

UNITED STATES COURT OF APPEALS

FIFTH CIRCUIT

PLAN FOR EXPEDITING CRIMINAL APPEALS

Effective, May 4, 2008

1. Goal. The court desires to process criminal appeals at least within the federal appellate court median times from filing the notice of appeal to filing of the last brief, and from filing the notice of appeal to the court's decision.

2. Policy. Delays in deciding criminal cases are a matter of concern because by statute, criminal appeals must be expedited. The court grants extensions of briefing times only where the standards of the Federal Rules of Appellate Procedures are met. If extensions are permitted, they are subject to the guidelines in the Fifth Circuit Rules, and Internal Operating Procedures (IOPs). Attorneys who violate the Federal, or Fifth Circuit Rules, or the court's IOPs are subject to appropriate disciplinary sanctions. Court reporters must comply with the federal appellate and circuit rules governing the timely acknowledgment of transcript orders, and are directed to give precedence to transcribing criminal appeals before civil cases. District courts must meet the time limits established by the Fifth Circuit Rules and Court Reporter Management Plans, and must effectively manage their court reporters. Fifth Circuit judges are reminded of their obligations timely to screen and decide criminal appeals.

3. Procedures. *Criminal Appeals.* The Fifth Circuit clerk's office is responsible for: (a) communicating court policies concerning expediting criminal appeals; (b) supervising the processing of criminal cases; and (c) as requested, assembling data on reporters, clerks and counsel.

Filing of Reporters' Transcripts. District judges, clerks of court or court reporter coordinators are responsible for insuring court reporters give preference to filing transcripts in criminal cases before all other cases. Except in exceptional cases, criminal transcript should be filed within the 30-day period specified in FED. R. APP. P. 11(b). District judges, clerks of court, court reporter coordinators and court reporters are reminded of the requirements in 5TH CIR. R. 11.2 governing requests for extension of time to file transcripts. Court reporters should neither request

routine extensions of time to file criminal transcripts, nor expect them to be granted. Court reporters who ignore the requirements of this rule and fail to file transcripts timely risk the imposition of sanctions. 5TH CIR. R. 11.2(c) requires district judges to verify the need for an extension and approve it before this court takes action. The district judges' careful review and adherence to this requirement will insure court reporters request extensions of time only where exceptional circumstances exist. District courts are responsible for overseeing the overall workload of their court reporters and for insuring that criminal transcripts are managed and prepared as quickly as possible.

Communications to Counsel and Reporters. The Fifth Circuit clerk's office will advise court reporters and attorneys representing defendants and the United States of the court's policy on expediting criminal appeals, the court's rule requirements, counsel's obligations, and establish due dates in accordance with the Federal and Fifth Circuit Rules, and IOPs.

Notice to Counsel and Reporters. FED. R. APP. P. 10(b) requires appellant's counsel to order a transcript, or to certify no transcript will be ordered, within 10 days of filing the notice of appeal, or entry of an order disposing of certain motions in FED. R. APP. P. 4(a)(4)(A). Counsel must timely complete the transcript order form provided by the district court, make financial arrangements, and deliver the form to the court reporter by the most expeditious means. As soon as received, the reporter **immediately** must advise the court when a transcript has been ordered and payment arranged. The reporter also must give this court an expected completion date and an estimated number of pages for the transcript. Counsel and reporters may be sanctioned for failing to comply with the provisions of the Federal Rules and this court's implementing procedures.

Notice to U. S. Attorneys. When the clerk's office issues a briefing notice to appellant's counsel in direct criminal cases, it also will provide notice to the U. S. Attorney, advising of the court's rules and policies governing criminal appeals.

Extensions of Time To File Briefs. Counsel may request extensions only when absolutely necessary. The clerk or court will grant extensions sparingly and only as set forth in the rules and IOPs. Extensions in criminal appeals will be for the minimum time needed, and if granted, will exceed 30 days only in exceptionally rare instances. Counsel are responsible for reviewing the record on appeal within 15 days of receipt. If there are omissions from the record, counsel must notify the district

court and this court of any missing materials, particularly transcripts, and arrange immediately with the court reporter for any additional transcripts within this period. Counsel who fail to act promptly and to make arrangements for a complete record within this time period, cannot expect an extension of time to file the brief because their lack of diligence caused the record to be incomplete.

Screening and Calendaring Criminal Appeals. This court gives criminal appeals the highest priority in screening, calendaring and decision. Our circuit judges must meet expedited time lines for screening criminal cases, and the clerk's office must expedite calendaring of criminal appeals when oral argument is required. The clerk's office will monitor criminal appeals to reinforce the court's priorities in routing and return of cases for screening and in setting cases for oral argument when required. These procedures shall be reviewed and, if necessary, revised upon request from the court or Judicial Council.

Disposition. The priority given to criminal cases continues after oral hearing or submission on the record and briefs. By court policy, each judge must give direct criminal cases priority in the preparation and publication of opinions over all other cases except previously submitted direct criminal cases.

4. Disciplinary Action. For conduct unbecoming a member of the Bar, or for failure of counsel to comply with the applicable Federal and Fifth Circuit Rules, the court shall issue a show cause order as provided by FED. R. APP. P. 46(c), and 5TH CIR. R. 42.3.1.1 and 42.3.3. Sanctions may be imposed upon delinquent counsel as may be individually appropriate, ranging from reprimand to fine, or Criminal Justice Act financial deduction or removal from the roll of attorneys permitted to practice before this court.