

IN THE SUPREME COURT OF ALABAMA
May 29, 2009

ORDER

IT IS ORDERED that Rule 29, Alabama Rules of Judicial Administration, be amended to read in accordance with Appendix A;

IT IS FURTHER ORDERED that the Comment to Amendment to Rule 29 Effective July 1, 2009, be adopted to read in accordance with Appendix B;

IT IS FURTHER ORDERED that the amendment of Rule 29 and the adoption of the comment are effective July 1, 2009;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 29:

"Note from the reporter of decisions: The order amending Rule 29, effective July 1, 2009, and adopting the Comment to Amendment to Rule 29 Effective July 1, 2009, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

Cobb, C.J., and Lyons, Woodall, Stuart, Smith, Bolin, Parker, Murdock, and Shaw, JJ., concur.

APPENDIX A

RULE 29. TRANSCRIPTS OF JUDICIAL PROCEEDINGS FOR APPEALS AND OTHER PURPOSES; FEES RELATED TO TRANSCRIPTS; TRANSCRIPTS FOR INDIGENT DEFENDANTS; OFFICE FURNITURE AND SUPPLIES FOR COURT REPORTERS.

(A) Transcript Format. Each page of the transcript of a judicial proceeding shall conform to the following format:

(1) Paper.

(a) Size -- Letter-size paper (8½ x 11 inches).

(b) Weight -- Paper quality for originals and copies should be at least 20-pound basis weight.

(c) Color -- White paper shall be used for both original and copies.

(2) Ink color. Black ink is to be used for both original and copies.

(3) Marginal lines. Solid left and right and top and bottom marginal lines are required. All lines must be placed on the page so that the text actually begins 1¾ inches from the left edge of the page and ends not less than ½ inch nor more than ¾ inch from the right edge of the page.

(4) Line numbers. Each line of transcription on a page is to be numbered, beginning with "1" and continuing consecutively to the last line of transcription on the page, which shall be at line "25."

(5) Typing.

(a) Type quality and size -- Letter quality type shall be used. The letter character size is to be no smaller than 9 characters (letters and/or spaces) per inch. This allows at least 50 characters (letters, punctuation marks, and/or spaces) per line.

(b) Number of lines per page -- Each page of transcription is to contain 25 double-spaced lines of text. The last page may contain fewer lines if it is less than a full page of transcription. Page numbers or notations are not considered part of the 25 lines of text. Blank lines should not be used except where necessary to keep headings together.

(c) Margins -- Typing on each page should begin $1\frac{3}{4}$ inches from the left edge of the paper ("the left margin") and continue to $\frac{1}{2}$ to $\frac{3}{4}$ inches from the right edge of the paper ("the right margin").

(d) Capitalization -- The use of uppercase and lowercase letters is preferred, but all uppercase letters may be used.

(e) Indentions.

(1) Questions and answers (Q and A). All "Q" and "A" designations shall begin at the left margin, i.e., $1\frac{3}{4}$ inches from the left edge of the paper. The statement following the "Q" and "A" shall begin on the fifth space from the left margin. All subsequent lines shall begin no more than the fifth space from the left margin.

(2) Colloquy. Identification of the speaker shall begin on the tenth space from the left margin, and the speaker's name shall be followed by a colon. The statement following the identification of the speaker shall begin on the third space after the colon. All subsequent lines shall begin no more than the fifth space from the left margin.

(3) Quotations. At the discretion of the transcriber, quoted material, other than depositions, can begin on the tenth space from the left margin, with additional quoted lines beginning on the tenth space

from the left margin, and may be indicated by the appropriate use of quotation marks.

(4) Headings. Headings, such as "Direct Examination," shall be centered between the left margin and the right margin.

(5) Parenthetical notations. Parenthetical notations, such as the call to order of court or the swearing in of a witness, shall begin with an open parenthesis on the fifteenth space from the left margin. All subsequent lines of the parenthetical notation shall begin no more than the fifteenth space from the left margin.

(f) Interruptions of speech and simultaneous discussions -- Interruptions of speech shall be denoted by the use of a dash at the point of interruption and again at the point the speaker resumes speaking. At the discretion of the transcriber, simultaneous discussions may also be noted in this manner.

