

A Short Guide to Vermont Appellate Practice

Introduction

The Vermont Supreme Court has seen significant changes in the past few years. Like other workplaces around the world, the Court has had to grapple with the myriad personal, professional, and logistical disruptions that accompanied the COVID-19 pandemic. At the same time, the Court implemented electronic filing and adopted a comprehensive update to its rules of practice. And on top of all that, three of the Court's five seats have recently turned over—with Karen Carroll succeeding John Dooley in 2017, William Cohen succeeding Marylyn Skoglund in 2019, and Nancy Waples succeeding Beth Robinson earlier this year.

Given all these changes, members of the bar may find it helpful or interesting to review the current state of practice at the Vermont Supreme Court. Every appeal of course has its own idiosyncrasies, and this guide does not purport to address them all. Nor is this guide intended as a primer on electronic filing in the Vermont Supreme Court or elsewhere; those wishing to educate themselves on that topic already have ample resources at their disposal.¹ Instead, this guide aims to introduce the novice practitioner, and refresh the experienced one, on the fundamentals of practice and procedure in Vermont's only appellate court.²

The jurisdiction of the Vermont Supreme Court

The judicial power in Vermont is vested in a unified court system made up of a Supreme Court in Montpelier; a general-jurisdiction Superior Court divided into 14 county-level units and civil, criminal, family, environmental and probate divisions; and a Judicial Bureau, which has jurisdiction over traffic violations and other low-level offenses.³

With limited exceptions, the Vermont Supreme Court has "exclusive" appellate jurisdiction to hear appeals from "judgments, rulings, and orders of the Superior Court, administrative agencies, boards, commissions, and officers."⁴ Vermont is thus one of only eight states in the country without a general intermediate appellate court.⁵

The Vermont Supreme Court also has "original jurisdiction, concurrent with the Superior Court, of proceedings in certiorari, mandamus, prohibition, and quo warranto"—i.e., the traditional "extraordinary writs"—and supplementary jurisdic-

tion to issue all other writs and orders "necessary or appropriate in aid of its appellate jurisdiction" and "that may be necessary to the furtherance of justice and the regular execution of the law."⁶

The Supreme Court is further responsible for administering the court system, disciplining attorneys and judges, and promulgating rules of practice.⁷ The Court has adopted the Vermont Rules of Appellate Procedure to "govern procedure in all appeals to the Supreme Court from the Superior Court or an administrative board or agency and in matters of original jurisdiction."⁸

Getting to the Vermont Supreme Court

There are four ways to get your case before the Vermont Supreme Court: (1) you can appeal a lower court's final decision as of right; (2) before the lower court has issued a final decision, you can request permission for interlocutory appellate review of an order or legal question; (3) if normal appellate procedures are unavailable, you can file a petition for extraordinary relief as an original action; and (4) if litigating a question of Vermont law in federal court, you can ask the federal court to certify that question to the Vermont Supreme Court.

1. Appeal from a final decision

An appeal from a final decision is the preferred and by far the most common way to invoke the Supreme Court's jurisdiction.⁹ The process is straightforward. Within 30 days of entry of the lower court's final decision, an aggrieved party must file a notice of appeal with the lower court clerk; provide copies of the notice to the Supreme Court clerk and the other parties; and—unless exempt—pay a filing fee.¹⁰ The 30-day limit is jurisdictional, meaning that if a party misses the deadline, even by a day, the Supreme Court lacks jurisdiction and must dismiss the appeal.¹¹

There are, however, several important exceptions to the 30-day limit. *First*, if one party timely files a notice of appeal, any other party may file a cross-appeal within 14 days thereafter, or until the original appeal period expires, whichever is later.¹² *Second*, if any of a number of post-judgment motions are timely filed, the full appeal period does not begin to run until the lower court enters "an order disposing of the last remaining motion."¹³ *Third*, in a criminal case, the State generally has only "7 business days" to notice an appeal.¹⁴ And *finally*, the lower court has discretion to briefly extend the appeal period if the party seeking the ex-

ension files a motion within 30 days after the original appeal period expired and can show good cause or excusable neglect.¹⁵

