

RULE 9.600 | JURISDICTION OF LOWER TRIBUNAL PENDING REVIEW

(a) Concurrent Jurisdiction. Only the court may grant an extension of time for any act required by these rules. Before the record is docketed, the lower tribunal shall have concurrent jurisdiction with the court to render orders on any other procedural matter relating to the cause, subject to the control of the court, provided that clerical mistakes in judgments, decrees, or other parts of the record arising from oversight or omission may be corrected by the lower tribunal on its own initiative after notice or on motion of any party before the record is docketed in the court, and, thereafter with leave of the court.

(b) Further Proceedings. If the jurisdiction of the lower tribunal has been divested by an appeal from a final order, the court by order may permit the lower tribunal to proceed with specifically stated matters during the pendency of the appeal.

(c) Family Law Matters. In family law matters:

(1) The lower tribunal shall retain jurisdiction to enter and enforce orders awarding separate maintenance, child support, alimony, attorneys' fees and costs for services rendered in the lower tribunal, temporary attorneys' fees and costs reasonably necessary to prosecute or defend an appeal, or other awards necessary to protect the welfare and rights of any party pending appeal.

(2) The receipt, payment, or transfer of funds or property under an order in a family law matter shall not prejudice the rights of appeal of any party. The lower tribunal shall have the jurisdiction to impose, modify, or dissolve conditions upon the receipt or payment of such awards in order to protect the interests of the parties during the appeal.

(3) Review of orders entered pursuant to this subdivision shall be by motion filed in the court within 30 days of rendition.

(d) Criminal Cases. The lower tribunal shall retain jurisdiction to consider motions pursuant to Florida Rules of Criminal Procedure 3.800(b)(2) and in conjunction with post-trial release pursuant to rule 9.140(h).



Committee Notes

1977 Amendment. This rule governs the jurisdiction of the lower tribunal during the pendency of review proceedings, except for interlocutory appeals. If an interlocutory appeal is taken, the lower tribunal's jurisdiction is governed by rule 9.130(f).

Subdivision (b) replaces former rule 3.8(a). It allows for continuation of various aspects of the proceeding in the lower tribunal, as may be allowed by the court, without a formal remand of the cause. This rule is intended to prevent unnecessary delays in the resolution of disputes.

Subdivision (c) is derived from former rule 3.8(b). It provides for jurisdiction in the lower tribunal to enter and enforce orders awarding separate maintenance, child support, alimony, temporary suit money, and attorneys' fees. Such orders may be reviewed by motion.

1980 Amendment. Subdivision (a) was amended to clarify the appellate court's paramount control over the lower tribunal in the exercise of its concurrent jurisdiction over procedural matters. This amendment would allow the appellate court to limit the number of extensions of time granted by a lower tribunal, for example.

1994 Amendment. Subdivision (c) was amended to conform to and implement section 61.16(1), Florida Statutes (1994 Supp.), authorizing the lower tribunal to award temporary appellate attorneys' fees, suit money, and costs.

1996 Amendment. New rule 9.600(d) recognizes the jurisdiction of the trial courts, while an appeal is pending, to rule on motions for post-trial release, as authorized by rule 9.140(g), and to decide motions pursuant to Florida Rule of Criminal Procedure 3.800(a), as authorized by case law such as *Barber v. State*, 590 So. 2d 527 (Fla. 2d DCA 1991).

