

Supreme Court of the Kiowa Tribe

Kiowa Tribe Appellate Rules

PREFACE

The Supreme Court of the Kiowa Tribe adopts and promulgates the following Kiowa Tribe Appellate Rules. The adoption of these rules will facilitate the timely and orderly administration of justice under the laws and Constitution of the Kiowa Tribe. The issuance of these rules will further serve to promote and uphold the trust and integrity of the judicial process and ensure that the laws and Constitution of the Kiowa Tribe are administered fairly and equally for the citizens of the Kiowa Tribe and others who invoke the appellate jurisdiction of the Supreme Court of the Kiowa Tribe.

Chief Justice Eldridge Onco
Supreme Court of the Kiowa Tribe

**Kiowa Tribe
Rules of Appellate Procedure**

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Rule 1. Scope of Rules

- a. These rules govern the appeal process for civil and criminal cases, juvenile cases, and certain administrative cases. Where necessary to promote fairness and justice to parties, the Supreme Court of the Kiowa Tribe may look to the Federal Rules of Appellate Procedure for guidance in applying and supplementing these rules.
- b. These rules shall be liberally construed to secure a just and speedy determination of every appeal. When the singular noun in these rules is used it includes the plural. When the masculine gender in these rules is used it includes the feminine gender.

Rule 2. Composition of the Supreme Court

- a. The Supreme Court of the Kiowa Tribe consists of the Chief Justice and four Associate Justices as set forth in Article VIII, Section 1(b), of the Constitution of the Kiowa Tribe.
- b. Appeals accepted by the Supreme Court of the Kiowa Tribe will be heard by the full court, though a Justice at times may be unavailable due to recusal or unforeseen circumstances.

Rule 3. Recusal

A Justice may recuse himself or a party may request recusal of a specific Justice by motion to the Chief Justice of the Supreme Court with notice given to all parties. If the motion concerns the Chief Justice, the Chief Justice shall assign the matter to an Associate Justice for final determination. A recusal will be based on rules of conduct or ethics established by Kiowa law, the Supreme Court of the Kiowa Tribe, the Kiowa Judicial Commission, or an applicable state bar association.

Rule 4. Traditional Advisors

The Supreme Court of the Kiowa Tribe on its own or a party's motion may consult with and be advised by Kiowa elders or individuals qualified in Kiowa customs and traditional matters for guidance on such matters before the Supreme Court of the Kiowa Tribe.

Rule 5. Jurisdiction and Standard of Review

The Supreme Court of the Kiowa Tribe shall have the final power and authority to interpret the laws and Constitution of the Kiowa Tribe and to make conclusions of law. The Supreme Court of the Kiowa Tribe will review and decide questions of law and questions regarding factual findings in accordance with standards of review established by Kiowa law or, if there is no applicable Kiowa law, by federal common law.

Rule 6. Appeals in Civil and Criminal Cases

- a. Any party to a civil case may appeal a final judgment or order of the trial court to the Supreme Court of the Kiowa Tribe in the manner prescribed by these rules. A final judgment or order in a civil action is one which determines and disposes of all claims by and against all parties. A final judgment or order is entered upon the filing of record in the trial court a written instrument reflecting a verdict of a jury signed by the clerk or a final judgment or order of the trial court signed by the judge.
- b. A defendant in a criminal action may appeal a judgment of guilt and sentence thereon entered by the trial court to the Supreme Court of the Kiowa Tribe in the manner prescribed by these rules. A judgment in a criminal case is the verdict of the judge or jury convicting or acquitting the defendant of the criminal charge in the case and, if a conviction, the sentence imposed. A final judgment is entered upon the filing of record in the trial court a written instrument reflecting the verdict of a jury signed by the clerk or the judgment and sentence of the trial court signed by the judge.
- c. Time for Filing Appeal
 - i. In a civil case an appeal must be filed within 20 days of entry of final judgment or order within 20 days of disposition of any timely post-judgment motion authorized by Kiowa law, by the filing of a written notice of appeal with the clerk of the trial court together with the filing fee in accordance with the schedule of fees pursuant to Rule 11.
 - ii. In a criminal case an appeal by a defendant must be filed within 20 days of entry of the order of judgment and sentence or within 20 days of disposition of any timely filed motion authorized by Kiowa law, by the filing of a written notice of appeal with the clerk of the trial court together with the filing fee in accordance with schedule of fees pursuant to Rule 11. In the event the Tribe is entitled to appeal from an order of the trial court in a criminal action and files a notice of appeal, the defendant has 20 days thereafter to file a response.
 - iii. In a criminal case when the Tribe is authorized by law to appeal from an order of the trial court, whether pre-judgment or post-judgment, the Tribe has 20 days after entry of such order to file a notice of appeal.
- d. A notice of appeal if untimely filed will result in dismissal of the appeal rendering the Supreme Court of the Kiowa Tribe without subject matter jurisdiction.
- e. The party seeking an appeal shall be referred to as the appellant; all other parties shall be referred to as the respondents. Cross-appeals shall be permitted in accordance with these rules.
- f. In any case in which an appeal is filed with the Supreme Court of the Kiowa Tribe, the appellant may petition the trial court or the Supreme Court of the Kiowa Tribe for an order staying the judgment or order. The trial court or the Supreme Court of the Kiowa Tribe may render a stay conditioned upon execution of a bond to guarantee

