

Serial: **218795**

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99027-SCT

***IN RE: MISSISSIPPI RULES OF
APPELLATE PROCEDURE***

No. 89-R-99001-SCT

***IN RE: MISSISSIPPI RULES OF CIVIL
PROCEDURE***

EN BANC ORDER

Now before the en banc Court is a letter motion filed by the Honorable L. Joseph Lee, Chief Judge for the Court of Appeals of the State of Mississippi.

Chief Judge Lee, on behalf of the Court of Appeals, proposed amending Rule 10(b) of the Mississippi Rules of Appellate Procedure to ensure adequate appeal records when a court summarily dismisses a motion for post-conviction collateral relief.

After due consideration, we find the motion should be granted in part by amending Rule 54 of the Mississippi Rules of Civil Procedure as set forth in the attached Exhibit A.

IT IS THEREFORE ORDERED that the motion is granted in part. Rule 54 of the Mississippi Rules of Civil Procedure is amended as set forth in the attached Exhibit A. The amendments shall be effective July 1, 2018.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon

the minutes of the Court and send a certified copy to Thomson Reuters for publication in the advance sheets of *Southern Reporter, Third Series (Mississippi Edition)*, and in the next edition of the *Mississippi Rules of Court*.

SO ORDERED, this the 22nd day of May, 2018.

/s/ Michael K. Randolph

MICHAEL K. RANDOLPH,
PRESIDING JUSTICE
FOR THE COURT

ALL JUSTICES AGREE.

EXHIBIT A

RULE 54. JUDGMENTS; COSTS

(a) Definitions. “Judgment” as used in these rules includes a final decree and any order from which an appeal lies.

(b) Judgment Upon Multiple Claims or Involving Multiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counter-claim, cross-claim, or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an expressed determination that there is no just reason for delay and upon an expressed direction for the entry of the judgment. In the absence of such determination and direction, any order or other form of decision, however designated which adjudicates fewer than all of the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

(c) Judgment Summarily Dismissing a Motion for Post-Conviction Collateral Relief. When a court summarily dismisses a motion for post-conviction collateral relief under section 99-39-11(2) of the Mississippi Code, the order must identify the files, records, transcripts, and correspondence the court relied on and direct that certified copies of those documents be placed in the motion cause number’s file.

(ed) Demand for Judgment. A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled by the proof and which is within the jurisdiction of the court to grant, even if the party has not demanded such relief in his pleadings; however, final judgment shall not be entered for a monetary amount greater than that demanded in the pleadings or amended pleadings.

(de) Costs. Except when express provision therefor is made in a statute, costs shall be allowed as of course to the prevailing party unless the court otherwise directs, and this provision is applicable in all cases in which the State of Mississippi is a party plaintiff in civil actions as in cases of individual suitors. In all cases where costs are adjudged against any party who has given security for costs, execution may be ordered to issue against such security. Costs may be taxed by the clerk on one day’s notice. On motions served within five days of the receipt of notice of such taxation, the action of the clerk may be reviewed by the court.