

Robert E. Dupuis et al,

Appellees

v.

Roman Catholic Bishop of Portland,

Appellant.

**APPELLEE'S CONSENT MOTION
FOR ENLARGEMENT OF TIME AND
DESIGNATION OF RECORD
TRANSCRIPT
[M.R. App. P. 5(a), (a)(2)(A)]**

NOW COME Appellees Robert E. Dupuis et al, by and through undersigned counsel, and request this Court GRANT appellees' consent Motion to for Enlargement of Time and Designation of Record Transcript pursuant to the Maine Rules of Appellate Procedure 5(a) and 5(a)(2)(A).

BACKGROUND

On April 18, 2023, this Court issued an Order Consolidating Appeals and Setting the Course of Appeal in the instant matter. As part of its Order, the Court directed that:

The clerk of the [Business and Consumer Court] need not transmit the records on appeal to the Clerk of the Law Court until either (1) the [Business and Consumer Court] approves a statement of the case for certification to the Law Court pursuant to M.R. App. P. 5(f), which will then constitute the record on appeal for all thirteen matters, or (2) the Clerk of the Law Court requests them.

Dupuis et al v. the Roman Catholic Bishop of Portland, BCD-23-122 (Apr. 18, 2023) (order consolidating and setting course of appeal).

Pursuant to the Court's Order of April 18, 2023, the parties engaged in good faith efforts to draft an Agreed Statement of the case pursuant to M.R. App. P. 5(f) ("Record on Agreed Statement"), and even exchanged drafts.

Then, on Monday, May 1, 2023, this Court (*Horton, J.*) convened a status conference at which the parties addressed their efforts to draft an Agreed Statement. At that time, the parties agreed and orally stipulated to several matters and the Court orally stated that the Record should instead be submitted in accordance with M.R. App. P. 5(a).

At present, the parties anticipate a forthcoming Order by this Court following the conference of May 1, 2023, as verbally outlined by Associate Justice Horton. Appellees make the instant consent Motion with the understanding that the Court’s Order has not yet been issued and neither party is attempting to substitute its understanding of the May 1, 2023, conference for an Order of this Court.

APPLICABLE RULES

The requirements for ordering transcripts are not in M.R. App. P. 5(f) and, until Monday’s conference, the parties were not focused on M.R. App. P. 5(a) and 5(b). An extension for good cause is therefore warranted to complete the Record by agreement and consistent with the Court’s anticipated Order.

ARGUMENT

The parties are in agreement that the Record on the instant consolidated appeal would be accurately and completely established by the adoption of the trial court record for BCD-CV-23-00044, including a transcript of the January 31, 2023, Superior Court Hearing on Defendant’s Motion for Judgment on the Pleadings.

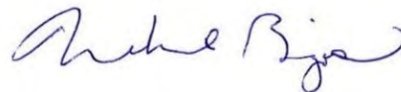
Where the parties are in agreement—and where Appellees have, on May 3, 2023, filed a formal request for copies of the transcription of the January 31, 2023, Hearing (*see* “Transcript and Audio Order Form” *attached herewith as “Exhibit A”*)—Appellees hereby seek relief enlarging deadlines set by M.R. App. P. 5(a)(2)(A) for ordering the transcript of the oral

arguments and for filing any Designation of certain hearing transcripts before the trial court. Before the end of the May 1st conference, Appellees Dupuis, et al., did not know whether the record was going to be established pursuant to M. R. App. P. 5(a), (b), or 5(f), and did not have the benefit of Appellant first requesting the transcript, thus triggering the language of the rule allowing Appellee same. Appellees also mistakenly thought the transcript had recently been requested, when it had not. Regardless, the parties and the Court are in alignment on this issue now, and formalizing the extension of time to compile the record materials is appropriate, especially considering that this appeal is on reported questions, and the litigation in the trial court is at a relatively early stage.

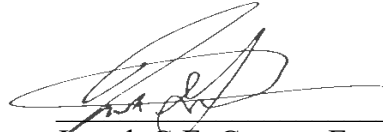
With consent of Appellant, Appellees hereby request this Court issue an Order granting the request formally made by Appellees on May 3, 2023, via email submission to the Clerk of the Law Court, for copies of the transcription of the January 31, 2023, Hearing, and, concurrently, admitting to the Record upon completion thereof, copies of said transcript as required under M.R. App. P. 5(b).

WHEREFORE, appellees request this Court GRANT the instant Motion and issue an Order enlarging time for the purpose of processing requests for production of a hearing transcript of the trial court, and incorporation thereof into the Record of the instant consolidated appeal pursuant to the procedures established by M.R. App. P. 5(a).

Dated: May 3, 2023



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Robert E. Dupuis et al,

Appellees

v.

Roman Catholic Bishop of Portland,

Appellant.

ORDER (proposed)

On consent Motion of appellees, Robert E. Dupuis et al, for good cause shown, it is hereby ORDERED:

The Court GRANTS Appellees' consent motion for enlargement of time to allow for processing Appellees' request for a transcript of the January 31, 2023, Superior Court Hearing.

The Court GRANTS Appellees' consent motion requesting incorporation thereof into the Record of the instant consolidated appeal pursuant to the procedures established by M.R. App. P. 5(a) and on the submitted "Transcript and Audio Order Form" submitted on May 3, 2023.