performance of the judgment or to provide for other protections of the status quo or respondent when deemed just and necessary. The order of priority for requesting a stay lies first with the trial court.

Rule 7. Appeal from the Judicial Commission

- a. A party seeking to appeal a decision of the Judicial Commission regarding the denial or revocation of a license to practice in the courts of the Kiowa Tribe may appeal the decision to the Chief Justice of the Supreme Court of the Kiowa Tribe within 10 days of the written decision issued by the Judicial Commission.
- b. If an appeal is untimely filed or fails to meet the filing requirements in Rule 7c, the appeal will be dismissed for failure to comply with this rule.
- c. The notice of appeal shall be addressed to the Chief Justice of the Kiowa Tribe and shall be filed with the Supreme Court of the Kiowa Tribe and shall include the following:
 - i. A filing fee in the amount set forth in the fee schedule of the Supreme Court of the Kiowa Tribe.
 - ii. The names of parties to the appeal; the final decision of the Judicial Commission; a statement of the reasons or grounds for the appeal; and a statement of the standard of review.
 - iii. A written brief supporting the appeal not exceeding 5 pages.
- d. On the day of the filing of the appeal with the Supreme Court of the Kiowa Tribe, the appellant shall serve a copy of the appeal on all members of the Judicial Commission in the manner prescribed by these rules.
- e. Within 7 days of the filing of the appeal, the Judicial Commission may file a response brief not exceeding 5 pages.
- f. The decision of the Chief Justice will be based solely on the briefs submitted by the parties in the appeal. The Chief Justice will render a decision on the appeal within 10 days.

Rule 8. Appeal from the Election Commission

- a. One of the following two procedures will apply to an appeal regarding a protest or challenge to the results of an election.
 - i. A party may file a notice of appeal with the Supreme Court of the Kiowa Tribe from a final determination timely rendered by the Election Commission on any protest or challenge to the results of an election. The appeal must be filed within 5 calendar days from the date of the final determination rendered by the Election Commission.
 - ii. A party may file a notice of appeal with the Supreme Court of the Kiowa Tribe if the Election Commission fails to render a final determination on an election protest or challenge within 48 hours. The

