

## Alabama Rules of Criminal Procedure

### Rule 30. Appeals from municipal and district courts.

#### *Rule 30.4. Transmission and preparation of records.*

(a) RECORD ON APPEAL TO CIRCUIT COURT. Within fourteen (14) days after the appeal to the circuit court for trial de novo is perfected as provided by Rule 30.3(b), the clerk of the municipal or district court shall transmit to the clerk of the circuit court such records of the proceedings as are in the municipal or district court clerk's possession, including the original charging instrument. If the appeal is from a municipal court and the clerk thereof shall fail to transmit such records to the clerk of the circuit court within the time prescribed, the municipality shall be deemed to have abandoned the prosecution; the defendant shall stand discharged, with prejudice; and any bond shall be automatically terminated.

(b) RECORD ON APPEAL TO APPELLATE COURT. Within sixty-three (63) days after the filing of a notice of appeal to the Court of Criminal Appeals or the Supreme Court from the municipal or district court (unless the time is extended or reduced as provided in Rule 11(c), A.R.App.P.), the court clerk shall transmit to the clerk of the appropriate appellate court such records of the proceedings in municipal or district court as are required by Rules 10 through 14, A.R.App.P.

[Amended eff. 4-1-94, 5-10-94.]

### Committee Comments

The provision in Ala.Code 1975, § 12-14-70, that when an appeal is taken from the municipal court to the circuit court for a trial de novo, the municipality must file the notice and other documents in the court to which the appeal is taken within fifteen (15) days has been superseded by Rule 30.4(a), which provides that the notice and other documents must be filed within fourteen (14) days. If the municipality fails to take such action, it will be deemed to have abandoned the prosecution, the defendant will be discharged, and the bond automatically terminated. *Thompson v. State*, 26 Ala.App. 264, 157 So. 886 (1934); see, also, *Ex parte Hood*, 404 So.2d 717 (Ala.1981) (discussing both §§ 12-22-110 and 12-14-70(d)). Ala.Code 1975, § 12-14-70, is not merely a directory provision.

Section (b) conforms to the provision in the Judicial Article Implementation Act which allows a defendant to appeal directly to the appropriate appellate court if certain conditions are met. If such an appeal were taken, that appeal would be governed by Rule 1, A.R.App.P., which provides:

“These rules govern appeals to the Supreme Court [of Alabama] ... and the Court of Criminal Appeals....”

Section (b) allows the clerk of the municipal or district court sixty-three (63) days in which to transmit to the clerk of the appropriate appellate court such records of the proceedings as are required by statute or rule. This rule conforms with Rule 11(b), A.R.App.P., which provides that the court reporter shall prepare and file with the clerk of the trial court a transcript of the proceeding on letter-size paper within fifty-six (56) days from the date of the notice of appeal, unless the time is shortened or extended by an order entered pursuant to Rule 11(c), A.R.App.P. Rule 11 further provides that the clerk of the trial court shall file the record on appeal with the clerk of the appellate court within seven (7) days from the date of filing of the reporter's transcript in the trial clerk's office unless the time is shortened or extended by an order entered pursuant to Rule 11(c). The total amount of time, therefore, under Rule 11(b), A.R.App.P., in which the clerk of the district court has to file the record with the clerk of the appellate court is sixty-three (63) days.