

- (c) **Leave to Use Original Record.** A party allowed to proceed on appeal in forma pauperis may request that the appeal be heard on the original record without reproducing any part.

6 Cir. R. 24 Proceedings in Forma Pauperis - Application for Pauper Status on Appeal - Criminal

If a convicted defendant did not qualify to proceed in forma pauperis in the district court, but appears to qualify on appeal, trial counsel must see that the defendant receives and completes the appropriate affidavit form (CJA Form 23), which is available in the district court clerk's office. Pursuant to FRAP 24, the application must be first directed to the district court.

COMMITTEE NOTE: Former 6th Cir. R. 12(c). See also 6 Cir. R. 101.

6 Cir. I.O.P. 24 Proceedings in Forma Pauperis -Application for Pauper Status on Appeal - Criminal

See 6 Cir. I.O.P. 22(b).

COMMITTEE NOTE: Former I.O.P. 25.2.

TITLE VII. GENERAL PROVISIONS

FRAP 25 Filing and Service

(a) Filing.

- (1) **Filing with the Clerk.** A paper required or permitted to be filed in a court of appeals must be filed with the clerk.

(2) **Filing: Method and Timeliness.**

- (A) **In general.** Filing may be accomplished by mail addressed to the clerk, but filing is not timely unless the clerk receives the papers within the time fixed for filing.
- (B) **A brief or appendix.** A brief or appendix is timely filed, however, if on or before the last day for filing; it is:

- (i) mailed to the clerk by First-Class Mail, or other class of mail that is at least as expeditious, postage prepaid; or
 - (ii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 calendar days.
 - (C) **Inmate filing.** A paper filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a declaration in compliance with 28 U.S.C. § 1746 or by a notarized statement, either of which must set forth the date of deposit and state that first-class postage has been prepaid.
 - (D) **Electronic filing.** A court of appeals may by local rule permit papers to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A paper filed by electronic means in compliance with the local rule constitutes a written paper for the purposes of applying these rules.
- (3) **Filing a Motion with a Judge.** If a motion requests relief that may be granted by a single judge, the judge may permit the motion to be filed with the judge; the judge must note the filing date on the motion and give it to the clerk.
- (4) **Clerk's Refusal of Documents.** The clerk must not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or by any local rule or practice.
- (b) **Service of All Papers Required.** Unless a rule requires service by the clerk, a party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party's counsel.
- (c) **Manner of Service.**
- (1) Service may be any of the following:
 - (A) personal, including delivery to a responsible person at the office of counsel;
 - (B) by mail;

- (C) by third-party commercial carrier for delivery within 3 calendar days; or
- (D) by electronic means if the party being served consents in writing.

(2) If authorized by local rule, a party may use the court's transmission equipment to make electronic service under Rule 25(c)(1)(D).

(3) When reasonable considering such factors as the immediacy of the relief sought, distance, and cost, service on a party must be by a manner at least as expeditious as the manner used to file the paper with the court.

(4) Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means is complete on transmission, unless the party making service is notified that the paper was not received by the party served.

(d) Proof of Service.

(1) A paper presented for filing must contain either of the following:

- (A) an acknowledgment of service by the person served; or
- (B) proof of service consisting of a statement by the person who made service certifying:
 - (i) the date and manner of service;
 - (ii) the names of the persons served; and
 - (iii) their mail or electronic addresses, facsimile numbers, or the address of the places of delivery, as appropriate for the manner of service.

(2) When a brief or appendix is filed by mailing or dispatch in accordance with Rule 25(a)(2)(B), the proof of service must also state the date and manner by which the document was mailed or dispatched to the clerk.

(3) Proof of service may appear on or be affixed to the papers filed.

(e) Number of Copies. When these rules require the filing or furnishing of a number of copies, a court may require a different number by local rule or by order in a particular case.

6 Cir. R. 25 Filing, Proof of Filing, Service, and Proof of Service - Acknowledgment of Filing

A party may obtain a file stamped copy of a pleading by providing the clerk with a pre-addressed stamped envelope and an extra copy of the pleading.

COMMITTEE NOTE: Former 6th Cir. R. 10(*l*).

6 Cir. I.O.P. 25 [Reserved]

COMMITTEE NOTE: No corresponding 6 Cir I.O.P.

FRAP 26 Computing and Extending Time

(a) **Computing Time.** The following rules apply in computing any period of time specified in these rules or in any local rule, court order, or applicable statute:

- (1) Exclude the day of the act, event, or default that begins the period.
- (2) Exclude intermediate Saturdays, Sundays, and legal holidays when the period is less than 11 days, unless stated in calendar days.
- (3) Include the last day of the period unless it is a Saturday, Sunday, or legal holiday, or — if the act to be done is filing a paper in court — a day on which the weather or other conditions make the clerk's office inaccessible.
- (4) As used in this rule, "legal holiday" means New Year's Day, Martin Luther King, Jr.'s Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day declared a holiday by the President, Congress, or the state in which is located either the district court that rendered the challenged judgment or order, or the circuit clerk's principal office.

(b) **Extending Time.** For good cause, the court may extend the time prescribed by these rules or by its order to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time to file:

- (1) a notice of appeal (except as authorized in Rule 4) or a petition for permission to appeal; or