

MANDATE

Nature and Effect

The court of appeals issues a formal mandate on the date its decision takes effect. Fed. R. App. P. 41(a). Upon issuance of the mandate, the jurisdiction of the court of appeals over the case terminates, and the district court acquires jurisdiction to implement the mandate. The trial court record will be returned to the clerk of that court once the mandate has issued.

Time of Issuance

The mandate must issue 7 days after expiration of the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, rehearing en banc, or motion for stay of mandate, whichever is later. The court may shorten or extend the time. Fed. R. App. P. 41(b).

Staying the Mandate

The timely filing of a petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate stays the mandate until disposition of the petition or motion, unless the court orders otherwise. Fed. R. App. P. 41(b).

A party may move to stay the mandate pending the filing of a petition for writ of certiorari in the Supreme Court. The motion must be served on all parties and must show that the certiorari petition would present a substantial question and that there is good cause for a stay. Fed. R. App. P. 41(d)(1).

If the court of appeals denies a stay of the mandate, the party may seek a stay from Chief Justice Roberts, who is the Supreme Court Justice with responsibility for the Fourth Circuit. S. Ct. R. 23.

If the court of appeals grants a stay of the mandate, the stay must not exceed 90 days, unless the period is extended for good cause or unless the party who obtained the stay files a petition for the writ and so notifies the circuit clerk in writing within the period of the stay. In that case, the stay continues until the Supreme Court's final disposition. Fed. R. App. P. 41(d)(2). The court may require a bond or other security as a condition to staying the mandate. Fed. R. App. P. 41(d)(3). The court of appeals will issue the mandate immediately when a copy of a Supreme Court order denying the petition for writ of certiorari is filed. Fed. R. App. P. 41(d)(4).

Related Links

- [Rule 41, Mandate: Contents; Issuance and Effective Date; Stay \(with Local Rules\)](#)