

THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 2.01

APPELLATE PROCEDURE

WHEREAS, the Circuit Court has jurisdiction to review by appeal the final judgments of the County Courts, except those orders or judgments declaring a state statute or provision of the Constitution invalid, or those judgments certified by the County Court to the District Court of Appeal as being of great public importance, and accepted by the District Court for review. Art. V, § 5(b), Fla. Const.; § 26.012(1), Fla. Stat.; Fla. R. App. P. 9.030(c)(1)(A).

WHEREAS, the Circuit Court has jurisdiction to review by appeal the final judgments of the County Courts in misdemeanor cases. Art. V, § 5(b), Fla. Const.; § 924.08, Fla. Stat.; Fla. R. App. P. 9.030(c)(1)(A).

WHEREAS, the Circuit Court has jurisdiction to review by appeal the final judgments of local government code enforcement boards. Art. V, § 5(b), Fla. Const.; § 26.012(1), Fla. Stat.; Fla. R. App. P. 9.030(c)(1)(C).

WHEREAS, the Circuit Court has jurisdiction to review by appeal those non-final orders of the County Court or administrative tribunals as are authorized by general law. Fla. R. App. P. 9.030(c)(1)(B). *See generally Blore v. Fierro*, 636 So. 2d 1329 (Fla. 1994). For example, the Circuit Court has jurisdiction to hear the State's appeal of certain non-final orders in criminal cases. § 924.07, Fla. Stat.; Fla. R. App. P. 9.140(c).

WHEREAS, the jurisdiction of the Circuit Court is invoked by filing a notice of appeal within 30 days of rendition of the order to be reviewed. Fla. R. App. P. 9.110(b); Fla. R. App. P. 9.130(b). If the State appeals an order in a criminal case, the notice of appeal must be filed within 15 days of rendition of the order. Fla. R. App. P. 9.140(c)(3). The timeliness of the notice of appeal is jurisdictional and is therefore strictly observed. The notice of appeal should take substantially the form indicated in Fla. R. App. P. 9.900(a)-(c), depending on the type of order being appealed.

IT IS ORDERED:

DUTIES OF THE CLERKS

1. The Clerks of the Circuit Court in and for Alachua, Baker, Bradford, Gilchrist, Levy, and Union Counties are responsible for receiving the original notices of appeal, receiving the proper appellate filing fees, and preparing the records on appeal. Immediately upon the filing of a notice of appeal, the lower tribunal Clerk shall transmit to the Appeals Division of that county's Circuit Court, a certified copy of the notice of appeal, together with a certified copy of the order being appealed. Fla. R. App. P. 9.040(g). Upon receipt of the notice, that county's Clerk shall establish an appellate case file and notify the appellate staff attorney that an appeal has been filed. All subsequently filed briefs, motions, or other items improperly filed in the lower Court's file shall be filed in the appellate (AP) case.

2. All docketing information shall be placed on the case management section of the Court's computer system. The appellate Clerks for both civil and criminal appeals shall maintain case management data for each pending appeal, to include calendaring dates and notes on recent activity, which shall be transmitted to the appellate staff attorney bi-weekly.

3. Upon timely completion of the record on appeal, the lower tribunal Clerk shall file the record on appeal in the appellate (AP) case and notify the appellate staff attorney. *See* Fla. R. App. P. 9.200(d). It is the policy of the Eighth Judicial Circuit not to require that original documents be included in the record; a certified copy of the record is sufficient and preferred. Fla. R App. P. 9.200(d)(3).

4. When the appeal has matured, the Clerk shall communicate that fact to the appellate staff attorney assigned to the appellate division.

DUTIES OF THE PARTIES

5. The Appeals Division of each county Clerk's office in the Eighth Judicial Circuit is located in those counties' respective Clerk's offices. All appellate and appellate motion practice documents should be sent to each respective county Clerk's office for filing.

6. All briefs shall be filed electronically, unless there is an applicable exception. *See* Fla. R. Jud. Admin. 2.520(a), 2.525(d). If the brief is not filed electronically, it is the responsibility of the filing party to file an original and three (3) copies of the brief. The briefs that may be filed are the initial brief (filed by the appellant), the answer brief (filed by the appellee), the reply brief (filed by the appellant), and, if there has been a cross-appeal, a cross-reply brief. Fla. R. App. P. 9.210. Briefs shall comply, both as to form and content, with Florida Rule of Appellate Procedure 9.210.

7. The parties are responsible for calculating their own brief deadlines in accordance with the Florida Rule of Appellate Procedure applicable to the type of appeal that has been filed. *See* Fla. R. App. P. 9.210(f) (and Rules cited therein). The Court shall require strict compliance with all deadlines.

8. It is the duty of the appellant to ensure that a complete record is prepared and transmitted to the Circuit Court. Fla. R. App. P. 9.200(e). If the Circuit Court determines that a record is incomplete, one opportunity will be afforded the appellant to supply the omitted portions of the record. Fla. R. App. P. 9.200(f)(2). Before seeking to include tangible evidence in the record, parties should seek permission from the Court.

9. Every notice of appeal, brief, motion, or appendix shall contain a certificate of service. *See* Fla. R. App. P. 9.420.

10. In the event that there are other cases pending before the Court involving related issues, the parties shall have a duty to inform the Court, in writing, as soon as possible.

