

RULE 10. THE RECORD

(a) The Trial Court Record. The trial court record consists of the papers and exhibits filed in the district court, the transcript of the proceedings, if any, the district court minutes, and the docket entries made by the district court clerk.

(1) Retention of Record. The district court clerk shall retain the trial court record. When the court deems it necessary to review the trial court record, the district court clerk shall assemble and transmit the portions of the record designated by the clerk of the Supreme Court in accordance with the provisions of Rule 11. Any costs associated with the preparation and transmission of the record shall be paid initially by the appellant, unless otherwise ordered.

(b) The Record on Appeal.

(1) The Appendix. For the purposes of appeal, the parties shall submit to the clerk of the Supreme Court copies of the portions of the trial court record to be used on appeal, including all transcripts necessary to the Supreme Court's or Court of Appeals' review, as appendices to their briefs. Under Rule 30(a), a joint appendix is preferred. This Rule does not apply to pro se parties. The Supreme Court or Court of Appeals will determine whether its review of the complete record is necessary in a pro se appeal and direct the district court clerk to transmit the record as provided in Rule 11(a)(2).

(2) Exhibits. If exhibits cannot be copied to be included in the appendix, the parties may request transmittal of the original exhibits to the clerk of the Supreme Court under Rule 30(d).

(c) Correction or Modification of the Record. If any difference arises about whether the trial court record truly discloses what occurred in the district court, the difference shall be submitted to and settled by that court and the record conformed accordingly. Questions as to the form and content of the appellate court record shall be presented to the clerk.

[Replaced; effective September 1, 1996; as amended; effective October 1, 2015.]

RULE 11. PREPARING AND FORWARDING THE RECORD

(a) Preparation of the Record. Upon written direction from the court, the district court clerk shall provide the clerk of the Supreme Court with the papers or exhibits comprising the trial court record. The record shall be assembled, paginated, and indexed in the same manner as an appendix to the briefs under Rule 30. If the Supreme Court or Court of Appeals determines that its review of original papers or exhibits is necessary, the district court clerk shall forward the original trial court record in lieu of copies.

(1) Exhibits. If the Supreme Court or Court of Appeals directs transmittal of exhibits, the exhibits shall not be included with the documents comprising the record. The district court clerk shall place exhibits in an envelope or other appropriate container, so far as practicable. The title of the case, the court docket number, and the number and description of all exhibits shall be listed on the envelope, or if no envelope is used, then on a separate list.

(2) Record in Pro Se Cases. When the court directs transmission of the complete record in cases in which the appellant is proceeding without counsel, the record shall contain each and every paper, pleading and other document filed, or submitted for filing, in the district court. The record shall also include any previously prepared transcripts of the proceedings in the district court. If the Supreme Court or Court of Appeals should determine that additional transcripts are necessary to its review, the court may order the reporter or recorder who recorded the proceedings to prepare and file the transcripts.

(b) Duty of Clerk to Certify and Forward the Record. The district court clerk shall certify and forward the record to the clerk of the Supreme Court. The district court clerk shall indicate, by endorsement on the face of the record or otherwise, the date upon which it is forwarded to the clerk of the Supreme Court.

(c) Time for Forwarding the Record. The trial court record shall be forwarded within the time allowed by the court, unless the time is extended by an order entered under Rule 11(d).

(d) Failure of Timely Transmittal; Extensions.

(1) Failure of Timely Transmittal. A district court clerk who fails to forward a timely record on appeal without sufficient excuse may be subject to sanctions.

(2) Extension of Time; Supporting Documentation and Affidavits. If the district court clerk cannot timely forward the record, the clerk shall seek an extension of time from the requesting court. A motion to extend the time for transmitting the record shall be accompanied by the affidavit of the clerk or deputy clerk setting forth the reasons for the requested extension, and the length of additional time needed to prepare the record.

[Replaced; effective September 1, 1996; as amended; effective October 1, 2015.]

RULE 12. DOCKETING THE APPEAL; FILING OF THE RECORD

(a) Docketing the Appeal. Upon receiving the copies of the notice of appeal and other documents from the district court clerk under Rule 3, the clerk of the Supreme Court shall docket the appeal and immediately notify all parties of the docketing date. Automatic appeals from a judgment of conviction of death shall be docketed in accordance with [SCR 250](#). If parties on opposing sides file notices of appeal from the same district court judgment or order, in accordance with Rule 4(a), the appellants and cross-appellants shall be designated as provided in Rule 28.1. A subsequent appeal shall in all respects be treated as an initial appeal, including the payment of the prescribed filing fee. Cross-appeals will be filed under the same docket number and calendared and argued with the initial appeal.

