

## **RULE 3C. FAST TRACK CRIMINAL APPEALS**

### **(a) Applicability.**

(1) This Rule applies to an appeal from:

(A) a judgment of conviction pursuant to a plea of guilty, guilty but mentally ill, or nolo contendere provided that the defendant was represented by counsel in the district court and was not sentenced to death; and

(B) an order or amended judgment of conviction revoking or modifying probation provided that the defendant was represented by counsel in the district court.

(2) This Rule does not apply to an appeal filed in accordance with Rule 4(c).

### **(b) Responsibilities of Trial Counsel.**

(1) **Definition.** For purposes of this Rule, “trial counsel” means the attorney or office that represented the defendant in district court in the underlying proceedings that are the subject of the appeal or the State Public Defender following a notice of substitution filed under Rule 3C(b)(4).

(2) **Responsibilities.** Trial counsel must file the notice of appeal, rough draft transcript request form, docketing statement, and fast track brief(s). Trial counsel must arrange their calendars and adjust their public or private contracts for compensation to accommodate the additional duties imposed by this Rule.

(3) **Withdrawal.** To withdraw from representation during the appeal, trial counsel must file with the clerk a motion to withdraw from representation that complies with Rule 46. The motion will be considered only after trial counsel has complied with Rule 3C(b)(2).

(4) **Substitution of State Public Defender as Trial Counsel.** The State Public Defender may be substituted as “trial counsel” if the judgment or

order being appealed was entered by a court in a county that has opted to have the State Public Defender provide indigent appellate representation. The attorney or office that represented the defendant in district court must file the notice of appeal, rough draft transcript request form, and a notice of substitution of counsel. The notice of substitution of counsel must be filed in the district court on the same date as the notice of appeal and the rough draft transcript request form.

**(c) Notice of Appeal.** When a defendant elects to appeal from a district court order or judgment governed by this Rule, the defendant's trial counsel must serve and file a notice of appeal pursuant to applicable rules and statutes.

**(d) Rough Draft Transcript.** A rough draft transcript is a computer-generated transcript that can be expeditiously prepared, but is not proofread, corrected, or certified to be an accurate transcript.

**(1) Format.** For the purposes of this Rule, a rough draft transcript must:

(A) be printed on paper 8 1/2 by 11 inches in size, with the words "Rough Draft Transcript" printed on the bottom of each page;

(B) include a concordance indexing key words in the transcript;  
and

(C) include an acknowledgment by the court reporter or recorder that the document submitted under this Rule is a true original or copy of the rough draft transcript.

**(2) Audio or Video Recorded Proceedings.** Relevant portions of the district court proceedings that were audio recorded or video recorded must be submitted in typewritten form. The court will not accept audio or video recordings in lieu of a rough draft transcript.

**(3) Request for Rough Draft Transcript.**

**(A) Filing and Service.**

(i) When a rough draft transcript is necessary for an appeal, trial counsel must file a rough draft transcript request form with the district court and serve a copy of the request form upon the court reporter or recorder and opposing counsel.

(ii) Trial counsel must serve and file the rough draft transcript request form on the same date the notice of appeal is served and filed.

(iii) Trial counsel must file with the clerk a copy of the rough draft transcript request form and proof of service of the form upon the court reporter or recorder and opposing counsel.

**(B) Form.** The rough draft transcript request must substantially comply with the Rough Draft Transcript Request Form on the Nevada Supreme Court website.

**(C) Necessary Transcripts.** Counsel must order transcripts of only those portions of the proceedings that counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present.

**(D) No Transcripts.** If no transcript is to be requested, trial counsel must serve and file with the clerk a certificate to that effect within the same period that a rough draft transcript request form must be served and filed under Rule 3C(d)(3)(A)(ii). Such a certificate must substantially comply with the Certificate of No Transcript Request Form on the Nevada Supreme Court website.

**(E) Court Reporter or Recorder's Duty.** The court reporter or recorder must:

(i) submit an original rough draft transcript, as requested by appellant's or respondent's counsel, to the district court no more than 21 days after the date that the request is served;

(ii) deliver one copy of the rough draft transcript to the requesting attorney and one copy of the rough draft transcript to counsel for each party appearing separately no more than 21 days after the date the request is served; and

(iii) within 7 days after delivering the copies of the rough draft transcript, file with the clerk a certificate of delivery that substantially complies with the Notice of Completion and Delivery of Transcript Form on the Nevada Supreme Court website and specifies the transcripts that have been delivered and the date that they were delivered to the requesting party.

**(4) Supplemental Request for Rough Draft Transcript.**

(A) Opposing counsel may make a supplemental request for portions of the rough draft transcript that were not previously requested. The request must be made no more than 7 days after opposing counsel is served with the transcript request made under Rule 3C(d)(3)(A).

(B) In all other respects, opposing counsel must comply with the provisions of this Rule governing a rough draft transcript request when making a supplemental rough draft transcript request.

**(5) Sufficiency of the Rough Draft Transcript.** Trial counsel must review the sufficiency of the rough draft transcript. If a substantial question arises regarding the sufficiency of a rough draft transcript, counsel may file a motion and the court may order that a certified transcript be produced.

**(6) Exceptions.** The provisions of Rule 3C(d)(1)(B) do not apply to preparation of transcripts produced by means other than computer-generated technology. But time limits and other procedures governing requests for and preparation of transcripts produced by means other than computer-generated technology must conform with the provisions of this Rule respecting rough draft transcripts.

