

Alabama Rules of Appellate Procedure

Rule 10.

The record on appeal.

(a) *Omitted parts of record.* The record on appeal, in both civil and criminal appeals, shall not contain the following, unless some particular question is raised with respect thereto and decided in the trial court and unless specifically designated by a party:

(1) subpoenas or summons for any witness or the order therefor, nor for any defendant where there is an appearance for such defendant;

(2) motion and order of continuance;

(3) commission to examine a witness or certificate of a commissioner to a deposition or affidavit made to obtain such commission;

(4) pretrial discovery material that is not made a part of the trial court's proceedings;

(5) in criminal cases, the organization of the grand jury that found the indictment, nor the venire for any grand or petit jury, nor the organization of regular juries for the week or term at which the case was tried, nor the order of the court for service of the copy of the venire or the indictment upon the defendant or the sheriff's return to said order, unless some question thereto was raised before the trial court; provided, however, that nothing in this subsection shall be construed to excuse the court reporter from taking down such parts of the proceedings; and

(6) juror questionnaires filed with the trial court, which shall be treated as provided in Rule 18.2(b), Alabama Rules of Criminal Procedure.

(b) *Composition of the record on appeal — Civil.* The "record on appeal" in a civil case shall be composed of two parts, one known as the clerk's record and the other known as the reporter's transcript. The parties have the right, under (1) below, to a designated clerk's record, assembled pursuant to Rule 11(a)(1). The parties have the right, under (2) below, to a designated transcript of the evidence, assembled pursuant to Rule 11(a)(2). The clerk shall bind both parts, clerk's record and reporter's transcript, into a single record on appeal for transmittal to the appropriate appellate court, pursuant to Rule 11(a)(3).

In the event that there is no reporter's transcript or the appellant decides not to order a transcript, then the appellant shall so indicate by checking the

appropriate space on Form 1, Notice of Appeal to the (Supreme) Court (of Civil Appeals) of Alabama, or so indicate on whatever notice of appeal form is used

The record on appeal shall be on letter-size paper (8½ inches by 11 inches), composed of a photocopy of the clerk's record and the original of the reporter's transcript. It shall be bound at the left side and separated into volumes not to exceed 200 pages each, with the pages of each of the two parts numbered consecutively on each page, pursuant to Rule 11(a)(3).

(1) CLERK'S RECORD. The clerk's record shall consist of such photocopied parts as the parties may designate of the original documents, written charges, papers, including but not limited to docket entries, minute entries, and exhibits (see Rule 11(e)) on file in the trial court clerk's office, plus the indices prepared in accordance with Rule 11(a)(1), and a photocopy of the written designations of the clerk's record.

The clerk's record shall be on letter-size photocopy paper, with pages numbered consecutively on each page.

A party shall have the right to designate any parts or all of such papers, written charges, documents, exhibits, etc., by a written designation filed with the clerk of the trial court. However, if all of such records are designated, there shall, nevertheless, be omitted therefrom those items listed in (a), unless such item or items are specifically described in the written designation.

The appellant shall, within 7 days (1 week) after filing the notice of appeal, order and file with the clerk of the trial court and serve on the appellee a written designation, which shall contain either a description of the parts of the clerk's records that the appellant intends to present on appeal or a designation of all of such records. If less than all of the proceedings are designated, in addition thereto the appellant shall serve on the appellee a statement of the issues the appellant intends to present on appeal. If the appellee deems other parts of the papers, written charges, documents, exhibits, etc., to be necessary, the appellee shall, within 7 days (1 week) after service of the designation of the appellant, file with the clerk of the trial court and serve on the appellant a designation of additional parts to be included or a recital that all of such records are to be included. If the appellant refuses to order such parts or the entire clerk's file, the appellee may either order the parts or apply to the trial court for an order requiring the appellant to do so. At the time of ordering, a party shall make satisfactory arrangements with the clerk for the payment of costs of photocopying the clerk's record.

Designated original photographs which were offered or admitted as exhibits shall be placed on pages in the clerk's record by a suitable attachment or cohesive method. Designated documents incapable of being legibly or otherwise photocopied, including those of unusual weight or bulk, and physical exhibits

shall be made a part of the clerk's record by reference but placed in a suitable separate container for transmittal to the appellate court.

