

IN THE SUPREME COURT OF TEXAS

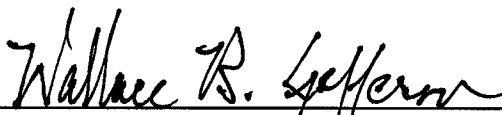
Misc. Docket No. 04- **9218**

**APPROVAL OF RULES GOVERNING ELECTRONIC RECORDINGS
OF COURT PROCEEDINGS IN LIBERTY COUNTY, TEXAS**

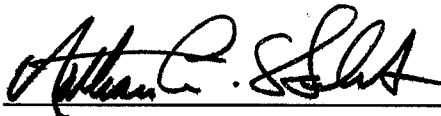
ORDERED that:

Pursuant to Texas Rule of Civil Procedure 3, the following Local Rules Governing Electronic Recordings of Court Proceedings in Liberty County, Texas are approved.

In Chambers, this 20th day of September, 2004.



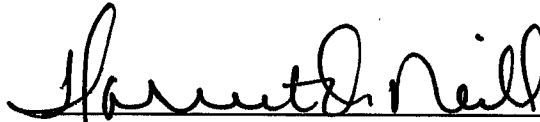
Wallace B. Jefferson, Chief Justice




Nathan L. Hecht, Justice




Priscilla R. Owen, Justice



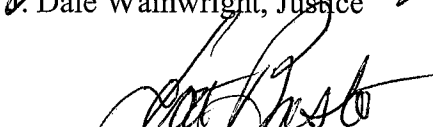
Harriet O'Neill, Justice



Steven Wayne Smith, Justice



J. Dale Wainwright, Justice



Scott Brister, Justice

9218

**RULES GOVERNING THE PROCEDURE FOR
MAKING A RECORD OF COURT PROCEEDINGS
IN LIBERTY COUNTY BY ELECTRONIC RECORDING**

1. **Application.** The following rules govern the procedures in the courts of Liberty County in proceedings in civil matters in which a record is made by electronic recording, and appeals from such proceedings.

2. **Duties of Court Recorders.** No stenographic record shall be required of any civil proceedings electronically recorded. The court shall designate one or more persons as court recorders, whose duties shall be:
 - a. Assuring that the recording system is functioning and that a complete, distinct, clear and transcribable recording is made;

 - b. Making a detailed, legible log of all proceedings while recording, indexed by time of day, showing the number and style of the proceeding before the court, the correct name of each person speaking, the nature of the proceeding (e.g., voir dire, opening, examination of witnesses, cross-examination, argument, bench conferences, whether in the presence of the jury, etc.), and the offer, admission or exclusion of all exhibits;

 - c. Filing with the clerk the original log and a typewritten log prepared from the original;

 - d. Filing of all exhibits with the clerk;

 - e. Storing or providing for storing of the original recording to assure its preservation as required by law;

 - f. Prohibiting or providing for prohibition of access by any person to the original recording without written order of the presiding judge of the court;

 - g. Preparing or obtaining a certified copy of the original recording of any proceeding, upon full payment of any charge imposed therefor, at the request of any person entitled to such recording, or at the direction of the presiding judge of the court, or at the direction of any appellate judge who

is presiding over any matter involving the same proceeding, subject to the laws of this state, rules of procedure, and the instructions of the presiding judge of the court;

- h. Performing such other duties as may be directed by the judge presiding.
3. **Statement of Facts.** The statement of facts on appeal from any proceeding of which an electronic recording has been made shall be:
- a. labeled to reflect clearly the contents and numbered, certified by the court recorder to be a clear and accurate copy of the original recording of the entire proceeding;
 - b. A copy of the typewritten and original logs filed in the case certified by the court reporter; and
 - c. All exhibits, arranged in numerical order and firmly bound together so far as practicable, with a list in numerical order and a brief identifying description of each.
4. **Time for Filing.** The court recorder shall file the statement of facts with the court of appeals within fifteen days of the perfection of an appeal or writ of error. No other filing deadlines as set out in the Texas Rules of Appellate Procedure are changed.
5. **Appendix.** Each party shall file with his brief an appendix containing a written transcriptions of all portions of the recorded statement of facts and a copy of all exhibits relevant to the error asserted. Transcriptions shall be presumed to be accurate unless objection is made. The form of the appendix and transcription shall conform to any specifications of the Supreme Court.
6. **Presumption.** The appellate court shall presume that nothing omitted from the transcriptions in the appendices is relevant to any point raised or to the disposition of the appeal. The appellate court shall have no duty to review any part of an electronic recording.
7. **Supplemental Appendix.** The appellate court may direct a party to file a supplemental appendix containing a written transcription of additional portions of the recorded statement of facts.
8. **Paupers.** Texas Rule of Appellate Procedure 40(j)(1) shall be interpreted to require the court recorder to transcribe or have transcribed the recorded statement of facts and file it as appellant's appendix.

9. **Accuracy.** Any inaccuracies in transcriptions of the recorded statement of facts may be corrected by agreement of the parties. Should any dispute arise after the statement of facts or appendices are filed as to whether an electronic recording or any transcription of it accurately discloses what occurred in the trial court, the appellate court may resolve the dispute by reviewing the recording, or submit the matter to the trial court, which shall, after notice to the parties and hearing, settle the dispute and made the statement of facts or transcription conform to what occurred in the trial court.
10. **Costs.** The expense of appendices shall be taxed as costs at the rate prescribed by law. The appellate court may disallow the cost of portions of appendices that it considers surplusage or that do not conform to any specifications prescribed by the Supreme Court.
11. **Other Provisions.** Except to the extent inconsistent with these rules, all other statutes and rules governing the procedures in civil actions shall continue to apply to those proceedings of which a record is made by electronic recording.



LIBERTY COUNTY COURT AT LAW

DON TAYLOR
Judge

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Board Certified-Family Law
TX Board of Legal Specialization

September 3, 2004

Ms. Lisa Hobbs
Rules Attorney
Supreme Court of Texas
P. O. Box 12248
Austin, Texas 78711

Re: Electronic Recording in Liberty County Courts

Dear Ms. Hobbs:

The Liberty County Courts were authorized under miscellaneous docket No. 91-0058 to use electronic recording. The order permitted recording on the format of cassette tapes. Technology has now changed and it is my desire to have installed in the courtroom a device that records on compact disc. I am requesting that the court modify its existing order to permit recording by other methods of electronic recording which would include tape or compact disc.

I have spoken with Chief Justice Steven McKeithen of the Ninth Court of Appeals and he advised that not only do they not object to the use of compact disc but it is their preference because they are in a position to use it more readily.

I have prepared proposed rules for your consideration. Please review and if appropriate request the court to grant this new rule.

Please call me if we need to discuss this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Don Taylor", written over a horizontal line.

Don Taylor

DT/lw
enclosure