**(e) Filing of Fast Track Opening Brief, Appendix, and Fast Track Reply Brief.**

**(1) Fast Track Opening Brief.** Within 40 days from the date that the appeal is docketed in the court under Rule 12, appellant's trial counsel must file and serve a fast track opening brief that complies with Rule 28(a), except that it need not include a table of contents or table of authorities, and Rules 28(e) and 32.

**(2) Appendix.**

**(A) Joint Appendix.** Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix to be filed with the fast track opening brief.

**(B) Appellant's Appendix.** In the absence of an agreement respecting a joint appendix, the appellant must file and serve an appellant's appendix with the fast track opening brief.

**(C) Form and Content.** The form and contents of appendices must comply with Rules 30 and 32.

**(3) Fast Track Reply Brief.** The appellant may file and serve a reply to the fast track answering brief within 14 days after the fast track answering brief is served. The reply brief must comply with Rule 28(c), except that it need not include a table of contents, and Rules 28(e) and 32.

**(f) Filing of Fast Track Answering Brief and Appendix.**

**(1) Fast Track Answering Brief.** Within 21 days from the date the fast track opening brief is served, the respondent must file and serve a fast track answering brief that complies with Rule 28(b), except that it need not include a table of contents or table of authorities, and Rules 28(e) and 32.

**(2) Appendix.**

**(A) Joint Appendix.** Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix.

**(B) Respondent's Appendix.** In the absence of an agreement respecting a joint appendix, the respondent must file and serve a respondent's appendix with the fast track answering brief.

**(C) Form and Contents.** The form and contents of appendices must comply with Rules 30 and 32.

**(g) Extensions of Time.**

**(1) Preparation of Rough Draft Transcript.**

**(A) Seven-Day Telephonic Extension.** A court reporter or recorder may request by telephone a 7-day extension of time to prepare a rough draft transcript if the preparation requires more time than is allowed under this Rule. If good cause is shown, the clerk or a designated deputy may grant the request by telephone or by written order of the clerk.

**(B) Additional Extensions by Motion.** Subsequent extensions of time for filing rough draft transcripts will be granted only upon motion to the court. The motion must justify the requested extension in light of the time limits provided in this Rule, and must specify the exact length of the extension requested. Extensions of time for the filing of rough draft transcripts will be granted only upon demonstration of good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

**(2) Fast Track Briefs.**

**(A) Seven-Day Telephonic Extension.** Counsel may request by telephone a 7-day extension of time for filing fast track briefs and related documents. If good cause is shown, the clerk may grant the request by telephone or by written order of the clerk.

**(B) Extensions of Time Due to Transcript Unavailability.**

When an extension of time has been granted to a court reporter or recorder under this Rule, the court will extend the time for filing the brief to 21 days after the date set for the transcript to be filed.

**(C) Additional Extensions by Motion.** Subsequent extensions of time for filing fast track briefs will be granted only upon motion to the court. The motion must justify the requested extension in light of the time limits provided in this Rule, and must specify the exact length of the extension requested. Extensions of time under this provision will be granted only upon demonstration of good cause. Sanctions may be imposed if a motion is brought without reasonable grounds.

**(h) Amendments to Briefs.** Leave to amend fast track briefs will be granted only upon motion to the court. A motion to amend must justify the absence of the offered arguments in the party's initial brief. The motion will be granted only upon demonstration of good cause.

**(i) Withdrawal of Appeal.** If an appellant no longer desires to pursue an appeal after the notice of appeal is filed, counsel responsible for the appeal at that time must file with the clerk a notice of withdrawal of appeal. The notice of withdrawal of appeal must substantially comply with the Notice of Withdrawal of Appeal Form on the Nevada Supreme Court website.

**(j) Court Reporter or Recorder Protection and Compensation.**

**(1) Liability.** Court reporters or recorders are not subject to civil, criminal, or administrative causes of action for inaccuracies in a rough draft transcript unless:

(A) the court reporter or recorder willfully fails to take full and accurate stenographic notes of the criminal proceeding for which the rough draft transcript is submitted, or willfully and improperly alters stenographic

notes from the criminal proceeding, or willfully transcribes audio or video recordings inaccurately; and

(B) such willful conduct proximately causes injury or damage to the party asserting the action, and that party demonstrates that appellate or postconviction relief was granted or denied based upon the court reporter's or recorder's inaccuracies.

**(2) Compensation.** Court reporters must be compensated as follows:

(A) For preparing a rough draft transcript, the court reporter must receive 100 percent of the rate established by NRS 3.370 for each transcript page as defined by NRS 3.370 and \$25 for costs. Costs include the cost of delivery of the original and copies of the rough draft transcript. In the event that overnight delivery is required to or from outlying areas, that cost is additional.

(B) In the event a certified transcript is ordered after the rough draft transcript is prepared, the court reporter must receive an additional fee equal to 25 percent of the amount established by NRS 3.370 for the already prepared rough draft portion of the transcript. Any portions not included with the rough draft transcript will be compensated by the amount established by NRS 3.370.

**(k) Sanctions.** Any attorney, court reporter, or court recorder who lacks due diligence in compliance with this Rule may be subject to sanctions by the court.

**(l) Conflict.** The provisions of this Rule prevail over conflicting provisions of any other rule.