Typically, an aggrieved party can appeal a lower court's final decision as of right. But the Legislature has declared that in some situations—for example, small claims, Judicial Bureau, and mortgage foreclosure cases—permission must be obtained before a Superior Court's final decision can be appealed to the Supreme Court.¹⁶ In those cases, the party wishing to appeal must seek permission in the Superior Court within 14 days of judgment being entered.¹⁷ If a second request for permission is available, the party has another 14 days to request permission directly from the Supreme Court.¹⁸

2. Interlocutory appeal

A party may also seek to have the Vermont Supreme Court hear its case, or at least part of it, before the lower court has entered final judgment. Although the Supreme Court has long articulated a general policy against "piecemeal" appellate review, there are several acceptable—if narrow—ways to advance a legal question from the lower court to the Supreme Court before final judgment.¹⁹

If the parties and the lower court agree that a legal question in the case both merits immediate appellate review and is potentially dispositive, the lower court may issue an "order of report" certifying the question to the Supreme Court at any time before entry of final judgment.²⁰

Alternatively, an aggrieved party may independently move for permission to appeal an interlocutory lower court order.²¹ To obtain permission, the moving party must show that the order sought to be appealed either (1) involves a controlling question of law about which there exists a substantial ground for difference of opinion and that an immediate appeal may materially advance the termination of the litigation;²² or (2) is a "collateral final order" that conclusively determines a disputed question, resolves an important issue completely separate from the merits of the action, and will be unreviewable on appeal from a final judgment.²³ In either case, permission generally must be obtained from the lower court within 14 days after entry of the challenged order, or from the Supreme Court within 14 days of the lower court's denial of permission.²⁴

Notwithstanding this general 14-day period, the State in a criminal case must seek permission to appeal within "7 busi-

ness days” after the challenged order is entered.²⁵ This aligns with the State’s time to appeal a final decision in a criminal case.²⁶ In felony cases, the lower court is required to permit the State to appeal a pretrial ruling that either grants a motion to suppress evidence; grants a motion to have a confession declared inadmissible; or grants or refuses other relief, the effect of which “is to seriously impede (but not completely foreclose) continuation of the prosecution.”²⁷

Once an interlocutory appeal is accepted by the Supreme Court, it will proceed in the same manner as an appeal from a final decision.

3. Petition for Extraordinary Relief

A party may invoke the Vermont Supreme Court’s narrow original jurisdiction by filing a petition for extraordinary relief under Vermont Rule of Appellate Procedure 21. The rule abolishes and replaces the traditional “extraordinary writs of certiorari, mandamus, prohibition, and quo warranto” and is now the sole method to obtain from the Supreme Court the substantive relief that those writs formerly provided.²⁸ A petition for extraordinary relief should be styled as a complaint, including a verified allegation or supporting affidavit concisely explaining that extraordinary relief is warranted because “there is no adequate remedy” under either the normal appellate procedures or through proceedings for extraordinary relief in the Superior Court.²⁹ Rule 21 provides that original actions for extraordinary relief will be governed by the Rules of Civil Procedure, but in practice, once a petition is accepted, the Court may issue an order that sets a briefing and argument schedule, similar to a normal appeal.³⁰

4. Certification from a federal court

Although rarely invoked, the Vermont Supreme Court, like many other state high courts, has authority to accept certified questions of Vermont law from a federal court.³¹ Any federal court—district, circuit, or the U.S. Supreme Court—may certify a question to the Vermont Supreme Court “if the answer might determine an issue in pending litigation and there is no clear and controlling Vermont precedent.”³² The Court has absolute discretion to decline to answer any question certified to it and need not providing any reasons for its decision.³³ If a certified question is accepted, the parties will brief and argue the question according to normal appellate procedures and the Supreme Court will answer the question in a written opinion.³⁴

Paying the “Entry Fee”

