

RULE 41-1 | STAY OR RECALL OF MANDATE

(a) A motion filed under FRAP 41 for a stay of the issuance of a mandate in a direct criminal appeal shall not be granted simply upon request. Ordinarily the motion will be denied unless it shows that it is not frivolous, not filed merely for delay, and shows that a substantial question is to be presented to the Supreme Court or otherwise sets forth good cause for a stay.

(b) A mandate once issued shall not be recalled except to prevent injustice.

(c) When a motion to recall a mandate is tendered for filing more than one year after issuance of the mandate, the clerk shall not accept the motion for filing unless the motion states with specificity why it was not filed sooner. The court will not grant the motion unless the movant has established good cause for the delay in filing the motion.

(d) Unless otherwise expressly provided, the effect of granting a petition for rehearing en banc is to vacate the panel opinion and the corresponding judgment.

