

0.0.01 | NEW APPEALS AND PETITIONS

Appeal can generally be taken only after final judgment has been entered in the district court, resolving all claims against all parties.

In civil cases, notice of appeal must be filed in the district court within 30 days after entry of judgment unless the federal government, federal agency, or federal officer is a party, in which case, the notice of appeal may be filed within 60 days of entry of judgment. The district court may grant an extension of the appeal period if a motion based on excusable neglect or good cause is filed within 30 days of the end of the appeal period. Fed. R. App. P. 4(a).

In criminal cases, notice of appeal must be filed in the district court within 14 days after entry of judgment. The district court may grant an extension of the appeal period based on excusable neglect or good cause if the notice of appeal is filed within 30 days of the end of the appeal period. Fed. R. App. P. 4(b).

The appeal period does not begin to run until the district court's judgment has been entered on the docket. A notice of appeal filed by an inmate confined in an institution is timely if evidence, such as a postmark, date-stamp, or a sworn inmate declaration of date of deposit with prepaid postage, shows that the paper was deposited in the institution's internal mailing system on or before the last day for filing.

If a motion to reconsider the judgment in a civil case is filed within 28 days of entry of judgment, an appeal from the judgment will not proceed until the district court has decided the motion for reconsideration. Fed. R. App. P. 4(a)(4).

Pro se appellants must sign the notice of appeal, but the absence of a signature can be cured after expiration of the appeal period.

A second petition under 28 U.S.C. § 2254 or 2255 will not be considered by the district court unless the petitioner has obtained authorization from the court of appeals to file a successive application. 28 U.S.C. § 2244. A motion for authorization to file a successive application may be filed in the court of appeals at any time; however, a one-year limitations period applies to the filing of all §§ 2254 and 2255 motions in the district court.

Review of final agency action is obtained by filing a petition for review with the court of appeals within the time specified by



statute. Fed. R. App. P. 15(a). The petition must name each party seeking review either in the caption or in the body of the petition. Use of such terms as "petitioners" or "et al." is not effective to name the parties to a petition for review. The petition must also name the agency as respondent and specify the order to be reviewed. Fed. R. App. P. 15(a). A copy of the order to be reviewed and a list of the respondents to be served and their addresses must also be attached. Local Rule 15(b).

- Benefits Review Board - review of a final decision of the Benefits Review Board is sought by filing a petition for review in the court of appeals within 60 days following issuance of the Board's order. 33 U.S.C. § 921(c).
- Board of Immigration Appeals - review of a final removal order is sought by filing a petition for review within 30 days of issuance of the order. 8 U.S.C. § 1252.

(4th Circuit Court of Appeals // December 2023)

