

## **Rule 10. The Record on Appeal.**

(a) Composition of the Record on Appeal. The following items constitute the record on appeal:

- (1) the original papers and exhibits filed in the Superior Court;
- (2) the transcript of proceedings, if any; and
- (3) a certified copy of the docket entries prepared by the Clerk of the Superior Court.

(b) The Transcript of Proceedings.

(1) Appellant's Duty to Order. Within 10 days after filing the notice of appeal, the appellant, unless proceeding on appeal as specified in Rule 10(b)(5), must:

(A) order from the reporter a transcript of such parts of the proceedings not already on file as the appellant considers necessary, and identify for the Court Reporter Division any transcript already prepared that is to be included in the record on appeal; or

(B) file a certificate in this court stating that no transcript will be ordered.

(2) Unsupported Finding or Conclusion. 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 must include in the record a transcript of all evidence relevant to that finding or conclusion. See *Cobb v. Standard Drug Co.*, 453 A.2d 110 (D.C. 1982).

(3) Partial Transcript. Unless the entire transcript is ordered:

(A) the appellant must, within the 10 days provided in Rule 10(b)(1), file a statement of the issues that the appellant intends to present on the appeal and must serve on all other parties a copy of both the transcript order or certificate required by Rule 10(b)(1) and the statement;

(B) if any other party considers it necessary to have a transcript of other parts of the proceedings, it must, within 10 days after service of the transcript order or certificate and statement of the issues, file and serve on the appellant a designation of additional parts to be ordered; and

(C) unless within 10 days after service of that designation the appellant has ordered all such parts, and has so notified the other parties, the designating party may within the following 10 days either order the parts or move in the Superior Court for an order requiring the appellant to do so.

(4) Payment. At the time of ordering, a party must make satisfactory arrangements with the Court Reporter Division for paying the cost of the transcript, except when the party is proceeding under Rule 10(b)(5).

(5) Transcript in Appeals Proceeding with Waiver of Fees, Costs, or Security, Under the Criminal Justice Act, or Under the Prevention of Child Abuse and Neglect Act.

(A) In all civil cases in which the appellant has been granted a waiver of fees, costs, or security under Rule 24, except those governed by Rule 10(b)(5)(C), a request for the preparation of transcripts must be made, on motion with notice, to the appropriate motions or trial judge. See Rule 24(h); D.C. Code § 15-712(h); *Hancock v. Mutual of Omaha Ins. Co.*, 472 A.2d 867 (D.C. 1984).

(B) In all cases in which the appellant has been permitted to proceed in the Superior Court under the Criminal Justice Act, see D.C. Code § 11-2601 et seq., the notice of appeal will be considered by the Superior Court as encompassing an order for the preparation of the reporter's transcript at the expense of the government. A copy of the notice and of the docket entries will be transmitted by the Clerk of the Superior Court to the Court Reporter Division for preparation of the transcript. The transcript prepared will include pretrial hearings on motions, voir dire, openings, the testimony and evidence presented by the parties, closings, the charge to the jury, the verdict, and sentencing, as well as any other proceeding in the case designated by counsel pursuant to Rule 10(b)(1)(A).

(C) In cases where counsel for the appellant has been appointed under the Prevention of Child Abuse and Neglect Act, see D.C. Code § 16-2304, counsel must secure vouchers for the preparation of transcripts from the Finance Office and submit them to the trial judge for approval.

(c) Statement of the Evidence When The Proceedings Were Not Recorded or When a Transcript is Unavailable. If the transcript of a hearing or trial is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement must be served upon all other parties, who may serve objections or proposed amendments within ten days after being served. The statement and any objections or proposed amendments must then be submitted to the trial judge for settlement and approval. As settled and approved, the statement must be included by the Clerk of the Superior Court in the record on appeal.

(d) Agreed Statement as the Record on Appeal. In place of the record on appeal as defined in Rule 10(a), the parties may prepare, sign, and submit to the trial judge a statement of the case showing how the issues presented by the appeal arose and were decided in the Superior Court. The statement must set forth only those facts averred and proved or sought to be proved that are essential to the court's resolution of the issues. If the statement is accurate, it — together with any additions that the trial judge may consider necessary to a full presentation of the issues on appeal — must be approved by the trial judge and must then be certified to this court as the record on appeal. A copy of the agreed statement may be filed in place of the appendix required by Rule 30.

(e) Correction or Modification of the Record.

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

(2) If anything material to any party is omitted from or misstated in the record by error or

accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded:

(A) on a stipulation of the parties; or

(B) by the Superior Court before or after the record has been forwarded.

(3) All other questions as to the form and content of the record must be presented to this court.