

ADOPTED February 1, 2023

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

AMENDMENT OF LOCAL RULE 45

PLEASE TAKE NOTICE that the Court intends to amend Local Rule 45. The rule, as amended, would authorize, rather than require, the clerk to dismiss an appeal if the appellant fails to remedy a default within 15 days after notice to appellant, or if appellant is represented, to appellant's counsel that such failure will subject the appeal to dismissal. The rule continues to provide that the appeal will not be reinstated after dismissal unless by order of the Court for good cause shown and that dismissal does not limit the Court's authority to take disciplinary action against defaulting counsel.

The proposed amendment will take effect on February 1, 2023. Interested parties may submit comments on or before January 27, 2023, to:

Patricia S. Connor, Clerk
U.S. Court of Appeals for the Fourth Circuit
1100 E. Main Street, Suite 501
Richmond, Virginia 23219

Or via email to:

rulecomments@ca4.uscourts.gov

The Fourth Circuit Rulebook is available [here](#)

December 20, 2022

Date

s/ Patricia S. Connor

Clerk

Local Rule 45, Dismissals for Failure to Prosecute.

~~When an appellant in either a docketed or non-docketed appeal~~ The clerk is authorized to dismiss an appeal and issue the mandate if appellant fails to comply with the Federal Rules of Appellate Procedure or the rules or directives of this Court and fails to remedy the default within 15 days of notice to, ~~the clerk shall notify the~~ appellant or, if appellant is represented by counsel, appellant's counsel that such failure will subject the appeal to dismissal. ~~upon the expiration of 15 days from the date thereof the appeal will be dismissed for want of prosecution, unless prior to that date appellant remedies the default. Should the appellant fail to comply within said 15-day period, the clerk shall then enter an order dismissing said appeal for want of prosecution, and shall issue the mandate. In no case shall the appellant~~ The appellant shall not be entitled to reinstate the case and remedy the default after dismissal ~~the same shall have been dismissed~~ under this rule, unless by order of this Court for good cause shown. The dismissal of an appeal shall not limit the authority of this Court, in an appropriate case, to take disciplinary action against defaulting counsel.