- notice of appeal must be filed within 5 days from the date of the expiration of the 48 hours.
- b. The notice of appeal shall be filed with the Supreme Court of the Kiowa Tribe and shall include the following:
 - i. A non-refundable fee of one thousand dollars (\$1000.00) payable to the Supreme Court of the Kiowa Tribe.
 - ii. The names of the parties to the appeal; the final determination or certification of the Election Commission; a statement of the reasons or grounds for the appeal; and a statement of the standard of review.
 - iii. A written brief not exceeding 5 pages.
 - c. On the day of filing the notice of appeal the appellant shall serve a copy of the appeal, in accordance with the procedure for the service of papers as set forth in Rule 15, along with a copy of the brief in support, upon all members of the Election Commission and upon any party that is the subject of the protest or challenge or to all official candidates for an elective office if the protest or challenge concerns the results of an election regarding such elective office.
 - d. The Election Commission within 5 days of receiving the notice of appeal shall prepare, certify and file all papers, electronic records and exhibits comprising the record of the case appealed. A separate docket shall be maintained by the Supreme Court of the Kiowa Tribe for appeals from decisions of the Election Commission. The party filing the appeal may request all or part of the testimonial record, if any, that is pertinent to the appeal and shall pay a cost as provided for in the fee schedule.
 - e. The Election Commission and any party in the above subparagraph c that is served a copy of the notice of appeal shall have 5 calendar days to file a response brief.
 - f. The decision of the Supreme Court of the Kiowa Tribe will be based on the briefs submitted by the parties in the appeal and on the record of the appeal submitted by the Election Commission's determination and/or certification, including its written findings of fact and conclusions of law.
 - g. The Supreme Court of the Kiowa Tribe may on its own or on the motion of a party allow oral argument or a hearing in the appeal in the discretion of the court.
 - h. The Supreme Court of the Kiowa Tribe will issue a decision of the appeal within 30 days from the date of filing of the notice of appeal. If the Supreme Court of the Kiowa Tribe fails to decide such appeal within 30 days, the decision of the Election Commission shall be final and no further judicial review shall be permitted.

Rule 9. Bond and Proceedings Against Sureties

- a. Relief available in the Supreme Court of the Kiowa Tribe may be conditioned upon the filing of a bond or other appropriate security in the trial court given at or within 10 days after the time of filing the notice of appeal.
- b. If security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety shall consent and submit to the jurisdiction of the trial

- court and irrevocably appoint the clerk of the trial court as its agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served.
- c. It is the responsibility of a surety to provide the clerk of the trial court with a proper and current mailing address and supply of stamped, self-addressed envelopes if the surety wishes copies of any papers served upon the clerk as its agent to be mailed to the surety.
 - d. The surety's liability may be enforced by a motion in the trial court without necessity of an independent action. The motion may be served on the clerk of the trial court who shall forthwith mail copies to the surety.

Rule 10. Interlocutory Appeal

- a. The appeal of an interlocutory order may be sought within 10 days of the interlocutory order by filing a motion requesting the trial judge to certify a petition to appeal an interlocutory order to the Supreme Court of the Kiowa Tribe on the basis that such order may involve:
 - i. a controlling question of law,
 - ii. as to which there exists a substantial ground for difference of opinion, and
 - iii. the disposition of the question may materially advance the ultimate termination of the litigation, or
 - iv. the order meets the criteria for an interlocutory appeal under the collateral order doctrine in federal common law.
- b. If the motion to certify a petition is granted, the petitioner must file a petition to appeal the interlocutory order with the Supreme Court of the Kiowa Tribe within 10 days of his motion for certification of an interlocutory order being granted.
- c. If the Supreme Court of the Kiowa Tribe issues an order accepting a petition to appeal an interlocutory order the petitioner may within 5 days after notice of such acceptance file a notice of appeal together with the filing fee in accordance with Rule 11 and comply with all applicable procedures in these rules.
- d. The denial by the trial judge of a motion to certify a petition to appeal an interlocutory order is not subject to an appeal unless the interlocutory appeal is otherwise authorized by Kiowa law.
- e. Appeal of interlocutory orders shall be accepted as a right by the Supreme of the Kiowa Tribe when authorized by Kiowa law and in such case the petitioner must file a notice of appeal directly with the Supreme Court of the Kiowa Tribe within 20 days of the interlocutory order and comply with all applicable fees and procedures in these rules.
- f. Upon assuming jurisdiction of an interlocutory appeal the Supreme Court of the Kiowa Tribe may in the interests of justice issue a stay of the proceedings in the trial court pending a decision on the interlocutory appeal.

