

STATE OF WEST VIRGINIA

On December 29, 2025, at the Supreme Court of Appeals of West Virginia, the following order was made and entered:

RE: Request for Public Comment on Amendments to Rule 21 of the West Virginia Rules of Appellate Procedure

No. 25-846

The Court has considered amendments to Rule 21 of the Rules of Appellate Procedure. The Court has jurisdiction to consider these amendments under Article VIII, §§ 1 and 3 of the West Virginia Constitution.

Upon consideration and review, the Court is of the opinion that the proposed amendments be published for a period of public comment for thirty days.

Comments may be filed in writing with the Office of the Clerk on or before January 30, 2026. Additions are indicated by underscoring, and deletions are indicated by strike-through.

RULES OF APPELLATE PROCEDURE

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Rule 21. Memorandum decisions.

(c) *Affirmance*. — A memorandum decision affirming the decision of the lower tribunal may be entered under this Rule when: (1) the Intermediate Court or the Supreme Court finds no substantial question of law and does not disagree with the decision of the lower tribunal as to the question of law; (2) upon consideration of the applicable standard of review and the record presented, the Intermediate Court or the Supreme Court finds no prejudicial error; or (3) other just cause exists for summary affirmance. Summary affirmance constitutes a decision on the merits. A memorandum decision that summarily affirms a lower tribunal's decision is an affirmance of the lower tribunal's outcome but not necessarily the lower tribunal's reasoning. The

memorandum decision shall contain a concise statement of the reason for affirmance, ~~and a~~
~~concise statement of the reason for issuing a memorandum decision instead of an opinion.~~

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A True Copy

Attest: /s/ C. Casey Forbes
Clerk of Court