In order for an appeal to move forward in the Vermont Supreme Court, the party seeking review must pay an “entry fee,”

which is the statutory fee required to initiate a cause in the Supreme Court.³⁵ This entry fee is distinct from, and in addition to, any applicable electronic filing fees.³⁶ In appeals from a final decision, the entry fee is due when the notice of appeal is filed, or if the appeal is from an administrative agency, within 14 days after the appeal is docketed in the Supreme Court.³⁷ In all other appeals, no entry fee is due until the appeal is accepted by the Supreme Court.³⁸ Failure to pay the entry fee can result in dismissal of the appeal.³⁹ Parties may seek to waive appellate and other court fees based on financial hardship.⁴⁰

Stays and Injunctions Pending Appeal

In Vermont, the filing of an appeal automatically stays enforcement of the judgment in many cases.⁴¹ In cases where a stay is not automatic, a party ordinarily must first request a stay or injunction pending appeal from the lower court.⁴² A stay or injunction pending appeal can be requested from the Supreme Court if a party can show that the lower court already denied the requested relief or that seeking relief from the lower court would be impractical.⁴³ The Supreme Court may condition relief on a party’s filing a bond or other appropriate security in the lower court.⁴⁴

Completing the Record

Once an appeal has been taken, the next step is to complete the record on appeal, which consists of (1) all “documents, data, and exhibits” filed in the lower court; (2) any transcript or authorized recording of the lower court proceedings; and (3) the record of actions from the lower court.⁴⁵

Following a notice of appeal, the lower court clerk must promptly transmit all documents in the lower court’s electronic case file, as well as any documents or audio or video exhibits not in the electronic case file but which are part of the record on appeal.⁴⁶ Note, however, that unless directed to do so by a party or the Supreme Court clerk, the lower court will not send “unusually bulky or heavy documents, and physical exhibits.”⁴⁷

Now that all Vermont courts have transitioned to electronic filing, the electronic case file is transmitted from the Superior Court to the Supreme Court through the electronic filing system. After the Supreme Court receives an appeal from the Superior Court, and within 14 days of docketing the appeal, the Supreme Court docket clerk must create an electronic “appeal volume” that contains all the PDF documents in the electronic case file.⁴⁸ In appeals from administrative agencies, which do not use the electronic filing system, the administrative clerk must still transmit the record doc-

uments to the Supreme Court either electronically or in hard copy. No electronic appeal volume is created in those cases.

The parties are responsible for ordering or otherwise obtaining the necessary transcripts.⁴⁹ Failure to order a transcript that is necessary “for informed appellate review” of a party’s argument will result in waiver of that argument.⁵⁰

Within 14 days of taking an appeal, the appellant must file and serve a docketing statement on a court-prescribed form.⁵¹ The appellee must do the same within 14 days thereafter.⁵² The docketing statement includes basic information about the case and the parties, the issues to be raised, and identifies the transcripts that will be necessary to consider the appeal.⁵³ The docketing statement also asks whether the appeal is “appropriate for expedited disposition by a three-Justice panel,” also known as the “rocket docket.”⁵⁴ Details of the court’s rocket docket procedures are discussed below.

Counsel are well-advised to pay close attention to the steps involved in completing the record to ensure that the lower court provides the Supreme Court with all the relevant documents upon which counsel intends to rely, including exhibits, stipulations, and interlocutory orders which—because of human or technological errors and limitations—may not have not included in the electronic case file. Questions and concerns about the record should be brought promptly to the attention of the Supreme Court docketing clerk.⁵⁵

Once all the documents and transcripts in the record have been received, the Supreme Court will inform the parties that the record is complete.⁵⁶ This notice starts the clock running on the parties’ briefing deadlines.⁵⁷

Motions

Motion practice at the Vermont Supreme Court is relatively straightforward. Unless otherwise provided by the Rules of Appellate procedure, any application for an order or other relief from the Supreme Court should be made in writing by motion.⁵⁸ The motion “must state with particularity the grounds for the motion and the order or relief sought,” and may include any necessary supporting affidavits or other materials.⁵⁹ Unless the Court otherwise orders, a non-moving party has 14 days to respond to a motion.⁶⁰ Replies in support of motions are neither expressly permitted nor prohibited.

