

IN THE SUPREME COURT OF ALABAMA
March 22, 2002

ORDER

IT IS ORDERED that Rule 10(a), Alabama Rules of Appellate Procedure, is amended to read as follows:

"(a) Omitted Parts of Record. The record on appeal, in both civil and criminal appeals, shall not contain the following, unless some particular question is raised with respect thereto and decided in the trial court and unless specifically designated by a party:

"(1) subpoenas or summons for any witness or the order therefor, nor for any defendant where there is an appearance for such defendant;

"(2) motion and order of continuance;

"(3) commission to examine a witness or certificate of a commissioner to a deposition or affidavit made to obtain such commission;

"(4) pretrial discovery material that is not made a part of the trial court's proceedings;

"(5) in criminal cases, the organization of the grand jury that found the indictment, nor the venire for any grand or petit jury, nor the organization of regular juries for the week or term at which the case was tried, nor the order of the court for service of the copy of the venire or the indictment upon the defendant or the sheriff's return to said order, unless some question thereto was raised before the trial court; provided, however, that nothing in this subsection shall be construed to excuse the court reporter from taking down such parts of the proceedings; and

"(6) juror questionnaires filed with the trial court, which shall be treated as provided in Rule 18.2(b), Alabama Rules of Criminal Procedure."

IT IS FURTHER ORDERED that Rule 10(c)(1), Alabama Rules of Appellate Procedure, is amended to read as follows:

"(1) Clerk's Record. The clerk's portion of the record, with the exception of those items listed in subdivision (a) of this rule (unless those items listed in sub-subdivisions (a)(1) through (5) are specifically designated in writing by the parties at the time written notice of appeal is filed, or if notice of appeal is given orally, within 7 days (1 week) after oral notice of appeal is given) shall include photocopies of the case action summary sheet(s), papers, documents, written charges, and exhibits, etc., in the case unless such papers, documents, and exhibits, etc., are incapable of being legibly photocopied. The originals of papers, documents, and exhibits that are incapable of being legibly photocopied, including those of unusual weight and bulk, shall be made a part of the record on appeal by reference, and shall be retained in the office of the clerk of the trial court. No original papers, documents, or exhibits, and no juror questionnaires shall be included in the clerk's record unless ordered by the Court of Criminal Appeals, in which event any originals filed in that court shall be returned to the clerk of the trial court upon final disposition of the appeal. The original reporter's transcript of the proceedings and the clerk's record, plus indexes of those documents and exhibits that are included and those that are made a part of the record on appeal by reference only, shall be bound as provided in this rule to make the record on appeal. The clerk's record shall also include a certification that all documents and exhibits that are made a part of the record on appeal by reference only are available upon order of the appellate court. If original papers, documents, and exhibits, etc., are ordered by the appellate court, they shall be attached to pages in the clerk's supplemental record by suitable attachment or cohesive method unless the originals are incapable of being suitably attached, in which event they shall be properly identified and placed in a suitable separate container for transmittal to the appellate court."

IT IS FURTHER ORDERED that the following Court Comment be added to follow the Comments to Rule 10:

"Court Comment to Amendments to Rules 10(a) and 10(c)(1)
Effective August 1, 2002.

"The amendments to Rules 10(a) and 10(c)(1) are intended to provide instruction for the inclusion of juror questionnaires in the record on appeal in criminal matters and for the disposition of those questionnaires. See also Rule 18.2, Alabama Rules of Criminal Procedure."

IT IS FURTHER ORDERED that these amendments and the adoption of the Court Comment shall be effective August 1, 2002.

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 10:

"Note from the reporter of decisions: The order amending Rule 10(a) and Rule 10(c)(1), effective August 1, 2002, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 2d."

Moore, C.J., and Houston, See, Lyons, Brown, Johnstone, Harwood, Woodall, and Stuart, JJ., concur.