

United States Court of Appeals

Eleventh Circuit
56 Forsyth Street, NW
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

www.ca11.uscourts.gov

Peter F. Busscher
Chief Deputy Clerk

April 6, 2026

MEMORANDUM

Enclosed are proposed amendments to the Rules of the United States Court of Appeals for the Eleventh Circuit. Text to be added is in bold and double-underlined, while text to be deleted is lined-through.

Comments on the proposed amendments may be submitted in writing at the above address, or electronically at <http://www.ca11.uscourts.gov/rules/proposed-revisions>, no later than Wednesday, May 6, 2026.

David J. Smith

UNITED STATES
COURT OF APPEALS
for the
ELEVENTH CIRCUIT

PROPOSED REVISIONS TO ELEVENTH CIRCUIT RULES

- FEDERAL RULES OF APPELLATE PROCEDURE
- ELEVENTH CIRCUIT RULES
- *INTERNAL OPERATING PROCEDURES*

April 2026

an application for such a certificate within that period, 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. This rule does not entitle a party to a stay of the execution of their judgment and sentence.

(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.

11th Cir. R. 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.

11th Cir. R. 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.

11th Cir. R. 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.

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I.O.P. -

1. Certificate of Appealability. *Consistent with FRAP 2, the court may suspend the provisions of 11th Cir. R. 22-1(c) and order proceedings in accordance with the court's direction.*

2. Oral Argument in Capital Cases. *The presiding judge of the panel will notify the clerk at the appropriate time whether or not there will be oral argument in the case, and if so, the date for oral argument and the amount of oral argument time allotted to each side. A capital case appeal will include oral argument on the merits unless the panel decides unanimously that oral argument is not needed.*

Cross-Reference: FRAP 27; 28 U.S.C. §§ 2244, 2254, 2255; Rules 9 and 11 of the Rules Governing Section 2254 and Section 2255 Cases in the United States District Courts.

and to the court (electronically or in paper) before the day of argument. If the supplemental authorities were not available until the day before oral argument, the party must bring to oral argument a sufficient number of paper copies of the opinion(s) or other authorities being cited to permit distribution to panel members and the opposing party.

11th Cir. R. 34-5 Counsel's Table. Only attorneys or those authorized to present oral argument, or both, may sit at counsel's table or inside the well.

* * * *

I.O.P. -

1. Non-Argument Calendar. *When the last brief is filed an appeal is sent to the office of staff attorney for classification. If the staff attorney is of the opinion that the appeal of a party does not warrant oral argument, the appeal is returned to the clerk for routing to one of the court's judges, selected in rotation. In appeals involving multiple parties, the staff attorney may recommend that appeals of fewer than all parties be decided without oral argument but that the appeals of the remaining parties be scheduled for oral argument. If the judge to whom an appeal is directed for such consideration agrees that the appeal of a party does not warrant oral argument, that judge forwards the briefs, together with a proposed opinion, to the two other judges on the non-argument panel. If a party requests oral argument, all panel judges must concur not only that the appeal of that party does not warrant oral argument, but also in the panel opinion as a proper disposition without any special concurrence or dissent. If a party does not request oral argument, all panel judges must concur that the appeal of that party does not warrant oral argument.*

In other appeals, when oral argument is requested by a party and the staff attorney is of the opinion that oral argument should be heard, the staff attorney may recommend that an appeal be assigned to the oral argument calendar, subject to later review by the assigned oral argument panel.

If a determination is made that oral argument should be heard, the appeal is placed on the next appropriate calendar, consistent with the court's calendaring priorities. At that time a determination is made of the oral argument time to be allotted to each side.

The assignment of an appeal to the non-argument calendar does not mean that it is considered to be an appeal of less importance than an orally argued appeal.

