



# SUPREME COURT OF GEORGIA

Atlanta January 9, 2008

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

It is ordered that the Georgia Uniform Magistrate Court Rules be hereby amended to add the following Uniform Evidence Rules:

## **Rule 46.1 Maintenance of Non-criminal Evidence**

In cases where the trial court sits as a court of record, the Clerk of Court, Court Reporter, or Judge in possession of documents, electronic documents, audio and video recordings of whatever form, exhibits, and other material objects or any other items admitted and retained as evidence in a civil case shall maintain a log or inventory of all such items with the case number, party names, description of the item, the name and official position of the custodian, and the location of the storage of the items. Dangerous or contraband items shall be placed in the custody of the Clerk of Court, Sheriff or other appropriate law enforcement official and maintained in the courthouse or other such location as allowed by law and be available during court proceedings and accessible to the Court Reporter. All such items presented by the parties as evidence that are admitted and retained by the Court shall be identified or marked by the Clerk of Court, Court Reporter, or Judge with the case number and the exhibit number and recorded in the log or inventory.

Within 30 days after disposition of the case, the Court Reporter shall transfer the items of evidence, along with the evidence log or inventory, to the Clerk of Court of the originating court. The Clerk of Court shall update the log or inventory to show the current custodian and the location of admitted and retained evidence. Dangerous or contraband items shall be transferred to the Sheriff or other appropriate law enforcement officer along with a copy of the log or inventory. The law enforcement officer shall acknowledge the transfer with a signed receipt and the receipt shall be retained with the log or inventory created and maintained

by the Clerk of Court. The Clerk of Court and the appropriate law enforcement officer shall each maintain a log or inventory of such items of evidence. In all cases, the Court Reporter shall be granted the right of access to such items of evidence necessary to complete the transcript of the case.

Evidence in the possession of the Clerk of Court, Court Reporter, or Judge shall be maintained in accordance with local standard court operating procedures or as directed by a court order. After no less than 30 days or after the time to file a direct appeal has run, the custodian of the record may prepare a notification to the parties, signed by the judge, that admitted and retained evidence may be claimed by the parties. After the time stated in the notification has expired, the custodian may request an order from the judge to subject admitted and retained evidence that was unclaimed by the parties to the provisions of the Unclaimed Property Act, O.C.G.A. §44-12-190 to §44-12-236. The designated custodian shall be responsible for recording on the evidence log the party, the date, and the type of action taken for the release of any such items of evidence and the party to whom it was released and the destruction of any such items of evidence. The Court on its own motion, or upon the motion of any party, Clerk of Court, Court Reporter, or Sheriff who is the custodian of such items of evidence in a case shall petition the Court prior to making a substitute photograph, photocopy, audio recording, digital recording, video recording, electronic image, or other equivalent in lieu of the original evidence. Upon granting of an order for substitution, the order shall be entered into the log or inventory and the original item of evidence shall be returned to the custody of the party who tendered such evidence.

#### **Rule 46.2 Maintenance of Criminal Evidence**

The Clerk of Court or the Court Reporter in possession of documents, electronic documents, audio and video recordings of whatever form, exhibits, and other material objects or any other items admitted and retained as evidence in a criminal case shall maintain a log or inventory of all such items with the case number, party names, description of the item, the name and official position of the custodian, and the location of the storage of the items. All such items admitted by the parties as evidence and retained by the Court shall be identified or marked by the Clerk of Court, Court Reporter, or Judge with the case number, the exhibit number and recorded in the log or inventory and shall be in the custody of the Clerk of Court and shall not be removed from the courthouse or other such locations as ordered by the Court and shall be available during court proceeding and accessible to the Court Reporter. In all cases where Magistrate Court does not

make a final disposition of the case, within 30 days after the conclusion of the proceedings, the Clerk of Court shall transfer custody of the items of evidence, along with the evidence log or inventory, to the Clerk of Court of the Court with authority to make a final disposition of the case. The Clerk of Court shall update the log or inventory to show the current custodian and the location of evidence. Dangerous or contraband items shall be transferred to the sheriff or other appropriate law enforcement officer along with a copy of the log or inventory. The law enforcement officer shall acknowledge the transfer with a signed receipt and the receipt shall be retained with the log or inventory created and maintained by the Clerk of Court. In all such transfers, the items transferred shall be photographed or recorded by a visual image and the photograph or visual image shall be placed into the court file. In all cases, the Court Reporter shall be granted the right of access to such items of evidence necessary to complete the transcript of the case.

Evidence in the possession of the Clerk of Court or Court Reporter which was admitted and retained by the Court shall be maintained in accordance with the law, particularly as found in O. C. G. A. §17-5-55. The Court on its own motion, or upon the motion of any party, Clerk of Court, Court Reporter, Prosecutor or Sheriff who is the custodian of such items of evidence in a case, shall petition the Court prior to making a substitute photograph, photocopy, audio recording, digital recording, video recording, electronic image, or other equivalent in lieu of the original evidence. Upon granting of an order for substitution, the order shall be entered into the log or inventory and the original item of evidence shall be returned to the custody of the party who tendered such evidence.

**SUPREME COURT OF THE STATE OF GEORGIA**  
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from  
the minutes of the Supreme Court of Georgia

Witness my signature and the seal of said court hereto  
affixed the day and year last above written.

 , Clerk