Rule 11. Appeal Filing Fees, Costs, and Bonds

- a. The filing fee for an appeal in a civil or criminal case shall be in accordance with the schedule of fees established by the Supreme Court of the Kiowa Tribe or the legislature of the Kiowa Tribe.
- b. The Chief Justice of the Supreme Court may waive the filing fee upon motion for a fee waiver by the appellant where the Chief Justice is satisfied the appellant lacks the means to pay the filing fees. The motion must include an affidavit demonstrating inability to pay and must accompany the notice of appeal.
- c. A cash deposit or bond in an amount equal to the amount of any judgment, plus costs assessed by the trial court, and any applicable post-judgment interest, or a motion for waiver of this requirement, must accompany the notice of appeal. The deposit/bond requirement may be waived only when in the judgment of the Chief Justice of the Supreme Court of the Kiowa Tribe such deposit/bond is not in the interest of justice and such waiver of the deposit/bond requirement must be requested with notice to all parties. If the motion for waiver is denied, the deposit/bond must be submitted within 10 days of the denial. The appeal will be dismissed if the deposit/bond is not paid or waived.
- d. The cash deposit or bond requirement in Rule 11c does not apply to the Kiowa Tribe, its officers or agents, or any of its commissions, authorities, or corporations that carry out functions or activities on behalf of the Kiowa Tribe.

Rule 12. Computation of Time; Extension of Time

- a. The computation of any time period in these rules shall be in calendar days.
- b. In computing any period of time set forth herein, the day that the period is to commence from shall not be counted and the last day of the period shall be counted; provided, however, that any time period under 7 days will not include intermediate Saturdays, Sundays, or a legal holiday in the period. Any period which would otherwise end on a Saturday, Sunday, or legal holiday will be deemed to end on the next day which is not a Saturday, Sunday, or legal holiday.
- c. A legal holiday is a federal holiday or a holiday established by the Kiowa Tribe.
- d. For good cause, the Supreme Court of the Kiowa Tribe may extend a time prescribed by these rules or extend the performance of any act ordered by the Supreme Court of the Kiowa Tribe or may permit an act to be done after the expiration of such time; except that the Supreme Court of the Kiowa Tribe may not extend the time to file a notice of appeal under Rule 6 or any other time that may be established by Kiowa law.

Rule 13. Notice of Appeal; content and service

- a. The notice of appeal in a civil or criminal case shall identify the parties: the appellant's name and address if pro se or the name and address of appellant's counsel;

and shall identify the final judgment or order being appealed by name and case number and attach a copy thereto.

- b. The appellant must file a short statement of the reason or grounds for the appeal and include a procedural and factual summary of the proceedings below.
- c. Copies of the notice of appeal, to be provided by the appellant, shall be promptly mailed by the clerk of the trial court to all pro se parties, if any, to the appeal at their last known address and to counsel of record for all other parties. The clerk of the trial court shall file a certification that such mailings were completed.
- d. Upon receipt of the notice of appeal and proof of service, the clerk of the trial court shall prepare, certify and file all papers, electronic records and exhibits comprising the record of the case appealed. A separate docket shall be maintained for the Supreme Court of the Kiowa Tribe in which there shall be recorded each stage of the proceedings on each case appealed. The appellant may request all or parts of the testimonial record that is pertinent to the appeal and shall pay a cost as provided for in the fee schedule.

Rule 14. Motions

- a. An application for an order or other relief is made by motion. A motion must be in writing unless the Supreme Court of the Kiowa Tribe permits otherwise.
- b. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it. A motion may be supported by an affidavit or other paper that must be served and filed with the motion. The affidavit or other paper must contain only factual information.
- c. Any party may file a response to a motion. The response must be filed within 10 days after service of the motion unless the court shortens or extends the time. Any reply to a response must be filed within 7 days after service of the response. A reply must not present matters that do not relate to the response.
- d. A motion, response, or a reply to a motion must not exceed 10 pages.
- e. A motion regarding a procedural matter may be decided by a single Justice of the Supreme Court of the Kiowa Tribe.
- f. A motion will be decided without oral argument unless the Supreme Court of the Kiowa Tribe orders otherwise.

