

RULE 10. CONTENT OF THE RECORD ON APPEAL

(b) Determining the Content of the Record.

(1) *Designation of Record.* Within seven (7) days after filing the notice of appeal, the appellant shall file with the clerk of the trial court and serve both on the court reporter or reporters and on the appellee a written designation describing those parts of the record necessary for the appeal. **If the appellant designates a pre- or post-trial hearing as part of the record necessary for the appeal, the appellant's designation must state the specific date the hearing occurred, absent good cause shown.**

(2) *Inclusion of Relevant Evidence.* In cases where the defendant has received the death sentence, the entire record shall be designated. In any other case, if the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion.

(3) *Matters Excluded Absent Designation.* In any case other than a case where the defendant has received a death sentence, the record shall not include, unless specifically designated,

- i. subpoenas or summonses for any witness or defendant when there is an appearance for such person;
- ii. papers relating to discovery, including depositions, interrogatories, requests for admission, and all related notices, motions or orders;
- iii. any motion and order of continuance or extension of time;
- iv. documents concerning the organization of the grand jury or any list from which grand or petit jurors are selected;
- v. pleadings subsequently replaced by amended pleadings;
- vi. jury voir dire.

(4) *Statement of Issues.* Unless the entire record, except for those matters identified in (b)(3) of this Rule, is to be included, the appellant shall, within the seven (7) days time provided in (b)(1) of this Rule, file a statement of the issues the appellant intends to present on the appeal and shall serve on the appellee a copy of the designation and of the statement. Each issue in the statement shall be separately numbered. If the appellee deems inclusion of other parts of the proceedings to be necessary, the appellee shall, within 14 days after the service of the designation and the statement of the appellant, file with the clerk and serve on the appellant and the court reporter a designation of additional parts to be included. **If the appellee designates a pre- or post-trial hearing as an additional part to be included, the appellee's designation must state the specific date the hearing occurred, absent good cause shown.** The clerk and reporter shall prepare the additional parts at the expense of the appellant unless the appellant obtains from the trial court an order requiring the appellee to pay the expense.

(5) *Attorney's Examination and Proposed Corrections.* For fourteen (14) days after service of the clerk's notice of completion under Rule 11(d)(2), the appellant shall have the use of the record for examination. On or before the expiration of that period, appellant shall return the record to the trial court clerk, and shall append to the record (i) a written statement of any proposed corrections to the record, (ii) a certificate that the appellant or the appellant's attorney has carefully examined the record and that with the proposed corrections, if any, it is correct and complete, and (iii) a certificate of service indicating that the record has been returned to the clerk. For fourteen (14) days after receipt of the certificate of service from appellant, appellee shall have the use of the record for examination. On or before the expiration of that period, appellee shall return the record to the trial court clerk, and shall append to the record (i) a written statement of any proposed corrections to the record, (ii) a certificate that the appellee or the appellee's attorney has carefully examined the record and that with the proposed corrections, if any, it is correct and complete, and (iii) a certificate of service, indicating that the record has been returned to the clerk. Corrections as to which all parties agree in writing shall be deemed made by stipulation. If the parties propose corrections to the record but do not agree on the corrections, the trial court clerk shall forthwith deliver the record with proposed corrections to the trial judge. The trial judge shall promptly determine which

corrections, if any, are proper and enter an order under Rule 10(e). Within five days, the trial court clerk shall serve all parties and their attorneys with a copy of the order. If a party does not agree with the court's order, that party shall, within five days of service of the order, request a hearing. Such a request shall be assigned priority status on the trial judge's docket, and after a hearing, the trial judge shall promptly enter an order directing the court reporter and/or the trial court clerk to make the appropriate correction(s), if any, and to finalize completion of the record for transmission to this Court. Once the order is entered, or if no hearing request is made, the record shall be returned to the court reporter and/or the trial court clerk who shall within seven days make corrections directed by the order. The trial court clerk shall verify that any approved changes have been made and that the required certifications are appended to the record before sending it to the Supreme Court.

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