MOTIONS

11. Unless a party elects to invoke the limited concurrent jurisdiction of the lower tribunal under Florida Rule of Appellate Procedure 9.600, any motion filed subsequent to the filing of the notice of appeal shall be filed with the appropriate Clerk's Office's appellate division. The Clerk shall promptly notify the appellate staff attorney. The appellate staff attorney shall review the motion, and forward the same to the primary judge on the upcoming panel for disposition. When any file comes to the appellate staff attorney's attention, the appellate staff attorney shall promptly check for any outstanding motions that may need to be resolved.

12. Motions for extension of time must be filed in strict conformance with Florida Rule of Appellate Procedure 9.300(a). These motions shall be acted upon as soon as possible, as service of a motion may toll the time for future acts related to the event for which the extension is sought. Fla. R. App. P. 9.300(b). Each such motion, except those for which the practice is clearly inappropriate, shall contain an express representation that either opposing counsel has been contacted and has no objection to the relief requested, or that opposing counsel will promptly file an objection. Fla. R. App. P. 9.300(a).

13. Practitioners should note that excessive motion practice is discouraged. Unnecessary or duplicative motion practice may result in the imposition of sanctions pursuant to Florida Rule of Appellate Procedure 9.410.

PANELS AND ASSIGNMENTS

14. An appellate panel shall convene four times per year. Each appellate case shall be assigned to an appellate panel consisting of three circuit judges. The panels will be assigned in the General Assignment of Judges administrative order, and will include the assignment of a "primary judge" for each panel. Petitions for issuance of writs assigned to the Appellate Division will be assigned to the Administrative Judge of the Appellate Division, rather than to a panel.

15. Panelists seeking recusal or for other reasons requesting removal from the panel shall obtain coverage for the panel and notify the Chief Judge at least 30 days prior to the sitting of the panel of the conflict and the proposed covering judge. Only Circuit Judges may provide coverage for an appellate panel. Ultimately, conflicts, recusals, or scheduling conflicts requiring reassignment of panelists shall be resolved by the Chief Judge.

16. The primary judge of the panel, with the assistance of the appellate staff attorney, is responsible for seeing that the majority opinion in each case is prepared, and that all motions filed before and after mandate are ruled on expeditiously.

17. The date for each appellate conference shall be set on the Eighth Judicial Circuit's master calendar. Prior to each panel conference, the appellate staff attorney shall prepare a docket listing each case to be considered by that panel. The appellate staff attorney shall also prepare a case summary for each case on the docket. The docket list and case summaries shall be provided to the panel judges at least one week prior to the conference date. The appellate staff attorney shall further assist the panel by drafting and proofreading opinions, and by ensuring compliance, except in exceptional circumstances, with the Supreme Court's directive that appellate cases be disposed of within 90 days of the conference date. Fla. R. Jud. Admin. 2.250(a)(4).

18. In the event that two panels are scheduled to hear cases involving similar legal issues, and in the event that those issues are likely to recur and are of great public importance, the primary judge of either panel may petition the administrative judge of the appellate division to convene a joint conference. The administrative judge of the appellate division shall consider the request and grant it or deny it in his or her sole discretion. If the request is granted, the two panels involved shall convene a joint conference for consideration of the similar cases, and the administrative judge of the appellate division shall sit as the primary judge of the conference.

ORAL ARGUMENT

19. When an appeal has “matured,” and a party has requested oral argument, the request shall be considered by the primary judge. Fla. R. App. P. 9.320. If the primary judge decides to grant oral argument, the primary judge shall coordinate the time and place of the argument with the parties and issue an appropriate order. If the primary judge recommends against oral argument, the file is then circulated to the other judges on the panel in order of seniority. If either of the two remaining judges believes that oral argument would enhance the panel’s consideration of the issues, the request will be granted. If no judge on the panel is in favor of granting oral argument, the primary judge will enter an order denying the request. It is important that requests for oral argument are timely considered so as to afford counsel sufficient time to prepare in the event that oral argument is granted. The Court may require oral argument on its own motion. Fla. R. App. P. 9.320.

POST-MANDATE MOTIONS; RETURN OF CASE FILE AND EVIDENCE TO LOWER TRIBUNAL

20. If there are no motions pending after mandate is rendered, then 30 days after rendition of the mandate or, if the case file contains a post-mandate motion which has been disposed of by order of the Court, then on the 31st day following rendition of the order, the appellate case file, exhibits, and evidence shall be returned to the lower tribunal Clerk. If the appellate case file contains no post-mandate motions, then on the 31st day following the rendition of the mandate the Clerk shall transmit the appellate case file, together with all briefs, exhibits, and evidence, back to the lower tribunal Clerk. Any appellate file containing a post-mandate motion which has not been disposed of by Court order shall remain in the custody and control of the appellate Clerk until such time as a disposition occurs.

21. Post-mandate motions shall be directed for disposition to the panel which presided over the appeal in the first instance.

PRO SE PARTIES

22. Parties appearing before the Court *pro se*, or representing themselves without the benefit of an attorney, shall comply with the Florida Rules of Appellate Procedure. The Appellate Practice Section of the Florida Bar has compiled a handbook to assist persons representing themselves on appeal, titled Pro Se Appellate Handbook: Representing Yourself on Appeal. The handbook is available on the internet, at the web address: <http://prose.flabarappellate.org/default.asp>.

This administrative order consolidates and supersedes prior Administrative Order 2.01(v1) "Appellate Procedure" dated October 5, 2012.

ORDERED ON this 1st day of July, 2014.



Robert E. Roundtree, Jr., Chief Judge