

Charge for court transcript

Number: AGO 76-90

Date: November 12, 1998

Subject:
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CIRCUIT COURT CLERK--CHARGE FOR PREPARING TRANSCRIPT OF RECORD IN APPELLATE PROCEEDING

To: Miller Newton, Clerk, Circuit Court, Dade City

Prepared by: Michael H. Davidson, Assistant Attorney General

QUESTION:

In preparing a transcript of record for appeal pursuant to Florida Appellate Rule 6.9, may the clerk of the circuit court charge for one copy as if it were an original record?

SUMMARY:

A clerk of circuit court may not charge costs under s. 28.24(12), F. S., for the making of transcripts of record as provided for in Rule 6.9, Florida Appellate Rules but must confine his charges for that service to those authorized under s. 28.24(13), F. S.

Florida Appellate Rule 6.9(a) requires the preparation of record upon appeal by the defendant, stating that "an original and two copies" shall be completed by the clerk. That Rule 6.9(a) has to do with "transcripts of record" and not the preparation of an "original" document is evidenced by the contrast between it and Rule 6.9(e), which provides that the original papers and exhibits may be sent to the appellate court either by order of that court or by order of the lower court. Otherwise, the original papers and exhibits remain in the lower court file. *Also cf.* Rule 6.10(a), Florida Appellate Rules which requires the clerk to deliver the "transcript of record" and two copies to the appropriate persons in cases where the state is the appellant.

The applicable statutes also note the distinction between "transcripts of record" and "original" papers and documents. Section 28.24(12), F. S., prescribes a service charge of \$1 per instrument for "preparing, numbering and indexing of original record" of appellate proceedings, while s. 28.24(13), F. S., prescribes a charge of \$1 per page for "making transcripts of record" in appellate proceedings.

Therefore, as the clerk of the circuit court does not prepare, number, or index an original record in the performance of his or her duties prescribed by Rule 6.9(a), *supra*, I am of the opinion that he or she may not so charge for that service, as provided for in s. 28.24(12), F. S., but must confine his charges to those prescribed by s. 28.24(13), F. S.