Rule 15. Service of Papers

- a. A party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal. Service on a party represented by counsel must be made on the party's counsel.
- b. Manner of Service.
 - i. Service may be carried out by any of the following methods:
 - A. Personal, including delivery to a responsible person at the office of counsel;

- B. By mail;
 - C. By third-party commercial carrier for delivery; or
 - D. By electronic means, if the party being served consents in writing or has previously published his electronic mail address on a paper filed with the Supreme Court of the Kiowa Tribe.
- ii. When reasonably considering such factors as the immediacy of the relief sought, distance, and cost, service on a party must be a manner at least as expeditious as the manner used to file the paper with the Supreme Court of the Kiowa Tribe.
 - iii. Service by mail is complete on mailing or by delivery to the commercial carrier. Service by electronic means is complete on transmission, unless the party making service receives web notification that the paper was not delivered to the party being served.
- c. Proof of Service.
 - i. A paper presented for filing must contain either of the following:
 - A. An acknowledgment of service by the person served; or
 - B. Proof of service consisting of a statement by the person who made service certifying:
 - (1) The date and manner of service;
 - (2) The names of the persons served; and
 - (3) Their mail and electronic addresses, facsimile numbers, or the addresses of the places of delivery, as appropriate for the manner of service.
 - ii. Proof of service may appear on or be affixed to the papers filed.

Rule 16. Electronic Service

- a. Whenever these rules require a notice, brief, motion, document, or other instrument to be served, mailed, transmitted, or issued, such requirement may be satisfied by electronic mail to the address listed in a case by a party.
- b. Electronic signature:
 - i. Whenever these rules require a petition, notice, brief, motion, document, or other instrument to be signed, verified, certified, or otherwise authenticated, such requirement may be satisfied by electronic methods.
 - ii. Petitions, notices, motions, affidavits, waivers, or other instruments which are signed under penalty of perjury, or notarized may be filed electronically. Waivers or other instruments which are signed and witnessed may be electronically filed in the same manner as notarized documents. The party filing the document shall retain the original document or other evidence of the original signature(s) for future production.

Rule 17. Time for Filing Briefs

- a. Within 30 calendar days of filing the notice of appeal the appellant shall file a written brief in accordance with Rule 18.
- b. Unless there is an electronic filing as set forth in paragraph c, an original and 3 copies shall be filed with the clerk of the court and one copy shall be served upon each party or his counselor or representative. The respondent shall have 20 days after receipt of the brief within which to file a response brief. Appellant may, upon leave of court, have 10 days within which to file a reply brief after receipt of the response brief.
- c. Electronic filing is allowed within the same time for filing briefs using the court's email or designated electronic filing system.

Rule 18. Briefs

- a. Briefs shall include the following:
 - i. A cover page stating the name of the case; the numbers assigned to the case by the trial court and the Supreme Court of the Kiowa Tribe; the name, address and telephone number of the party filing the document if pro se; or the name, address and telephone number of counsel;
 - ii. A statement of the case which indicates the nature of the case, the disposition by the trial court and the legal issues presented to the Supreme Court of the Kiowa Tribe;
 - iii. Separately identified legal argument for each issue presented to the Supreme Court of the Kiowa Tribe and a statement of the standard of review for each issue; and
 - iv. A conclusion stating precisely the relief sought.
- b. All pages shall be 8 ½" by 11", double spaced and consecutively numbered.
- c. All laws, rules, regulations and cases cited in the document shall be attached as an addendum unless previously provided in the brief.
- d. No other attachments or addenda shall be permitted and if included will be disregarded by the Supreme Court of the Kiowa Tribe.
- e. Appellant and response briefs shall not exceed 20 pages in length, excluding addenda. Reply briefs shall not exceed 6 pages in length, excluding addenda.
- f. An appeal may be dismissed with prejudice if the appellant does not file the written brief in the time granted, does not serve all parties, or does not comply with other applicable requirements in these rules. The respondent is not required to file a Response brief but may rely on the record before the court.

Rule 19. Record of Appeal

The papers filed in the trial court, the exhibits, and the transcripts of the proceedings shall constitute the entire record on appeal in all cases. The clerk of the trial court shall certify

that the appellate record constitutes the complete and entire file. The certification of the record shall be served on all parties.

