

Alabama Rules for Using Videotape Equipment to Record Court Proceedings

Rule 4.

Record on appeal.

The record on appeal shall consist of the clerk's record and the videotape record referred to in paragraph (A) below. To the extent that the provisions in Rules 10 and 11, Alabama Rules of Appellate Procedure, regarding the "record on appeal" in civil and criminal cases do not conflict with the provisions of these rules, they shall remain applicable to proceedings recorded on videotape; provided, however, that any reference to the "reporter's transcript" in those rules shall be construed to refer to the "videotape record" referred to in paragraph (A) below. Unless ordered by the appellate court – see Rules 3(D) and 6(A) – no transcript of any proceeding recorded on videotape pursuant to these rules shall be made a part of the record on appeal.

(A) *Composition of the videotape record.* The clerk of the trial court shall include in the videotape record the set of videotapes identified by the letter "A," as set out in Rule 3(A)(1).

(B) *Preparation, completion, and transmission of the record on appeal.* The record on appeal shall be prepared by the clerk of the trial court as soon as practicable after the filing of the notice of appeal and shall be completed no later than 28 days (4 weeks) after the filing of the notice of appeal. In any case, civil or criminal, the trial court may, for good cause shown, grant an extension of time for completion of the record on appeal to a date not later than 42 days (6 weeks) from the filing of the notice of appeal. When a trial court is without authority to grant a further extension in a particular case or has denied a request for an extension, the clerk may file a motion with the appellate court pursuant to Rule 11(c), Alabama Rules of Appellate Procedure.

(1) CIVIL. Within the time fixed in this rule (or within the time allowed by any extension) for preparation and completion of the record on appeal, the clerk shall file a certificate of completion with the clerk of the appellate court and shall simultaneously serve copies of the certificate of completion on each party to the appeal. The certificate of completion shall state that the record on appeal is assembled and shall state the date the certificate was forwarded to the clerk of the appellate court. (See the form styled "Certificate of Completion of Record on Appeal by Trial Clerk (Civil Case)" appearing in the appendix to these rules.)

The clerk shall then make the record on appeal available to the parties for the preparation of briefs and the appendix. If a party orders additional copies of the record on appeal or of a portion thereof, the clerk of the trial court, upon payment to the clerk of the fees prescribed in Rule 3(A)(2) and the fees prescribed in Rule 29, Alabama Rules of Judicial Administration, shall supply photocopies of the paper portion of the record on appeal and duplicate videotapes of the official record of the proceedings. The clerk will first make the record on appeal available to counsel for the appellant and then will make

it available to counsel for the appellee. Counsel for the appellee shall return it before filing the appellee's brief in the appellate court. If it is withdrawn by counsel for the appellant for the purposes of preparing a reply brief, it shall be returned before that brief is filed with the appellate court. Withdrawals and returns of the record on appeal in a particular action shall be noted by the clerk on the case action summary sheet kept for that action. At the time of filing and service of the appellee's brief, the appellee shall also give notice of the filing of that brief to the clerk of the trial court.

The clerk of the trial court shall file the record on appeal with the clerk of the appellate court within the time prescribed by Rule 11(a)(3), Alabama Rules of Appellate Procedure. (See Form 10 in Appendix 1 to the Alabama Rules of Appellate Procedure.)

The filing of the certificate of completion or of the record on appeal is effectuated when it is received in the office of the clerk of the appellate court, except that it shall be deemed to be filed on the day of mailing if it is sent by certified or registered mail.

(2) CRIMINAL. Within the time fixed in this rule (or within the time allowed by any extension), the clerk of the trial court (1) shall prepare the record on appeal and three certified copies thereof; (2) shall file with the clerk of the appellate court the record on appeal, along with a certificate of completion; and (3) simultaneously with the filing of the record on appeal, shall serve a copy of the certificate of completion, along with a certified copy of the record on appeal, on the defendant or the defendant's attorney and on the attorney general.

The clerk of the trial court shall include in the record on appeal, and in each certified copy thereof, an index to the entire record, including an index to the documents, papers, charges, and exhibits that either cannot be photocopied or cannot be legibly photocopied. The certificate of completion shall state that the record on appeal has been forwarded to the clerk of the appellate court and shall state the date on which the record on appeal was so forwarded. (See the form styled "Certificate of Completion and Transmittal of Record on Appeal by Trial Clerk (Criminal Case)" appearing in the appendix to these rules.)

The filing of the certificate of completion or of the record on appeal is effectuated when it is received in the office of the clerk of the appellate court, except that it shall be deemed to be filed on the day of mailing if it is sent by certified or registered mail. The clerk of the appellate court shall notify the attorney general and the defendant, or the defendant's attorney, of the date on which the record on appeal was filed in the appellate court.