2. Oral Argument.

a. Court Year Schedule - *A proposed court schedule for an entire year is prepared by the circuit executive in collaboration with the clerk's office, and then approved by the scheduling committee of the court which consists of active judges. The court schedule does not consider what specific appeals are to be heard, but only sets the weeks of court in relation to the probable volume of appeals and judgeship availability for the year.*

b. Separation of Assignment of Judges and Calendaring of Appeals - *To insure complete objectivity in the assignment of judges and the calendaring of appeals, the two functions of judge assignment to panels and calendaring of appeals are intentionally separated. The circuit executive and the scheduling committee take into account a fixed number of weeks for each*

FRAP 39. Costs

(a) Allocating Costs Among the Parties. The following rules apply to allocating taxable costs among the parties unless the law provides, the parties agree, or the court orders otherwise:

(1) if an appeal is dismissed, costs are allocated against the appellant;

(2) if a judgment is affirmed, costs are allocated against the appellant;

(3) if a judgment is reversed, costs are allocated against the appellee;

(4) if a judgment is affirmed in part, reversed in part, modified, or vacated, each party bears its own costs.

(b) Reconsideration. Once the allocation of costs is established by the entry of judgment, a party may seek reconsideration of that allocation by filing a motion in the court of appeals within 14 days after the entry of judgment. But issuance of the mandate under Rule 41 must not be delayed awaiting a determination of the motion. The court of appeals retains jurisdiction to decide the motion after the mandate issues.

(c) Costs Governed by Allocation Determination. The allocation of costs applies both to costs taxable in the court of appeals under Rule 39(e) and to costs taxable in district court under Rule 39(f).

(d) Costs For and Against the United States. Costs for or against the United States, its agency, or officer will be allocated under Rule 39(a) only if authorized by law.

(e) Costs on Appeal Taxable in the Court of Appeals.

(1) Costs Taxable. The following costs on appeal are taxable in the court of appeals for the benefit of the party entitled to costs:

(A) the production of necessary copies of a brief or appendix, or copies of records authorized by Rule 30(f);

(B) the docketing fee; and

(C) a filing fee paid in the court of appeals.

(2) Costs of Copies. Each court of appeals must, by local rule, set the maximum rate for taxing the cost of producing necessary copies of a brief or appendix, or copies of records authorized by Rule 30(f). The rate must not exceed that generally charged for such work in the area where the clerk's office is located and should encourage economical methods of copying.

(3) Bill of Costs: Objections; Insertion in Mandate.

- (A) A party who wants costs taxed in the court of appeals must—within 14 days after judgment is entered—file with the circuit clerk and serve an itemized and verified bill of those costs.
 - (B) Objections must be filed within 14 days after the bill of costs is served, unless the court extends the time.
 - (C) The clerk must prepare and certify an itemized statement of costs for insertion in the mandate, but issuance of the mandate must not be delayed for taxing costs. If the mandate issues before costs are finally determined, the district clerk must—upon the circuit clerk’s request—add the statement of costs, or any amendment of it, to the mandate.
- (f) **Costs on Appeal Taxable in the District Court.** The following costs on appeal are taxable in the district court for the benefit of the party entitled to costs:
- (1) the preparation and transmission of the record;
 - (2) the reporter’s transcript, if needed to determine the appeal;
 - (3) premiums paid for a bond or other security to preserve rights pending appeal; and
 - (4) the fee for filing the notice of appeal.

(As amended Apr. 30, 1979, eff. Aug. 1, 1979; Mar. 10, 1986, eff. July 1, 1986; Apr. 24, 1998, eff. Dec. 1, 1998; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 25, 2019, eff. Dec. 1, 2019; Apr. 23, 2025, eff. Dec. 1, 2025.)

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11th Cir. R. 39-1 Costs. In taxing costs for printing or reproduction and binding pursuant to FRAP 39(e)-(e)(2) the clerk shall tax such costs at rates not higher than those determined by the clerk from time to time by reference to the rates generally charged for the most economical methods of printing or reproduction and binding in the principal cities of the circuit, or at actual cost, whichever is less.

Unless advance approval for additional copies is secured from the clerk, costs will be taxed only for the number of copies of the brief and appendix required by the rules to be filed and served, plus two copies for each party signing the brief.

All costs shall be paid and mailed directly to the party to whom costs have been awarded. Costs should not be mailed to the clerk of the court.

11th Cir. R. 39-2 Attorney’s Fees.

