

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
501 POTTER STEWART U.S. COURTHOUSE  
100 EAST FIFTH STREET  
CINCINNATI, OHIO 45202-3988**

**Kelly L. Stephens  
Clerk**

**513-564-7000**

March 28, 2024

**NOTICE OF PROPOSED AMENDMENTS TO  
SIXTH CIRCUIT LOCAL RULES AND INTERNAL  
OPERATING PROCEDURES**

Pursuant to 28 U.S.C. § 2071, and 6 Cir. R. 47, the United States Court of Appeals for the Sixth Circuit provides notice that it intends to adopt the attached amendments to Sixth Circuit Local Rules 9, 27(g), 28(a)(1), 34(d), 47(a) and Sixth Circuit Internal Operating Procedures 10(d), 11(b), 21(c), 34(c), effective July 10, 2024.

The court hereby invites public comment on the amendments. Comments should be submitted by June 26, 2024, and addressed to:

Kelly L. Stephens, Clerk  
Sixth Circuit Court of Appeals  
501 Potter Stewart U.S. Courthouse  
100 East Fifth Street  
Cincinnati, Ohio 45202-3988

OR

[RulesComments@ca6.uscourts.gov](mailto:RulesComments@ca6.uscourts.gov)

**PREVIOUS 6 CIR. R. 9:**

**6 Cir. R. 9 Release in a Criminal Case**

**(a) Appellant.**

**(1) What to File.**

(A) An appellant seeking review of an order regarding release or detention must file:

- the district court's order;
- relevant opinions;
- the judgment of conviction if the appeal is after conviction;
- a transcript of the relevant district court proceedings, if available; and
- a supporting brief complying with Fed. R. App. P. 27(d)(1), not exceeding 20 pages.

(B) The appellant may file other documents relevant to the appeal.

(2) **When to File.** The appellant must file the items required by 6 Cir. R. 9(a) as follows:

(A) When seeking relief by notice of appeal, not more than 7 days after the circuit clerk docketed the appeal.

(B) When seeking relief by motion, with the motion.

**(b) Appellee.**

(1) **What to File.** The appellee may file a response that includes:

- a brief complying with Fed. R. App. P. 27(d)(1), not exceeding 20 pages; and
- other documents relevant to the appeal.

(2) **When to File.** If filing a response, the appellee must file it not more than 7 days after the appellant's filing. The court may take action without a response.

(c) **Appellant's Reply Brief.** The appellant may file a reply brief not exceeding 5 pages and not more than 3 days after appellee's filing.

(d) **Court may change requirements.** On motion of a party or on its own, the court may order different filings and a different schedule.

**AMENDED 6 CIR. R. 9:**

**6 Cir. R. 9 Release in a Criminal Case**

(a) **Review of a Release or Detention Order by Appeal.**

- (1) In an appeal of a district court's release or detention order, the appellant must file a brief within 10 days after the circuit clerk docket the appeal unless the clerk establishes a different schedule.
- (2) The appellee may file a brief in response no more than 10 days after the appellant's brief is filed. The court may take action without a response.
- (3) The appellant may file a reply brief no more than 7 days after appellee's brief.
- (4) The parties' briefs shall comply with the form requirements of Fed. R. App. P. 28 and 32 and 6 Cir. R. 28 and 32. The appellant's and appellee's briefs should not exceed 20 pages if handwritten or typewritten or 5,200 words if produced using a computer, while any reply should not exceed 10 pages if handwritten or typewritten or 2,600 words if produced using a computer.

(b) **Review of a Release or Detention Order by Motion.**

- (1) A party may file a motion seeking review of a district court's release or detention order when permitted by Fed. R. App. P. 9(b).
- (2) The motion, as well as any response or reply, must comply with the form, length, and time requirements of Fed. R. App. P. 27 and 6 Cir. R. 27. The court may take action without a response.

(c) **Court May Change Requirements.** On motion of a party or on its own, the court may order different filings and a different schedule.

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**PREVIOUS 6 CIR. R. 27(g):**

- (g) **Motion for Reconsideration.** A party may seek rehearing of a judgment of this court pursuant to Fed. R. App. P. 40. A party may file a motion for reconsideration of any other action of a panel, of a single judge or of the clerk. See 6 Cir. R. 45(b). A panel may reconsider its own action or may review the action of a single judge or of the clerk, but the panel reviewing a single judge's action shall not include that judge.

**AMENDED 6 CIR. R. 27(g):**

- (g) **Motion for Reconsideration.** A party may seek rehearing of a judgment of this court pursuant to Fed. R. App. P. 40. A party may file a motion for reconsideration of any other action of a panel, of a single judge or of the clerk. See 6 Cir. R. 45. A panel may reconsider its own action or may review the action of a single judge or of the clerk, but the panel reviewing a single judge’s action shall not include that judge. When a party moves for reconsideration of a panel’s or single judge’s action, no response on the motion is permitted unless the court requests a response. Ordinarily, reconsideration will not be granted in the absence of such a request.
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**PREVIOUS 6 CIR. R. 28(a)(1)**

- (1) **District Court Appeals.** In an appeal from the district court, a brief must cite the “Page ID #” shown on the header or footer of the page(s) of the original record being referenced, along with a brief title and the record entry number of the document referenced. It is the responsibility of counsel to ensure that all documents referred to in the addendum have either been filed initially in digital format in the district court by way of ECF or, if not, have been scanned into digital format and then filed in the record in that format so that they bear the “Page ID #” designation referred to above. Counsel's failure to do so may result in rejection of the brief. The description of relevant district court documents in the addendum shall include (i) a brief description of the document, (ii) the docket entry number of the document, and (iii) the “Page ID #” range for the relevant pages.

