

2.3.01 | DUTY TO CONTINUE REPRESENTATION

Under the Fourth Circuit's Plan in Implementation of the Criminal Justice Act, every attorney, including retained counsel, who represented a defendant in the district court must continue to represent the client after termination of those proceedings, unless relieved of further responsibility by the court of appeals. If there is a judgment of conviction or an order revoking probation, counsel must inform the defendant of his right to appeal and his right to have counsel appointed on appeal. If requested by the defendant, counsel must file a timely notice of appeal and take appropriate and timely steps to perfect the appeal. CJA Implementation Plan, Part V.1.

In most direct criminal appeals, counsel who represented the defendant in the district court is automatically appointed upon docketing of the appeal. Upon appointment by this court, counsel must complete the appeal and, if appellant so requests and there are grounds for seeking such review, file a petition for writ of certiorari in the Supreme Court. If counsel believes a petition for writ of certiorari would be frivolous, counsel may file a motion to withdraw in the court of appeals. The motion must reflect that counsel served the defendant with the motion and advised the defendant of his right to file a response within 7 days. CJA Implementation Plan, Part V.2; Local Rule 46(d).

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

