

Proposal 12-08
Amends Supreme Court Rule 608
Offered by a Staff Attorney in the 18th Judicial Circuit

Rule 608. The Record on Appeal

(a) Designation and Contents. The clerk of the circuit court shall prepare the record on appeal upon the filing of a notice of appeal and in all cases in which a death sentence is imposed. In a death sentence case, the clerk also shall prepare in the same manner as the original, in accordance with these rules, a duplicate of the record which shall be so designated and used by the parties in any collateral proceedings. The record on appeal must contain the following:

- (1) a cover sheet showing the title of the case;
- (2) a certificate of the clerk showing the impaneling of the grand jury if the prosecution was commenced by indictment;
- (3) the indictment, information, or complaint;
- ~~(4) a transcript of the proceedings at the defendant's arraignment and plea;~~
- (5) all motions, ~~transcript of motion proceedings,~~ and orders entered thereon;
- (6) all arrest warrants, search warrants, consent to search forms, eavesdropping orders, and any similar documents;
- ~~(7) a transcript of proceedings regarding waiver of counsel and waiver of jury trial, if any;~~
- (8) the report of proceedings, including opening statements by counsel, testimony offered at trial, and objections thereto, offers of proof, arguments and rulings thereon, the instructions offered and given, and the objections and rulings thereon, closing argument of counsel, communications from the jury during deliberations, and responses and supplemental instructions to the jury and objections, arguments and rulings thereon;
- (9) in cases in which a sentence of death is imposed, a transcript of all proceedings regarding the selection of the jury, and in other cases court reporting personnel as defined in Rule 46 shall take the record of the proceedings regarding the selection of the jury, but the record need not be transcribed unless a party designates that such proceedings be included in the record on appeal;
- (10) exhibits offered at trial and sentencing, along with objections, offers of proof, arguments, and rulings thereon; except that physical and demonstrative evidence, other than photographs, which do not fit on a standard size record page shall not be included in the record on appeal unless ordered by a court upon motion of a party or upon the court's own motion;
- (11) the verdict of the jury or finding of the court;

(12) post-trial motions, including motions for a new trial, motions in arrest of judgment, motions for judgment notwithstanding the verdict and the testimony, arguments and rulings thereon;

~~(13) a transcript of proceedings at sentencing, including the presentence investigation report, testimony offered and objections thereto, offers of proof, argument, and rulings thereon, arguments of counsel, and statements by the defendant and the court;~~

(14) the judgment and sentence; ~~and~~

(15) the notice of appeal, if any-; and

(16) any transcripts requested by any party for proceedings on defendant's arraignment and plea; pre- and posttrial motions; waiver of counsel; waiver of jury trial; and sentencing, including the presentence investigation report, testimony offered and objections thereto, offers of proof, argument, and rulings thereon, arguments of counsel, and statements by the defendant and the court.

Within 14 days after the notice of appeal is filed or after a sentence of death is imposed the appellant and the appellee may file a designation of additional portions of the circuit court record to be included in the record on appeal. Thereupon the clerk shall include those portions in the record on appeal. Additionally, upon motion of a party, the court may allow photographs of exhibits to be filed as a supplemental record on appeal, in lieu of the exhibits themselves, when such photographs accurately depict the exhibits themselves. There is no distinction between the common law record and the report of proceedings, for the purpose of determining what is properly before the reviewing court.

(b) Report of Proceedings; Time. The report of proceedings contains the testimony and exhibits, the rulings of the trial judge, and all other trial proceedings before the trial judge, unless the parties designate or stipulate for less. It shall be certified by court reporting personnel or the trial judge and shall be filed in the trial court within 49 days after the filing of the notice of appeal, or, if a death sentence is imposed, the report of proceedings, and one copy for inclusion in the duplicate record, shall be certified and filed within 49 days from the date of the sentence. The report of proceedings shall be taken as true and correct unless shown to be otherwise and corrected in a manner permitted by Rule 329.

(c) – (d) [no changes]