

United States Court of Appeals For the Eighth Circuit

RECORD ON APPEAL IN CRIMINAL CASES

Refer to the Plan to Expedite Criminal Appeals, a supplement to the Eighth Circuit Local Rules. Note carefully the distinction between appeals of cases not tried or tried in three days or less, and those cases tried in four or more days.

CONTENTS OF THE RECORD:

The district clerk will prepare the record according to the Plan. Appellant may request the district clerk to supplement the record with additional materials within seven days of filing the notice of appeal; appellee--fourteen days. No appendix is required but an addendum to the brief is. See Plan, IIIA(1)(b) and (c). In fee-paid cases, the district clerk will bill counsel for copies.

TRANSCRIPT:

Production:

The Plan requires a court reporter to complete the transcript in appeals of criminal cases not tried, or tried in three days or less, within twenty days after the notice of appeal is filed. In all other cases the transcript must be filed no later than forty days after the notice of appeal is filed.

Ordering:

Plan, IIIA(1)(a): When filing the notice of appeal counsel must arrange with the district clerk to order the transcript and arrange with the court reporter for payment. A transcript of the sentencing must be provided in all appeals from the sentence.

In forma pauperis appeals:

When the notice of appeal is filed, appellant's counsel must file with the district clerk a completed CJA Form 24 which authorizes government payment of transcript costs.

If counsel was retained and the appellant is unable to bear the costs of the appeal, counsel must assist appellant in filing in the district court a motion for leave to proceed in forma pauperis and motion for preparation of transcript at government expense when the notice of appeal is filed. The pauper's motion must be accompanied by an affidavit of poverty signed by the appellant.

If counsel is newly-appointed or has failed to order the transcript, immediate steps should be taken to do so.

MOTIONS TO WITHDRAW--DUTIES OF TRIAL COUNSEL:

Trial counsel, whether retained or appointed, must take all steps to prosecute the appeal until a motion to withdraw is granted by the circuit court. See Plan, Section II, and 8th Cir. R. 27C. Motions submitted to the district court will be forwarded to the circuit court for a ruling See 8th Cir. R. 27C(b) regarding Anders briefs.