

3.2.09 | MOTIONS FOR VOLUNTARY DISMISSAL

When an appeal has not been docketed in the court of appeals, the district court may dismiss on a stipulation of dismissal signed by the parties or on the motion and notice of appellant. Fed. R. App. P. 42(a). Since the time between notice of appeal in the district court and docketing in the court of appeals is short, such dismissals are unusual. Once the appeal is docketed, the court of appeals may dismiss upon filing with the clerk an agreement signed by the parties stipulating dismissal and specifying the terms of payment of costs, and paying any outstanding fees. An appeal may also be dismissed on motion of the appellant according to terms agreed to by the parties or set by the court. Fed. R. App. P. 42(b). As an additional protection in criminal appeals, Local Rule 42 requires that the defendant must personally sign a Rule 42(b) motion to dismiss a criminal appeal.

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