The Court will generally wait to receive a response (but not a reply) before it rules on a motion, although it may rule on procedural motions—including extension requests—at any time even if a response has not been received.⁶¹

Motion papers should include a caption

stating the Supreme Court docket number and the name of the case, and a brief descriptive title indicating the purpose of the motion and identifying the party or parties for whom it is filed. Motion papers should otherwise follow the same formatting requirements as briefs, discussed below.⁶² In order to ensure that the Supreme Court docketing clerk clearly understands the relief being requested when viewing motions through the electronic-filing portal, motions requesting independent types of relief should be filed as separate documents.⁶³ Motions requesting emergency or expedited relief should clearly so indicate.

Briefs and Printed Case

Absent any extensions, the appellant's brief is due at the Vermont Supreme Court within 30 days after the record on appeal is complete, the appellee's brief is due 21 days after the appellant's brief is served, and the appellant's reply brief is due within 14 days after the appellee's brief is served.⁶⁴ In a cross-appeal, the cross-appellant's reply is due 14 days after service of the appellant's reply.⁶⁵ The brief of an amicus curiae, if allowed, is due at the same time as the main brief of the party the amicus is supporting, unless all parties agree to a different time.⁶⁶ Any of these deadlines may be extended by order of the Court.⁶⁷

Except in juvenile cases, the parties may stipulate to extend the briefing schedule—up to double the standard period—once for each brief.⁶⁸ A separate stipulation should be filed for each briefing deadline, and should clearly state the period being extended, the date to which the period is extended, and the reason for the extension.⁶⁹ Any further extensions should be made by motion and demonstrate good cause.⁷⁰

If an appellant fails to file its brief, the appeal is subject to dismissal; if an appellee fails to file, it will not be heard at oral argument absent the Court's permission.⁷¹

The formatting requirements for briefs have changed significantly with the advent of electronic filing.⁷² These changes—notably a requirement of 13-point font and 1.2 spacing between lines—were made after consideration of best practices from the American Bar Association and reflect that the justices and court staff now primarily read briefs electronically.⁷³

In cases where an electronic appeal volume has been created parties no longer need to file an appendix or “printed case” of relevant materials from the record on appeal.⁷⁴ A printed case remains mandatory, however, in cases without an appeal volume such as appeals from most administrative agencies.⁷⁵ A party may also choose to file a printed case if the appeal volume is incomplete (for example, if not all paper records were scanned in electronic form by the trial

court) or if the appeal volume is very large and a printed case including relevant excerpts from the record would be more useful to the Court and the parties.⁷⁶

The Rocket Docket

The rocket docket is an innovation that Vermont first implemented in 1991 to deal with a rising appellate caseload, in lieu of creating an intermediate appellate court.⁷⁷ As noted above, the rocket docket is a rotating 3-justice panel of the Court that resolves a portion of the Court's docket on an expedited basis. The intent of the rocket docket procedure is to expeditiously resolve those cases that do not necessarily require consideration by the full Court.⁷⁸ Under current practice, court staff make the initial decision to assign a case to the rocket docket, but if any justice objects, the case will be heard by the full Court.⁷⁹

An appeal is not appropriate for disposition on the rocket docket if “(1) the Court may be establishing a new rule of law, altering or modifying an existing rule, or applying an established rule to a novel fact situation; (2) the case involves a legal issue of substantial public interest; (3) the Court may be criticizing existing law; or (4) the Court may be resolving conflict or apparent conflict between three-justice panels of the Court.”⁸⁰

It is not uncommon for an appeal to be scheduled for argument or submission on the rocket docket term but ultimately heard by the full Court on short notice, presumably because one of the justices concluded after reviewing the file that full Court disposition was warranted. Rocket docket decisions must be unanimous, and if they are not, they will be reargued before the full Court.⁸¹

An unpublished decision by a 3-justice panel is not controlling precedent except as to narrow issues involving the same parties and dispute like preclusion and law-of-the-case, but the decision may be cited as persuasive authority in future cases.⁸² Decisions by 3-justice panels are generally issued by the Court within several days of the term for which they are scheduled, as compared to several months for decisions by the full Court. Appeals decided on the rocket docket are affirmed at a significantly higher rate than appeals decided by the full Court.⁸³