(g) Punctuation and spelling -- Standard punctuation and spelling shall be used.

(h) Parentheses -- Parenthetical notations are generally enclosed in parentheses; however, brackets may be used.

(i) Legibility -- The original transcript and each copy are to be legible, with no interlineations materially defacing the transcript.

(j) Applicability -- The provisions in this rule concerning the formatting of transcripts applies to all transcripts of proceedings taken by an official court reporter as a part of his or her official duties or by a court reporter acting in the official court reporter's stead, whether those transcripts

are prepared for cases appealed to an Alabama appellate court or otherwise.

(k) Sanctions -- If a person who prepares a transcript of a judicial proceeding willfully fails to comply with the provisions of this rule, that person may be held in contempt of court by the supreme court, or by any court of competent jurisdiction, after reasonable notice of such noncompliance has been given to that person.

(B) Fees for Court Reporters; Transcripts for Purposes Other than Appeal. All official court reporters, special roving reporters, special court reporters, and all court reporters performing the functions of an official court reporter shall be allowed to charge and collect a fee of \$3.50 per page for the preparation of the original impression of the transcript of any official proceeding, whether such transcription is prepared for the purpose of taking an appeal from such proceedings or for any other purpose.

In the following circumstances the court reporter shall be allowed to charge and collect a fee of 50 cents per page for a copy of a transcript: (a) when a request is made of the court reporter for a certified print copy of an impression of the transcript, and (b) when, pursuant to Rule 11, Alabama Rules of Appellate Procedure, a print copy of an impression of the transcript is required to be delivered to the defendant in a criminal case or to the defendant's attorney. Any other additional copies of a transcript required by Rule 11, Alabama Rules of Appellate Procedure, shall be provided by the court reporter at no additional charge.

For requests for transcripts of official proceedings that are not made for purposes of taking an appeal from such proceedings (and that are therefore not subject to the Alabama Rules of Appellate Procedure) and that are not daily, rush, or expedited copies, the timing of the completion of such transcripts shall be at the discretion of the judge to whom the court reporter is assigned, and the priority for completion of such transcripts shall be secondary to the official court reporter's courtroom duties in recording court proceedings and to the court reporter's obligations under the

Alabama Rules of Appellate Procedure for the completion of appellate transcripts in that case and other cases.

Requests made of official court reporters, special roving reporters, special court reporters, or any court reporter performing the functions of an official court reporter for daily, rush, or expedited copies of official proceedings shall be subject to the discretionary approval of the judge to whom the court reporter is assigned; where daily, rush, or expedited copies are allowed by the judge, the per page charge for such transcripts shall not be limited to \$3.50 per page, but shall be at a rate and upon such terms as are mutually agreed to by the court reporter and the party making the request and approved by the judge to whom the court reporter is assigned.

If no agreement is reached regarding a request for a daily, rush, or expedited copy, the court reporter shall be limited to a charge of \$3.50 per page, and the transcript shall be delivered to the requesting party within 56 days of a written request for the transcript being made, unless the court reporter requests and obtains from the judge to whom the court reporter is assigned an extension for good cause shown. In no case should the delivery of such a transcript occur beyond 91 days, except in very rare and extraordinary circumstances and only then upon the order of the judge to whom the court reporter is assigned granting such additional time as the circumstances warrant.

(C) Fees for Court Clerks in Appellate Cases. Fees to be paid to the state general fund for services rendered by clerks in preparing, assembling, numbering, completing, and binding transcripts in cases on appeal, in making photocopies thereof, and in filing certificates of completion in accordance with the Alabama Rules of Appellate Procedure are as follows:

(1) For the original record on appeal: \$35.00 for the first volume and \$7.00 for each volume thereafter, and 50 cents for each page thereof required to be photocopied under the Alabama Rules of Appellate Procedure.

(2) For photocopies of the record on appeal: 50 cents per page for each copy of the record on appeal.

(D) Indigent Defendants. The statutory provision that a court reporter shall not be required to furnish a transcript until the payment or security for such transcript is assured shall not have application in those cases wherein the court finds that the defendant is indigent and entitled by law to a transcript provided at state expense. Any court reporter required to produce a transcript under these circumstances may submit a "Court Reporter Fee Declaration" to the state comptroller for payment from the Fair Trial Tax Fund.

