**CMCR 237.1**

**Proposed and approved**

**June 9, 2023**

**[REDLINE VERSION]**

**Rule 237.1. No Colorado Rule**

**[CLEAN VERSION]**

**Rule 237.1. Interlocutory Appeals**

**(a) Grounds**. The prosecuting attorney may file an interlocutory appeal in the district court from a ruling of a municipal court granting a motion made in advance of trial by the defendant for return of property and to suppress evidence or granting a motion to suppress evidence or granting a motion to suppress an extra-judicial confession or admission; provided that the prosecuting attorney certifies to the judge who granted such motion and to the district court that the appeal is not taken for purposes of delay and that the evidence is a substantial part of the proof of the charge pending against the defendant.

**(b) Filing Notice of Appeal**. The prosecuting attorney shall file the notice of appeal with the clerk of the district court and shall serve the defendant and the clerk of the trial court with a copy thereof. Such notice of appeal shall be filed within 14 days of the entry of the order being appealed and any docket fee shall be paid at the time of the filing.

**(c) Contents of Record on Appeal**. The record for an interlocutory appeal shall consist of the complaint, the motions filed by the defendant or defendants and the grounds stated in section (a) above, a transcript of all testimony taken at the hearing on said motions and such exhibits or reasonable copies, facsimiles, or photographs thereof as the parties may designate (subject to the provisions in [C.A.R. 11(b)](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005372&cite=COSTACTR11&originatingDoc=N5DAF91303D8411E19AEACC8FBA121B05&refType=LQ&originationContext=document&transitionType=DocumentItem&ppcid=1b65e1a8001f43ad9ed2ef7a6230f67c&contextData=(sc.Search)) pertaining to exhibits of bulk), the order of court ruling on said motions and the date, if one has been fixed, that the case is set for trial or a certificate by the clerk that the case has not been set for trial. The record shall be filed within 14 days of the date of filing the notice of appeal, and may be supplemented by order of the district court.

**(d) Briefs**. Within 14 days after the record has been filed in the district court, the prosecuting attorney shall file an opening brief. Within 14 days after service of said opening brief, the defendant shall file an answer brief, and the prosecuting attorney shall have 7 days after service of said answer brief to file a reply brief.

**(e) Disposition of Cause**. Unless oral argument is ordered by the court and it rules on the record and in the presence of the parties, the decision of the court shall be by written opinion, copies of which shall be transmitted by the clerk of the court by mail to the trial judge and to all parties. No petition for rehearing shall be permitted. A certified copy of the judgment and directions to the county court, and a copy of the written opinion, if any, shall constitute the mandate of the district court, concluding the appeal and restoring jurisdiction to the county court. Such mandate shall issue and be transmitted by the clerk of the court by mail to the trial judge and all parties on the 44th day after the district court's oral or written order, unless the district court is given notice by one of the parties that it has sought further review by the supreme court upon a writ of certiorari pursuant to the rules of that court, in which case the mandate shall issue upon notification that certiorari has been denied or upon receiving the remittitur of the supreme court.

**(f) Time.** The time limits herein may only be enlarged by order of the appropriate court before the existing time limit has expired.

**(g)** If no procedure is specifically prescribed by this rule, the court shall look to the Rules of Appellate Procedure for guidance.

**(h)** Nothing in this Rule 237.1 shall be construed to deprive the municipal court of jurisdiction to consider bail issues during the pendency of the interlocutory appeal.