(b) Filing the Record. Upon receiving the record, the clerk of the Supreme Court shall file it and immediately notify all parties of the filing date.

[As amended; effective July 1, 2009.]

Caselaw

“The attempt by appellant's counsel to supply the missing predicate for appellate review by affidavit and by a document not appearing in the record is of no avail. We cannot consider matters not properly appearing in the record on appeal. As this court stated long ago in Alderson v. Gilmore, 13 Nev. 84, 85 (1878), "We have no power to look outside of the record of a case". We have consistently recognized this limitation. *E.g.*, Lewis v. State, 93 Nev. 638, 572 P.2d 211 (1977); Johnstone v. State, 93 Nev. 427, 566 P.2d 1130 (1977); Coffman v. State, 93 Nev. 32, 559 P.2d 828 (1977); Fenkell v. Fenkell, 86 Nev. 397, 469 P.2d 701 (1970); A Minor v. State, 85 Nev. 323, 454 P.2d 895 (1969); Campbell v. Baskin, 68 Nev. 469,

235 P.2d 729 (1951). *See State of Nevada v. Washoe Co.*, 7 Nev. 83, [***5] 90-91 (1871). It is the responsibility of appellant to make an adequate appellate record. *Greene v. State*, 96 Nev. 555, 612 P.2d 686 (1980). The Nevada Rules of Appellate Procedure delineate the proper procedures to be followed for the designation of the record on appeal. Rule 10(c) makes explicit provision for [*477] the procedure to be followed when no report of proceedings has been made. We have earlier had occasion to note, with regard to a similar failure to follow procedural rules for the correction of an appellate record: "If a wrong has been committed the law intends that the party injured shall have a remedy; but where it provides the manner in which relief shall be [**278] given, the path pointed out should be followed." *Johnson v. State*, 82 Nev. 338, 340, 418 P.2d 495, 496 (1966), quoting *State v. Collyer*, 17 Nev. 275, 279, 30 P. 891, 892 (1883). *See also State v. Hill*, 32 Nev. 185, 105 P. 1025 (1909)."

Carson Ready Mix v. First Nat'l Bank, 97 Nev. 474, 476-77, 635 P.2d 276, 277-78 (1981).

RULE 30. APPENDIX TO THE BRIEFS

(a) Joint Appendix; Duty of the Parties. Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix. In the absence of an agreement, the parties may file separate appendices to their briefs.

(b) Contents of the Appendix. Except as otherwise required by this Rule, all matters not essential to the decision of issues presented by the appeal shall be omitted. Brevity is required; the court may impose costs upon parties or attorneys who unnecessarily enlarge the appendix.

(1) Transcripts. Copies of all transcripts that are necessary to the Supreme Court's or Court of Appeals' review of the issues presented on appeal shall be included in the appendix.

(2) Documents Required for Inclusion in Joint Appendix. In addition to the transcripts required by Rule 30(b)(1), the joint appendix shall contain:

(A) Complaint, indictment, information or petition (including all amendments);

(B) All answers, counterclaims, cross-claims and replies, and all amendments thereto;

(C) Pretrial orders;

(D) All jury instructions given to which exceptions were taken, and excluded when offered;

(E) Verdict or findings of fact and conclusions of law with direction for entry of judgment thereon;

(F) Master's report, if any, in nonjury cases;

(G) Opinion;

(H) All judgments or orders appealed from;

(I) All notices of appeal; and

(J) Proof of service, if any, of:

(i) the summons and complaint;

(ii) written notice of entry of the judgment or order appealed from;

(iii) post-judgment motions enumerated in Rule 4(a); and

(iv) written notice of entry of an order resolving any post-judgment motions enumerated in Rule 4(a).

(3) Appellant's Appendix. If a joint appendix is not prepared, appellant's appendix to the opening brief shall include those documents required for inclusion in the joint appendix under this Rule, and any other portions of the record essential to determination of issues raised in appellant's appeal.

(4) Respondent's Appendix. If a joint appendix is not prepared, respondent's appendix to the answering brief may contain any transcripts or documents which should have been but were not included in the appellant's appendix, and shall otherwise be limited to those documents necessary to rebut appellant's position on appeal which are not already included in appellant's appendix.

(5) Reply Appendix. Appellant may file an appendix to the reply brief which shall include only those documents necessary to reply to respondent's position on appeal.