Rule 20. Oral Argument

- a. Any party may request oral argument. At the discretion of the Supreme Court of the Kiowa Tribe, oral argument may be ordered in the appeal. If oral argument is granted, the Supreme Court of the Kiowa Tribe shall decide the order of presentation, the length of time each party is permitted for their presentation, the issues to be addressed in oral argument, and such other matters as may be necessary.
- b. The order providing notice of oral argument shall include all such matters and shall be served on all parties at least 10 days prior to the date set for argument. A minimum of three Justices will hear oral arguments. Oral arguments may be conducted electronically.

Rule 21. Decisions of the Supreme Court

- a. The Supreme Court of the Kiowa Tribe shall decide all cases upon the briefs, memoranda and statements filed plus the oral argument, if held. A majority of Justices must affirm or deny the appeal in whole or in part. A Justice may file a dissenting opinion stating the reason for the dissent. All decisions of the Supreme Court of the Kiowa Tribe shall be in writing and accompanied by an opinion stating the legal issues and the basis for the decision.
- b. Decisions of the Supreme Court of the Kiowa Tribe shall be issued no later than 90 days after the conclusion of oral argument. If no oral argument is held, the 90 days will run from the expiration of time to file a response brief or reply brief.
- c. At the discretion of the Supreme Court of the Kiowa Tribe, the time for issuing a decision may be extended, provided all parties are notified.
- d. If no decision is issued by the Supreme Court of the Kiowa Tribe within the time designated, either party may contact the clerk of the Supreme Court of the Kiowa Tribe to determine the status of the decision. The clerk of the Supreme Court of the Kiowa Tribe shall report the status of the decision in writing to all parties.

Rule 22. Entry and Form of Decision

- a. The decisions of the Supreme Court of the Kiowa Tribe shall be rendered by a majority of the Justices. The Supreme Court of the Kiowa Tribe may dismiss an appeal, reverse in whole or in part and remand the final judgment or order of the trial court with instructions, or affirm the final judgment or order of the trial court.
- b. All decisions of the Supreme Court of the Kiowa Tribe shall be final according to the Constitution of the Kiowa Tribe.
- c. The clerk of the Supreme Court of the Kiowa Tribe shall promptly serve all parties with a copy of the stamped decision as entered.

- d. The published final decisions of the Supreme Court of the Kiowa Tribe shall constitute the common law of the Kiowa Tribe and shall have precedential effect.

Rule 23. Mandate: Contents; Issuance and Effective Date; Stay

- a. Contents. The mandate consists of a copy of the decision, if any, of the Supreme Court of the Kiowa Tribe including any instructions to the trial court.
- b. Issuance. The mandate of the Supreme Court of the Kiowa Tribe shall issue not earlier than 7 days after the time to file a petition for rehearing expires, or earlier than 7 days after denial of a motion for stay of mandate. The Supreme Court of the Kiowa Tribe may issue a written order to shorten or extend the time.
- c. Effective Date. The mandate is effective when issued by the clerk of the Supreme Court of the Kiowa Tribe.
- d. Staying the Mandate Pending a Petition for Writ of Habeas Corpus
 - i. Motion to Stay. A defendant in a criminal case may move to stay the mandate pending the filing of a Petition for Writ of Habeas Corpus in federal court. The motion must present a substantial question of law or fact and be served on all parties.
 - ii. Duration of Stay.
 - A. If the motion for stay of mandate is granted, the stay will be in effect until such time there is a final disposition by a federal court.
 - B. The defendant who obtained the stay must promptly notify the clerk of the Supreme Court of the Kiowa Tribe in writing of the following:
 - 1. The time for filing a petition for writ of habeas corpus in federal court;
 - 2. The filing of a petition for writ of habeas corpus in federal court; and
 - 3. The final disposition of the petition by the federal court.
 - iii. Security. The Supreme Court of the Kiowa Tribe may require a bond or other security as a condition to granting or continuing a stay of the mandate.
 - iv. Issuance of Mandate. The Supreme Court of the Kiowa Tribe will issue the mandate immediately on receiving a certified copy of a federal court order denying the petition, unless extraordinary circumstances exist.

