

Rule 325. Transmission of Record on Appeal

Upon payment of the prescribed fee for preparation of the record on appeal, the clerk shall file the record with the reviewing court.

Amended October 21, 1969, effective January 1, 1970; amended July 1, 1985, effective August 1, 1985; amended April 10, 1987, effective August 1, 1987; amended December 17, 1993, effective February 1, 1994; amended May 30, 2008, effective immediately; amended June 22, 2017, eff. July 1, 2017.

Committee Comments (Revised October 21, 1969)

This rule, based on former Rules 36(2)(c) and 36-1(4), with some additions and changes, recognizes the existing practice of transmission of the record to the reviewing court by a party and affirmatively requires the clerk to deliver the record to the appellant for transmission upon request and payment of the prescribed fee. If such a request is not made but the fee is paid, the clerk is to transmit the record himself. The procedure provided for in the second and third sentence of this rule for filing a certificate in lieu of the record was initiated in 1964 by former Rule 36-1(4) for cases assignable to magistrates. The new procedure eliminates the wasteful and time-consuming step of sending the record to the reviewing court and then immediately having it sent back to the appellant, who normally needs it to prepare the excerpts from record or abstract and his brief. The requirement of filing the record can be met under the new rule by the filing of the certificate obtained from the clerk of the trial court. The appellant can then retain the record on appeal and either file it with his brief or, as will often be convenient, turn it over to the appellee for the latter's use during the writing of his brief. Rule 326 requires that the record be delivered to the reviewing court at the time the reply brief is due or earlier if the reviewing court so orders.

The requirement that a copy of the notice of appeal be sent to the clerk of the reviewing court with the certificate, added in 1969, is for the convenience of the clerk. Failure to comply, or late compliance, with this requirement would not affect the timeliness of the filing of the certificate.

Commentary (December 17, 1993)

Rule 325 is amended to require the clerk of the circuit court to deliver the certificate in lieu of record directly to the reviewing court for filing, which is consistent with the circuit clerk's responsibility of delivering the record to the reviewing court. Previously, the certificate was delivered to appellant, who then had the responsibility of filing it with the reviewing court, a circuitous procedure. The provision that a copy of the notice of appeal be sent to the reviewing court with the certificate is eliminated as unnecessary because the reviewing court already would have received the notice of appeal under Rules 303 or 307.