(2) REPORTER'S TRANSCRIPT. The reporter's transcript shall consist of the typewritten original of the transcript of the proceedings containing such parts of the proceedings as are designated, plus a photocopy of the transcript purchase order, and an index.

The reporter's transcript shall be on letter-size paper, with pages numbered consecutively, a page number being on each page.

The parties may designate parts or all of the proceedings as they deem necessary for inclusion in the reporter's transcript. If the appellant urges on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include in the reporter's transcript all evidence relevant to such finding or conclusion

The appellant shall, within 7 days (1 week) after filing the notice of appeal, pay the court reporter the estimated cost of the reporter's transcript and complete and file Part I of Form 1A, Transcript Purchase Order of Appellant-Civil, and distribute copies of the form as indicated on the form. If less than all the proceedings are designated, the appellant shall attach a statement of the issues the appellant intends to present on appeal to page 5 of Form 1A, Transcript Purchase Order of Appellant-Civil, and distribute the copies as indicated on the form. On the date the transcript purchase order is received by the court reporter, the court reporter shall complete Part II of the form and distribute the copies of the form as indicated on the form. On the date the transcript is filed in the trial court, the court reporter shall complete Part III of Form 1A, Transcript Purchase Order of Appellant-Civil, and distribute the copies of the form as indicated on the form.

Once the court reporter has certified on Part II of Form 1A, Transcript Purchase Order of Appellant-Civil, that the court reporter has been paid the estimated cost of the reporter's transcript, the court reporter shall complete the transcript, within the time designated by these rules.

If the appellee deems that other parts of the proceedings should be included or that the entire proceeding should appear in the reporter's transcript, the appellee shall, within 7 days (1 week) after receipt of the transcript purchase order, pay the court reporter the estimated cost of transcribing that part of the proceedings the appellee has deemed necessary to be included in the record, and complete and file Part I of Form 1B, Transcript Purchase Order of Appellee-Civil, and distribute copies of the form as indicated on the form. On the date the transcript purchase order is received by the court reporter from the appellee, the court reporter shall complete Part II of the form and distribute copies of the form as indicated on the form. If the appellant did not order any part of the transcript,

then on the date the transcript is filed in the trial court, the court reporter shall complete Part III of Form 1B, Transcript Purchase Order of Appellee-Civil, and distribute the copies of the form as indicated on the form.

Once the court reporter has certified on Part II of Form 1B, Transcript Purchase Order of Appellee-Civil, that the court reporter has been paid the estimated cost of transcribing that part of the proceedings the appellee has deemed necessary to be included in the record, the court reporter shall complete that part of the transcript within the time designated by these rules.

At any time, the appellee may apply to the trial court for an order requiring the appellant to reimburse the appellee for any or all of the payment for the transcript made to the court reporter by the appellee.

(c) *Composition of the record on appeal — criminal.* The "record on appeal" in a criminal case shall be composed of two parts, one known as the clerk's record and the other known as the reporter's transcript. The record on appeal shall be on letter-size paper (8½ inches x 11 inches), bound at the left side and separated into volumes not to exceed 200 pages each. The clerk's portion of the record on appeal shall appear first, with the pages numbered consecutively on each page, beginning with the number one. The reporter's transcript of the proceedings shall follow the clerk's record and shall be numbered consecutively on each page beginning with the number one.

All clasps and staples used to bind the record on appeal shall be covered by tape so as to prevent any injury to those handling the record, and any other fastener that may cause injury shall likewise be covered *with tape*.

(1) CLERK'S RECORD. The clerk's portion of the record, with the exception of those items listed in subdivision (a) of this rule (unless those items listed in subdivisions (a)(1) through (5) are specifically designated in writing by the parties at the time written notice of appeal is filed, or if notice of appeal is given orally, within 7 days (1 week) after oral notice of appeal is given) shall include photocopies of the case action summary sheet(s), papers, documents, written charges, and exhibits, etc., in the case unless such papers, documents, and exhibits, etc., are incapable of being legibly photocopied. The originals of papers, documents, and exhibits that are incapable of being legibly photocopied, including those of unusual weight and bulk, shall be made a part of the record on appeal by reference, and shall be retained in the office of the clerk of the trial court. No original papers, documents, or exhibits, and no juror questionnaires shall be included in the clerk's record unless ordered by the Court of Criminal Appeals, in which event any originals filed in that court shall be returned to the clerk of the trial court upon final disposition of the appeal. The original reporter's transcript of the proceedings and the clerk's record, plus indexes of those documents and exhibits that are included and those that are made a part of the record on appeal by reference only, shall be bound as provided in this rule to make the record on appeal. The clerk's record shall also

