

RULE 9.420 | FILING; SERVICE; COMPUTATION OF TIME

(a) Filing.

(1) Generally. Filing may be accomplished in conformity with the requirements of Florida Rule of General Practice and Judicial Administration 2.525.

(2) Inmate Filing. The filing date of a document filed by a pro se inmate confined in an institution will be presumed to be the date it is stamped for filing by the clerk of the court, except as follows:

(A) the document will be presumed to be filed on the date the inmate places it in the hands of an institutional official for mailing if the institution has a system designed for legal mail, the inmate uses that system, and the institution's system records that date; or

(B) the document will be presumed to be filed on the date reflected on a certificate of service contained in the document if the certificate is in substantially the form prescribed by subdivision (d)(1) of this rule and either:

(i) the institution does not have a system designed for legal mail; or

(ii) the inmate used the institution's system designed for legal mail, if any, but the institution's system does not provide for a way to record the date the inmate places the document in the hands of an institutional official for mailing.

(b) Service.

(1) By a Party or Amicus Curiae. All documents must be filed either before service or immediately thereafter. A copy of all documents filed under these rules must, before filing or immediately thereafter, be served on each of the parties. The lower tribunal, before the record is transmitted, or the court, on motion, may limit the number of copies to be served.

(2) By the Clerk of the Court. A copy of all orders and decisions must be transmitted, in the manner set forth



for service in rule 9.420(c), by the clerk of the court to all parties at the time of entry of the order or decision, without first requiring payment of any costs for the copies of those orders and decisions. Before the court's entry of an order or decision, the court may require that the parties furnish the court with stamped, addressed envelopes for transmission of the order or decision.

(c) Method of Service. Service of every document filed in a proceeding governed by these rules (including any briefs, motions, notices, responses, petitions, and appendices) must be made in conformity with the requirements of Florida Rule of General Practice and Judicial Administration 2.516(b). Service of any document required to be served but not filed contemporaneously must be made in conformity with the requirements of Florida Rule of General Practice and Judicial Administration 2.516, unless a court orders, a statute specifies, or a supreme court administrative order specifies a different means of service.

(d) Proof of Service. A certificate of service by an attorney that complies in substance with the requirements of Florida Rule of General Practice and Judicial Administration 2.516(f) and a certificate of service by a pro se party that complies in substance with the appropriate form below will be taken as prima facie proof of service in compliance with these rules. The certificate must specify the party each attorney represents.

(1) By Pro Se Inmate:

I certify that I placed this document in the hands of(here insert name of institution official)..... for mailing to(here insert name or names and addresses used for service)..... on(date).....

..... (name)

.....(address).....

.....(prison identification number).....

(2) By Other Pro Se Litigants:



I certify that a copy hereof has been furnished to(here insert name or names and addresses used for service)..... by(e-mail) (delivery) (mail)..... on(date).....

..... (name)

..... (address)

.....(phone number)

(e) Computation. Computation of time is governed by Florida Rule of General Practice and Judicial Administration 2.514.

Committee Notes

1977 Amendment. Subdivision (a) replaces former rule 3.4(a). The last sentence of former rule 3.4(a) was eliminated as superfluous. The filing of papers with a judge or justice is permitted at the discretion of the judge or justice. The advisory committee recommends that the ability to file with a judge or justice be exercised only if necessary, and that care be taken not to discuss in any manner the merits of the document being filed. See Fla. Code Prof. Resp., DR 7-110(B) (now R. Regulating Fla. Bar 4-3.5(b)); Fla. Code Jud. Conduct, Canon 3(A)(4).

Subdivision (b) replaces and simplifies former rules 3.4(b)(5) and 3.6(i)(3). The substance of the last sentence of former rule 3.4(b)(5) is preserved. It should be noted that except for the notices or petitions that invoke jurisdiction, these rules generally provide for service by a certain time rather than filing. Under this provision filing must be done before service or immediately thereafter. Emphasis has been placed on service so as to eliminate the hardship on parties caused by tardy service under the former rules and to eliminate the burden placed on the courts by motions for extension of time resulting from such tardy service. It is anticipated that tardy filing will occur less frequently under these rules than tardy service under the former rules because the parties are unlikely to act in a manner that would irritate the court. The manner for service and proof thereof is provided in subdivision (c).

Subdivision (d) replaces former rule 3.4(b)(3) and provides that if a party or clerk is required or permitted to do an act within a prescribed time after service, 5 days (instead of 3 days under the former rule) shall be added to the time if service is by mail. Subdivision (e) replaces former rule 3.18 with no substantial change. “Holiday” is defined to include any day the clerk’s office is closed whether or not done by order of the court. The holidays specifically listed have been included, even though many courts do not recognize them as holidays, to not place a burden on practitioners to check whether an individual court plans to observe a particular holiday.

1980 Amendment. Subdivision (b) was amended to provide that either the lower tribunal or the court may limit the number of copies to be served. The rule contemplates that the number of copies may be limited on any showing of good cause, for example, that the number of copies involved is onerous or that the appeal involves questions with which some parties have no interest in the outcome or are so remotely involved as not to justify furnishing a complete record to them



at appellant's initial cost. The availability of the original record at the clerk's office of the lower tribunal until due at the appellate court is a factor to be considered.

2014 Amendment. Subdivision (a)(2) has been completely rewritten to conform this rule to *Thompson v. State*, 761 So. 2d 324 (Fla. 2000), and the federal mailbox rule adopted in *Haag v. State*, 591 So. 2d 614 (Fla. 1992). The amendment clarifies that an inmate is required to use the institutional system designed for legal mail, if there is one, in order to receive the benefits of the mailbox rule embodied in this subdivision. If the institution's legal mail system records the date the document is provided to institutional officials for mailing (e.g. Rule 33-210.102(8), Florida Administrative Code (2010)), that date is presumed to be the date of filing. If the institution's legal mail system does not record the date the document is provided to institutional officials — or if the institution does not have a system for legal mail at all — the date of filing is presumed to be the date reflected on the certificate of service contained in the document, if the certificate of service is in substantial conformity with subdivision (d)(1) of this rule. If the inmate does not use the institution's legal mail system when one exists — or if the inmate does not include in the document a certificate of service when the institution does not have a legal mail system — the date the document is filed is presumed to be the date it is stamped for filing by the clerk of the court.

Court Commentary

2000. Subdivision (a)(2) codifies the Florida Supreme Court's holding in *Thompson v. State*, 761 So. 2d 324 (Fla. 2000).

