

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. AF 07-0016

IN RE PROPOSED CHANGES TO THE)
MONTANA RULES OF APPELLATE PROCEDURE)
) ORDER

The Office of the Appellate Defender (OAD) has asked the Court to adopt certain changes to the Montana Rules of Appellate Procedure with the primary purpose of cutting unnecessary costs. The proposed changes would: (1) require court reporters to file certificates of service of transcripts on appeal; (2) eliminate the requirement that transcripts be provided to both the Attorney General and the county attorney in certain types of appeals; and (3) eliminate the requirement that briefs filed with the Court be printed on bond paper.

Shown below are proposed changes to Rules 8, 10, and 11 of the Rules of Appellate Procedure, intended to accomplish the purposes suggested by OAD. Language to be added is underlined and highlighted, and language to be stricken is interlineated.

RULE 8. The record.

(4) Format, filing and service of transcripts, and number of copies.

(a) A transcript shall contain a title page, index pages listing witnesses and exhibits, as applicable, the body of the transcript, and a page certifying in writing - and executed by the court reporter - that the transcript is a true and correct verbatim record of the proceeding transcribed. The court reporter shall also include a certificate of service of the transcript on all applicable parties. Each page shall measure 8 ½ by 11 inches, with combined left and right standard text margins not exceeding 2.25 inches. A page number shall appear in the upper right corner of each page.

Rule 10. Filing and service of papers - generally.

(2) Service of all papers required. Copies of all papers, including any transcript, filed by any party and not required by these rules to be served by the clerk of the supreme court shall, at or before the time of filing, be served by the party on all other parties to the appeal or review. Service on a party represented by counsel shall be made on counsel. In criminal cases appealed by the defendant and in appeals relating to involuntary commitment and proceedings regarding abused or neglected children, all ~~transcripts~~, briefs, motions, and other papers shall be served on both the county attorney and the attorney general. **In those types of cases, transcripts shall be served only on the attorney general's office.**

Rule 11. Form of briefs and other papers - duplication.

(1) Form of briefs, appendices, petitions, including petitions for writs, motions, and other papers. Briefs, appendices, petitions, motions, and other papers shall be produced by any standard printing, word processing, typewriting, or equivalent process capable of producing a clear black image on paper. Such paper shall be standard quality, opaque, unglazed, ~~acid free,~~ recycled paper, ~~25% cotton fiber content, with a minimum of 50% recycled content, of which 10% shall be post-consumer waste.~~

IT IS ORDERED that public comments will be accepted on the above proposed changes to the Montana Rules of Appellate Procedure for 90 days following the date of this Order. Such comments shall be filed, in writing, with the Clerk of this Court.

IT IS FURTHER ORDERED that this Order shall be published on the Montana Supreme Court website and that notice of this Order shall be posted on the website of the State Bar of Montana and in the next available issue of the *Montana Lawyer*.

The Clerk is directed to provide copies of this Order to the Montana State Law Library and the State Bar of Montana. The Clerk is further directed to provide copies of this Order to the Office of Appellate Defender, the President of the Montana Court Reporters' Association, the Office of the Attorney General, the President of the Montana County

Attorneys' Association, and the Chair of the Advisory Commission on Rules of Civil and Appellate Procedure.

DATED this 30th day of November, 2010.

/S/ MIKE McGRATH
/S/ MICHAEL E WHEAT
/S/ BRIAN MORRIS
/S/ JAMES C. NELSON
/S/ W. WILLIAM LEAPHART
/S/ PATRICIA COTTER
/S/ JIM RICE