



**TITLE VI LOCAL RULES OF COURT
UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT
[ALL-IN-ONE DOCUMENT]**

Habeas Corpus; Proceedings in Forma Pauperis

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LOCAL RULES OF COURT | 11TH CIRCUIT (US)

SECTION: VI

TITLE: HABEAS CORPUS; PROCEEDINGS IN FORMA PAUPERIS

RULES: 22-1 through 24-2



RULE 22-1 | CERTIFICATE OF APPEALABILITY

In all cases brought pursuant to 28 U.S.C. §§2241, 2254, or 2255, a timely notice of appeal must be filed.

(a) A party must file a timely notice of appeal even if the district court issues a certificate of appealability. The district court or the court of appeals will construe a party's filing of an application for a certificate of appealability, or other document indicating an intent to appeal, as the filing of a notice of appeal. If the notice of appeal or its equivalent is filed in the court of appeals, the clerk of that court will note the date it was received and send it to the district court, pursuant to FRAP 4(d).

(b) If the district court denies a certificate of appealability, a party may seek a certificate of appealability from the court of appeals. In the event that a party does not file an application for such a certificate, the court of appeals will construe a party's filing of a timely notice of appeal as an application to the court of appeals for a certificate of appealability.

(c) An application to the court of appeals for a certificate of appealability may be considered by a single circuit judge. The denial of a certificate of appealability, whether by a single circuit judge or by a panel, may be the subject of a motion for reconsideration but may not be the subject of a petition for panel rehearing or a petition for rehearing en banc.

RULE 22-2 | LENGTH OF APPLICATION FOR A CERTIFICATE OF APPEALABILITY

An application to the court of appeals for a certificate of appealability and a brief in support thereof (whether or not they are combined in a single document) collectively may not exceed the maximum length authorized for a party's principal brief [See FRAP 32(a)(7)]. A response and brief opposing an application is subject to the same limitations.



RULE 22-3 | APPLICATION FOR LEAVE TO FILE A SECOND OR SUCCESSIVE HABEAS CORPUS PETITION OR MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE

(a) Form. An applicant seeking leave to file a second or successive habeas corpus petition or motion to vacate, set aside or correct sentence should use the appropriate form provided by the clerk of this court. In a death sentence case, the use of the form is optional.

(b) Finality of Determination. Consistent with 28 U.S.C. §2244(b)(3)(E), the grant or denial of an authorization by a court of appeals to file a second or successive habeas corpus petition or a motion pursuant to 28 U.S.C. §2255 is not appealable and shall not be the subject of a motion for reconsideration, a petition for panel rehearing, or a petition for rehearing en banc.



RULE 22-4 | ASSIGNMENT OF CAPITAL CASES

Capital cases are randomly assigned from a roster of active judges of the court. Once assigned, the same panel will be assigned to all cases and appeals involving the same inmate under sentence of death. Replacement judges may be selected in the event a panel member takes senior status or is otherwise unavailable.



RULE 24-1 | APPEALS IN FORMA PAUPERIS AND UNDER THE CRIMINAL JUSTICE ACT

(a) To meet the requirements of the Criminal Justice Act of 1964, as amended, 18 U.S.C. §3006A, the judicial council of this circuit has adopted a plan that supplements the various plans that have been adopted by the United States district courts of this circuit by providing for representation on appeal of parties financially unable to obtain adequate representation. The circuit's CJA plan, and the guidelines for counsel, appear as Addendum Four to these rules.

(b) If counsel was appointed for a party in the district court under the Criminal Justice Act, the party may appeal without prepaying costs and without establishing the right to proceed in forma pauperis. 18 U.S.C. §3006A(d)(6). This policy also applies to all in forma pauperis appeals from judgments of conviction.



RULE 24-2 | MOTION FOR LEAVE TO PROCEED ON APPEAL IN FORMA PAUPERIS

A motion for leave to proceed on appeal in forma pauperis may be filed in the court of appeals within 30 days after service of notice of the action of the district court denying leave to proceed on appeal in forma pauperis.



APPENDIX



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