12-211. Transcript of proceedings.

A. **Transcript of proceedings.** As used in these rules:

(1) "transcript of proceedings" includes audio recordings of the proceedings and stenographic transcripts of the proceedings; and

(2) "audio recording" includes any tape, digital or other electronic recording of the proceedings. Audio recordings must comply with standards established by the Supreme Court.

B. **Audio recorded proceedings.**

(1) Where the transcript of proceedings is an audio recording, within fifteen (15) days after the receipt of the general calendar assignment, the district court clerk shall prepare and send the original and two (2) duplicates of the recording and index log to the appellate court and shall prepare and retain one (1) duplicate. Unless otherwise ordered by the appellate court, upon motion by the appellant, the transcript shall include the entire proceedings, including pretrial, trial, and post-trial proceedings. The district court clerk shall include a statement of the cost of the audio recordings. After final determination of the appeal, the appellate court shall preserve the original audio recording for storage in accordance with approved retention schedules as maintained by the office of the appellate court clerk.

(2) The appellant shall make satisfactory arrangements with the district court clerk for the cost of the duplicate copies of the audio recording. Proof that satisfactory arrangements have been made shall be filed in the district court within five (5) days of service of the general calendar assignment. Such proof of satisfactory arrangements shall be by certificate of the district court clerk.

C. **Proceedings not audio recorded.**

(1) Where the proceedings are not audio recorded, and except for those cases described in subparagraph (5) of this paragraph, the appellant shall, within fifteen (15) days after service of the general calendar assignment, file in the district court and serve on the appellate court and the other parties to the appeal a description of the parts of the proceedings which the appellant intends to include in the transcript. If the appellant does not intend to designate any part of the proceedings for inclusion in the transcript, either because the appellant does not deem any part of the proceedings necessary for the appeal or because no proceedings were held in the district court, the appellant shall, within fifteen (15) days after service of the general calendar assignment, file in the appellate court and serve on the other parties to the appeal a notice that a transcript will not be designated. The appellant shall designate all portions of the proceedings material to the consideration of the issues presented in the docketing statement or statement of the issues, but shall designate only those portions of the proceedings that have some relationship to the issues on appeal. If any other party to the appeal deems a transcript of other parts of the proceedings to be necessary, that party shall, within fifteen (15) days after the service of the designation or the notice of nondesignation of the appellant, file in the district court and serve on the appellant a designation of additional parts to be included or apply to the district court for an order requiring appellant to designate such parts.

(2) Each party designating a portion of the stenographic transcript of proceedings shall make satisfactory arrangements with the court reporter for payment of the cost of that portion of the transcript. Proof that satisfactory arrangements have been

made shall be filed with the district court clerk within fifteen (15) days of the designation. Such proof of satisfactory arrangements shall be by certificate of the reporter.

(3) Except for computer-aided transcripts, within sixty (60) days after the filing of the last certificate of satisfactory arrangements, the court reporter shall file with the district court three (3) copies of the designated transcript of proceedings with a certificate of the court reporter that such copies are true and correct copies of the transcript of proceedings. If the transcript is a computer-aided transcript, the transcript shall be filed within thirty (30) days after the filing of the last certificate of satisfactory arrangements. The transcript shall be in the form required by Rule 12-305 NMRA of these rules and Rule 22-302 NMRA of the Rules Governing the Recording of Judicial Proceedings. The transcript of proceedings shall include a statement of the cost of the transcript. The district court clerk shall serve notice on all parties of the filing of the transcript.

(4) Within fifteen (15) days after service of the notice of filing of the transcript of proceedings, any party may file with the district court clerk, and serve on the opposing party, objections to the stenographic transcript. A hearing on the objections shall be held by the district court within fifteen (15) days after the filing of the objections. At the hearing the district court shall resolve the objections and, if necessary, order appropriate corrections to be made. If no objections are filed, the district court clerk shall send the three (3) copies of the transcript to the appellate court when the time for filing objections has expired. If objections are filed, the district court clerk shall send the three (3) copies of the transcript to the appellate court within ten (10) days after the hearing on the objections.

[~~(5) If an appeal is taken from the district court in which a sentence of death or life imprisonment has been imposed and the proceedings are not audio recorded,~~

~~the parties shall proceed in accordance with this rule, except that the designation of proceedings shall be filed at the same time as the notice of appeal. The proceedings beginning with the opening statement and ending with the return of the verdict on the guilt phase shall be deemed to be designated in every case. The appellant shall designate any other portions of the proceedings material to the consideration of the issues to be raised on appeal, but shall designate only those portions of the proceedings that have some relationship to those issues. If any other party to the appeal deems a transcript of other parts of the proceedings to be necessary, that party shall, within fifteen (15) days after the service of the designation of the appellant, file in the district court and serve on the appellant a designation of additional parts to be included or apply to the district court for an order requiring appellant to designate such parts.~~]

D. **Disagreements over cost.** In case of disagreement over the cost of a stenographic transcript or duplicates of an audio recording, a party may file with the district court a motion for determination by the district court of the amount of compensation to be paid. The district court may order the payment or collateral to be deposited in the registry of the district court to secure payment of the cost.

