

6.2.04 | FILING PERIOD

A petition for rehearing and/or rehearing en banc must be filed within 14 days after entry of judgment unless the time is shortened or enlarged by order. However, in all civil cases in which the United States or an agency or officer thereof is a party, the time within which any party may seek rehearing is 45 days after entry of judgment unless the time is shortened or enlarged by order. Fed. R. App. P. 40(a)(1). A petition that an appeal be heard initially en banc must be filed by the date the appellee's brief is due. Fed. R. App. P. 35(c).

The court strictly enforces the time limits for filing petitions for rehearing and petitions for rehearing en banc. The clerk's office will deny a late petition as untimely unless one of the following grounds is presented for extension:

- (i) the death or serious illness of counsel, or of a member of counsel's immediate family (or in the case of a party proceeding without counsel, the death or serious illness of the party or a member of the party's immediate family); or
- (ii) 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).

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

