

Rule 11. The record on appeal.

(a) **Composition of the record on appeal.** The original papers and exhibits filed in the trial court, including the presentence report in criminal matters, the transcript of proceedings, if any, the index prepared by the clerk of the trial court, and the docket sheet, shall constitute the record on appeal in all cases. A copy of the record certified by the clerk of the trial court to conform to the original may be substituted for the original as the record on appeal. Only those papers prescribed under paragraph (d) of this rule shall be transmitted to the appellate court.

(b) **Pagination and indexing of record.**

(b)(1) Immediately upon filing of the notice of appeal, the clerk of the trial court shall securely fasten the record in a trial court case file, with collation in the following order:

(b)(1)(A) the index prepared by the clerk;

(b)(1)(B) the docket sheet;

(b)(1)(C) all original papers in chronological order;

(b)(1)(D) all published depositions in chronological order;

(b)(1)(E) all transcripts prepared for appeal in chronological order;

(b)(1)(F) a list of all exhibits offered in the proceeding; and

(b)(1)(G) in criminal cases, the presentence investigation report.

(b)(2)(A) The clerk shall mark the bottom right corner of every page of the collated index, docket sheet, and all original papers as well as the cover page only of all published depositions and the cover page only of each volume of transcripts constituting the record with a sequential number using one series of numerals for the entire record.

(b)(2)(B) If a supplemental record is forwarded to the appellate court, the clerk shall collate the papers, depositions, and transcripts of the supplemental record in the same order as the original record and mark the bottom right corner of each page of the collated original papers as well as the cover page only of all published depositions and the cover page only of each volume of transcripts constituting the

supplemental record with a sequential number beginning with the number next following the number of the last page of the original record.

(b)(3) The clerk shall prepare a chronological index of the record. The index shall contain a reference to the date on which the paper, deposition or transcript was filed in the trial court and the starting page of the record on which the paper, deposition or transcript will be found.

(b)(4) Clerks of the trial and appellate courts shall establish rules and procedures for checking out the record after pagination for use by the parties in preparing briefs for an appeal or in preparing or briefing a petition for writ of certiorari.

(c) **Duty of appellant.** After filing the notice of appeal, the appellant, or in the event that more than one appeal is taken, each appellant, shall comply with the provisions of paragraphs (d) and (e) of this rule and shall take any other action necessary to enable the clerk of the trial court to assemble and transmit the record. A single record shall be transmitted.

(d) **Papers on appeal.**

(d)(1) Criminal cases. All of the papers in a criminal case shall be included by the clerk of the trial court as part of the record on appeal.

(d)(2) Civil cases. Unless otherwise directed by the appellate court upon sua sponte motion or motion of a party, the clerk of the trial court shall include all of the papers in a civil case as part of the record on appeal.

(d)(3) Agency cases. Unless otherwise directed by the appellate court upon sua sponte motion or motion of a party, the agency shall include all papers in the agency file as part of the record.

(e) **The transcript of proceedings; duty of appellant to order; notice to appellee if partial transcript is ordered.**

(e)(1) Request for transcript; time for filing. Within 10 days after filing the notice of appeal, the appellant shall, order the transcript(s) online at www.utcourts.gov, specifying the entire proceeding or parts of the proceeding to be transcribed that are not already on file. The appellant shall serve on the appellee a designation of those parts of the proceeding to be transcribed. If the appellant desires a transcript in a compressed format,

appellant shall include the request for a compressed format within the request for transcript. If no such parts of the proceedings are to be requested, within the same period the appellant shall file a certificate to that effect with the clerk of the appellate court and serve a copy of that certificate on the appellee.

(e)(2) Transcript required of all evidence regarding challenged finding or conclusion. If the appellant intends to urge on appeal that a finding or conclusion is unsupported by or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion. Neither the court nor the appellee is obligated to correct appellant's deficiencies in providing the relevant portions of the transcript.

(e)(3) Statement of issues; Cross-designation by appellee. If the appellant does not order the entire transcript, the appellee may, within 10 days after the service of the designation or certificate described in paragraph (e)(1) of this rule, file and serve on the appellant a designation of additional parts to be included.

(f) **Agreed statement as the record on appeal.** In lieu of the record on appeal as defined in paragraph (a) of this rule, the parties may prepare and sign a statement of the case, showing how the issues presented by the appeal arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the statement conforms to the truth, it, together with such additions as the trial court may consider necessary fully to present the issues raised by the appeal, shall be approved by the trial court. The clerk of the trial court shall transmit the statement to the clerk of the appellate court within the time prescribed by Rule [12\(b\)\(2\)](#). The clerk of the trial court shall transmit the index of the record to the clerk of the appellate court upon approval of the statement by the trial court.

(g) **Statement of evidence or proceedings when no report was made or when transcript is unavailable.** If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, or if the appellant is impecunious and unable to afford a transcript in a civil case, the appellant may prepare a statement of the evidence or proceedings from the best available means, including recollection. The statement shall be served on the appellee, who may serve objections or propose amendments within 10 days after service. The statement and any

objections or proposed amendments shall be submitted to the trial court for settlement and approval and, as settled and approved, shall be included by the clerk of the trial court in the record on appeal.

(h) **Correction or modification of the record.** If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is misstated or is omitted from the record by error, by accident, or because the appellant did not order a transcript of proceedings that the appellee needs to respond to issues raised in the Brief of Appellant, the parties by stipulation, the trial court, or the appellate court, either before or after the record is transmitted, may direct that the omission or misstatement be corrected and, if necessary, that a supplemental record be certified and transmitted. The moving party, or the court if it is acting on its own initiative, shall serve on the parties a statement of the proposed changes. Within 10 days after service, any party may serve objections to the proposed changes. All other questions as to the form and content of the record shall be presented to the appellate court.

Advisory Committee Note

~~The rule is amended to make applicable in the Supreme Court a procedure of the Court of Appeals for preparing a transcript where the record is maintained by an electronic recording device. The rule is modified slightly from the former Court of Appeals rule to make it the appellant's responsibility, not the clerk's responsibility, to arrange for the preparation of the transcript.~~