rules or their application to other persons or circumstances is not affected.

Rule 39. Rules by Appellate Court

- A.) In all matters or cases not provided for by these rules, the Comanche Nation Appellate Court may regulate its practice in a manner consistent with these rules.
- B.) The Comanche Nation Appellate Court may modify these rules by a majority of justices of the Comanche Nation Appellate Court, whenever it determines it is proper to do so.

Rule 40. Facsimile; transmission of documents; responsibility of transmitting party; hard copy required

- A.) The Comanche Nation Court Clerk may transmit documents by facsimile or by email to the Comanche Nation Appellate Court, provided that the documents have been filed first. It is the obligation of the sending party to confirm that the documents were properly sent and received.
- B.) The Comanche Nation Appellate Court may transmit documents by facsimile or by email, and such documents shall have the full force and effect of the original documents on the date of transmission.