Argument

Once an appeal is fully briefed, it will be scheduled for consideration at the next available term, either on the rocket docket or by the full Court.⁸⁴ Both sit once a month, although the full Court generally does not sit for a regular term in the summer months. Once the appeal is scheduled, the Court

will provide notice to the parties and set a deadline for requesting oral argument. If any party requests argument, both sides will have the opportunity to present argument at the scheduled term. Arguments before the full Court are 15 minutes per side, while arguments on the rocket docket are 5 minutes per side. The Court may grant additional argument time, and it regularly does so in complex cases.⁸⁵ If no party requests arguments, the case will be decided on the briefs submitted unless the Court *sua sponte* sets the case for argument.⁸⁶

The Vermont Supreme Court takes a fairly “hands off” approach to how parties handle their argument time. An appellant who requests rebuttal time will only be permitted to actually speak on rebuttal if they have managed to step down from the podium at the end of their primary argument with some of their allotted time remaining. Many unassuming lawyers have walked up to the podium prepared to deliver a carefully prepared rebuttal argument only to be informed by the bailiff that “appellant has no time remaining.” Likewise, in cases involving multiple parties or amici, it is counsel's responsibility to determine how to divide time amongst themselves. The Court generally will not provide a detailed argument schedule that divides time among co-counsel. And although a party may cede some of its time to an amicus curiae who filed a supporting brief, an amicus is not entitled to its own argument time absent permission of the Court, which is rarely granted.⁸⁷

Although remote argument at the Vermont Supreme Court was previously reserved mostly for self-represented parties who were incarcerated in state correctional facilities, the COVID-19 pandemic led to the Court to begin holding oral arguments exclusively via video-conference, with a live-stream for the public available on YouTube.⁸⁸ While the Court's exact plans for remote hearings in the future are still being determined, under the current rules, full-Court arguments are expected to be held in-person once the COVID-19 judicial emergency has expired, but any party with a case on the rocket docket may request to present oral argument by video conference no later than 7 days before the scheduled argument date.⁸⁹

Reargument

A party who loses at the Vermont Supreme Court may file a motion for reargument within 14 days after entry of judgment, although the Court may extend that deadline.⁹⁰ A motion for reargument “must state with particularity the points of law or fact—presented in the briefs upon the original argument—that the moving party believes the Court has overlooked or misap-

prehended and that would probably affect the result."⁹¹

Unless the Court requests, no answer to a motion for reargument is permitted, but ordinarily reargument will not be granted in the absence of such a request.⁹²

The Court typically disposes of motion for reargument with a short order indicating that the standard for reargument has not been met. The Court, however, may take any number of other actions in response to a reargument motion including amending the opinion, ordering additional briefing, or restoring the case to the calendar for reargument or resubmission.⁹³

The Court's mandate will not issue until after either any motions for reargument have been resolved or the reargument period has passed.⁹⁴

Conclusion

Although some of the personnel and procedures at the Vermont Supreme Court have changed over the past few years, the basics of practice at the Court remain the same: parties obtain appellate review of lower court decisions by filing briefs and presenting oral argument. Hopefully this guide may be of some assistance to counsel engaged in that worthy endeavor.

Ben Battles, Esq. is an attorney at Pollock Cohen LLP in Burlington, where his practice focuses on appellate litigation. He is co-chair of the VBA's Appellate Section and formerly served as the Solicitor General of Vermont.

¹ See generally Vt. Judiciary, Electronic Filing, <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing> (last visited Mar. 29, 2022).

² This guide draws from two recent CLE programs in which the author participated in, as well as guidance contained on the Vermont Supreme Court's website. See Vt. Supreme Ct., Appellate E-Filing Presentation (Aug. 31, 2021); Vt. Bar Ass'n, Appellate Practice Update (Oct. 15, 2021); Vt. Supreme Ct., Appealing to the Vermont Supreme Court, <https://www.vermontjudiciary.org/supreme-court/appealing-supreme-court> (last visited Mar. 29, 2022). Thanks to Vermont Supreme Court Deputy Clerk Emily Wetherell for her input and review on this guide. All opinions and mistakes are entirely the author's own.