E. **Extensions of time.** Each appellant shall be responsible for the timely preparation and filing of the transcript of proceedings. Any extension of time for filing a transcript of proceedings may be granted only by the appellate court. Any motion for extension of time must be supported by an affidavit from the responsible court reporter, court monitor, district court clerk or other party whose duty it is to prepare the transcript of proceedings or to duplicate the master audio recording unless this affidavit is waived by the appellate court for good cause shown. The affidavit shall set forth the pending cases in

which the reporter or court monitor has transcripts ordered, the estimated dates on which such transcripts will be completed, and the reasons an extension is necessary in this case. If the transcript is computer-aided, the motion shall also be accompanied by a written statement signed by the managing court reporter stating the reasons why the managing court reporter supports or opposes the requested extension.

F. **Failure to file transcript of proceeding.** If the appellant shall fail to cause the transcript of proceedings to be filed in the appellate court within the time limit prescribed by this rule, the district court or the appellate court, upon motion, shall make such orders as will prevent such default from prejudicing any other party's appeal in the same case.

G. **Filing in appellate court.** Upon receipt of the transcript of proceedings, the appellate court clerk shall serve notice of the filing on all parties and the district court clerk.

H. **Unavailability or inaudibility of transcript; statement of proceedings.** If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript of proceedings is unavailable or inaudible, the appellant shall prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. If no court reporter or court monitor was present at the proceedings, the statement shall be prepared and filed in the district court within fifteen (15) days after service of the notice of a general calendar assignment. If a court monitor was present at the proceedings, but the audio recorded transcript is totally or partially unavailable or inaudible, the statement shall be filed in the district court within fifteen (15) days after the filing of an audio recorded transcript of proceedings in the appellate court or within thirty

(30) days after service of the notice of a general calendar assignment, whichever is earlier. If a court reporter was present at the proceedings, but the stenographic transcript is totally or partially unavailable, the statement shall be filed in the district court within fifteen (15) days after the time the stenographic transcript of proceedings is due to be filed in the district court. The statement shall be served on the appellee, who may file objections or propose amendments thereto within fifteen (15) days after service. If there are any objections or proposed amendments thereto, the objections or amendments shall be submitted to the district court for settlement and approval. Within fifteen (15) days after filing of the objections or amendments, the district court shall settle and approve the transcript of proceedings. Upon approval, the district court clerk shall include the transcript of proceedings in the record proper and immediately transmit it to the appellate court. The appellate court may extend the time limits set forth in this paragraph for good cause shown.

I. **Stipulated transcript of proceedings.** The parties may agree upon a statement of facts and proceedings and stipulate that they deem the statement sufficient for purposes of review, and the statement shall be filed as a transcript of proceedings within sixty (60) days of service of the general calendar assignment, unless otherwise ordered by the appellate court.

J. **Separate appeals.** When separate appeals are taken by more than one party, only one transcript of proceedings shall be required.

K. **Supplemental transcript of proceedings.** After the transcript of proceedings has been filed, the appellate court may, upon its own motion or upon motion of either party and for good cause shown, order or allow a supplemental transcript of

proceedings. The appellate court shall set the time for filing the supplemental transcript of proceedings in the appellate court.

L. **Designations in cases involving appointed appellate counsel.** In cases where counsel other than trial counsel is appointed to represent a party on appeal, trial counsel shall be responsible for designating the record on appeal and for performing all other duties of counsel in this rule.

[As amended, effective July 1, 1990; December 1, 1993; January 1, 1997; April 1, 1998; September 15, 2000; March 15, 2005; as amended by Supreme Court Order No. 06-8300-014, effective July 15, 2006; by Supreme Court Order No. 12-8300-035, effective for all cases filed or pending on or after January 7, 2013; as amended by Supreme Court Order No. S-1-RCR-2023-00005, effective for all cases filed on or after December 31, 2026.]

Committee commentary. — In 2026, Rule 12-211 was amended to remove former Subparagraph (C)(5) regarding the designation of proceedings in cases where a sentence of death or life imprisonment has been imposed. This subparagraph was replaced by Rule 12-211.1 NMRA which provides for the designation of materials in such cases.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00005.]