

Alabama Rules of Civil Procedure

X. CIRCUIT COURTS AND CLERKS

Rule 80.

Stenographic report or transcript as evidence.

Whenever the testimony of a witness at a trial or hearing which was stenographically reported is admissible in evidence at a later trial, it may be proved by the transcript thereof duly certified by the person who reported the testimony.

(dc) District court rule. Rule 80 applies in the district courts.

Committee Comments on 1973 Adoption

The rule is identical with Federal Rule 80(c) and with Rule 80 of the rules of Kentucky, Nevada, New Mexico, North Dakota and Utah. Subdivisions (a) and (b) of Federal Rule 80 were repealed in 1948; their subject matter is adequately covered in Alabama by Code of Ala., §§ 12-17-270 through 12-17-277.

Where the transcript was made by a court reporter, it would be admissible in Alabama without this rule. *Alabama Western R.R. v. Downey*, 177 Ala. 612, 58 So. 918 (1912).

The rule applies only to an official stenographer. Although a private stenographer or an official stenographer not acting within the scope of his official duty would be a competent witness as to what was said, his certification of the transcript does not make it admissible within this rule. *Middleton v. Hartford Accident & Indemnity Co.*, 119 F.2d 721, 724 (5th Cir.1941); *Jones v. State*, 174 Ala. 85, 57 So. 36 (1911).