SIXTH CIRCUIT COURT OF APPEALS

TRANSCRIPT POLICY

Applicability

To ensure the timely transmission of transcripts of trial court proceedings necessary to the resolution of cases on appeal to this court, this policy applies to all transcripts ordered and produced in cases on appeal. All parties, their counsel, court reporters and transcriptionists are required to follow the procedures set out herein and utilize those forms and/or formats, as updated from time to time, required herein or directed by the clerk. This policy is implemented pursuant to the authority of the United States Court of Appeals for the Sixth Circuit as found in Federal Rules of Appellate Procedure (hereinafter FRAP) 10 and 11; Sixth Circuit Rules (hereinafter 6th Cir. R.) 10 and 11; Sixth Circuit Internal Operating Procedure (hereinafter 6 Cir. I.O.P.) 10 and 11; and *The Guide to Judiciary Policies and Procedures* (hereinafter The Guide), Volume 6, Chapter 5, §§ 530 and 540.

1. Ordering the Transcript

a. Ordering Party's Responsibility.

1. Time for ordering. Appellants must order transcripts within 14 days of the filing of the notice of appeal, or as otherwise directed by the court, *or certify that no transcript will be ordered*. FRAP 10 (b)(1). Appellees who order transcripts must do so within the time frames of FRAP 10(b)(3).

2. A separate order must be made to each court reporter from whom transcripts are being ordered. Each order to an individual court reporter should reflect all transcripts being ordered from that reporter.

3. Financial arrangements should be completed at the time the transcript is ordered from the court reporter. FRAP 10(b)(4). The order form should reflect what financial arrangements have been made in Part 1(B). In CJA cases, the ordering party also must comply with all applicable district court requirements for completion of the CJA 24 authorization and payment process via eVoucher and/or submission of a paper CJA 24.

4. Note that even if the necessary transcripts were previously filed in the district court, or no transcript is needed, the appellant must complete and file the Transcript Order.

5. Attorneys must electronically file the transcript order in the court of appeals upon placing the order. At the direction of the clerk, virtual entries may be substituted for electronic document filings. The order must also be filed in the district court.

6. Pro Se litigants must mail the form to the clerk's office. The transcript order must be served on the court reporter.

7. All transcript orders must be served on opposing parties.

8. Failure to make satisfactory arrangements for the production of the transcript as set forth above may result in the dismissal of the appeal for failure to prosecute.

b. Court Reporter's Responsibilities.

1. Court reporters must obtain a CM/ECF login and password from the clerk of the court of appeals, and all transcript order acknowledgments, requests for extensions, requests for waivers of fee reductions, and notifications of the filings of transcripts and such other documents as may be required by the court, must be submitted electronically. At the direction of the clerk, virtual entries may be substituted for electronic document filings.

2. In all cases, and for all transcript orders, the court reporter must acknowledge the order, including providing the following information:
    a. The date the transcript order was received;
    b. The estimated number of pages;
    c. When financial arrangements were made, or if financial arrangements were not made;
    d. Estimated completion date. (If the transcript cannot be completed within 30 days from the date of the order, or the date financial arrangements were made, whichever is later, then the reporter should file a Request for Extension of Time in Which to Produce the Transcript with the court of appeals. The request should be made as provided by the clerk and served on all parties to the appeal.)

3. The court reporter must file the completed transcript order acknowledgement with the court of appeals within 14 days of receipt of the transcript order. In the event financial arrangements have not been made, the reporter should still file the acknowledgement, noting that financial arrangements have not been made

2. Production of the Transcript

a. Deadlines

1. The transcript shall be filed within **thirty (30) days** of the date the transcript is ordered, or the date on which financial arrangements are made, whichever is later. FRAP 11 (b)(1)(B). The transcript must be filed in the district court, and notice provided electronically to the court of appeals by filing on the court of appeals docket that the transcript order is complete. FRAP 11(b)(1)(C).

2. Transcripts in criminal appeals are to be given priority over all matters other than in-court obligations. The court of appeals may direct the preparation of transcripts out of the order otherwise prescribed. 6 Cir. R. 11(b)(1).

b. Requests for Extensions

1. Requests for extensions must be filed with the clerk of the court of appeals. The court reporter must provide the following information:

    a. The date of the notice of appeal;
    b. The reasons for the extension;
    c. The date the transcript was ordered;
    d. The estimated number of total transcript pages;
    e. The date the ordering party made satisfactory financial arrangements;
    f. The number of transcript pages completed to date;
    g. The estimated completion date;
    h. In appeals of a criminal case, the dates of conviction and sentencing;
    i. In criminal appeals, the date the defendant was remitted to custody;
    j. The number of previous extensions received;
    k. Any arrangements made by the reporter to ensure expeditious completion of the transcript.

c. Clerk's actions on extension requests

1. The clerk of the court of appeals may, for good cause shown, extend the time in which to file the transcript on appeal. Extensions are generally disfavored as late filed transcripts delay the disposition of cases on appeal.

2. The clerk's action on extension requests will be noted on the docket and noticed to all parties. If a transcript is not completed more than 60 days from the date ordered, the circuit clerk must notify the district judge. FRAP 11(b)(1)(D).

3. The court of appeals may direct further action, including that the court reporter discontinue courtroom duties until the transcript is completed and filed in the district court. 6 Cir. R. 11 (b)(3)(B). The court reporter may be responsible for hiring a substitute to attend to his or her courtroom duties.

3. Reduction of Fees for Late Filed Transcripts

a. Mandatory reductions apply, even if extensions of time in which to file the record on appeal have been granted.

1. If the transcript is filed more than 45 days after it was ordered, the court reporter must reduce the fee by 10%. 6 Cir. R. 11 (b)(3)(A)

2. If the transcript is filed more than 60 days after it was ordered, the court reporter must reduce the fee by 20%. 6 Cir. R. 11 (b)(3)(B).

3. In the event the fee has already been received, the court reporter must disgorge the amount of the mandatory reduction.

b. Request for Waiver of Reduction of Fee. The circuit clerk may waive the fee reduction for good cause. 6 Cir. R. 11 (b)(3)(C).

1. A court reporter seeking a waiver of the fee reduction must file such request with the court of appeals. The request must contain detailed information regarding any other transcript work done intervening the order and filing of the transcript; the reporter's actual hours in court as documented in the reporter's AO 40 A report; any special circumstances affecting the specific transcript, i.e. length of trial, length of voir dire, number of participants, equipment or software failures; and any personal circumstances causing delay, i.e. the reporter's illness or injury, and; any other relevant information to assist the clerk in making a determination. The court reporter will

electronically file this request, and provide notice to the parties, the district clerk, and the district judge.

2. The parties affected by the delayed filing of the transcript may file a written response either in support of or opposition to the reporter's request for waiver of fee reduction. Any response should be filed within 14 days of the filing of the request for waiver.

3. The Clerk will enter her decision on the docket and notify all interested parties as well as the district judge and district clerk.