include a certification that all documents and exhibits that are made a part of the record on appeal by reference only are available upon order of the appellate court. If original papers, documents, and exhibits, etc., are ordered by the appellate court, they shall be attached to pages in the clerk's supplemental record by suitable attachment or cohesive method unless the originals are incapable of being suitably attached, in which event they shall be properly identified and placed in a suitable separate container for transmittal to the appellate court.

(2) REPORTER'S TRANSCRIPT. The reporter's transcript shall contain the typewritten original transcript of all proceedings in the case specifically designated on Form 1C, Reporter's Transcript Order-Criminal; provided, however, that those items listed in subdivision (a) of this rule shall not be designated for inclusion in the reporter's transcript unless some question regarding those items was raised before the trial court. An index of the exhibits and testimony of the witnesses, plus a photocopy of the reporter's transcript order shall be included at the beginning of the reporter's transcript.

Unless a stipulation of facts is available or the parties stipulate that only questions of law are involved and the trial court certifies the questions, Form 1C, Reporter's Transcript Order-Criminal, shall be completed by the appellant and shall be filed with the clerk of the trial court at the time the written notice of appeal is filed. If notice of appeal is given orally, the Reporter's Transcript Order-Criminal shall be filed within 7 days (1 week) after the oral notice of appeal is given. On the same date the transcript order is filed with the clerk of the trial court, the appellant shall mail copies of the form to the clerk of the Court of Criminal Appeals, the district attorney, the attorney general, and each court reporter who reported proceedings designated for inclusion in the reporter's transcript. Unless the defendant has previously been adjudged indigent in the matter appealed or is permitted to proceed on appeal as an indigent, the appellant shall certify on the transcript order form that satisfactory financial arrangements have been made with each court reporter responsible for preparing a portion of the reporter's transcript.

The appellant will not be permitted to raise any issue on appeal relating to any proceedings in the case that are not specifically designated in the transcript order unless those proceedings were not required by law or rule to be designated; provided, however, that a designation of the "trial proceedings" on the reporter's transcript order shall be deemed to include the judgment and sentence proceedings in the case. All other proceedings that are requested must be separately requested on the reporter's transcript order.

The reporter's transcript order, may, without leave of the Court of Criminal Appeals, be (1) amended to include additional proceedings or (2) filed after the time provided in this rule has expired, provided that the form is accompanied by a certification that the appellant has consulted the court reporter(s) affected and has been assured that preparation of a transcript of

the designated proceeding(s) can and will be completed and filed with the clerk of the trial court within the time provided in these rules or within any extension in effect at the time the form is filed. A copy of the certification shall be served by the appellant on all persons entitled to service of a copy of the reporter's transcript order.

If the certification referred to herein cannot be made, leave to amend the reporter's transcript order or to file the reporter's transcript order late may be granted by the Court of Criminal Appeals but for good cause shown upon motion by the appellant; provided, however, that permission shall not be granted unless the appellant certifies in the motion that the appellant has consulted the court reporter(s) affected and has been assured that the proceedings requested can be completed and filed within a specified number of days from the granting of the motion.

On the date the reporter's transcript order is received, any court reporter who has not received satisfactory financial arrangements for preparation of his or her portion of the reporter's transcript shall complete Form 1D, Notice of Insufficient Financial Arrangements (Criminal), and shall file the original with the clerk of the Court of Criminal Appeals and serve copies on the appellant and the attorney general; provided, however, that Form 1D shall not be filed in an appeal from any proceeding in which the appellant proceeded at trial as an indigent or has been granted permission to proceed on appeal in forma pauperis as provided in Rule 24, because financial arrangements with the court reporter are not required in these instances. The Notice of Insufficient Financial Arrangements (Criminal) shall state the date the original was forwarded to the clerk of the Court of Criminal Appeals. Within 14 days after the notice is forwarded to the clerk of the Court of Criminal Appeals, the appellant shall file an affidavit with the clerk of the Court of Criminal Appeals stating that the court reporter(s) has/have been paid for preparing the transcript or an affidavit of the court reporter stating that adequate financial arrangements have been made. If one of the required affidavits is not filed with the clerk of the Court of Criminal Appeals within the required time, then the appeal shall be dismissed and will not be reinstated absent good cause shown.

