

RULE 10. THE RECORD

(a) The [Trial] District Court Record. The ~~[trial]~~ district 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]~~ must retain the ~~[trial]~~ district court record. When the appellate court deems it necessary to review the ~~[trial]~~ district court record, the district court clerk ~~[shall]~~ must assemble and transmit the portions of the record designated by the clerk of the Supreme Court in accordance with the provisions of Rule 11. The appellate court may direct a party to pay [A]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]~~ must submit to the clerk of the Supreme Court copies of the portions of the ~~[trial]~~ district 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).

(3) Audio or Video Recordings. If an official audio or video recording of a proceeding is necessary to the Supreme Court’s or Court of Appeals’ meaningful review of an issue raised on appeal, a party may request transmittal of the recording to the clerk of the Supreme Court. The court will not accept audio or video recordings in lieu of a transcript.

(c) Correction or Modification of the Record.

(1) If any difference arises about whether the [trial] district court record truly discloses what occurred in the district court, the difference [shall] must be submitted to and settled by that court and the record conformed accordingly.

(2) If anything material to either party is omitted from or misstated in the district court record, the omission or misstatement may be corrected:

(A) on stipulation of the parties;

(B) on order of the district court; or

(C) on order of the Supreme Court or Court of Appeals.

(3) All other [Q] questions as to the form and content of the [appellate court] record [shall] must be presented to the [clerk] Supreme Court or Court of Appeals.

REVIEWING NOTE

Some of the proposed amendments to Rule 10 are stylistic, to include changing references to the “trial court” to the “district court,” and changing “shall” to “must.” However, some are substantive. Subdivision (a)(1) has been revised to reflect that the Supreme Court Clerk’s office is not making pro se parties pay for the preparation of a record; thus the rule no longer states that “costs associated with the preparation and transmission of the record shall be paid initially by the appellant, unless otherwise ordered.” Subdivision (b)(3) is new language that provides a mechanism for parties to request transmission of audio or video recordings that are, in and of themselves, necessary for

meaningful appellate review. Subdivisions (c)(2) and (c)(3) are modeled after FRAP 10(e)(2) and (3) to enable parties to correct and supplement the record either in district court or in Nevada's appellate courts when "anything material to either party is omitted from or misstated in the district court record." However, unlike in FRAP 10(e)(2), the omission or misstatement need not have been the result of an "error or accident" to be corrected.