(E) Office Furniture and Supplies for Court Reporters. Each official and special roving court reporter shall be allocated office furniture and shall be given a budget for supplies, as determined in administrative policies established by the administrative director of courts. The furniture and supplies allocated shall be adequate to carry out the official duties of the court reporter, including the preparation of transcripts. The administrative director of courts shall establish an annual budget for supplies.

APPENDIX TO RULE 29

1 EXAMPLES: [# = space] TYPE SPACES: 9 characters/inch

2 SUSIE SHARPE [centered]

3 A witness for the State,

4 was sworn and testified as follows:

5 DIRECT EXAMINATION [centered]

6 BY MR. FALLS:

7 Q. State your name and occupation for the record please.

8 A. Susie Sharpe, and I'm a court reporter for Judge
9 Sweete.

10 Q. Do you know the proper format for preparing a
11 transcript on appeal?

12 A. I certainly do.

13 MR. MOORE: Judge, I object. This material
14 is covered sufficiently in the --

15 THE COURT: Overruled.

16 MR. MOORE: -- Court Reporters Manual.

17 THE COURT: I'd like to hear this.

18 MR. MOORE: Well, may I take the witness on
19 voir dire, Your Honor?

20 THE COURT: Go ahead.

21 [Off-the-record discussion)

22 VOIR DIRE EXAMINATION

23 BY MR. MOORE:

24 Q. Ms. Sharpe, how long have you been a court
25

1 3/4 inch

1/
to
3/
inc

APPENDIX B

Comment to Amendment to Rule 29
Effective July 1, 2009

Rule 29 was rewritten to accomplish several things.

First, Rule 29(A)(5)(j) and Rule 29(B) were amended to unambiguously provide that Rule 29 applies to all requests for transcripts of court proceedings taken by official court reporters (or others performing their duties), regardless of whether the transcript was requested for purposes of an appeal or for other purposes.

Second, the standard rate for appellate transcripts is increased from \$2.25 per page to \$3.50 per page. The charge of \$3.50 per page shall include the original impression of the transcript and, where requested, an electronic version of the transcript, which shall be capable of producing an identically formatted copy of the original impression of the transcript, to be provided by the court reporter either on a computer disk or e-mailed to the requesting party, as the requesting party shall specify. In limited circumstances -- i.e., when a party requests a certified print copy of the transcript or when a print copy is required to be delivered to a criminal defendant or to the defendant's attorney pursuant to Rule 11, Alabama Rules of Appellate Procedure -- the court reporter may charge an additional fee of \$.50 per page for each such copy. For any other copies of the transcript required by Rule 11, Alabama Rules of Appellate Procedure, the court reporter shall not be allowed to charge an additional fee.

Third, since the Alabama Rules of Appellate Procedure do not apply to requests for transcripts not prepared for purposes of an appeal, Rule 29 as amended specifies the time allowed to the court reporter to produce such transcripts. This portion of the rule begins by stating that the production of transcripts for purposes other than an appeal is secondary in priority to the court reporter's primary obligations (a) to record court proceedings for the judge to whom the court reporter is assigned and (b) to produce appellate transcripts in accordance with the Alabama Rules of Appellate Procedure. However, where those obligations are met, the rule allows the court reporter and a party requesting a transcript for

purposes other than an appeal to negotiate an agreement, subject to the approval of the judge to whom the court reporter is assigned, regarding a page rate and the time for delivery of such transcripts. If the court reporter and the requesting party cannot agree to such terms, the standard page rate of \$3.50 per page shall apply, and the transcript shall be produced and delivered within 56 days of the written request for the transcript, unless the court reporter obtains an extension of time from the court reporter's judge. In all but the most extraordinary of circumstances, such transcripts shall be produced within 91 days of the request.

Rule 29(E) was also amended. It formerly provided that court reporters were to be furnished their equipment, as well as office furniture and supplies. In practice, the State has not provided court reporters' equipment for over a decade. The amendment to Rule 29(E) simply recognizes this reality and conforms the rule with the existing practice by deleting that portion of subsection (E) that required the State to provide equipment to court reporters.