In all cases in which the appellant proceeded in the trial court as an indigent and in all cases in which the court reporter has not filed a Notice of Insufficient Financial Arrangements (Criminal) after receipt of the reporter's transcript order, the court reporter shall complete his or her portion of the reporter's transcript within the time designated by these rules or within any extension that has been granted. The fact that an appellant is not granted permission to proceed as an indigent until after the appeal is filed does not affect the time prescribed in these rules for completion of the reporter's transcript.

(d) *Statement of the evidence or proceedings when no report was made or when a transcript is unavailable.* If no report of the evidence or proceedings at a

hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. If the appellant prepares such a statement, the appellant shall serve it on the appellee within 28 days (4 weeks) after filing the notice of appeal; the appellee, within 14 days (2 weeks) after service, may serve on the appellant objections or proposed amendments to the statement. If the appellee serves no objection or proposed amendments, then, within 21 days (3 weeks) after the statement was served on the appellee, the appellant shall file the statement with the trial court for approval. If the appellee serves on the appellant any objections or proposed amendments, then, within 7 days (1 week) after service, the appellant shall file the statement and any objections or proposed amendments with the trial court for settlement and approval. Within 21 days (3 weeks) after the filing, the trial court shall rule, settling any questions regarding the objections and proposed amendments, and issuing an approved statement of the evidence or proceedings. The statement, either as approved by the court or as issued by the court after its ruling, shall be filed with the clerk of the trial court, who shall include it in the record on appeal.

(e) *Agreed statement as the record on appeal.* In lieu of the record on appeal as defined in subdivision (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 how they 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 court may consider necessary to present fully the issues raised by the appeal, shall be approved by the trial court and shall then be certified to the appellate court to which the appeal is taken as the record on appeal, and it shall be transmitted thereto by the clerk of the trial court within the time provided by Rule 11.

(f) *Supplementing or correcting the record — Civil.* If admitted or offered evidence that is material to any issue on appeal is omitted from the record after being designated for inclusion as required in Rule 10(b), or if any question arises as to whether the record correctly reflects what occurred in the trial court and the parties cannot stipulate what action should be taken to supplement or correct the record, the appellant or the appellee may file with the trial court a motion to supplement or correct the record on appeal; provided that, if a party is seeking to have included in the record a transcript of proceedings that was omitted from the reporter's transcript, the party must file with the motion copies of the transcript purchase order as proof that the omitted portions were originally requested as required by Rule 10(b). Any party filing a motion with the trial court pursuant to this rule shall file a copy of the motion with the clerk of the appellate court and shall serve a copy on the appropriate court reporter, if the reporter's transcript is to be supplemented or corrected, and on all other parties. Within 14 days (2 weeks) after the filing of a motion pursuant to this rule or after the parties have stipulated as to what action should be taken, the trial court shall enter such

orders as are necessary to ensure that the record is complete and that it conforms to the truth. Failure by the trial court to rule on any motion filed in accordance with this rule within that 14-day (2-week) period shall constitute a denial of the motion as of the date of the expiration of the period.

Any dissatisfied party may, within 7 days (1 week) after the entry of an order on a motion to supplement or correct the record, or, if no order is entered, within 7 days (1 week) of the expiration of the 14-day (2-week) period provided in this rule for entry of an order by the trial court, seek appropriate relief in the appellate court.

The appellate court may, on the motion of a party or on its own initiative, order that a supplemental or corrected record be certified and transmitted to the appellate court if necessary to correct an omission or misstatement; provided, that, if the party is seeking to have included a transcript of proceedings that was omitted from the reporter's transcript, the party must file with the motion copies of the transcript purchase order as proof that the omitted portions were originally requested as required by Rule 10(b).

Every order of the trial court or appellate court directing that the record on appeal be supplemented or corrected shall be filed with the clerk of the court entering the order, who shall forthwith serve a copy of the order on each party, on the clerk of the other court involved, and, if the order requires that the reporter's transcript of the proceeding be supplemented or corrected, on the appropriate court reporter.

