

How the Record You Make Is Used on Appeal

presented by the Judicial Branch Staff Education Committee

- Hon. Mary K. O'Brien (Justice, Ill. S. Ct., 3rd District)
- Matthew G. Butler (Administrative Law Clerk, Hon. Mary K. O'Brien)
- Zachary A. Hooper (Clerk, Ill. App. Ct., 3rd District)
- Jacob H. Jost (Reporter of Decisions, Ill. S. Ct.)

Your Panelists

Hon. Mary K. O'Brien

- Grundy County State's Attorney's office and private practice
- Illinois House of Representatives, 1996-2003
- Justice of the Appellate Court, 3rd District, 2003-2022
- Justice of the Illinois Supreme Court, 2022-present

Matthew G. Butler

- Legal Aid Chicago
- Law Clerk, Hon. Mary McDade
- Legal Research Director, 3rd District
- Clerk of the Appellate Court, 3rd District 2020-2022
- Administrative Law Clerk, Hon. Mary K. O'Brien, 2022-present

Zachary A. Hooper

- Staff Attorney, 3rd District
- Legal Research Director, 3rd District
- Clerk of the Appellate Court, 3rd District, 2023-present

Jacob H. Jost

- Law Clerk, Hon. Rita B. Garman (Ill. S. Ct., 4th District)
- Reporter of Decisions, Illinois Supreme Court, 2016-present
 - (editing and publishing)

**What is your first contact
with a case like?**

The Record Reaches the Clerk's Office

Report of Proceeding Deadlines

Supreme Court Rule	Due Date
604(h)	21 days after Notice of Appeal
311(a)	35 days after Notice of Appeal
303	49 days after Notice of Appeal
606	49 days after Notice of Appeal

*** Docketing Statement is due 14 days after the notice of appeal and that is when the request for the transcript will be filed.**

Notes on Rule 311(a) Accelerated Cases

1.

Trial Court will retain jurisdiction to hold a status hearing 30 days after notice of appeal to see if the record and transcripts are prepared. (5 days left on the clock to file transcripts.)

2.

If requested, your chief judge may assign/reassign your work as necessary to ensure compliance with the filing deadline.

3.

Extension requests must be accompanied by an affidavit from the court reporter providing the reason for the delay in producing the transcript.

4.

Lack of advance payment is not a reason to miss a deadline.

Pretrial Fairness Act/SAFE-T Act Appeals

NOTICE OF APPEAL

- Filed in the Circuit Court within **14 days** of the pretrial custody order.

Orders Appealable by the Defendant	Orders Appealable by the State
Denying pretrial release	Denying petition to deny pretrial release
Revoking pretrial release	Denying petition to revoke pretrial release
Imposing conditions of pretrial release	Imposing conditions of pretrial release

REPORT OF PROCEEDINGS

- Court Reporter has **21 days from the NOA** to certify & file the RP with the Circuit Clerk.
- Presently, a written transcript is the standard.

RECORD

- The Circuit Clerk shall file the record within **30 days of the NOA**.
- The Record is the same as the Record filed in a normal criminal appeal.

Revised Rule 604(h) (eff. April 15, 2024)

MOTION FOR RELIEF

- Filed in the Circuit Court **after** pretrial custody order.
- **Prerequisite** to an appeal.

NOTICE OF APPEAL

- Filed **after** disposition of the Motion for Relief and **before** the conviction is entered.
- Subsequent appeals are **not** allowed until the prior pretrial custody appeal is resolved.

REPORT OF PROCEEDINGS

- Court Reporter has **21 days from the NOA** to certify & file the RP with the Circuit Clerk.
- RP “**should not** extend to proceedings not bearing on detention or release conditions.”
- Rule 604(h)(4) makes the **written transcript** the standard, if it can be timely prepared.

RECORD

- The Circuit Clerk shall file the record within **30 days of the NOA.**

What do I do if I cannot make the 21-day deadline?

Current Rule 604(h)

- Seek an extension of time to file the record. Request should include a showing of “good cause.”

Amended Rule 604(h) – After April 15, 2024

- If proceedings were recorded, then certify the recording as the RP.
- Seek an extension of time to file the record. Request should include a showing of “good cause.”

Third District Appellate Court PFA/SAFE-T Act e-mail

AC3-PretrialFairness@illinoiscourts.gov

General Tips and Tricks



If you need more time, just ask.

- Include with the motion an affidavit showing the reason for the extension.
- If the due date has passed, extension motion will need a showing of a “reasonable excuse” for the missed deadline.



Appellant has the burden to provide a complete record.



**“Date of proceeding” is the date that the hearing or trial took place not the date the transcription is prepared.
(Usually appears on first page of a transcript.)**



Keep up the hard work!

Quirks of Your Process?

How Quotes Will Appear

R.o.D. text conventions

Quotes appear exactly as you've rendered them, except...

- **Text alterations in general appear in brackets.**
 - This might be a matter of rendering a full citation of a case mentioned in the record, *e.g.* “pursuant to [*Miranda v. Arizona*, 384 U.S. 436 (1966)]” where the speaker just said “pursuant to Miranda”
 - Omitted text will be represented by asterisks: *** for a paragraph or less, * * * (centered) for more than a paragraph
- **One-to-one punctuation substitutions of identical meaning**
 - You might signal cross-talk and speaker interruption with two dashes, --. In opinions, those will appear as an m-dash, —
 - Straight quotation marks become curled “smart quotes”
- **Emphasis added will be reflected with (Emphasis added.) at the end**

Presentation of Questioning

- **One questioner and one witness will be presented with Q. and A.**

“Q. What did you say to Mrs. Paul and what did she say to you?”

A. I continued questioning her relative to the accident. During my interview with the defendant, she indicated that—what I mean to say is, she could not have known that the bones were in there.”

- **More than one questioner or discussion between court and attorneys will be presented with names, followed by a colon:**

“MR. DOOLEY [(PLAINTIFF’S ATTORNEY)]: Your Honor, I object that this line of questioning violates the order in limine.

THE COURT: Objection sustained.

[DEFENSE ATTORNEY]: Was the victim aware of the danger or not?

A. Yes, I believe he was.”

Use of [*sic*]

- **Latin for “thus.”**

- **Style manual provides: “The word ‘sic’ is added to quoted text to indicate to the reader that a word was misspelled or erroneously used by the original speaker and not by the one doing the quoting. It should be used sparingly.”**
- **We encourage chambers to save it for ambiguity and not just to point out perceived errors—better to just bracket a correction than to unnecessarily take up reader’s attention with a fleeting error.**

What Makes a Good Record for You?

What do you hope to find in it?

Final Thoughts?