

0.0.12 | REHEARING AND REHEARING EN BANC PETITIONS

A timely petition for rehearing or rehearing en banc may be filed within 14 days after entry of judgment, except that in civil cases in which the United States or its officer or agency is a party, the petition must be filed within 45 days after entry of judgment. Fed. R. App. P. 40(a).

The only grounds for an extension of time to file a petition for rehearing are the death or serious illness of counsel or a family member (or of a party or family member in pro se cases) or an extraordinary circumstance wholly beyond the control of counsel or a party proceeding without counsel. Loc. R. 40(c).

Petitions for rehearing and petitions for en banc rehearing from incarcerated persons proceeding without the assistance of counsel are deemed filed when they are delivered to prison or jail officials. All other such petitions are deemed filed only when received in the clerk's office. Loc. R. 40(c).

A timely filed petition for rehearing or petition for rehearing en banc stays the mandate and tolls the running of time for filing a petition for writ of certiorari.

A petition for rehearing must contain an introduction stating that, in counsel's judgment, one or more of the following situations exist: (1) a material factual or legal matter was overlooked; (2) a change in the law occurred after submission of the case and was overlooked; (3) the opinion conflicts with a decision of the U.S. Supreme Court, this Court, or another Court of Appeals, and the conflict was not addressed; or (4) the case involves one or more questions of exceptional importance. Loc. R. 40(b). A petition for rehearing en banc must show that en banc consideration is necessary to secure or maintain uniformity of the court's decisions or that the proceeding involves a question of exceptional importance. Fed. R. App. P. 35(a). A petition for rehearing, with or without a petition for rehearing en banc, may not exceed 15 pages if handwritten or prepared on a typewriter. Copies are not required unless requested by the Court. Fed. R. App. P. 35(d) & 40(b).

Except for timely petitions for rehearing en banc, cost and attorney fee matters, and other matters ancillary to the filing of an application for writ of certiorari with the Supreme Court (such as a motion to stay issuance of the mandate), the clerk's office will not accept motions or other papers requesting further relief in a case after the court has denied a petition for rehearing or



the time for filing a petition for rehearing has expired. Loc. R. 40 (d) .

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