(1) BRIEFS. Where relief is sought pursuant to this rule, the running of the time for filing briefs is not suspended. A party may, however, move the appellate court to suspend the time for filing briefs. Such a motion must clearly indicate each and every document and/or transcript that has been omitted from the record on appeal and its relevance to the appeal.

(2) SUPPLEMENTAL RECORDS. The provisions of these rules relating to the assembling and filing of the original record on appeal shall apply to any supplemental or corrected records required to be prepared under this rule, except that the court reporter's supplemental or corrected transcript shall be filed with the clerk of the trial court within 7 days (1 week) from the date the order relating thereto is filed with the clerk of the trial court, and the clerk of the trial court shall file the supplemental or corrected record on appeal with the appellate court within 7 days (1 week) from receipt of the reporter's transcript, or if there is no reporter's transcript, within 7 days (1 week) from the filing in the trial court of the order of the trial court or appellate court directing that the record on appeal be supplemented or corrected. The trial court may grant to either the clerk of the trial court or the court reporter an extension of time of 7 days (1 week) to complete either the clerk's supplemental or corrected record or the reporter's supplemental or corrected transcript, but in no event to a date later than 21 days

(3 weeks) from the filing in the trial court of the order directing that the record on appeal be supplemented or corrected.

(g) *Supplementing or correcting the record — Criminal.* If admitted or offered evidence that is material to any issue on appeal is omitted from the record, or if any question arises as to whether the record correctly reflects what occurred in the trial court and the parties cannot stipulate as to what action should be taken to supplement or correct the record, the appellant may, within 14 days (2 weeks) after the date shown on the copy of the certificate of completion of the record on appeal, file a motion with the clerk of the trial court to supplement or correct the record on appeal; provided, that, if the appellant is seeking to have included a transcript of proceedings that was omitted from the reporter's transcript, the appellant must file with the motion copies of the reporter's transcript order as proof that the omitted portions were originally requested as required by Rule 10(c). The appellee may file a motion to supplement or correct the record on appeal within 14 days (2 weeks) after the filing of the appellant's brief. Any party filing a motion with the trial court pursuant to this rule shall serve a copy of the motion on the clerk of the appellate court and on all other parties, which copy shall state thereon the date on which the motion was filed with the clerk of the trial court. If the reporter's transcript is to be corrected or supplemented, the party filing the motion shall also serve a copy of the motion on the appropriate court reporter(s). If the appellant is seeking to have the reporter's transcript supplemented, the copy of the motion served on the clerk of the appellate court shall be accompanied by a copy of the reporter's transcript order. Within 14 days (2 weeks) after the filing of a motion pursuant to this rule or of a stipulation by the parties, the trial court shall enter such orders as are necessary to ensure that the record is complete and that it conforms to the truth.

All orders of the trial court disposing of motions under this rule shall be filed with the clerk of the trial court within 14 days (2 weeks) from the filing of such motions, and the clerk of the trial court shall forthwith serve a copy thereof on each party, on the clerk of the appellate court in which the appeal is pending, and on each court reporter who is affected by the order. Failure by the trial court to rule on a motion, except a motion to supplement the reporter's transcript, filed in accordance with this rule within the time period permitted hereunder, shall constitute a denial of the motion as of the date of the expiration of the 14-day (2-week) period. If any properly filed motion to supplement the reporter's transcript is not denied by the trial court within the 14 days (2 weeks) permitted for disposition hereunder, such motion shall be deemed granted as of the date of the expiration of the period.

Any dissatisfied party may, within 7 days (1 week) after entry of an order denying a motion under this rule, or, if no order is entered within 7 days (1 week) of the expiration of the 14-day (2-week) period provided in this rule for entry of an order by the trial court, seek appropriate relief in the appellate court.

The appellate court may, on motion of a party or on its own initiative, order that a supplemental or corrected record be certified and transmitted to the appellate court if necessary to correct an omission or misstatement; provided that, if the appellant is seeking to have included a transcript of proceedings that was omitted from the reporter's transcript, the appellant must file with his or her motion in the appellate court copies of the reporter's transcript order as proof that the omitted portions were originally requested as required by Rule 10(c).