³ 4 V.S.A. §§ 1, 30, 1102; see Vt. Const., ch. II, §§ 4, 30, 31. The Environmental Division of the Superior Court has statewide jurisdiction, but all other divisions are divided into county units. 4 V.S.A. § 30. The Judicial Bureau hears cases in the unit of the Superior Court where the offense occurred. 4 V.S.A. § 1103. Small claims cases are heard in the Civil Division and governed by simplified rules of procedure. See V.R.S.C.P. 1(a).

⁴ Vt. Const., ch. II, §§ 30; 4 V.S.A. § 2(a). The Superior Court has several discrete categories of appellate jurisdiction. For example, the Environmental Division can hear appeals from administrative permitting, zoning, and other land-use decisions, 10 V.S.A. § 8504, the Civil Division can hear appeals in small claims cases and from certain decisions of the Probate Division, 12 V.S.A. §§ 2553,

2555, 5538, and the Criminal Division can hear appeals from the Judicial Bureau, 4 V.S.A. § 1107.

⁵ Following the creation of the Nevada Court of Appeals in 2014 and the West Virginia Court of Appeals in 2021, only Delaware, Maine, Montana, New Hampshire, Rhode Island, South Dakota, Vermont, and Wyoming lack an intermediate appellate court. See Nat'l Center for State Courts, *The Role of Intermediate Appellate Courts: Principles for Adapting to Change* (Nov. 2012); Hoppy Kercheval, *WV Will Get an Intermediate Appellate Court – Finally*, MetroNews (Apr. 5, 2021), available at <https://wvmetronews.com/2021/04/05/wv-will-get-an-intermediate-appellate-court-finally/>; Nevada Judiciary, Ct. of Appeals, https://nv-courts.gov/Supreme/Court_Information/Court_of_Appeals/ (last visited Mar. 30, 2022).

⁶ Vt. Const., ch. II, § 30; 4 V.S.A. § 2(b).

⁷ Vt. Const., ch. II, § 30; 4 V.S.A. § 3; 12 V.S.A. § 1.

⁸ V.R.A.P. 1. This guide will use the term "lower court" to refer to both the Superior Court and an administrative agency from which an appeal is taken, and the term "clerk" to refer to both the Superior Court clerk and the officer with comparable service and filing responsibilities at an administrative agency.

⁹ See generally *In re Pyramid Co of Burlington*, 141 Vt. 294, 300-01, 449 A.2d 915, 918 (1982); Vt. Supreme Ct., Supreme Ct. Statistics, <https://www.vermontjudiciary.org/supreme-court> (last visited Mar. 30, 2022).

¹⁰ V.R.A.P. 3, 4(a); see 12 V.S.A. § 2383.

¹¹ See *Moran v. Vermont State Ret. Bd.*, 2015 VT 119, ¶ 14, 200 Vt. 354, 131 A.3d 212, 217 ("Appellate Rules 3 and 4 make clear that the timely filing of the notice of appeal is a jurisdictional requirement.").

¹² V.R.A.P. 4(a)(6).

¹³ V.R.A.P. 4(b).

¹⁴ V.R.A.P. 4(a)(2). But if the case involves a sentence of life imprisonment, and the defendant has not waived the right to appeal, the State has the usual 30-day deadline. *Id.* The State's ability to file an appeal in a criminal case is further circumscribed by constitutional and statutory limitations. See U.S. Const. amend. V, cl. 2; 13 V.S.A. § 7403.

¹⁵ V.R.A.P. 4(d). Notably, the Supreme Court cannot extend the appeal deadline itself in the first instance, although it can review a lower court decision granting or denying a motion to extend the deadline. See, e.g., *In re von Turkovich*, 2018 VT 57, ¶¶ 3-4, 207 Vt. 545, 191 A.3d 974.

¹⁶ See 4 V.S.A. § 1107(d) (Judicial Bureau); 12 V.S.A. §§ 4601 (foreclosure actions), 5538 (small claims).