Rule 24. Petition for Rehearing

- a. A majority of the sitting Justices of the Supreme Court of the Kiowa Tribe may order that an appeal or other proceeding be reheard by the Supreme Court of the Kiowa Tribe. A rehearing is not favored and ordinarily will not be ordered unless:
 - i. Consideration is necessary to secure or maintain uniformity of the Court's decisions;
 - ii. The proceeding involves a question of exceptional importance;

- iii. A material factual or legal matter was overlooked in the decision; or
 - iv. A change in the law occurred after the case was submitted and was overlooked by the court.
- b. Petition for Rehearing. A party may petition for rehearing within 10 days from a decision issued by the Supreme Court of the Kiowa Tribe. The petition must begin with one or more of the following statements:
- i. The Supreme Court of the Kiowa tribe's decision unlawfully conflicts with a decision of the United States Supreme Court and a reconsideration by the Supreme Court of the Kiowa Tribe is necessary to secure and maintain uniformity of the Court's decisions;
 - ii. The proceeding involved one or more questions of exceptional importance;
 - iii. A material factual or legal matter was overlooked in the decision; or
 - iv. A change in the law occurred after the case was submitted and was overlooked by the court.
- c. The Supreme Court of the Kiowa Tribe shall decide by a majority vote whether to grant the petition for rehearing. If granted, the petitioner shall have 10 days in which to file a supporting brief of not more than 10 pages and the respondent shall have 7 days to file a response brief of not more than 10 pages.
- d. The Supreme Court of the Kiowa Tribe will issue a decision on the petition for rehearing within 30 days.

Rule 25. Interest on Judgments

If a judgment for money is affirmed on appeal or upheld on remand, whatever interest is allowed by court rule or by Kiowa law shall be computed from the date the first judgment was entered by the trial court. Any interest accrued shall be awarded to the prevailing party. Appropriate disposition of bond or sureties shall be made depending on the prevailing party. Costs of the appeal shall be ordered in the discretion of the Supreme Court of the Kiowa Tribe.

Rule 26. Frivolous Appeals

If an appeal is determined to be frivolous by the Supreme Court of the Kiowa Tribe, the appeal shall be dismissed and costs and fees for a party or counsel may be awarded to the respondent.

Rule 27. Certified Questions of Kiowa Law

- a. The trial court may certify to the Supreme Court of the Kiowa Tribe a question of Kiowa law on which it seeks instruction as to the proper decision of a case. The certificate shall contain a statement of the case and the facts on which the question of law arises. Only questions of law may be certified, and they shall be stated separately and precisely.

- b. The Kiowa legislature or any tribal, federal or state court or any tribal, federal or state administrative agency may certify a question of Kiowa law to the Supreme Court of the Kiowa Tribe.
- c. The Supreme Court of the Kiowa Tribe shall have discretion whether to accept the certified question of law.

Rule 28. Writs of Mandamus or Prohibition

The Supreme Court of the Kiowa Tribe has jurisdiction over petitions for writs of mandamus or prohibition filed against the trial court of the Kiowa Tribe.

- a. A party may file with the Supreme Court of the Kiowa Tribe a petition for such writs, within 20 days of the alleged action or inaction by the trial court giving rise to the petition, according to the following procedures:
 - i. The procedure for filing such petition shall include:
 - A. The name of the trial court judge against whom relief is sought;
 - B. A statement of facts necessary to understand the issues presented;
 - C. A statement of the issues and the relief sought;
 - D. A statement of the reasons why the writ should be issued and a brief in support not to exceed 5 pages; and
 - E. A copy of any order, opinion, final judgment, or part of the record essential to understanding the petition.
 - ii. The court clerk shall serve the trial court judge against whom the writ is sought within 72 hours after filing. The trial court judge against whom the writ is sought shall have 5 days after receipt of service in which to file a response to the petition and its brief-in-support to show cause why the writ should not be issued.
- b. Within 5 days of the filing of the response, the Supreme Court of the Kiowa Tribe shall determine whether the petitioner has standing to bring the action and whether the Supreme Court of the Kiowa Tribe has jurisdiction.
- c. The Supreme Court of the Kiowa Tribe, exercising discretion, may order oral argument or may grant one, if requested. The court clerk shall notify the parties of the dates on which oral argument is to be heard.
- d. The Supreme Court of the Kiowa Tribe shall render its decision upon the petition for writ within 30 days of the response thereto by the respondent or within 30 days of conduct of oral argument, whichever is later.