(a) Time for Filing. Except as otherwise provided herein or by statute or court order, an application for attorney’s fees must be filed with the clerk within 14 days after the time to file a petition for rehearing or rehearing en banc expires, or within 14 days after entry of an order disposing

(c) Writs and Process. Writs and process of this court shall be under the seal of the court and signed by the clerk.

11th Cir. R. 47-2 Circuit Executive. The judicial council has appointed a circuit executive pursuant to 28 U.S.C. § 332 as secretary of the judicial council and of the judicial conference.

The circuit executive is designated as the court's manager for all matters pertaining to administrative planning, organizing and budgeting. The clerk, the director of the staff attorney's office, and the circuit librarian shall coordinate fully with the circuit executive on those administrative matters pertaining to their areas of responsibility that appropriately warrant judicial attention or administrative action.

The circuit executive shall maintain an office in Atlanta, Georgia.

11th Cir. R. 47-3 Circuit Librarian. Under the direction of a circuit librarian the court will maintain a library **Research & Information Center** in Atlanta, Georgia, and approve regulations for its use. All persons admitted to practice before the court ~~shall be~~ are authorized to use the library **Research & Information Center**. Libraries may be maintained at other places in the circuit designated by the judicial council.

11th Cir. R. 47-4 Staff Attorneys. Under the supervision of a senior staff attorney, a central staff of attorneys shall be maintained at Atlanta, Georgia, to assist the court in legal research, analysis of appellate records and study of particular legal problems, and such other duties as the court directs.

11th Cir. R. 47-5 Judicial Conference. The rules of this court for having and conducting the conference and for representation and active participation at the conference by judges and members of the bar appear as Addendum One.

11th Cir. R. 47-6 Restrictions on Practice by Current and Former Employees. Consistent with the Consolidated Code of Conduct for Judicial Employees adopted by the Judicial Conference of the United States, no employee of the court shall engage in the practice of law. A former employee of the court may not participate by way of representation, consultation, or assistance, in any matter which was pending in the court during the employee's term of employment.

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I.O.P. -

1. Physical Facilities. *The headquarters of the United States Court of Appeals for the Eleventh Circuit is located at 56 Forsyth Street, N.W., Atlanta, Georgia 30303, in the Elbert P. Tuttle U.S. Court of Appeals Building. The courthouse contains three courtrooms, chambers for judges, the Kinnard Mediation Center, and the library. The John C. Godbold Federal Building, which contains the circuit executive's office, the clerk's office, and the office of the staff attorneys, is located at 96 Poplar Street, N.W., Atlanta, Georgia 30303, and is directly behind the Elbert P. Tuttle U.S. Court of Appeals Building.*

ADDENDUM NINE

REGULATIONS OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT FOR THE SELECTION AND APPOINTMENT OR THE REAPPOINTMENT OF BANKRUPTCY ADMINISTRATORS

PURPOSE Purpose

United States bankruptcy administrators oversee trustees and estate administration in bankruptcy cases for the three judicial districts in Alabama. Their duties are essentially the same as those of the U.S. trustees in the Department of Justice, who serve in all other judicial districts in the Eleventh Circuit. It is imperative that only highly qualified individuals be selected as bankruptcy administrators. These regulations supplement the Regulations of the Judicial Conference of the United States for the Selection, Appointment and Reappointment of Bankruptcy Administrators, the *Guide to Judiciary Policy*, and governing statutes. These regulations set forth procedural guidelines that create no vested rights for any prospective or incumbent bankruptcy administrator.

Bankruptcy administrators will be appointed without regard to race, color, sex, religion, or national origin.

Review Committee

The Chief Circuit Judge may appoint individuals to a review committee to assist the Court in appointing or reappointing a bankruptcy administrator.

Confidentiality of Public Comments

If a member of the public makes a comment concerning the qualifications of the incumbent bankruptcy administrator or an applicant for that position, in response to a survey solicitation, public notice, or otherwise, the person making the comment may request that their identity be kept confidential. The incumbent or applicant will, however, be provided with a general description of the source and nature of any comments.

The Court of Appeals may determine, at its sole discretion, that the identity of a person making a comment should be disclosed to the incumbent or applicant in order to afford that person a fair opportunity to respond to the comment. In that event, the