¹⁷ V.R.A.P. 6(a)(1) (for seeking permission from the Superior Court), (b)(1), (2) (for seeking permission from the Supreme Court by filing in the Superior Court).

¹⁸ V.R.A.P. 6(a)(4)

¹⁹ See *In re Trustees of Marjorie T. Palmer Trust*, 2018 VT 134, ¶ 30, 209 Vt. 192, 204 A.3d 623 (cit-

ing *In re J.G.*, 160 Vt. 250, 255, 627 A.2d 362, 365 (1993)).

²⁰ V.R.A.P. 5(a). See *State v. Misch*, 2021 VT 10, ¶ 4, 256 A.3d 519.

²¹ V.R.A.P. 5(b), 5.1.

²² V.R.A.P. 5(b)(1).

²³ V.R.A.P. 5.1(a)(1).

²⁴ V.R.A.P. 5(b)(5)(A), (b)(7), 5.1(a)(2), (b)(2). This is distinct from the federal system, in which collateral final orders are treated as final orders that may be appealed as of right. See generally *In re J.G.*, 160 Vt. at 253-54, 627 A.2d at 363-64.

²⁵ V.R.A.P. 5(b)(5)(A).

²⁶ See V.R.A.P. 4(a)(2).

²⁷ V.R.A.P. 5(b)(4)(A). The shortened time period for the State to seek permission to appeal in criminal actions is set forth in Rule 5(b). Rule 5.1, which governs collateral final order appeals, does not distinguish between parties or between civil and criminal actions.

²⁸ V.R.A.P. 21(b).

²⁹ V.R.A.P. 21(a)(2), (3).

³⁰ V.R.A.P. 21(a)(1). But see V.R.A.P. 21(a)(4) ("The Court or a justice may issue any orders necessary or resolve the complaint promptly"); *State v. Van Buren*, 2018 VT 95, ¶ 17 n.6, 210 Vt. 293, 214 A.3d 791; *Turner v. Shumlin*, 2017 VT 2, ¶ 5 n.2, 204 Vt. 78, 163 A.3d 11373.

³¹ V.R.A.P. 14; see also, e.g., U.S. Court of Appeals for the Second Circuit, Local R. 27.2.

³² V.R.A.P. 14(a).

³³ V.R.A.P. 14(a). But the Court of course can provide an explanation. See, e.g., *Valente v. French*, No. 2021-099 (Vt. June 14, 2021) (unpub. entry order) (declining to answer question certified by federal district court about state constitutional limitations on funding religious education because question was "abstract" and "better suited for the legislative or executive branches of government in the first instance, informed by more detailed knowledge of school operations and other factors bearing on the nature and feasibility of specific proposed safeguards").

³⁴ V.R.A.P. 14(g), (h).

³⁵ 32 V.S.A. § 1431(a).

³⁶ See V.R.A.P. 1(c)(5).

³⁷ V.R.A.P. 3(b)(1).

³⁸ V.R.A.P. 5(a)(3), 5(b)(6)(B), 5(b)(7)(D), 5.1(c)(2), 6(a)(7), 6(b)(10)(B), 14(g).

³⁹ V.R.A.P. 4(b)(1)(D), 12(f).

⁴⁰ 39 V.S.A. § 1431(h); V.R.A.P. 24; Vt. R. Civ. P. 3.1.

⁴¹ See V.R.C.P. 62(d); V.R.Cr.P. 38; V.R.F.P. 12.

⁴² V.R.A.P. 8(a)(1).

⁴³ V.R.A.P. 8(a)(2).

⁴⁴ V.R.A.P. 8(b).

⁴⁵ V.R.A.P. 10(a).

⁴⁶ V.R.A.P. 11(b)(1).

⁴⁷ V.R.A.P. 11(b)(3).

⁴⁸ V.R.A.P. 12(a).

⁴⁹ V.R.A.P. 10(b), 11(a)(1), (b)(5).

⁵⁰ V.R.A.P. 10(b).

⁵¹ V.R.A.P. 3(e).