Rule 29. Writ of Habeas Corpus

- a. Procedure and Content of the Notice of Appeal
 - i. In the event a party's petition for a writ of habeas corpus is denied by the trial court, the petitioner may appeal to the Supreme Court of the Kiowa Tribe within 20 days by filing a notice of appeal in accordance with these rules and

forwarding the case file, together with all pleadings and briefs, to the Supreme Court of the Kiowa Tribe for appellate review.

- ii. Upon such filing the clerk of the Supreme Court of the Kiowa Tribe shall send the notice of appeal within 24 hours to the defending party.
 - iii. The defending party may file a response brief within 5 days after receipt of the notice of appeal.
 - iv. The Supreme Court of the Kiowa Tribe shall determine the appeal within 20 days of filing the case record. No further briefs shall be required.
 - v. In matters involving direct or indirect contempt of court issued by the trial court resulting in incarceration, the petition may be filed directly with the Supreme Court of the Kiowa Tribe as an original action in accordance with these rules.
- b. Post Conviction Relief Under Habeas Corpus
- i. In addition to these rules herein, a person convicted of a crime under the laws of the Kiowa Tribe who has exhausted the regular appeals process or whose appeal time has lapsed may file a petition for habeas corpus in the trial court alleging that he is unjustly imprisoned or otherwise unjustly restrained of his liberty.
 - ii. Except in cases of extraordinary injustice, habeas corpus relief shall not be available to a person incarcerated as a result of a criminal conviction where the alleged grounds for relief have been or could have been raised by an appeal following the conviction.

Rule 30. Compliance with Rules

When necessary to enforce compliance with these rules, the Supreme Court of the Kiowa Tribe shall afford due process to an attorney or party regarding any discipline for failure to comply with these rules. The Supreme Court of the Kiowa Tribe may also refer to the Judicial Commission an attorney who practices before it for conduct unbecoming a member of the Kiowa bar.

Rule 31. Suspension of Rules

On its own or a party's motion, the Supreme Court of the Kiowa Tribe may suspend any provision of these rules in a particular case to expedite its decision or for other good cause, unless otherwise prohibited by Kiowa law, and order proceedings as it directs.

Rule 32. Procedure for Promulgation

The Justices of the Supreme Court of the Kiowa Tribe shall review these Appellate Rules annually and may amend these Rules.


Rule 33. Citation to Rules

The citation to the Kiowa Tribe Appellate Rules may be abbreviated and cited as “K.T.A.R” such as “K.T.A.R. 7b.ii”.

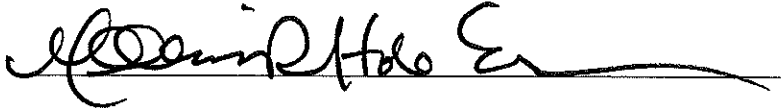
CERTIFICATION OF ADOPTION

We, the undersigned Justices of the Supreme Court of the Kiowa Tribe, hereby certify that the foregoing Kiowa Tribe Appellate Rules of the Supreme Court of the Kiowa Tribe were duly adopted in accordance with Article VIII, Section 6(h), of the Constitution of the Kiowa Tribe and accordingly became effective on April 24, 2024.

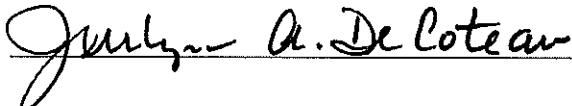
The Honorable Eldridge Onco, Chief Justice



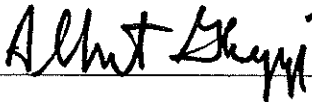
The Honorable Melissa Holds the Enemy, Associate Justice



The Honorable Jerilyn DeCoteau, Associate Justice



The Honorable Albert Ghezzi, Associate Justice



The Honorable Deanna Hartley Kelso, Associate Justice

