

Rule 10.02

DIRECT APPEAL IN DEATH PENALTY CASE

- (a) **Generally.** When a notice of appeal is filed in a criminal case in which a sentence of death has been imposed, the rules relating to appellate practice will govern unless otherwise provided by this rule.
- (b) **Automatic Stay.** When a notice of appeal is filed, the execution of a death sentence is stayed until the appellate proceedings are concluded.
- (c) **Preparation of Record on Appeal.** The clerk of the district court must compile the record on appeal no later than 30 days after notice from the clerk of the appellate courts that the appeal has been docketed.
- (d) **Transcript.** A transcript must be prepared of all proceedings that have been reported by a court reporter or otherwise recorded. A transcript must be completed no later than 120 days after service of a request for transcript.
- (e) **Time Schedule for Briefs.** An appellant's brief must be filed no later than 120 days after service of the certificate of filing of the transcript under Rule 3.03. An appellee's brief must be filed no later than 120 days after service of the appellant's brief. A reply brief, if any, must be filed no later than 60 days after service of the brief to which the reply is made.
- (f) **Page Limitations.** The length of briefs—excluding the cover, table of contents, appendix, and certificate of service—may not exceed the following:
 - (1) Brief of Appellant – 100 pages;
 - (2) Brief of Appellee – 100 pages; and
 - (3) Reply Brief – 30 pages.
- (g) **Oral Argument.** Oral argument is limited to 60 minutes each for the appellant and the appellee.
- (h) **Stay of Mandate.** Issuance of a mandate in a capital case that affirms a death sentence is automatically stayed until the time for filing a petition for writ of certiorari in the United States Supreme Court has expired or, in a case in which a petition for writ of certiorari has been filed, until the clerk of the appellate courts is notified by the United States Supreme Court that the petition has been denied or, if the petition is granted, until the conclusion of proceedings in the United States Supreme Court.

[**History:** New rule effective May 28, 1997; Restyled rule and amended effective July 1, 2012.]