

STATE OF TENNESSEE
OFFICE OF THE
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December 29, 2008

Opinion No. 08-190

Retention of Audio Recordings and Stenographic Notes of a Criminal Proceeding

QUESTIONS

1. Are the audio recordings and stenographic notes of a criminal proceeding utilized by a reporter for preparing the transcript required by Tenn Code Ann § 40-14-307 to be a part of the record that the court reporter must file with the court clerk?
2. Does Tenn. Code Ann. § 40-14-307 require the court clerk to retain and store these recordings and notes?
3. What are the retention requirements for audio recordings and stenographic notes of a criminal proceeding under Tenn. Code Ann. § 18-1-202?

OPINIONS

1. Yes. Tenn. Code Ann. § 40-14-307 requires a court reporter to record verbatim all proceedings in open court and file these records with the clerk.
2. Yes. Tenn. Code Ann. § 40-14-307 requires that the clerk preserve these items as part of the records of the trial.
3. Tenn. Code Ann. § 18-1-202 allows the clerk to dispose of these records after the passage of ten years following the final disposition of the case.

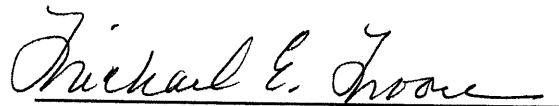
ANALYSIS

Tenn. Code Ann. § 40-14-307 requires that a court reporter attend all stages of every criminal case and “record verbatim” the proceedings. The administrative director of the courts has the duty of determining the appropriate method of creating these recordings, and it must be “of a nature that an accurate written transcript can be prepared from that method.” Tenn. Code Ann. § 40-14-306. Section 40-14-307 instructs the reporter to file the record “so taken” with the clerk. In construing legislative enactments, one must “presume that every word in a statute has meaning and purpose and should be given full effect if the obvious intention of the General Assembly is not violated by so doing.” *Overstreet v. TRW Commercial Steering Div.*, 256 S.W.3d 626, 630 (Tenn. 2008). Thus, if a

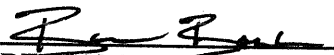
court reporter utilizes audio recording devices or stenography to make verbatim recording of a proceeding in a criminal case, the reporter must file the resulting recordings or stenographic notes with the court clerk, "who shall preserve them as part of the records of the trial." Tenn. Code Ann. § 40-14-307. If the final disposition of a case took place more than ten years previously, the clerk may dispose of these records under the directions and order of the judges of their respective courts. Tenn. Code Ann. § 18-1-202.



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