

SECOND DISTRICT LOCAL RULES OF COURT RULES ONE AND TWO

Rule 1. Contents of reporter's and clerk's transcripts in criminal and juvenile appeals

In addition to the normal record prescribed by rules 33(a)(1) and (2), 33.5(a), and 39(c)(1) and (2) of the California Rules of Court, all records in defendants' criminal appeals and juvenile appeals before the Court of Appeal, Second Appellate District, are hereby augmented under rule 12(a) of the California Rules of Court to include reporter's and clerk's transcripts of the following:

(1) [Jury examination and opening statements]

Except if a conviction was obtained by plea or admission, reporter's transcripts of: (a) jury voir dire whenever a motion regarding the composition of the jury or jury panel (for example, a motion under *People v. Wheeler* (1978) 22 Cal.3d 258 [148 Cal.Rptr. 890, 583 P.2d 748]) or a motion for a mistrial was made during the jury voir dire and decided in whole or in part adversely to the defendant; and (b) opening statements.

(2) [Sealed and in camera hearings]

Except if a conviction was obtained by plea or admission, oral proceedings of all sealed and in camera hearings resulting in rulings adverse in whole or in part to the appellant. These transcripts shall be listed in the index to the reporter's transcript, and the original and two copies of the sealed transcripts shall be transmitted to this court in sealed envelopes marked "CONFIDENTIAL--MAY NOT BE EXAMINED WITHOUT COURT ORDER." This court shall provide a copy of the sealed transcripts, other than transcripts of a hearing from which the appellant and defense counsel were excluded, to the appellant's counsel on appeal, upon his or her application. If the appellant raises an issue on appeal relating to the sealed transcripts, copies of transcripts shall then be provided to the Attorney General upon their written request. Unless otherwise ordered by this court, the sealed transcripts of a hearing from which the appellant and defense counsel were excluded may be examined only by a justice of this court personally.

(3) [Waivers of constitutional rights]

Reporter's transcripts of oral proceedings at which the appellant's constitutional rights were waived.

(4) [Guilty or nolo contendere pleas]

Proceedings at which the appellant moved to withdraw a guilty or nolo contendere plea, and proceedings at which sentence was imposed.

(5) [Pretrial motions]

(a) The following pretrial motions: (i) motion to determine competence of the appellant (Pen. Code, § 1368); and (ii) motion for self-representation (Faretta v. California (1975) 422 U.S. 806 [95 S.Ct. 2525, 45 L.Ed.2d 562]). (b) Except if a conviction was obtained by plea or admission, the following pretrial motions which were decided in whole or in part adversely to the appellant: (i) motion to suppress identification; (ii) motion to suppress statements of the appellant; (iii) motion to permit or preclude impeachment of the appellant or a witness with prior offenses (People v. Castro (1985) 38 Cal.3d 301 [211 Cal.Rptr. 719, 696 P.2d 111]); (iv) motion for severance or joinder; (v) motion for change of venue; (vi) motion for discovery of police officer records (Pitchess v. Superior Court (1974) 11 Cal.3d 531 [113 Cal.Rptr. 897, 522 P.2d 305]); and (vii) in limine motions.

(6) [Revocation of probation]

In appeals from revocation of probation: (a) the original sentencing proceeding at which probation was imposed; (b) the proceedings at the time of entry of a guilty plea or nolo contendere plea if the original judgment of conviction is based on such plea; and (c) the proceedings at which probation is revoked and the appellant is sentenced.

Rule 2. Augmentation of record and correction of omissions from record

(a) [Material inadvertently omitted]

Counsel should not file a motion to augment the record when items have been omitted from the designated (civil) or normal (criminal) record on appeal. In those cases counsel should immediately notify the clerk of the superior court, who shall forthwith comply with rule 35(e) of the California Rules of Court.

(b) [When to file motion to augment]

Appellant should file requests for augmentation in one motion within 40 days of the filing of the record. Respondent should file requests for augmentation in one motion made within 30 days of the filing of appellant's opening brief. Thereafter, motions to augment will not be granted except upon a showing of good cause for the delay.

(c) [Clerk's transcript]

A motion to augment or correct the clerk's transcript shall be accompanied by the documents requested. If the documents are not provided, the motion must identify them with specificity and contain an explanation for their omission. The motion and the accompanying documents must be served simultaneously on opposing counsel. The requested augmented materials shall have been

filed or lodged with the trial court and the declaration shall so state.

(d) [Reporter's transcript]

A motion to augment the reporter's transcript shall identify the portion of the record with specificity, including the reporter's name and the date of the hearing. The motion shall establish with some certainty how the requested materials may be useful on appeal.

(e) [Extensions of time]

The time to perform any act required or permitted by the California Rules of Court will not be automatically extended by the filing of or ruling on a motion to augment. If additional time is needed, counsel may request an extension of time in the motion to augment.

(f) [Good faith required]

A motion to augment shall be made in good faith and shall not be made for the purpose of delay.

(g) [proposed order]

A motion to augment must be accompanied by a proposed order. The form Order Re: Augmentation may be used.