

20-3018. Transfer of certain cases docketed in supreme court to court of appeals; transfer of cases docketed in wrong court; effect; motion for rehearing by court of appeals; petition for review of case by supreme court; rules of supreme court; authority of supreme court in granting or denying review; power of supreme court to order transfer of case from court of appeals to supreme court.

(a) Any case within the jurisdiction of the court of appeals which is erroneously docketed in the supreme court shall be transferred by the supreme court to the court of appeals. Any case within the jurisdiction of the court of appeals and in which notice of appeal to the supreme court was filed prior to January 10, 1977, may be transferred to the court of appeals by the supreme court. No case docketed either in the supreme court or the court of appeals shall be dismissed solely for the reason of having been filed in the wrong court, but shall be transferred by the supreme court to the court which the supreme court determines to have jurisdiction. Any such case shall be considered timely and properly filed in the court to which it is transferred.

(b) Any party aggrieved by a decision of the court of appeals may file a motion with such court for a rehearing, in accordance with rules of the supreme court, but such motion shall not be a condition precedent to a review of such decision by the supreme court, and any such party may petition the supreme court for review within thirty (30) days after the date of such decision. The procedures governing petitions for review shall be prescribed by rules of the supreme court, and the review of any such decision shall be at the discretion of the supreme court. While neither controlling nor fully measuring the court's discretion, the following shall be considered in determining whether review will be granted: (1) The general importance of the question presented; (2) the existence of a conflict between the decision sought to be reviewed and a prior decision of the supreme court, or of another panel of the court of appeals; (3) the need for exercising the supreme court's supervisory authority; and (4) the final or interlocutory character of the judgment, order or ruling sought to be reviewed.

(c) At any time on its own motion, the supreme court may order the court of appeals to transfer any case before the court of appeals to the supreme court for review and final determination.

History: L. 1975, ch. 178, § 18; July 1.