(1) BRIEFS. The running of the time for filing briefs pursuant to Rule 31 shall be suspended upon the filing of a motion with the clerk of the trial court pursuant to this rule, until the date the motion is denied. If the motion is granted, the running of the time for filing briefs shall be suspended until the record on appeal is corrected or supplemented and filed in accordance with subsection (2) of this subdivision. Where relief is sought from the action of the trial court, the appellate court, on motion of a party, may suspend the running of the time for filing briefs until a time certain to be determined by the appellate court if the court concludes that such action is necessary and justified because of an incomplete or incorrect record on appeal, but in the absence of an order of the appellate court suspending the running of the time, the running of the time is not suspended.

(2) SUPPLEMENTAL RECORDS. The provisions of these rules relating to the assembly and filing of the original record on appeal shall apply to any supplemental or corrected records required to be prepared under this rule, except that the court reporter's supplemental transcript shall be filed with the clerk of the trial court within 21 days (3 weeks) from the filing of the motion to supplement unless the motion is denied by the trial court within the 14-day (2-week) period from the filing of the motion. The court reporter's corrected transcript shall be filed with the clerk of the trial court within 7 days (1 week) from the date the order relating thereto is filed with the clerk of the trial court, and the clerk of the trial court shall file the amended or corrected record on appeal with the appellate court within 7 days (1 week) from receipt of the reporter's transcript, or, if there is no reporter's transcript, within 21 days (3 weeks) from the filing in the trial court of the order of the trial court or the appellate court directing that the record on appeal be supplemented or corrected.

The trial court may grant to either the clerk of the trial court or the court reporter an extension of time of 7 days (1 week) to complete either the clerk's supplemental or corrected record or the reporter's supplemental or corrected transcript, respectively, but in no event to a date later than 35 days (5 weeks) from the filing of the motion to supplement or correct the record.

[Amended 10-14-76, eff. 1-16-77; Amended 10-2-78; Amended 5-4-81; Amended 2-9-82; Amended 8-1-86, eff. 10-6-86; Amended 8-27-91, eff. 10-1-91; Amended 11-17-93, eff. 2-1-94; Amended 11-19-96, eff. 1-1-97; Amended eff. 8-1-2000; Amended eff. 10-10-2001; Amended eff. 10-31-2005.]

**Committee Comments to Amendments
Effective October 6, 1986**

Rule 10 works a substantial change in the form of the record on appeal from former Alabama practice. The record on appeal shall be composed of photocopies of the original papers, and exhibits, filed in the trial court, along with the docket and minute entries, together with the transcript of the proceedings, as the parties may designate. The record on appeal also includes the indices prepared by the trial clerk and the court reporter in accordance with Rule 11(a)(1) and (2) and a photocopy of the parties' written designations of the clerk's record and reporter's transcript.

The rule encourages designation of material matters, rather than wholesale inclusion of immaterial matter on the appeal. The rule eliminates certain nonessential papers in the trial court unless some question is raised thereon. There will be no formal transcript of the record as has been known to the former Alabama practice, under the provisions of this Rule 10 constituting the record and Rule 30 providing for an appendix to the briefs.

Subdivisions (a) and (b) permit the parties to designate those matters in the clerk's record and in the transcript of evidence which are to be included with the record. See Form 1 for appellant's designations; see Forms 3 and 3A for appellee's designations. Since each party has the option to include such matters as he deems relevant and appropriate, this rule will abolish the existing presumption that if there is an omission from the record of any matter essential to a decision of any question presented on appeal, the ruling of the trial court will be deemed correct. Thus such cases as *Melton v. Melton*, 288 Ala. 452, 261 So.2d 887 and *Davis v. City Federal Savings & Loan Association*, 288 Ala. 236, 259 So.2d 262 are superseded.

This rule deals with the composition of the record on appeal. Rule 11 sets forth the mechanics for assembling the record on appeal.

Subdivision (d) replaces the prior procedure which operates in courts where there is no court reporter, such as the Probate Court.

A different provision as to the composition of the record on appeal is made with reference to criminal cases. The general rule is that there will be no designation of the record in criminal appeals. This change was necessary because of the division of authority between the offices of the local district attorneys and the office of the Attorney General and the consequent separation of the appellate responsibility from that of the person handling the trial. It was also felt to be necessary in light of the Court of Criminal Appeals' rule requiring it to search the record for error. There is, however, a provision which operates with the express consent of all parties, including the appellant himself, to allow

shortening of the record. It is thought that such an express agreement will eliminate any problem with the “search the record” rule, or with due process.