The Clerk is directed to incorporate this Order into the docket by reference pursuant to M.R. Civ. P. 79(a).

Date

Justice, Law Court

CONTAINS NONPUBLIC DIGITAL INFORMATION

MAINE JUDICIAL BRANCH

Robert E. Dupuis Plaintiff

V.

Roman Catholic Bishop of Portland Defendant

"X" the court for filing:

Superior Court District Court

Unified Criminal Docket

County: Cumberland

Location (Town): Portland

Docket No.: BCD-CIV-2022-00044

TRANSCRIPT AND AUDIO ORDER FORM

Plaintiff/State Attorney: Michael T. Bigos Defendant Attorney Gerald F. Petruccelli

Purpose of Transcript or Audio Request: ("X" one box)

1. Appeal – Appeals require paper transcripts unless otherwise ordered by the court. M.R. App. P. 5.

Law Court Superior Court UCD Sentence Review Panel Post-Conviction Review

2. Reference – Use in another pending case Personal Reference

If for use in another pending case, is there a court imposed due date? Yes No

If yes, due date (mm/dd/yyyy):

Type of Request: ("X" one box):

1. Paper Transcript

2. Audio Recording (MP3 Recording on CD)

Payment: ("X" one box)

1. Private Pay

2. State Agency

3. MCILS (Motion for Transcript at State Expense (CV-CR-166) required)

4. Judicial Branch (Motion for Transcript at State Expense (CV-CR-166) required)

Please note: A clerk must verify that all of the necessary information is listed below. Under hearing type, please be specific if you want the entire hearing or just a specific portion of it.

Hearing Date(s) (mm/dd/yyyy)	Hearing Type	Courtroom	CD Start/End Times, Tape & Index Number or OCR Name
1. 01/31/2023	Motion Hearing	McKeon(Zoom)	Zoom recording; entire hearing
2.			
3.			
4.			
5.			

Court Clerk Signature: _____ Date (mm/dd/yyyy): _____

INCOMPLETE FORMS MAY BE RETURNED

ADA Notice: The Maine Judicial Branch complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation contact the Court Access Coordinator, accessibility@courts.maine.gov, or a court clerk.

Language Services: For language assistance and interpreters, contact a court clerk or interpreters@courts.maine.gov.

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MAINE JUDICIAL BRANCH

Please write your contact information clearly in the section below. This information is used only to ensure delivery of transcript/audio recordings.

Name of person ordering transcript/recording: Michael T. Bigos
Firm or Agency (if applicable): Berman & Simmons
Mailing Address: PO Box 961, Lewiston ME 04243
Phone Number: 207-784-3576
Email Address: bigosservice@bermansimmons.com

PLEASE NOTE: Transcripts are generally sent via email. Audio recordings are generally sent via US Mail. Email delivery of audio can be arranged in some circumstances. If you do not have an email address, the Office of Transcript Operation will need your phone number and mailing address to assist you with receiving your materials.

Date (mm/dd/yyyy): 05/03/2023

► /s/ Michael T. Bigos
Signature of Person Ordering Transcript/Recording

Office of Transcript Operations
Penobscot Judicial Center
78 Exchange Street, Suite 200, Bangor, ME 04401
207-991-6322
OTO@courts.maine.gov

INSTRUCTIONS FOR ORDERING TRANSCRIPTS

- A. You must include all of the information requested on the **transcript order form** or the form may be returned and your request will not be acted upon.
- B. The party who will be responsible for the bill must **sign** the order.
- C. If you are requesting that the transcript be provided at no cost or paid for by MCILS, you must complete and attach this form: **Motion for Transcript at State Expense (CV-CR-166)**.
- D. **File** the complete transcript and audio request form with the clerk of court.
- E. The **costs** for transcripts of any court proceedings are specified in Administrative Order JB-05-26.
- F. All transcripts for the Maine Judicial Branch are produced by AVTranz or by Official Court Reporters.
- G. If AVTranz is preparing your transcript, AVTranz will automatically send you an email that includes a cost estimate (based on the 14-day turnaround rate), deposit information, and payment options after they receive your request from the Office of Transcript Operations. If your transcript is being paid for **privately**, you can also opt for 1, 3, 7, 21 and 30-day turnaround. If your transcript is provided at **no cost** to you or is paid by **MCILS**, the standard turnaround is 30 days.
- H. Turnaround times begin once AVTranz receives a digital copy of the audio. When the transcript has been completed, you will receive it by email from AVTranz and, depending on your circumstances, you will either be charged the balance due or issued a refund.

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MAINE JUDICIAL BRANCH

- I. If an Official Court Reporter is preparing your transcript, s/he will contact you by phone directly to discuss arrangements of payment and a timeframe for completion.
- J. Neither an Official Court Reporter nor the Office of Transcript Operations is responsible for delay in transcript production or for requesting additional time to obtain a transcript if you fail to comply with these procedures.

APPEAL ORDERS: If you are ordering a transcript as part of an appeal, you must file the order with the clerk of the trial court when you file the Notice of Appeal. Once it is completed, the transcript will be filed with the appropriate court and a copy of the transcript will be delivered to you.

REFERENCE ORDERS: If you are ordering a transcript for reference purposes, you must file the order with the clerk of the trial court. The clerk will then forward it to the Official Court Reporter and/or the Office of Transcript Operations.

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