

RULE 42-1 | DISMISSAL OF APPEALS

(a) Motions to Dismiss by Appellants or Petitioners and Joint Motions to Dismiss. If an appellant or petitioner files an unopposed motion to dismiss an appeal, petition, or agency proceeding, or if both parties file a joint motion to dismiss an appeal, petition, or agency proceeding, and the matter has not yet been assigned to a panel on the merits, the clerk may clerically dismiss the appeal, petition, or agency proceeding and in such circumstances will issue a copy of the order as and for the mandate. By issuing such a dismissal, the clerk expresses no opinion on the effect of that dismissal. If the appeal, petition, or agency proceeding has been assigned to a panel on the merits, any motion to dismiss will be submitted to that panel.

A joint motion to dismiss must be signed by counsel for each party encompassed by the motion, or by the party itself if proceeding pro se. All motions to dismiss must contain a Certificate of Interested Persons and Corporate Disclosure Statement in compliance with FRAP 26.1 and the accompanying circuit rules. If an appellant's or petitioner's motion to dismiss is opposed, it will be submitted to the court. For motions to dismiss criminal appeals, see also 11th Cir. R. 27-1(a)(7) and 27-1(a)(8).

(b) Dismissal for Failure to Prosecute. Except as otherwise provided for briefs and appendices in civil appeals in 11th Cir. R. 42-2 and 42-3, when appellant fails to file a brief or other required papers within the time permitted, or otherwise fails to comply with the applicable rules, the clerk shall issue a notice to counsel, or to pro se appellant, that upon expiration of 14 days from the date thereof the appeal will be dismissed for want of prosecution if the default has not been remedied by filing the brief or other required papers and a motion to file documents out of time. Within that 14-day notice period a party in default must seek leave of the court, by appropriate motion, to file documents out of time or otherwise remedy the default. Failure to timely file such motion will result in dismissal for want of prosecution.

The clerk shall not dismiss an appeal during the pendency of a timely filed motion for an extension of time to file appellant's brief or appendix, but if the court denies such leave after the expiration of the due date for filing the brief or appendix, the clerk shall dismiss the appeal



forthwith. The clerk shall not dismiss an appeal during the pendency of a timely filed motion to file documents out of time or otherwise remedy the default which is accompanied by the brief or other required papers, but if the court denies such leave the clerk shall dismiss the appeal forthwith.

If an appellant is represented by appointed counsel, the clerk may refer the matter to the Chief Judge for consideration of possible disciplinary action against counsel in lieu of dismissal.