Subdivision (f) permitting completion or correction of a record replaces the provisions of former Supreme Court Rule 18 governing certiorari to perfect a record.

These amendments changed the size of paper used by the clerk and reporter from legal-size to letter-size.

Court Comment to Amendments Effective October 1, 1991

Rule 10(b) was amended to provide that the appellant inform the appellate court in the notice of appeal that there is no reporter’s transcript or that the appellant has decided against ordering a reporter’s transcript. This indication is required, without regard to the type of notice of appeal form used. A second modification inserted the words “of each of the two parts,” to encourage standardization in the numbering of pages in the clerk’s record and the reporter’s transcript; “CR” and “RT” are removed from the page numbering.

Rule 10(b)(2) was modified to require the use of transcript purchase order forms; this modification simplifies all transactions involving reporter transcripts.

Rule 10(c) was also amended in part to require the use and timely filing of a transcript purchase order form and to require that adequate financial arrangements with each court reporter be made within a specified time, unless the defendant is proceeding as an indigent. This latter requirement must be met within the time prescribed in the rule, even if the appellant has a pending motion in the trial court for leave to proceed in forma pauperis.

Rule 10(e) was modified to omit references to the appendix system.

Rule 10(f) is entirely rewritten, now setting forth deadlines. Rule 10(f) also provides that a 10(f) motion in civil cases not ruled upon within 14 days is deemed denied.

The new Rule 10(g) was inserted to govern the supplementation and correction of the record in criminal cases. The rule deems granted a properly filed motion to supplement the reporter’s transcript if not ruled upon within 14 days. Motions to correct the record on appeal or supplement the clerk’s portion of the record on appeal are deemed denied if not ruled upon within 14 days.

Committee Comments to Amendment to Rule 10(d) Effective February 1, 1994

This amendment significantly altered the existing rule in order to provide deadlines for certain actions, including a 21-day period for the trial court to settle disputes and to file an approved statement with the clerk.

**Court Comment to Amendments to Rules 10(b)(1), 10(b)(2), and 10(c)(2)
Effective January 1, 1997**

The amendments to Rules 10(b)(1), 10(b)(2), and 10(c)(2) remove gender specific pronouns.

**Committee Comment to Amendment to Rule 10(f)
Effective September 1, 2000**

This amendment deletes the requirement in civil cases that a motion to supplement or to correct the record on appeal be filed within 14 days (2 weeks) after the completion of the record on appeal or, if the appellee is filing the motion, within 14 days (2 weeks) after the filing of the appellant's brief. The motion to supplement or to correct the record must be filed within a reasonable time.

Rule 28(e) requires that references in the brief to the record on appeal shall be to the appropriate page numbers in the record on appeal. In those instances in which a party has requested an extension of time in which to file a brief pending a ruling on a motion to supplement or to correct the record and the appellate court has denied the motion, the party can indicate in its brief, by footnote or otherwise, that a motion to supplement is pending and that the brief will be amended to include the references once the motion is ruled upon.

**Court Comment to Amendments to Rules 10(a) and 10(c)(1)
Effective August 1, 2002.**

The amendments to Rules 10(a) and 10(c)(1) are intended to provide instruction for the inclusion of juror questionnaires in the record on appeal in criminal matters and for the disposition of those questionnaires. See also Rule 18.2, Alabama Rules of Criminal Procedure.

**Court Comment to Amendment to Rule 10(b) and Rule 10(c)
Effective October 31, 2005**

The amendment to Rule 10(b) and Rule 10(c) omits the requirement that the pages of the record on appeal and the transcript be numbered in the upper right corner of each page. Each page must still be numbered, but the placement of the page number is discretionary.

Note from the reporter of decisions: The order amending Rule 10(f), effective September 1, 2000, is published in that volume of *Alabama Reporter* that contains Alabama cases from 753 So.2d.

Note from the reporter of decisions: The order amending Rule 10(a) and Rule 10(c)(1), effective August 1, 2002, is published in that volume of *Alabama Reporter* that contains Alabama cases from 810 So.2d.

Note from the reporter of decisions: The order amending Rule 10(b), Rule 10(c), Rule 28, Rule 32(a), and Rule 32(b), and adopting Rule 39(c)(3) and the Court Comment to Rule 10(b) and Rule 10(c), effective October 31, 2005, is published in that volume of *Alabama Reporter* that contains Alabama cases from 914 So.2d.