**AMENDED 6 CIR. R. 28(a)(1)**

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**PREVIOUS 6 CIR. RULE 34(d)**

- (d) **Postponement of Hearing.** After a case is set for hearing, the court will not postpone the hearing without good cause. A motion for postponement must be made immediately after notice of the hearing date. It must include notice to all counsel and state where possible the consent or objection of other counsel.

**AMENDED 6 CIR. RULE 34(d)**

- (d) **Postponement of Hearing.** After a case is set for hearing, the court will not postpone the hearing without good cause. A motion for postponement must be made immediately after notice of hearing date. It must include notice to all counsel and state where possible the consent or objection of other counsel. It must also indicate whether counsel has previously filed a Counsel Unavailability Form that included the court's scheduled hearing date. If not, counsel must identify any reasons (such as an emergency) why counsel could not have notified the court of counsel's unavailability at an earlier time.
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**PREVIOUS 6 CIR. R. 47(a)**

- (a) **Notice of Proposed Amendments.** Generally, the clerk must provide notice and a 90-day comment period for proposed amendments to the rules. The clerk gives notice to the state bar association in each state in the circuit and to the distribution list that the clerk maintains. The clerk will include an interested publisher, bar association, or other law-related association in this list on request.

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**PREVIOUS 6 CIR. I.O.P. 10(d)**

- (d) **Video Exhibits.** A party may file with the clerk of the court of appeals four copies of a video exhibit which has been filed with the district court.

**AMENDED 6 CIR. I.O.P. 10(d)**

- (d) **Non-PDF Exhibits.** A party may file with the clerk of the court of appeals a video, audio, or other non-PDF exhibit which has been filed with the district court. If an exhibit is to be filed under seal, four copies must be provided unless directed otherwise by the clerk. Guidelines for filing video and audio exhibits are posted on the Court's website.
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**PREVIOUS 6 CIR. I.O.P. 11(b)**

- (b) **Presentence Reports.** The circuit clerk will obtain the presentence report and objections to it. The court will keep them confidential.

**AMENDED 6 CIR. I.O.P. 11(b)**

- (b) **Presentence Reports.** The circuit court will obtain any presentence report and objections to it and any pretrial services and supervised release revocation reports. The court will keep them confidential.
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**PREVIOUS 6 CIR. I.O.P. 21(c)**

- (c) **Petition Raising Substantive Issues.** When a petition raises substantive legal issues, this court will invite a preliminary response from respondent and send a copy of the request to petitioner.

**AMENDED 6 CIR. I.O.P. 21(c)**

- (c) **Petition Raising Substantive Issues.** When a petition raises substantive legal issues, this court may deny the petition without an answer or may request a preliminary response from any respondent and send a copy of the request to petitioner and to all respondents. No response is permitted absent such a request, and the petition will not be granted in the absence of such a request. Where a response is requested from any respondent, other respondents may respond jointly or separately on the same schedule.
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**PREVIOUS 6 CIR. I.O.P. 34(c)**

- (c) **Notice of Hearing, Postponement, and Presentation of Oral Argument.**

(1) **Notice of Hearing.** The court seeks to give at least six weeks' advance notice of oral argument. The notice of hearing will remind counsel that 6 Cir. R. 36 allows the court to announce disposition of a case in open court following oral argument.

(2) **Request for Postponement.** Counsel's engagement in other courts is not necessarily good cause for postponement.

(3) **Checking in with Clerk's Office on Date of Hearing.** Counsel should check in with the clerk's office at least 15 minutes before court convenes. The clerk's office is open at 8:00 a.m. for check in.

(4) **Presenting Oral Argument.** Counsel should prepare for oral argument with the knowledge that the judges have already studied the briefs. Reading from

briefs, decisions, or the record is disfavored and permitted only in unusual circumstances. Counsel should be prepared to answer questions from the court.

(5) **Additional Time.** The court rarely permits additional time for oral argument.

#### **AMENDED 6 CIR. I.O.P. 34(c)**

(c) **Counsel Unavailability Form, Notice of Hearing, Postponement, and Presentation of Oral Argument.**

- (1) **Counsel Unavailability Form.** In scheduling appeals for oral argument, the court will try to avoid dates that counsel have previously brought to its attention as presenting a conflict during weeks when the court is scheduled to sit. The court's sitting schedule can be found on its website. Because cases are set for calendar early in the case, counsel should provide any dates of unavailability during the next nine months no later than the filing of appellee's brief. Counsel should use the "Counsel Unavailability Form" located on the court's website. If later conflicts arise, counsel should notify the court as soon as possible of those conflicts by filing an updated form.
- (2) **Notice of Hearing.** The court seeks to give at least six weeks' advance notice of oral argument. The notice of hearing will remind counsel that 6 Cir. R. 36 allows the court to announce disposition of a case in open court following oral argument.
- (3) **Request for Postponement.** Counsel's engagement in other courts is not necessarily good cause for postponement.
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- (5) **Presenting Oral Argument.** Counsel should prepare for oral argument with the knowledge that the judges have already studied the briefs. Reading from briefs, decisions, or the record is disfavored and permitted only in unusual circumstances. Counsel should be prepared to answer questions from the court.
- (6) **Additional Time.** The court rarely permits additional time for oral argument.