(6) Presentence Investigation Report. If a copy of appellant's presentence investigation report is necessary for the Supreme Court's or Court of Appeals' review in a criminal case and a copy of the report cannot be included in the appendix,

appellant shall file a motion with the clerk of the Supreme Court within the time period for filing an opening brief or fast track statement that the court direct the district court clerk to transmit the report to the clerk of the Supreme Court in a sealed envelope. The motion must demonstrate that the report is necessary for the appeal.

(c) Arrangement and Form of Appendix. The appendix shall be in the form required by Rule 32(b), shall be bound separately from the briefs, and shall be arranged as set forth in this Rule.

(1) Order and Numbering of Documents. All documents included in the appendix shall be placed in chronological order by the dates of filing beginning with the first document filed, and shall bear the file-stamp of the district court clerk, clearly showing the date the document was filed in the proceedings below. Transcripts that are included in the appendix shall be placed in chronological order by date of the hearing or trial. Each page of the appendix shall be numbered consecutively in the lower right corner of the document.

(2) Page Limits; Index of Appendix. Each volume of the appendix shall contain no more than 250 pages. The appendix shall contain an alphabetical index identifying each document with reasonable definiteness, and indicating the volume and page of the appendix where the document is located. The index shall preface the documents comprising the appendix. If the appendix is comprised of more than one volume, one alphabetical index for all documents shall be prepared and shall be placed in each volume of the appendix.

(3) Cover. The cover of an appendix shall be white and shall contain the same information as the cover of a brief under Rule 32(a), but shall be prominently entitled “JOINT APPENDIX,” or “APPELLANT’S APPENDIX,” or “RESPONDENT’S APPENDIX” or “APPELLANT’S REPLY APPENDIX.”

(d) Exhibits. Copies of relevant and necessary exhibits shall be clearly identified, and shall be included in the appendix as far as practicable. If the exhibits are too large or otherwise incapable of being reproduced in the appendix, the parties may file a motion requesting the court to direct the district court clerk to transmit the original exhibits. The court will not permit the transmittal of original exhibits except upon a showing that the exhibits are relevant to the issues raised on appeal, and that the court’s review of the original exhibits is necessary to the determination of the issues.

(e) Time for Service and Filing of Appendix. A joint appendix shall be filed and served no later than the filing of appellant's opening brief. An appellant's appendix shall be served and filed with appellant's opening brief. A respondent's appendix shall be served and filed with respondent's answering brief. If a reply brief is filed, any reply appendix shall be served and filed with the reply brief.

(f) Number of Copies to Be Filed and Served.

(1) Paper Copies. One paper copy of the appendix shall be filed with the clerk, and one copy shall be served on counsel for each party separately represented, unless the court orders otherwise.

(2) Electronic Copies. A party represented by counsel must submit every appendix on a CD-ROM, and serve a CD-ROM version on all opposing counsel, in addition to filing the required number of paper copies, unless the appendix has been electronically filed in the court or counsel certifies that submitting a CD-ROM version of the appendix would constitute extreme hardship.

(g) Filing as Certification; Sanctions for Nonconforming Copies or for Substantial Underinclusion.

(1) Filing an appendix constitutes a representation by counsel that the appendix consists of true and correct copies of the papers in the district court file. Willful or grossly negligent filing of an appendix containing nonconforming copies is an unlawful interference with the proceedings of the Supreme Court or Court of Appeals, and subjects counsel, and the party represented, to monetary and any other appropriate sanctions.

(2) If an appellant's appendix is so inadequate that justice cannot be done without requiring inclusion of documents in the respondent's appendix which should have been in the appellant's appendix, or without the court's independent examination of portions of the original record which should have been in the appellant's appendix, the court may impose monetary sanctions.

(h) Costs. Each party shall, initially, bear the cost of preparing its separate appendices. The appellant shall, initially, bear the cost of preparing a joint appendix; where several parties appeal from the same judgment or any part thereof, or there is a cross-appeal, the initial expense of preparing a joint appendix shall be borne equally by the parties appealing, or as the parties may agree.

(i) Pro Se Party Exception. This Rule does not apply to a party who is not represented by counsel. A pro se party shall not file an appendix except as otherwise provided in these Rules or ordered by the court. If the court's review of the complete record is necessary, the court will direct the district court to transmit the record as provided in Rule 11.

[Replaced; effective September 1, 1996; as amended; effective October 1, 2015.]