

The Kansas Supreme Court is considering proposed changes to Supreme Court Rule 3.02 *concerning a requirement to have proceedings transcribed before being added to the record on appeal*. The proposed changes are shown using strike-through for deletion and underlining for new language.

Comments may be submitted to rulenotice@kscourts.org with "Rule 3.02" in the subject line by 5 p.m. Monday, April 9, 2018.

Rule 3.02

PREPARATION OF RECORD ON APPEAL FOR FILING

- (a) **Timing.** Not later than 14 days after notice from the clerk of the appellate courts that an appeal has been docketed, the clerk of the district court must compile the record on appeal in one or more convenient volumes.
- (b) **Volume; Requirements.** The following rules apply to a volume contained in a record on appeal:
 - (1) a "volume" may be a file, folder, or other binder into which papers are securely fastened;
 - (2) each page in a volume must be conveniently viewable and separately numbered;
 - (3) each volume must be numbered and display on its face the volume number and the case caption;
 - (4) to the extent possible, the papers within a volume — and, if applicable, the volumes within a record on appeal — must be arranged in chronological order by filing date; and
 - (5) in cases consolidated for appeal, the record on appeal should be prepared as if it were one case, using separate, continuous, nonrepeating volume numbers.
- (c) **Contents of Record on Appeal.** The record on appeal consists of the following:
 - (1) A certified copy of the appearance docket and the following original

documents:

(A) In a civil case:

- (i) the petition or, if amended, the amended petition;
- (ii) the answer or, if amended, the amended answer;
- (iii) any reply or, if amended, the amended reply;
- (iv) the pretrial order(s);
- (v) the opinion, findings, and conclusions of the district court;
- (vi) the jury verdict, if any;
- (vii) the judgment; and
- (viii) the notice of appeal.

(B) In a criminal case:

- (i) the complaint, indictment, or information, and any amendment to the original;
- (ii) any written plea;
- (iii) the jury verdict, if any;
- (iv) the journal entry of judgment;
- (v) the notice of appeal; and
- (vi) on filing of a request by trial or appellate counsel, the presentence report, any report received from the appropriate reception and diagnostic facility of the Kansas Department of Corrections, any report from the state security hospital, and all other diagnostic reports. If the inclusion of reports is requested under this paragraph, the clerk must include the specified reports in a separate volume of the record on appeal. The separate volume must be kept sealed except when being used by appellate counsel or the courts.

- (2) All reporters' transcripts of proceedings before the district court which are available at the time the clerk of the district court compiles the record on appeal.
 - (3) Any other paper or exhibit that is added to the record on appeal under subsection (d).
 - (4) The clerk of the district court must prepare and include in the record on appeal a table of contents showing the volume and page number of each paper or exhibit contained in the record. A copy of the table of contents must be furnished to each party.
- (d) **Addition to Record on Appeal.** A party may request adding to the record on appeal any part of the entire record under Rule 3.01(a). The following rules apply:
- (1) **Addition Must Be Specified With Particularity.** A request under this subsection must specify the addition with particularity. A request for remaining portions of the entire record without particularization is not sufficient.
 - (2) **Requirement of Transcription.** A court reporter's notes and any other court authorized record of a proceeding, including an electronic recording, must be transcribed before being added to the record on appeal.
 - ~~(2)~~(3) **If Record on Appeal Has Not Been Transmitted.** If the record on appeal has not been transmitted to the clerk of the appellate courts, the following rules apply:
 - (A) The party requesting the addition must serve the request on the clerk of the district court and — if the requested addition is an exhibit that was offered or admitted into evidence and is in a court reporter's custody — on the reporter, who promptly must deliver the exhibit to the clerk of the district court for inclusion in the record on appeal.
 - (B) The clerk must add the requested addition to the record on appeal. No court order is required.
 - ~~(3)~~(4) **If Record on Appeal Has Been Transmitted.** If the record on appeal has been transmitted to the clerk of the appellate courts, the party requesting the addition must file a motion in the proper appellate court.

An addition to the record on appeal may be made only on an order of the clerk of the appellate courts or an appellate justice or judge. If a requested addition is an exhibit that was offered or admitted into evidence and is in a court reporter's custody, a copy of the order granting the motion must be served on the reporter, who promptly must deliver the exhibit to the clerk of the district court for inclusion in the record on appeal.